

**CONTRACT AMENDMENT**

<b>1. AMENDMENT #:</b> 3	<b>2. CONTRACT #:</b> YH23-0001	<b>3. EFFECTIVE DATE OF AMENDMENT:</b> OCTOBER 1, 2025	<b>4. PROGRAM:</b> SMI ELIGIBILITY DETERMINATIONS
<b>5. CONTRACTOR/PROVIDER NAME AND ADDRESS:</b>  Solari, Inc. 1275 West Washington Street, Suite 210 Tempe, AZ 85281			
<b>6. PURPOSE:</b> To amend the following Contract sections for October 1, 2025 to September 30, 2026 and as stated below.			

**7. THE ABOVE REFERENCED CONTRACT IS HEREBY AMENDED AS FOLLOWS:**

- Section B, Capitation Rates and Contractor Specific Requirements
- Section C, Definitions
- Section D, Program Requirements
- Section E, Contract Terms and Conditions
- Section F, Attachments

Therefore, this Contract is hereby REMOVED IN ITS ENTIRETY, including but not limited to all terms, conditions, requirements, and pricing and is amended, restated, and REPLACED with the documents attached hereto as of the Effective Date of this Amendment.

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

**8. IN WITNESS WHEREOF THE PARTIES HERETO SIGN THEIR NAMES IN AGREEMENT.**

<b>9. NAME OF CONTRACTOR/PROVIDER:</b>	<b>10. ARIZONA HEALTH CARE COST CONTAINMENT SYSTEM</b>
<b>SIGNATURE OF AUTHORIZED INDIVIDUAL:</b> DO NOT SIGN SEE SEPARATE SIGNATURE PAGE	<b>SIGNATURE:</b> DO NOT SIGN SEE SEPARATE SIGNATURE PAGE
<b>TYPED NAME:</b>	<b>TYPED NAME:</b>
<b>TITLE:</b>	<b>TITLE:</b>
<b>DATE:</b>	<b>DATE:</b>

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**SECTION B: SERVICE AND FUNDING**

The Contractor shall provide services as described in this Contract. In consideration for these services, the Contractor will be paid a price per Serious Mental Illness (SMI) Eligibility Determination/Removal of Designation received, regardless of outcome, as indicated below unless otherwise modified by Contract amendment.

**Contracted Amount Effective Date: October 1, 2025 – September 30, 2026.**

SERVICE AND FUNDING	RATE PER DETERMINATION/ REMOVAL OF DESIGNATION PACKETS RECEIVED
SMI Determinations and Removal of Designation: Title XIX/XXI and Non-Title XIX/XXI	\$564.85

[END OF SECTION B: SERVICE AND FUNDING]

**SECTION C: DEFINITIONS**

<b>AGENT</b>	Any individual who has been delegated the authority to obligate or act on behalf of a provider [42 CFR 455.101].
<b>AHCCCS COMPLETE CARE (ACC) CONTRACTOR</b>	A contracted Managed Care Organization (also known as a health plan) that is responsible for the provision of specific physical and behavioral health services to certain Title XIX/XXI populations as specified in Contract No. YH19-0001 and which does not have the expanded contractual responsibilities of an ACC-RBHA under Competitive Contract Extension (CCE) No. YH20-0002.
<b>AHCCCS COMPLETE CARE-REGIONAL BEHAVIORAL HEALTH AGREEMENT (ACC-RBHA) CONTRACTOR</b>	An AHCCCS Complete Care (ACC) Contractor with expanded contractual responsibilities, as specified in Competitive Contract Extension (CCE) No. YH20-0002, for the provision of Non-Title XIX/XXI services for Title XIX/XXI and Non-Title XIX/XXI members and comprehensive Title XIX/XXI physical health and behavioral health services to eligible individuals with a Serious Mental Illness (SMI) designation.
<b>AHCCCS CONTRACTOR OPERATIONS MANUAL (ACOM)</b>	The ACOM provides Administrative, Claims, Financial, and Operational Policies of the AHCCCS Administration. The ACOM also provides information to Contractors and subcontractors who have delegated responsibilities under the Contract.
<b>AHCCCS MANAGED CARE ORGANIZATION</b>	An organization or entity that has a prepaid capitated Contract with AHCCCS pursuant to ARS 36-2904, 36-2940, or 36-2944 to provide goods and services to members either directly or through subcontracts with providers, in conformance with Contractual requirements, AHCCCS Statute and Rules, and Federal law and regulations.
<b>AHCCCS MEDICAL POLICY MANUAL (AMPM)</b>	The AMPM provides information to Contractors and Providers regarding services that are covered within the AHCCCS program. The AMPM is applicable to both Managed Care Organizations (MCOs) and Fee-For-Service (FFS) Programs and Providers.
<b>APPEAL</b> <i>[AS REQUIRED BY CMS 42 CFR 457.1207, 42 CFR 438.10(C)(4)(i)]</i>	To ask for review of a decision that denies or limits a service.

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<b>APPLICANT</b>	An individual who: <ol style="list-style-type: none"><li>1. Submits an application for behavioral health services under AAC Title 9, Chapter 21, or on whose behalf an application has been submitted, or</li><li>2. Is referred for a determination of eligibility for behavioral health services, as defined in AAC R9-21-101.</li></ol>
<b>ARIZONA ADMINISTRATIVE CODE (AAC)</b>	The official publication of Arizona’s codified Rules and published by the Administrative Rules Division.
<b>ARIZONA HEALTH CARE COST CONTAINMENT SYSTEM (AHCCCS)</b>	Arizona’s Medicaid Program, approved by the Centers for Medicare and Medicaid Services as an Arizona Section 1115 Waiver Demonstration Program and described in ARS Title 36, Chapter 29.
<b>ARIZONA LONG TERM CARE SYSTEM (ALTCS)</b>	An AHCCCS program which delivers long-term, acute, behavioral health and case management services as authorized by ARS 36-2931 et seq., to eligible members who are either Elderly and/or have a Physical Disability (E/PD), and to members with Developmental Disabilities (DD), through Contractual agreements and other arrangements.
<b>ARIZONA REVISED STATUTES (ARS)</b>	Laws of the State of Arizona.
<b>ASSESSMENT</b>	An analysis of a patient’s needs for physical health services or behavioral health services to determine which services a health care institution shall provide to the patient as specified in AAC R9-10-101.
<b>ATTACHMENT</b>	Any item labeled as an Attachment in the Contract or placed in the Attachments section of the Contract.
<b>BEHAVIORAL HEALTH</b>	Mental health and substance use collectively.
<b>BEHAVIORAL HEALTH CATEGORY</b>	A code used to associate each individual enrolled with AHCCCS to a category of eligibility for behavioral health services and potential fund sources. Behavioral health categories include: <ol style="list-style-type: none"><li>1. Child with a Serious Emotionally Disturbed (SED) identification.</li><li>2. Child who is non-SED.</li><li>3. Adult with a Serious Mental Illness (SMI) designation.</li><li>4. Adult who is non-SMI and who has a general mental health need and/or Substance Use Disorder (SUD).</li></ol>

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<b>BEST AND FINAL OFFER</b>	A revision to an Offer submitted after negotiations are completed that contains the Offeror's most favorable terms for price, service, and products to be delivered. Sometimes referred to as a Final Proposal Revision.
<b>CENTERS FOR MEDICARE AND MEDICAID SERVICES (CMS)</b>	The Federal agency within the United States Department of Health and Human Services (HHS), which administers the Medicare (Title XVIII) and Medicaid (Title XIX) programs, and the State Children's Health Insurance Program (Title XXI).
<b>CHILD AND ADOLESCENT LEVEL OF CARE UTILIZATION SYSTEM (CALOCUS)</b>	A clinical assessment tool, developed by the American Association of Community Psychiatrists (AACCP), utilized to provide a determination of the appropriate level of service intensity needed by a child or adolescent and their family.
<b>CHANGE IN ORGANIZATIONAL STRUCTURE</b>	Any of the following: <ol style="list-style-type: none"><li>1. Acquisition.</li><li>2. Change in organizational documents (e.g., Amendments to Articles of incorporation, Amendments to Articles of Organization, or Amendments to Partnership Agreements).</li><li>3. Change in Ownership.</li><li>4. Change of Management Services Agreement (MSA) Subcontractor (to the extent management of all, or substantially all, plan functions has been delegated to meet AHCCCS contractual requirements).</li><li>5. Joint Venture.</li><li>6. Merger.</li><li>7. Reorganization.</li><li>8. State Agency reorganization resulting from an act of the Governor of the State of Arizona or the Arizona State Legislature.</li><li>9. Other applicable changes which may cause:<ol style="list-style-type: none"><li>a. A change in the Employer Identification (ID) Number/Tax ID Number (EIN/TIN),</li><li>b. Changes in critical member information, including the website, member or provider handbook and member ID card, or</li><li>c. A change in legal entity name.</li></ol></li></ol>
<b>CODE OF FEDERAL REGULATIONS (CFR)</b>	The general and permanent rules published in the Federal Register by the departments and agencies of the Federal Government.
<b>CONTRACT</b>	The combination of the Solicitation, including the Instructions to Offerors, Contract Terms and Conditions, and Scope of Work/Program Requirements; the Offer; any Best and Final Offers; any Solicitation Amendments or Contract Amendments; and any terms applied by law.

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<b>CONTRACT AMENDMENT</b>	A written document signed by the Procurement Officer that is issued for the purpose of making changes in the Contract.
<b>CONTRACTOR</b>	An organization or entity that has a prepaid capitated Contract with AHCCCS pursuant to ARS 36-2904, ARS 36-2940, ARS 36-2944, or Chapter 34 of ARS Title 36, to provide the goods and services to members either directly or through subcontracts with providers, in conformance with contractual requirements and Federal and State law, rule, regulations, and policies.
<b>CORRECTIVE ACTION PLAN (CAP)</b>	A written work plan that identifies the root cause(s) of a deficiency, includes goals and objectives, actions/tasks to be taken to facilitate an expedient return to compliance, methodologies to be used to accomplish CAP goals and objectives, and staff responsible to carry out the CAP within established timelines. CAPs are generally used to improve performance of the Contractor and/or its providers, to enhance Quality Management/Process Improvement activities and the outcomes of the activities, or to resolve a deficiency.
<b>CULTURAL COMPETENCY</b>	A set of congruent behaviors, attitudes and policies that come together in a system, agency, or among professionals, which enables that system, agency, or those professionals to work effectively in cross-culture situations. Culture refers to integrated patterns of human behavior that include the language, thoughts, communications, actions, customs, beliefs, values, and institutions of racial, ethnic, religious, or social groups. Competence implies having the capacity to function effectively as an individual and an organization within the context of the cultural beliefs, behaviors, and needs presented by consumers and their communities. This includes consideration of health status, national origin, sex, gender, gender identity, sexual orientation, and age.
<b>DAY</b>	Calendar days unless otherwise specified.
<b>DAY – BUSINESS</b>	Monday, Tuesday, Wednesday, Thursday, or Friday unless a legal holiday falls on Monday, Tuesday, Wednesday, Thursday, or Friday.
<b>DESIGNATED REPRESENTATIVE (DR)</b>	An individual parent, guardian, relative, advocate, supporter, friend, or other individual, designated orally or in writing by a member or guardian who, upon request of the member, assists the member in protecting the member’s rights and voicing the member’s service needs.

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<b>EVALUATION</b>	The process of analyzing current and past treatment information including assessment, treatment other medical records and documentation for purposes of making a decision as to an individual's eligibility for Serious Mental Illness (SMI) services.
<b>EXHIBITS</b>	All items attached as part of the original Solicitation.
<b>FRAUD</b>	An intentional deception or misrepresentation made by a person with the knowledge that the deception could result in some unauthorized benefit to himself or some other person. It includes any act that constitutes fraud under applicable Federal or State law 42 CFR 455.2.
<b>GRATUITY</b>	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.
<b>GRIEVANCE</b>	A member's expression of dissatisfaction with any matter, other than an adverse benefit determination.
<b>HEALTH CARE DECISION MAKER (HCDM)</b>	An individual who is authorized to make health care treatment decisions for the patient. As applicable to the situation, this may include a parent of an unemancipated minor or a person lawfully authorized to make health care treatment decisions pursuant to ARS Title 14, Chapter 5, article 2 or 3; or ARS 8-514.05, 36-3221, 36-3231 or 36-3281.
<b>HEALTH INFORMATION EXCHANGE (HIE)/ HEALTH INFORMATION ORGANIZATION (HIO)</b>	A State designated non-profit Health Information Organization (HIO), that provides the statewide exchange of patient health information among disparate health care organizations and providers not owned, operated, or controlled by the Health Information Exchange (HIE) organization as defined in ARS 36-3801. Pursuant to AAC R9-22-701.
<b>HEALTH INFORMATION TECHNOLOGY (HIT)</b>	The application of information process involving both computer hardware and software that deals with the storage, retrieval, sharing, and use of health care information, data, and knowledge for communication and decision making.
<b>HEALTH INSURANCE PORTABILITY AND ACCOUNTABILITY ACT (HIPAA)</b>	The Health Insurance Portability and Accountability Act; also known as the Kennedy-Kassebaum Act, signed August 21, 1996, as amended, and as reflected in the implementing regulations at 45 CFR Parts 160, 162, and 164.
<b>INDIAN HEALTH SERVICES (IHS)</b>	The operating division within the U.S. Department of Health and Human Services, responsible for providing medical and public health services to members of Federally recognized Tribes and Alaska Natives as specified in 25 USC 1661.

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<b>INFORMATION SYSTEMS</b>	The component of the Contractor's organization which supports the Information Systems, whether the systems themselves are internal to the organization (full spectrum of systems staffing) or externally contracted (internal oversight and support).
<b>LEVEL OF CARE UTILIZATION SYSTEM (LOCUS)</b>	A clinical assessment tool, developed by the American Association of Community Psychiatrists (AACCP) utilized to evaluate adults along six dimensions and six levels of resource intensity. Level of Care Utilization System (LOCUS) provides a methodology to facilitate rapid and consistent level of care recommendations.
<b>LIMITED ENGLISH PROFICIENCY(LEP)</b>	Individuals who do not speak English as their primary language and who have a limited ability to read, write, speak, or understand English may have LEP and may be eligible to receive language assistance for a particular type of service, benefit, or encounter.
<b>MATERIAL OMISSION</b>	A fact, data or other information excluded from a report, contract, etc. the absence of which could lead to erroneous conclusions following reasonable review of such report, contract, etc.
<b>MEDICAID</b>	A Federal and State funded health care coverage program authorized by Title XIX of the Social Security Act (SSA), as amended.
<b>MEDICAL RECORDS</b>	All communications related to a patient's physical or mental health or condition that are recorded in any form or medium and that are maintained for purposes of evaluation or treatment, including records that are prepared by a health care provider or by other providers. Records do not include materials that are prepared in connection with utilization review, peer review, or quality assurance activities (ARS 12-2291).
<b>MEMBER</b>	An eligible individual who is enrolled in AHCCCS, as specified in ARS 36-2931, 36-2901, and ARS 36-2981. Also referred to as Title XIX/XXI member or Medicaid member. When applicable, Member may also or alternatively refer to an enrolled individual's Health Care Decision Maker (HCDM) or Designated Representative (DR). REFER TO HEALTH CARE DECISION MAKER; REVER TO DESIGNATED REPRESENTATIVE.
<b>NATIONAL PROVIDER IDENTIFIER (NPI)</b>	A unique Identification (ID) number for covered health care providers, assigned by the Centers for Medicare and Medicaid Services (CMS) contracted national enumerator.
<b>OFFER</b>	A response to a solicitation.
<b>OFFEROR</b>	A vendor or person who responds to a Solicitation.

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<b>PROCUREMENT OFFICER</b>	The person, or their designee, duly authorized by the State and AHCCCS to enter into and administer Contracts and made written determinations with respect to the Contract.
<b>PROPOSAL</b>	REFER TO "OFFER"
<b>PROVIDER</b>	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, pursuant to 42 CFR 438.2.
<b>REFERRAL</b>	A verbal, written, telephonic, electronic, or in-person request for health services.
<b>REQUEST FOR PROPOSAL (RFP)</b>	A document prepared by AHCCCS which describes the services required and which instructs a prospective Offeror how to prepare a response (Proposal).
<b>SANCTION</b>	A monetary and/or non-monetary penalty assessed or applied for failure to demonstrate compliance in one or more areas of contractual responsibility. Non-monetary penalties may include but is not limited to suspension of payment to the Contractor until the State is satisfied that the reason for imposition of the sanction no longer exists and is not likely to recur.
<b>SCOPE OF WORK</b>	Those provisions of the Solicitation/Contract that specify the work and/or results to be achieved by the Contractor. Also referred to as Program Requirements.
<b>SERIOUS MENTAL ILLNESS (SMI)</b>	A designation as defined in ARS 36-550 and determined in an individual 18 years of age or older.
<b>SHALL</b>	Mandatory requirements, actions, duties, etc., as specified in AAC R2-7-101 (44).
<b>SHOULD</b>	A suggestion that is recommended but not required.
<b>SERIOUS MENTAL ILLNESS (SMI) ASSESSMENT</b>	REFER TO "ASSESSMENT"
<b>SERIOUS MENTAL ILLNESS (SMI)- REMOVAL OF DESIGNATION</b>	The process that results in the removal of the SMI behavioral health category from the individual's most recent, active enrollment segment.
<b>SOLICITATION</b>	An Invitation for Bids (IFB), a Request for Proposals (RFP), or a Request for Quotations (RFQ).

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<b>SOLICITATION AMENDMENT</b>	A written document that is authorized by the Procurement officer and issued for the purpose of making changes to the Solicitation.
<b>STATE</b>	The State of Arizona and Department or Agency of the State that executes the Contract.
<b>STATE FISCAL YEAR</b>	The budget year-State fiscal year: July 1 through June 30.
<b>STATEWIDE</b>	Of sufficient scope and breadth to address the health care service needs of individuals throughout the State of Arizona.
<b>SUBCONTRACT</b>	An agreement entered into by the Contractor with any of the following: a provider of health care services who agrees to furnish covered services to member; or with any other organization or individual who agrees to perform any administrative function or service for the Contractor specifically related to fulfilling the Contractor's obligations to AHCCCS under the terms of this Contract, as defined in 9 AAC 22 Article 1.
<b>SUBCONTRACTOR</b>	<ol style="list-style-type: none"><li>1. A provider of health care who agrees to furnish covered services to members.</li><li>2. An individual, agency, or organization with which the Contractor, or its Subcontractor, has contracted or delegated some of its management/administrative functions or responsibilities.</li><li>3. An individual, agency, or organization with which a fiscal agent has entered into a Contract, agreement, purchase order or lease (or leases of real property) to obtain space, supplies equipment or services provided under the AHCCCS agreement.</li></ol>
<b>SYSTEM UPGRADE</b>	Any upgrade or changes to a data collection or information system that may result in disruption to Contractor services.
<b>TITLE XIX</b>	Known as Medicaid, Title XIX of the Social Security Act (SSA) provides for Federal grants to the states for medical assistance programs. Title XIX enables states to furnish medical assistance to those who have insufficient income and resources to meet the costs of necessary medical services, rehabilitation, and other services, to help those families and individuals become or remain independent and able to care for themselves. Title XIX members include but are not limited to those eligible under Section 1931 of the Social Security Act (SSA), Supplemental Security Income (SSI), SSI-related groups, Medicare cost sharing groups, Breast and Cervical Cancer Treatment Program and Freedom to Work Program, which includes those populations described in 42 USC 1396 a (a)(10)(A).

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<b>TITLE XXI</b>	Title XXI of the Social Security Act (SSA) provides funds to states to enable them to initiate and expand the provision of child health assistance to uninsured, low-income children in an effective and efficient manner that is coordinated with other sources of child health benefits coverage.
<b>TRIBAL ARIZONA LONG TERM CARE SYSTEM (TRIBAL ALTCS)</b>	A program managed by AHCCCS to provide covered, medically necessary ALTCS services to ALTCS American Indian members who reside on a tribal land in Arizona or resided on a tribal land immediately before being placed in a Nursing Facility (NF) or alternative Home and Community Based Services (HCBS) setting off tribal land.
<b>TRIBAL REGIONAL BEHAVIORAL HEALTH AUTHORITY (TRBHA)</b>	A tribal entity that has an intergovernmental agreement with the administration, the primary purpose of which is to coordinate the delivery of comprehensive behavioral health services to all eligible individuals assigned by the administration to the tribal entity. Tribal governments, through an agreement with the State, may operate a Tribal Regional Behavioral Health Authority for the provision of behavioral health services to American Indian members as specified in ARS 36-3401, 36-3407, and AAC R9-22-1201.
<b>WASTE</b>	Over-utilization or inappropriate utilization of services, misuse of resources, or practices that result in unnecessary costs to the Medicaid Program.

[END OF SECTION C: DEFINITIONS]

**SECTION D: PROGRAM REQUIREMENTS****1. INTRODUCTION AND PURPOSE**

**Introduction:** Arizona Health Care Cost Containment System (AHCCCS) administers the State of Arizona's public behavioral health system and programs to deliver behavioral health services to eligible populations, including individuals with a Serious Mental Illness (SMI) designation. A critical component of the AHCCCS service delivery system is the effective and efficient Identification (ID) of individuals who have special behavioral health service needs due to significant functional impairments resulting from a behavioral health disorder. This includes individuals with an SMI designation. Without receipt of appropriate care, these individuals are at a high-risk for further deterioration of their physical and behavioral health conditions, which may limit family, educational, and community activities, or result in increased hospitalizations, potential homelessness, and/or incarceration.

AHCCCS has been statutorily mandated to establish an SMI Eligibility Determination process to identify whether an individual meets the statutory definition of "Seriously Mentally Ill," ARS 36-3408 and ARS 36-550.06.

Accordingly, AHCCCS has developed a standardized process and criteria for SMI Eligibility Determinations to ensure that individuals who may have an SMI designation are promptly identified and enrolled for services. The member's behavioral health provider, or an agency designated to perform this function, is responsible for completing an SMI assessment, as indicated, and submitting documentation to the Contractor. Subsequently, the Contractor shall apply the established SMI Eligibility Determination criteria to the information obtained by the Contractor through the Assessment, including the assessor's evaluation of whether the individual meets the Eligibility Determination criteria, and all relevant treatment records necessary for the Contractor to make a final determination of SMI eligibility.

The Contractor is responsible for rendering the final SMI Eligibility Determination, conducting follow-up evaluations in the event of a dispute between the applicant's treating behavioral health provider and the Contractor's SMI Eligibility Determination professional, any applicable grievance or complaint and appeal requirements, and all related administrative responsibilities.

**Purpose:** The purpose of this Contract is to prescribe the requirements for the Contractor who will be responsible for accepting assessment and evaluation documentation from referring entities and conducting the following throughout the state, regardless of Title XIX/XXI eligibility:

1. Serious Mental Illness (SMI) Eligibility Determinations for individuals 18 years of age and older.
2. Removal of SMI designations for SMI individuals.

The Contractor shall be responsible for the performance of all Contract requirements. In the event that a provision of Federal or State law, regulation, or policy is repealed or modified during the term of this Contract, effective on the date the repeal or modification by its own terms takes effect:

1. The provisions of this Contract shall be deemed to have been amended to incorporate the repeal or modification.

2. The Contractor shall comply with the requirements of the Contract as amended, unless AHCCCS and the Contractor otherwise stipulate in writing.

This Contract provides standardized definitions and criteria for SMI Eligibility Determinations, creating a consistent application of the eligibility process statewide. These processes allow for a final Eligibility Determination to be made by the Contractor and create a method to track member and service needs, as well as use funding more accurately.

## 2. SCOPE OF SERVICES

The Contractor is responsible for, and shall comply with and perform, all applicable responsibilities and duties regarding SMI Eligibility Determinations set forth in the AAC Title 9, Chapter 21, Article 3, specifically AAC R9-21-303, except as directed otherwise by AHCCCS via written policy/protocol, and/or to the extent that a rule by its express language does not apply to the SMI Eligibility Determination.

The Contractor shall obtain consent and authorization to disclose protected health information in accordance with 42 CFR 431, 42 CFR Part 2, 45 CFR parts 160 and 164, and ARS 36-509 and shall retain consent and authorization medical records as specified in ARS 12-2297 and in conformance with AHCCCS Policy.

***Eligibility Determinations and Removal of Designation:*** The Contractor shall receive completed SMI Assessments and SMI Removal of Designation requests and conduct Eligibility Determinations and Removal of Designations in accordance with AHCCCS Medical Policy Manual (AMPM) Policy 320-P, applicable State laws, and the requirements in this Contract.

The Contractor is not responsible for service provision.

For SMI Eligibility Determinations, AHCCCS does not prescribe a specific Comprehensive Assessment Tool. The Contractor shall accept comprehensive Assessments, which include the minimum content areas identified in AAC R9-21-305(C). For SMI Eligibility Determinations the Contractor shall accept Level of Care Utilization System (LOCUS) score (or other assessment, as approved by AHCCCS) as evidence of functional impairment in the evaluation of comprehensive assessments. The Contractor shall use the criteria established in the Diagnostic and Statistical Manual of Mental Disorders and associated International Statistical Classification of Diseases (ICD) and Related Health Problems. Refer to AMPM Policy 320-P.

The Contractor shall:

1. Collaborate with all appropriate parties (including, but not limited to, Managed Care Organizations [MCOs], providers, justice system partners, American Indian Health Plan (AIHP), Tribal Regional Behavioral Health Authorities [TRBHAs], Tribal Arizona Long Term Care System [ALTCS], commercial/private insurers, and the Health Information Exchange [HIE]) in a manner that ensures SMI Eligibility Determination and Removal of Designation processes are conducted in a responsive, efficient, effective, and timely manner.
2. Have a process for receiving SMI Assessments both electronically and manually (e.g., paper/fax).

3. Render SMI Eligibility Determinations within the timeframes and processes specified in Contract and AMPM Policy 320-P, with requirement of prioritization of determination designation requests received from crisis providers or other non-Medicaid funded sources to complete determinations within three days of receipt.
4. Review SMI Removal of Designation requests and render a determination as specified in Contract and AMPM Policy 320-P.
5. Communicate the results of the SMI Eligibility Determination to all applicable parties as required by this Contract.
6. Provide training and education to system stakeholders, including members of the community. Refer to Section D, Paragraph 9, Scope of Services.
7. Comply with AHCCCS requirements including, but not limited to, Quality Management, Cultural Competency, Communication, Information Systems, Data Exchange and Data Collection, Grievance and Appeal, Staffing, Continuity of Operations and Recovery, Corporate Compliance, and Financial Management.

The Contractor shall conduct SMI Eligibility Determinations upon receiving an SMI Eligibility Determination Evaluation Packet (evaluation packet) from any of the following entities, for the populations listed below regardless of Title XIX/XXI eligibility:

**Entities:**

1. AHCCCS Managed Care Organization (MCO)-contracted providers.
2. American Indian Health Program providers for applicable fee for service members.
3. TRBHAs.
4. Tribal ALTCS.
5. Indian Health Service (IHS) facilities.
6. Tribally owned or operated 638 facilities.
7. Arizona Department of Corrections, Rehabilitation & Reentry (ADCRR),
8. Arizona Department of Juvenile Corrections (ADJC).
9. Any commercial/private insurer.
10. Any behavioral health professional, as specified in AHCCCS [Covered Behavioral Health Service Guide \(CBHSG\)](#), whose scope of practice includes comprehensive assessments as outlined in AAC R9-21-305(C) including but not limited to those in private practice and in the educational systems.

**Population:****Serious Mental Illness (SMI)**

1. Individuals 17.5 years of age or older who request an SMI Eligibility Determination or for those individuals who are currently receiving behavioral health services in preparation for behavioral health services as an adult consistent with AMPM Policy 587.
2. Individuals currently designated as SMI who are receiving behavioral health services, or an AHCCCS MCO contracted provider or legal guardian, who request a review of the SMI Eligibility Determination.

The SMI assessment and evaluation process should begin for an individual at 17.5 years of age while the actual SMI determination process can occur once a member turns 18 years of age. The vendor submits the determination information to AHCCCS; if the member is under the age of 18 at the time of submission, the portal pends (holds) the information until the individual's 18th birthday. On the day of the individual's 18th birthday, the information is sent to the AHCCCS Pre-Paid Medicaid Management Information System (PMMIS) for processing. Refer to the AHCCCS Behavioral Health Portal User Guide.

3. Individuals ordered to undergo an SMI Eligibility Determination by or through an Arizona Superior Court.
4. Individuals ordered to undergo an SMI Eligibility Determination by a Tribal Court when that order has been recognized pursuant to ARS 12-136.

**Eligibility Determinations and Removal of Designation for Fee-For-Service (FFS) Members:** The TRBHAs and Tribal ALTCS programs should utilize the Contractor to render SMI Eligibility Determinations/Removal of Designation on their behalf or should coordinate for the provision of the SMI Eligibility Determination/Removal of Designation themselves.

The Contractor shall work with AHCCCS Division of Fee-for-Service Management (DFSM) to understand the unique tribal delivery system and identify the options that each TRBHA and Tribal ALTCS program has selected for the SMI Eligibility Determination processes.

**Grievance and Appeal Processes:** The Contractor shall develop and implement grievance and appeal processes, which comply with AHCCCS policies, all applicable State and Federal laws, and the requirements in this Contract. Refer to Section D, Paragraph 8, Grievance and Appeal Requirements.

**Stakeholder Training and Education Requirements:** The Contractor shall develop a program for the provision of training and education to system stakeholders regarding the SMI Eligibility Determination and Removal of Designation processes to improve awareness of, and access to, these processes. Training shall be developed as appropriate for referring entities, community members, and families/guardians/caregivers. The Stakeholder Training and Education Program shall inform stakeholders that an SMI evaluation and eligibility determination is available to anyone, as indicated by age, regardless of Title XXI/XXI eligibility or whether the entity responsible for the evaluation believes the individual is eligible, and shall include at a minimum:

1. A training plan and supporting materials regarding the SMI Eligibility Determination and Removal of Designation processes.
2. The benefits associated with receiving an SMI designation.
3. A training plan and supporting materials regarding provider and referring entity responsibilities and Contractor collaboration and communication efforts for children who have an SMI Eligibility Determination and who are turning 18 years of age.
4. Stakeholder Communication Plan including listing of scheduled outreach events and expected audiences.

The Contractor shall collaborate with AHCCCS and MCOs to provide outreach to providers, crisis service providers, and commercial/private insurers.

The Contractor shall work with AHCCCS' Office of Individual and Family Affairs (OIFA) to assist in identifying and scheduling presentations with Stakeholders.

The Contractor shall work collaboratively with AHCCCS to deliver training and may be required to develop or modify training as a result of AHCCCS identified Contractor issues or other identified needs.

### **3. QUALITY MANAGEMENT AND PERFORMANCE IMPROVEMENT**

The Contractor shall establish and implement a Quality Management (QM) and Performance Improvement (PI) program, plan, and processes designed to monitor and ensure Contractor's timely and accurate SMI Eligibility Determinations.

The Contractor shall submit a QM and PI Program Plan as specified in Section F, Attachment F1, Contractor Chart of Deliverables and as specified below.

The Contractor shall include in the QM and PI Program Plan the following:

1. A narrative overview.
2. Evaluation of the previous year's Plan.
3. Scope and goals for the upcoming year.
4. Mechanisms to solicit and utilize feedback and recommendations from stakeholders to improve services under the scope of work/program requirements of this Contract. The data and feedback from all stakeholders shall be analyzed and evaluated to determine any trends related to the quality of service in the Contractor's scope of work.
5. Development of an Inter-Rater Reliability (IRR) training, testing process and template for those staff making SMI Eligibility Determinations to include at minimum requirements specified in AMPM Policy 320-P and to be approved by AHCCCS. The IRR training and testing process is to ensure a consistent process for the review of SMI clinical eligibility criteria and the appropriateness SMI Eligibility Determinations/Removal of Designation.

- a. The Contractor shall ensure that all staff involved in these processes receive IRR training within 30 days, and testing within 90 days, of hire and annually thereafter, and
  - b. The Contractor shall submit an IRR Template, to be approved by AHCCCS, annually and IRR Metrics and Evidence of Completed IRR Activities, reflective of the previous quarter reporting, as specified in Section F, Attachment F1 Contractor Chart of Deliverables, for each of the following areas, at a minimum: SMI Eligibility Determinations and Removal of Designation.
6. A Corrective Action Plan (CAP) shall be completed for staff that do not meet the Contractor's minimum test scores and AHCCCS' minimum performance standard of 90%.
  7. Use of information and data acquired through grievance and appeal processes to improve processes and education materials for applicants and referral sources under the scope of work/program requirements of this Contract. The Contractor shall develop and implement policies and procedures to review, evaluate and refer any quality and system concerns raised by individuals and stakeholders during the grievance and appeal process to AHCCCS. The issues be received from anywhere within the organization or externally from anywhere in the community. All issues shall be addressed regardless of source (external or internal).
  8. A process to disseminate key performance indicators to AHCCCS and stakeholders.

The Contractor's performance may be publicly reported on the AHCCCS website.

The Contractor shall ensure that the Contractor's CMO oversees the QM and PI program, plan, and processes.

#### 4. CULTURAL COMPETENCY

The Contractor shall ensure that applicants are provided SMI Eligibility Determinations without regard to disability, race, color, national origin, age, sex, gender, sexual orientation, or gender identity, and will not use any policy or practice that has the effect of discriminating on the basis of these.

The Contractor shall ensure that applicants are viewed through a perspective that prohibits discrimination and is focused on ensuring fair access to health care. The Contractor shall be knowledgeable of the historical, cultural, social, economic, political, and other events that affect the behavioral health of the diverse populations served under this Contract. The Contractor shall consider during the SMI Eligibility Determination process how culture, faith, spiritual beliefs, gender identity, sexual orientation, alternative medicine, traditional healers, and language impacts behavioral health.

The Contractor shall ensure the SMI Eligibility Determination processes are conducted in a culturally competent manner to all individuals, including those with Limited English Proficiency (LEP) and diverse cultural and ethnic backgrounds, disabilities, regardless of race, primary language, age, gender, sexual orientation, or gender identity. The Contractor shall implement a program in line with best practices including the Culturally and Linguistically Appropriate Services (CLAS) mandates, guidelines, and recommendations.

The Contractor shall ensure that staff, particularly staff who have direct contact with applicants, are sufficiently trained to provide services in a culturally competent manner to individuals. Refer to Section D, Paragraph 11, Staffing Requirements.

## 5. COMMUNICATION REQUIREMENTS

The Contractor shall comply with Federal regulations in 45 CFR Part 92 implementing Section 1557 of the Affordable Care Act which prohibits discrimination on the basis of race, color, national origin, sex, age, or disability in health programs and activities receiving Federal funds.

The Contractor shall comply with specific posting requirements for nondiscrimination notices that include required taglines. The nondiscrimination notices shall be posted in the covered entity's significant publications and significant communications, on its website, and in conspicuous physical locations where the covered entity interacts with the public as delineated in 45 CFR 92.8.

Notices including but not limited to the following shall be approved by AHCCCS prior to implementation and thereafter as changes or modifications occur. Refer to AMPM Policy 320-P for notice requirements.

1. Consent for assessment.
2. Determination Form.
3. Removal of Designation Form.
4. Waiver Form.
5. Demographic Form.
6. Release of Information (ROI).
7. Notice of Decision letter.
8. Grievance and appeal notices.

All applicant-directed forms or communications shall include national and county Crisis Hotline contact information. The Contractor shall:

1. Be accessible by phone during normal business hours, with a local and a toll-free number.
2. Develop and maintain a public website targeted towards the community and providers, which offers information regarding the SMI Eligibility Determination processes. The Contractor's website shall include, at a minimum, the following:
  - a. Information regarding how to seek an evaluation for SMI services,
  - b. Information about what benefit there should be with receiving an SMI designation,
  - c. Information needed to complete an SMI Eligibility Determination,
  - d. The criteria used to make an SMI Eligibility Determination,
  - e. An overview of the SMI Eligibility Determination processes, including appeal rights, information regarding disenrollment/Removal of Designation,
  - f. Policies and Procedures. Refer to Section D, Paragraph 9, Administrative Requirements, and
  - g. Relevant contact information.

3. Use easily understood language and formats in any written materials provided. Regardless of the format chosen by the Contractor, applicant-directed information shall be printed in a type, style, and size, which can easily be read by individuals with varying degrees of visual impairment.
4. Use alternative communication formats when indicated and notify individuals that such formats are available and provide information on how to access them.
5. Offer and make individuals aware that interpretation or language translation services are available to individuals who do not speak or understand English and provide interpretation assistance for the visual or hearing impaired, free of charge.
6. Provide technical assistance to ensure the appropriate and comprehensive submission of SMI Assessments from providers, AHCCCS MCOs, TRBHAs, Tribal ALTCS, and other system stakeholders, as applicable, to improve SMI Eligibility Determination processes; the Contractor shall meet with the TRBHAs and Tribal ALTCS programs to ensure the SMI Eligibility Determination processes account for tribal perspectives and cultural sensitivity.
7. Ensure ongoing communication and collaboration with tribal stakeholders, including TRBHAs, Tribal ALTCS, and IHS/Tribal 638 facilities, as applicable and as requested either by AHCCCS or the individual stakeholder.
8. Provide general education and training to interested stakeholders and members of the community, to improve awareness of, and access to, the SMI Eligibility Determination processes.
9. Provide notice to applicants regarding the outcome of the SMI Eligibility Determination.
10. Communicate the outcome of the SMI Eligibility Determination to the referring provider and AHCCCS as specified in Section D, Paragraph 7, Data Exchange and Data Collection Requirements.
11. Participate in meetings with AHCCCS for purposes of assessing Contractor compliance.
12. Provide appropriate staff for attendance and participation in meetings and events scheduled by AHCCCS.

## 6. SYSTEMS AND DATA EXCHANGE REQUIREMENTS

The Contractor shall maintain an Information System which, at a minimum, is capable of receiving, storing, transmitting, and reporting on client level assessment and grievance and appeal information and abide by the data transmission formats, rules and standards detailed in the AHCCCS Technical Interface Guidelines (TIG). The Contractor shall comply with all data submission standards including correction and resubmission as required by AHCCCS and accept AHCCCS' rejection of data submissions that do not comply with these standards.

The Contractor shall submit exchanged data information in accordance with all procedures, policies, rules, regulations, or statutes in effect during the term of this Contract.

The Contractor is expected to collaborate with AHCCCS and a qualifying HIE Organization to target efforts to specific areas where Health Information Technology (HIT) and HIE can bring significant change and progress.

**Health Insurance Portability and Accountability Act (HIPAA):** The Contractor shall comply with the Administrative Simplification requirements of 45 CFR Parts 160 and 162 that are applicable to the operations of the Contractor by the dates required by the implementing Federal regulations as well as all subsequent requirements and regulations as published.

**System Changes and System Upgrades:** The costs of software changes are included in administrative costs paid to the Contractor. There is no separate payment for software changes. An AHCCCS systems contact will be assigned after Contract award. The Contractor shall ensure that planned changes or major upgrades to the information system are submitted to AHCCCS.

The Contractor shall notify AHCCCS and provide a System Change Plan to AHCCCS for review and comment prior to implementation of a system change, as specified in Section F, Attachment F1, Contractor Chart of Deliverables. The System Change Plan shall include a timeline and milestones and shall outline adequate testing to be completed before implementation.

The Contractor shall make all components of its Information System available for review or audit upon request by AHCCCS.

## 7. DATA EXCHANGE AND DATA COLLECTION REQUIREMENTS

Certain agreements, authorizations, and control documents are required to be in place before the Contractor may exchange data with AHCCCS. With the completion of required documents as specified in the [AHCCCS TIG](#), the Contractor will be provided with appropriate access to facilitate the exchange of data from and to AHCCCS.

The Contractor is responsible for any incorrect data or delayed submission. Any data that does not meet the standards required by AHCCCS shall not be accepted by AHCCCS.

The Contractor shall coordinate and cooperate with AHCCCS by establishing and implementing systems or processes for communication, consultation, data sharing, and exchange of information.

**Contractor's Web-Based Application:** The Contractor shall develop, utilize, and maintain an easy to access web-based application, for use by all appropriate parties (including, but not limited to MCOs, providers, and the HIE), for submittal of evaluation packet information. The Contractor's web-based application and related processes shall capture, at a minimum the data elements specified in the [AHCCCS TIG](#) for the AHCCCS-administered AHCCCS Behavioral Health (ABH) Web Portal.

The Contractor's web-based application shall also include:

1. Data elements needed for the Contractor to make an informed SMI Eligibility Determination decision. For evaluation, packet minimal requirements refer to Section D, Paragraph 12, SMI Eligibility Determination Record(s), Supporting Documentation and SMI Eligibility Determination Report.
2. Demographic data elements including:
  - a. Gender/gender identity,
  - b. Race,

- c. Ethnicity,
- d. Spoken language,
- e. Housing/Homelessness Status, and
- f. Sexual orientation.

**AHCCCS Behavioral Health Web Portal:** Within one business day of receipt of a referral request of an SMI Eligibility Determination, the Contractor shall capture and report to AHCCCS via the ABH Web Portal, referral request information as specified in the AHCCCS Behavioral Health Portal User Guide. Upon successful submission of the information required, AHCCCS will supply the Contractor with a unique record ID for each referral. This unique record ID will remain open until the Contractor finalizes the Eligibility Determination process for that referral and it is to be referred to when completing the requirements. The Contractor shall regularly review and remediate all open but not finalized records submitted to the ABH Web Portal, available in the Reports section of the Portal.

Upon completion of the Eligibility Determination process for each case, and in accordance with the timeliness requirements as applicable in Contract, Policy, and under applicable Arizona law, the Contractor shall:

1. Supply SMI Eligibility Determination documentation as specified in the AHCCCS TIG to AHCCCS via the ABH Web Portal.
2. Input the final decision related to each case via the approved ABH Web Portal.
3. Make best efforts to verify the accuracy of all eligibility and enrollment information with the provider who completed the Assessment/Evaluation and/or applicable AHCCCS MCO with which the member is enrolled to resolve any enrollment issues. In instances where an AHCCCS ID is not found for individuals undergoing SMI Eligibility Determination, the Contractor shall contact the applicable AHCCCS Complete Care-Regional Behavioral Health Agreement (ACC-RBHA) to ensure member eligibility records are created.

Once an SMI Eligibility Determination or Removal of Designation decision is made and submitted to AHCCCS, AHCCCS will update the member's Behavioral Health Category to add/remove SMI respectively and will provide the Eligibility Determination documentation to the MCO of enrollment or AIHP, as applicable, via the AHCCCS Managed File Transfer (MFT) server. The Behavioral Health Category can then be viewed in the AHCCCS Online system, [AHCCCS Online Provider Website](#).

The Behavioral Health Category will be changed by AHCCCS to *General Mental Health (GMH)* if the member obtains an SMI Removal of Designation.

Additionally, upon completion of an SMI Eligibility Determination, the Contractor shall provide notification of the Eligibility Determination result to AHCCCS via the ABH Portal and to the provider who completed the Assessment/Evaluation, through an agreed upon medium. For AIHP members, the Contractor shall also provide notification to AHCCCS DFSM at [casemanagers@azahcccs.gov](mailto:casemanagers@azahcccs.gov) or to the appropriate TRBHA, when applicable. For Tribal ALTCS members, the Contractor shall also provide notification to the individual's Tribal ALTCS Case Manager. The notification shall include:

1. Applicant/Individual Name.

2. Applicant/Individual Date of Birth (DOB).
3. Type of Case: Determination vs. Removal of designation.
4. Serious Mental Illness (SMI) Eligibility Determination Decision.
5. Serious Mental Illness (SMI) Eligibility Determination/ Review Decision Date.
6. Reason for Serious Mental Illness (SMI) Eligibility Determination Denial, if applicable.

The Contractor shall develop and maintain systematic processes that rely on data collected from areas such as: case file reviews, utilization data and grievance and appeal data in order to identify providers who require training or technical assistance in completion of the SMI Assessment and submit to AHCCCS Packet Submission Quality Reports to inform AHCCCS of these findings, as specified in Section F, Attachment F1, Contractor Chart of Deliverables and as deemed appropriate by the Contractor. The Contractor shall develop and implement an annual quality review of the data submitted on the Packet Submission Quality Reports to ensure accuracy of submitted data to AHCCCS and to submit a written report to AHCCCS with the final contract year's monthly Packet Submission Quality Report (month of September).

#### **8. GRIEVANCE AND APPEAL REQUIREMENTS**

For all individuals referred for an SMI Eligibility Determination, the Contractor shall implement and administer grievances and appeals processes. This includes processes for the following:

1. Provision of notice to individuals utilizing the SMI Eligibility Determination process.
2. Grievance resolution.
3. Serious Mental Illness (SMI) Eligibility Determination appeals.

The Contractor shall comply with all applicable requirements in Federal and State laws and regulations, the AHCCCS Contractor Operations Manual (ACOM), the AMPM, and the requirements of this Contract.

The Contractor shall administer all grievance and appeal processes competently, expeditiously, and equitably for all applicants to ensure that grievances and appeals are effectively and efficiently adjudicated and/or resolved.

The Contractor shall continuously review grievance and appeal data to identify trends and opportunities for system improvement, take action to correct identified deficiencies, and otherwise implement modifications that improve the SMI Eligibility Determination and grievance and appeal processes. The Contractor shall provide AHCCCS with any grievance and appeal information, report, or document within the time specified by the AHCCCS request.

The Contractor shall fully cooperate with AHCCCS in the event it decides to intervene in, participate in, audit, or review any notice, grievance, or SMI Eligibility Determination appeal and shall comply

with or implement any AHCCCS directive within the time specified pending formal resolution of the issue.

The Contractor shall designate a qualified staff person who will collaborate with AHCCCS to address grievance and appeal related concerns.

The Contractor shall not delegate the administration or performance of the notice or grievance and appeal processes.

The Contractor shall notify AHCCCS of any decision or subsequent appeal of a decision within prescribed timeframes.

**Grievances:** The Contractor shall develop and maintain a grievance process easily accessible to applicants, AHCCCS MCOs, providers, and other system stakeholders, in a manner that offers complainants an opportunity to file a grievance verbally or in writing, and provides the privacy required by law, and in compliance with all requirements stated herein.

The Contractor shall respond to and resolve grievances in a courteous, responsive, effective, and timely manner. The Contractor shall maintain grievance records that include the following:

1. Description of the grievance.
2. Efforts taken to resolve the grievance.
3. The resolution of the grievance.

The Contractor shall provide a Grievance Report that includes all grievances and a brief description sufficient to describe the nature of the grievance the Contractor's response to the grievance, and any actions taken to address similar concerns in the future, as specified in Section F, Attachment F1, Contractor Chart of Deliverables.

The Contractor shall not engage in conduct to prohibit, discourage, or interfere with the right to assert a grievance or appeal.

**Appeals:** The Contractor shall implement the SMI eligibility appeals process in a manner that offers appellants an opportunity to present an appeal in-person at a convenient time and location for the applicant, and provide the privacy required by law. SMI eligibility appeals shall comply with all requirements in AAC R9-21-401 and ACOM Policy 444.

The Contractor shall maintain an appeals database, approved by AHCCCS, and shall submit initial and updated entries into it within three business days of an event requiring entry.

## 9. ADMINISTRATIVE REQUIREMENTS

**Policies and Procedures:** The Contractor shall develop and maintain policies and procedures in accordance with the Contractor's business practices which:

1. Comply with AHCCCS requirements.

2. Are written in a consistent and understandable format for each functional area.
3. Are reviewed and revised when necessary to reflect current practices.
4. Are dated and signed by the appropriate Contractor's Key Staff.
5. Are made publicly available on the Contractor's website (excluding internal policies regarding the Contractor's business operations).

The Contractor shall develop written protocols for the implementation of all requirements under this Contract. The Contractor shall also develop policies and procedures to ensure the following requirements are implemented. These include, but are not limited to, the following:

1. The SMI Eligibility Determination processes are performed in accordance with AHCCCS established criteria, AMPM Policy 320-P, and AAC R9-21-303 (for SMI).
2. Submission of evaluation packet information and SMI Removal of Designation requests to the Contractor by referring providers.
3. Collaboration protocols and procedures between the Contractor and entities from whom a SMI Eligibility Packet or Removal of Designation shall be conducted including but not limited to providers, TRBHAs, Tribal ALTCS, AHCCCS MCOs, judicial and/or educational organizations, and other system stakeholders.
4. Evidence based clinical guidelines, including but not limited to, criteria for SMI Eligibility Determinations and SMI Removal of Designation, and IRR testing.

Acceptance of requests for removal of SMI Designations that include a verification process of claims history for a period of six months with the enrolled entity including, but not limited to, MCOs, AIHP, TRBHAs, and Tribal ALTCS.

5. Communication protocols to ensure all applicants, referring entities, AHCCCS MCOs, TRBHAs, Tribal ALTCS, and AHCCCS DFSM are notified once an SMI Eligibility Determination has been rendered.
6. Appeal and Notice requirements for SMI eligibility, including grievances and appeals reporting to AHCCCS.
7. Administrative policies and procedures, including but not limited to:
  - a. Information Technology (IT) Systems, fraud, waste, and abuse reporting,
  - b. Submission of Contract deliverables,
  - c. Continuity of business operations,
  - d. Personnel standards/requirements,
  - e. Confidentiality,
  - f. Record requirements,
  - g. Release of information, and
  - h. Consent practices.

The Contractor shall submit Contractor Processes, Plans, and/or Policies and Any Changes to These Documents as specified in Section F, Attachment F1, Contractor Chart of Deliverables.

**Subcontracts:** The Contractor should delegate responsibility for services and related activities under this Contract, subject to the limitations specified in this section and with prior approval from AHCCCS but remain ultimately responsible for compliance with the terms of this Contract. The Contractor shall oversee and is accountable for any functions and responsibilities that it delegates to any subcontractor.

Subcontracts or delegated agreements with another entity for the purpose of conducting or rendering SMI Eligibility Determinations are prohibited. Additionally, the Contractor shall not delegate the administration or performance of the notice or grievance and appeal processes. Contracting with qualified clinicians who meet the requirements set forth within this Contract, in order to complete SMI Eligibility Determinations, is permitted.

Subcontracts entered into by the Contractor require prior review and written approval by AHCCCS and shall incorporate by reference the applicable Terms and Conditions of this Contract (refer to Section E, Terms and Conditions, Paragraph 5, Subcontracts). Proposed Subcontracts shall be submitted as specified in Section F, Attachment F1, Contractor Chart of Deliverables. The Contractor's Administrator/Chief Executive Officer (CEO) shall retain the authority to direct and prioritize any delegated Contract requirements.

Before entering into a subcontract, which delegates duties or responsibilities to a subcontractor, the Contractor shall evaluate the prospective subcontractor's ability to perform the activities to be delegated. If the Contractor delegates duties or responsibilities, then the Contractor shall establish a written agreement that specifies the activities and reporting responsibilities delegated to the subcontractor. The written agreement shall also provide for revoking the subcontract or imposing other sanctions if the subcontractor's performance is inadequate.

The Contractor shall develop Business Associate Agreements in accordance with Federal and State laws to facilitate efficient transfer of records, to obtain or verify appropriate consents or releases, as necessary, and maintain copies, for AHCCCS review, of all consent and authorization documents obtained for purposes of rendering an SMI Eligibility Determination, including information received without written consent or authorization.

In accordance with 45 CFR 164.502(e)(1)(ii) and 45 CFR 164.308(b)(2), if applicable, the Contractor shall ensure that any subcontractors that create, receive, maintain, or transmit Protected Health Information (PHI) on behalf of the Business Associate (Contractor) agree to the same restrictions, conditions, and requirements that apply to the Business Associate (Contractor) with respect to such information.

In order to determine adequate performance, the Contractor shall monitor the subcontractor's performance on an ongoing basis and subject it to formal review at least annually or more frequently if instructed by AHCCCS. As a result of the performance review, any deficiencies shall be communicated by the Contractor, to the subcontractor in order to establish a CAP. The results of the performance review and the CAP shall be communicated to AHCCCS upon completion. Additionally, if at any time during the period of the subcontract, the subcontractor is found to be in noncompliance, the Contractor shall notify AHCCCS and submit Subcontracts Non-Compliance Reporting notification

as specified in Attachment F1, Contractor Chart of Deliverables.

The Contractor shall submit a Subcontractor Evaluation Report as specified Section F, Attachment F1, Contractor Chart of Deliverables. The Subcontractor Evaluation Report shall include the following:

1. Subcontractor name.
2. Delegated duties and responsibilities.
3. Most recent formal review date of the duties, responsibilities, and financial position of the subcontractor.
4. A comprehensive summary of the evaluation of the performance (operational and financial) of the Subcontractor, including the type of audit performed. The full report shall be made available upon request from AHCCCS.
5. Next scheduled formal review date.
6. All identified areas of deficiency.
7. Corrective Action Plan (CAP) Information:
  - a. For each deficiency, whether a CAP was issued, and
  - b. A summary of the current status of the CAP.

#### 10. AHCCCS GUIDELINES, POLICIES, AND MANUALS

All AHCCCS guidelines, policies, and manuals are available on the AHCCCS website:

<https://www.azahcccs.gov/>. The Contractor is responsible for complying with all requirements set forth in these sources, as applicable, as well as with any updates. The Contractor is responsible for ensuring that its impacted subcontractors are notified when modifications are made to the AHCCCS guidelines, policies, and manuals that impact the SMI Eligibility Determination requirements and/or processes. In the event of a modification, the Contractor shall issue a notification of the change within 30 calendar days of the published change and ensure amendment of any affected subcontracts. Effected subcontracts shall be amended on their regular renewal schedule or within six calendar months of the update, whichever comes first. Upon adoption by AHCCCS, updates will be available on the AHCCCS website.

#### 11. STAFFING REQUIREMENTS

The Contractor shall have organizational, management, staffing, and administrative systems capable of meeting all Contract requirements with clearly defined lines of responsibility, authority, communication, and coordination within, between and among Contractor's departments, units, or functional areas of operation.

**Key Staff:** The Contractor shall employ, at a minimum, the following Key Staff who will work for the Contractor and ensure that all obligations set forth within this Contract are met:

The Contractor shall ensure all Key Staff positions are comprised of individuals with an accumulative professional history including but not limited to working with various populations (e.g., individuals with general mental health needs and/or Substance Use Disorders (SUD), individuals with SMI, individuals experiencing homelessness and/or who have comorbidities) and which was obtained in outpatient services/SMI clinics, inpatient settings, detox units, crisis recovery units, and other applicable settings.

1. **Chief Medical Officer (CMO)** who:
  - a. Resides in Arizona,
  - b. Is an Arizona-licensed physician, in good standing, board-certified in psychiatry,
  - c. Manages, and shall directly oversee, implement, interpret, and approve clinical-medical policies and procedures,
  - d. Is responsible for and oversees the SMI Eligibility Determination functions, including management of the clinical, quality management, performance improvement, and medical management components of the program, and
  - e. Attends AHCCCS Medical Director meetings, as directed by AHCCCS.
2. **Continuity of Operations and Recovery Coordinator** who is responsible for implementation and oversight of the Contractor's Continuity of Operations and Recovery Program and Plan.
3. **Grievance and Appeal Administrator** who is a full-time employee and:
  - a. Resides in Arizona,
  - b. Is a licensed attorney or who has a juris doctor degree from an accredited institution, and
  - c. Manages, oversees, implements, and administers all grievance and appeal processes and requirements.
4. **Program Director** who is a full-time employee and:
  - a. Resides in Arizona,
  - b. Reports to the Contractor's Executive Management, and
  - c. Is responsible for implementing and coordinating all operations and activities covered under this Contract.
5. **Program Training Coordinator** who is responsible for training provided to Contractor staff and stakeholders.
6. **Psychiatrist(s)** as defined in ARS 36-501, **Psychologist(s)** as defined in ARS 32-2061, and **registered nurse practitioner(s)** licensed as adult or child and adolescent psychiatric and mental health nurse(s) in good standing and who are responsible for rendering SMI Eligibility Determination decisions. These employees are not required to be full-time positions; however, the Contractor shall evaluate ongoing needs in order to meet SMI Eligibility Determination decision timelines and requirements. These staff shall be comprised of individuals who, within their scope of practice, are competent and capable of rendering decisions applicable to each population, children, and adults, respectively.
7. **Tribal Liaison**, who is a full-time employee and:
  - a. Resides in Arizona,
  - b. Acts as the liaison with Tribal Nations, IHS, and 638 facilities serving the tribes,
  - c. Acts as the single point-of-contact regarding issues concerning American Indians,
  - d. Is responsible for coordination of all operations and implementation involving the Tribes, TRBHAs, Tribal ALTCS programs, IHS and 638 facilities, and

- e. Shall work with the tribal clinical team or referring entity if a denial is expected, to first determine if any factors or cultural considerations were not taken into account in the process.

The Contractor shall provide adequate experienced personnel, capable of and devoted to, the successful accomplishment of work to be performed under this Contract. The Contractor shall agree to assign specific individuals to the Key Staff positions specified above.

The Contractor shall have sufficient personnel in order to ensure the successful implementation and ongoing service delivery as required under this Contract. If Key Staff are not available for work under this Contract for a continuous period exceeding 30 calendar days or are expected to devote substantially less effort to the work than initially anticipated, the Contractor shall submit Key Staff Change in Availability Notification as specified in Section F, Attachment F1, Contractor Chart of Deliverables and shall, subject to the concurrence of the State, replace such personnel with personnel of substantially equal ability and qualifications.

AHCCCS has the discretion to review all submitted Key Staff positions and reserves the right to direct Contractor actions regarding staffing decisions it deems are in the best interest of the State. AHCCCS will not permit any Contractor staff to hold positions that may present a conflict of interest.

The Contractor shall inform AHCCCS in writing of Key Staff Changes, including hire, resignation, termination, or when any of the following contact information changes for an individual holding a Key Staff position, as specified in Section F, Attachment F1, Contractor Chart of Deliverables.

Notification shall include the following:

1. Individual's name.
2. Individual's title.
3. Individual's telephone number.
4. Individual's email address.
5. Individual's location.
6. Resume.
7. The effective date of the vacancy or absence.
8. The effective date the newly hired individual will start in the position.
9. Documentation confirming applicable Key Staff functions are filled by individuals who are in good standing (for example, a printout from the Arizona Medical Board webpage showing the CMO's active license).
10. Name and contact information of interim individual that will be performing the duties of the Key Staff position.

Upon request by AHCCCS, the Contractor shall submit a written plan for filling a Key Staff position.

The Contractor shall maintain a personnel organizational chart that identifies Key Staff, including the individual's name, title, and location, as well as the organization's reporting structure. The Contractor shall submit its Key Staff Organizational Chart as specified in Section F, Attachment F1, Contractor Chart of Deliverables.

The Contractor shall develop job descriptions in a consistent format for each of the Contractor's functional areas and hire additional staff members to correct noncompliance with the requirements of this Contract, as necessary.

**Organizational Structure:** The Contractor shall operate as a single entity responsible for rendering SMI Eligibility Determination decisions and grievance and appeals for SMI eligibility decisions.

During the Term of this Contract, including any extensions thereof, the Contractor is prohibited from submitting a proposal or holding a direct contract with AHCCCS for any of the following Contracts or Intergovernmental Agreements (IGAs):

1. ALTCS serving the Elderly and/or have a Physical Disability (ALTCS-E/PD)  
Contracts: YH18-0001-01, YH18-0001-02, YH18-0001-03
2. AHCCCS Complete Care (ACC)  
Contracts: YH19-0001-01, YH19-0001-02, YH19-0001-03, YH19-0001-04, YH19-0001-05, YH19-0001-06, YH19-0001-07
3. AHCCCS Complete Care-Regional Behavioral Health Agreement (ACC-RBHA)  
Contracts: YH19-0001R-01, YH19-0001R-02, YH19-0001R-03
4. Tribal Regional Behavioral Health Authority (TRBHA)  
Intergovernmental Agreements (IGAs): YH22-0007-01, YH22-0007-02, YH22-0007-03, YH22-0007-04, YH22-0007-05
5. Tribal ALTCS  
Intergovernmental Agreements (IGAs): YH23-0002-01, YH23-0002-02, YH23-0002-03, YH23-0002-04, YH23-0002-05, YH23-0002-06, YH23-0002-07

The Contractor shall obtain prior approval from AHCCCS for a Change in Contractor Organizational Structure as specified in Section E, Terms and Conditions and Contract Section F, Attachment F3, Contractor Chart of Deliverables.

**Personnel Licensing and Verification Requirements:**

The Contractor shall:

1. Verify that all psychiatrists, psychologists, and registered nurse practitioners conducting SMI Eligibility Determinations are currently licensed pursuant to ARS Title 32, Chapter 13, Chapter 19.1, or Chapter 15, and are in good standing.
2. Maintain appropriate confidential files, which include evidence of current licenses, certifications, education, training, work history, background, and peer review for all professionals providing services under this Contract.
3. Require all staff members, whether employed or under Contract, to have the training, education, experience, orientation, and license, as applicable to perform assigned job duties.
4. Ensure practices align with requirements specified in Section D, Paragraph 15, Corporate Compliance.

**Staff Training Requirements:** The Contractor shall ensure that all staff have appropriate education, experience, credentials, orientation, and training to perform assigned job duties and fulfill the requirements of the Contract. The Contractor shall develop a comprehensive staff training program. The Contractor shall provide staff training as specified below. The Contractor shall designate a staff person as Program Training Coordinator.

The Contractor's Staff Training Program shall consist of the following components:

1. New Employee Orientation. A new employee orientation shall be developed, maintained, and provided for all staff within 30 days of hire.
2. Initial – Basic Skills Training. The Initial - Basic Skills training curriculum shall contain the information that staff who are new to their positions require to obtain the skills and maintain the proficiency to satisfy the standards specified in this Contract.
3. Ongoing–Refresher and Advanced Skills Training. The Ongoing Refresher and Advanced Skills training curriculum shall contain the information that staff require to maintain the skills and proficiency necessary to satisfy the standards specified in this Contract.
4. Initial and Ongoing Training. Both the initial and ongoing curricula shall include instructional materials for trainers (lesson plans), reference workbooks for trainees, all training on HIPAA provisions and responsibilities, competency tests for evaluating pre-training and post-training knowledge and skill proficiency, and supervisory coaching guides for on-the-job staff appraisal and development.
5. All staff who facilitate appeal conferences shall have training in mediation, conflict resolution and/or problem-solving techniques.
6. All staff involved in quality management processes shall receive IRR training as specified in Section D, Paragraph 3, Quality Management.
7. Reporting of fraud, waste, and abuse as specified in Section D, Paragraph 15, Corporate Compliance and Section E, Terms and Conditions.

8. Cultural competency training to ensure the SMI Eligibility Designation processes are culturally sensitive and culturally relevant.
9. Collaboration and communication protocols and procedures. Refer to Section D, Paragraph 9, Administrative Requirements.

The Contractor shall work collaboratively with AHCCCS to deliver training and should be required to develop or modify training as a result of AHCCCS identified Contractor issues or other identified needs.

The Contractor shall submit a Staff Training Report as specified in Section F, Attachment F1, Contractor Chart of Deliverables.

## **12. SERIOUS MENTAL ILLNESS (SMI) ELIGIBILITY DETERMINATION RECORD(S), SUPPORTING DOCUMENTATION, AND SMI ELIGIBILITY DETERMINATION REPORT**

***Serious Mental Illness (SMI) Eligibility Determination Record(s) and Supporting Documentation:*** The Contractor shall establish and implement policies and procedures consistent with the confidentiality requirements in 42 CFR 431.300 et. seq., 45 CFR parts 160 and 164, 42 CFR part 2, and ARS 36-509, for records and any other protected health information covered under the Health Insurance Portability and Accountability Act (HIPAA). The Contractor shall safeguard confidential information in accordance with Federal and State laws and regulations and comply with records maintenance and privacy requirements consistent with 42 CFR 431.300 et. seq., 45 CFR parts 160 and 164, 42 CFR part 2, and ARS 36-509 for all consents.

The Contractor shall maintain organized, legible, signed, and dated records for each SMI Eligibility Determination that:

1. Contains all information and records considered, reviewed, and used in rendering the SMI Eligibility Determination.
2. Contains the basis for making an SMI Eligibility Determination and which are written in a detailed and comprehensive manner.
3. Conforms to good professional practice.
4. Permits effective professional review and audit processes.

***Serious Mental Illness (SMI) Eligibility Determination Evaluation Packets:*** At a minimum, the Contractor shall obtain the following documentation in the evaluation packets:

1. Serious Mental Illness (SMI) Determination Form, as applicable. Refer to AMPM Policy 320-P.
2. Consent Form(s).
3. Comprehensive Assessment.
4. Waiver to extend three days SMI Eligibility Determination timeframe, as applicable.

5. Additional records available for consideration.
6. Signed Release(s), if appropriate.

***Serious Mental Illness (SMI) Eligibility Determination Report:*** The Contractor shall submit, as specified in Section F, Attachment F1, Contractor Chart of Deliverables, an SMI Eligibility Determination Report. The SMI Eligibility Determination Report shall include monthly data by each AHCCCS MCO, and FFS program including AIHP, Tribal ALTCS, and TRBHA, or any other referral source(s) and from a combined statewide perspective. Additionally, the SMI Eligibility Determination Report shall include a summary and analysis of notable trends and the following data elements reported by County, Geographical Service Area (GSA), and a combined statewide perspective:

1. **Serious Mental Illness (SMI) Eligibility Determination Evaluation Packets:**
  - a. Total number of evaluation packets received by Title XIX/XXI status or Non-Title XIX/XXI status,
  - b. Number of evaluation packets received for individuals undergoing Court Ordered Evaluation (COE),
  - c. Applicant evaluation packet submission method (i.e., electronic, fax, mail, hand delivered),
  - d. Total number of evaluation packets received from the HIE,
  - e. Total number of evaluation packets by waiver status – requested by applicant (3/20/60 day),
  - f. Percentage of SMI Eligibility Determinations compliant with timeliness standards per (3/20/60) day timeframes,
  - g. Total number of SMI Eligibility Determinations noncompliant with timeliness standards per (3/20/60) day timeframes,
  - h. Percentage and total number of applicants determined SMI not determined SMI, and
  - i. Number of evaluation packets:
    - i. Received for individuals who were SED identified, are turning the age of 18, and were referred for SMI an Eligibility Determination, and
    - ii. The total number of these applicants determined SMI/not determined SMI.
2. **Serious Mental Illness (SMI) Determination Appeals:**
  - a. Appeals
    - i. Total number of appeals received,
    - ii. Of appeals received, the number and percentage of informal conferences held, and
    - iii. Of appeals received, the number and percentage of informal conferences where the applicant failed to appear.
  - b. Informal conference outcomes – percentage and total number (applicant withdrew appeal, overturned SMI Eligibility Determination, extended Determination for records etc.),
  - c. Appeal decisions - the number upheld, overturned, withdrawn, dismissed (by reason for dismissal], and pending to EEP,
  - d. Determination - Percentage and total number of applicants determined SMI/not determined SMI at conclusion of appeal process,
  - e. Number of fair hearings scheduled, and
  - f. Fair hearings outcomes.
3. **Serious Mental Illness (SMI) Removal of Designation:**
  - a. Number of SMI Removal of Designations requested, and

- b. Number of SMI Removal of Designations granted.

### 13. CONTINUITY OF OPERATIONS AND RECOVERY

In order to provide services, the Contractor shall be able to recover from any disruption in business operations as quickly as possible. This recovery can be accomplished by the development of a Continuity of Operations and Recovery Plan that contains strategies for recovery. The Continuity of Operations and Recovery Plan is part of the Federal Government's Continuity of Operations Programs (COOP) requirements.

The Contractor shall develop, maintain, and annually test a Continuity of Operations and Recovery Plan to manage unexpected events and the threat of such occurrences, which may negatively and significantly impact business operations and the ability to deliver services to individuals.

All staff shall be adequately trained at least annually, understand their respective roles, and be familiar with the Continuity of Operations and Recovery Plan.

The Contractor shall specify in the Plan, at a minimum, strategies to address:

1. Loss of power or telephonic failure or the loss of communication with providers that send referrals for SMI Eligibility Determinations.
2. Complete loss of the use of the Contractor's main site, and any satellite offices in and out of State.
3. Loss of primary electronic information systems, including computer systems and records.
4. Strategies to communicate with referral sources and AHCCCS in the event of a business disruption.
5. Specific timelines for resumption of services provided pursuant to this Contract. The timelines shall note the percentage of recovered sections along the timelines and key actions required to meet those timelines.
6. Extreme weather conditions.
7. Periodic testing and training (at least annually) that assures tasks associated with this Contract are being completed within the required timeframes.

The Contractor shall designate a staff person as Continuity of Operations and Recovery Coordinator.

The Contractor shall require subcontractors to develop and maintain a Continuity of Operations and Recovery Plan.

The Continuity of Operations and Recovery Plan shall be updated annually and submitted to AHCCCS as specified in Section F, Attachment F1, Contractor Chart of Deliverables.

### 14. LEGISLATIVE, LEGAL, AND REGULATORY ISSUES

AHCCCS shall:

1. Notify the Contractor of program changes due to new or changing Federal or State requirements.
2. Amend the Contract to reflect these changes in future Contract amendments, as applicable.

The Contractor shall:

1. Immediately comply with program changes based on Federal or State requirements that are current, pending or which may be enacted.
2. Immediately comply with legislative changes, directives, regulatory changes, or court orders related to any term in this Contract.
3. Comply with requirements as directed by AHCCCS contained in the Stipulation for Providing Community Services and terminating the Litigation, entered on January 8, 2014, in Arnold v. Sarn, Maricopa County Superior Court, No. C-432355.

#### 15. CORPORATE COMPLIANCE

The AHCCCS Office of Inspector General (AHCCCS OIG) is the division of AHCCCS that has the sole authority to conduct preliminary and full investigations relating to fraud, waste, and abuse of the programs administered by AHCCCS. Pursuant to 42 CFR 455, Subpart A, and an IGA with the Arizona Attorney General's Office, AHCCCS OIG refers cases of suspected Medicaid fraud to the State Medicaid Fraud Control Unit for appropriate legal action. AHCCCS OIG also has the authority to make independent referrals to other law enforcement entities.

Pursuant to ARS 36-2918, AHCCCS OIG has the authority to issue subpoenas and enforce the attendance of witnesses, administer oaths or affirmations, examine witnesses under oath, and take testimony as the Inspector General deems relevant or material to an investigation, examination, or review undertaken by the Office.

Pursuant to ARS 36-2918 and 2957, AHCCCS OIG has the authority to impose a civil monetary penalty of up to \$2,000.00 for each item or service claimed, and/or an assessment of an amount not to exceed twice the amount claimed.

AHCCCS OIG has been designated as a Criminal Justice Agency through the Federal Bureau of Investigations (FBI). This designation authorizes AHCCCS OIG to access the National Crime Information Center (NCIC) database as well as the Arizona Criminal Justice Information System. Additionally, OIG is authorized to receive and share restricted criminal justice information with other federal, state, and local agencies.

If AHCCCS OIG determines that a credible allegation of fraud exists, AHCCCS OIG may suspend payments to providers pursuant to 42 CFR 455.23.

**Corporate Compliance Program:** The Contractor shall have a mandatory Corporate Compliance Program designed to prevent, deter, detect, and report fraud, waste, or abuse, which shall include the following:

1. Written policies, procedures and standards of conduct that articulate the Contractor's commitment to and processes for complying with all applicable Federal and State rules, regulations, guidelines, and standards.
2. A system for an effective education and training program for all employees on detecting and reporting, fraud waste and abuse. All trainings shall be conducted in such a manner that can be verified by AHCCCS OIG.
3. A mechanism for enforcement of standards through well-publicized disciplinary guidelines.
4. Establishment and implementation of procedures that include provision for the prompt referral of any potential fraud, waste, or abuse to AHCCCS OIG.
5. Cooperate with AHCCCS OIG in any audit, review, investigation, and/or requests for information of the Contractor.

The Contractor and its subcontractors shall agree to permit and cooperate with any on-site audit. An audit by AHCCCS may be conducted without notice and for the purpose of ensuring program compliance. The Contractor and its subcontractors also agree to respond to electronic, telephonic, or written requests for information within the timeframe specified by AHCCCS. The Contractor and its subcontractors agree to provide documents, including original documents, to representatives of AHCCCS OIG upon request and at no cost. AHCCCS OIG shall allow a reasonable time for the Contractor and its subcontractors to copy the requested documents, not to exceed 30 calendar days from the date of the AHCCCS OIG request.

The Contractor shall report a description of Transactions Between the Contractor and a Party In Interest [as defined in section 1318(b) of such Social Security Act(SSA) ], including the following transactions as specified in Section F, Attachment F1, Contractor Chart of Deliverables [Section 1903(m)(4)(B) of the SSA]:

1. Any sale or exchange or leasing of any property between the organization and such a party.
2. Any furnishing for consideration of goods, services (including management services), or facilities between the organization and such a party, but not including salaries paid to employees for services provided in the normal course of their employment.
3. Any lending of money or other extension of credit between the organization and such a party.

The State or Secretary may require that information reported regarding an organization that controls, or is controlled by, or is under common control with, another entity be in the form of a consolidated financial statement for the organization and such entity.

**Corporate Compliance Reporting Requirements:** The Contractor shall submit all Corporate Compliance deliverables as specified in Section F, Attachment F1, Contractor Chart of Deliverables.

The Contractor shall verify monthly whether any employees and contractors have been excluded from participating in Federal health care programs utilizing the US Department of Health and Human Services (HHS), Office of Inspector General website [www.oig.hhs.gov](http://www.oig.hhs.gov), perform checks through the List

of Excluded Individuals/entities (LEIE) and System for Award Management (SAM) databases, and report to the AHCCCS OIG on the outcome of this HHS verification. The Contractor shall attest to these monthly checks of employees and Contractors and report Exclusion Checks as specified in Section F, Attachment F1, Contractor Chart of Deliverables.

The Contractor shall conduct background checks to avoid hiring or continuing employment for any individual, entity, or affiliate that has been disbarred, suspended, or lawfully prohibited from participating in any public procurement activity, or from participating in non-procurement activities under regulations issued under Executive Order No. 12549 or under guidelines implementing Executive Order No. 12549.

All deliverables that contain PHI and/or other confidential or other sensitive content shall comply with all applicable HIPAA provisions and be uploaded to the AHCCCSMFT Server.

**Deficit Reduction Act Requirements:** If the Contractor receives annual Medicaid payments of at least \$5 million dollars, the Contractor shall establish written policies that provide detailed information and ongoing training and education regarding the provisions under the Federal False Claims Acts and FERA to their employees to certify its compliance with the Public Law (PL) 109-171 Section 6032 of the 2005 Deficit Reduction Act (DRA) [42 USC 1396a (a)(68)]. Pursuant to the Deficit Reduction Act of 2005 DRA, Contractors, as a condition for receiving payments shall establish written policies for employees detailing [Section 1902(a)(68) of the SSA]:

1. The Federal False Claims Act provisions.
2. The administrative remedies for false claims and statements.
3. Any State laws relating to civil or criminal penalties for false claims and statements.
4. The whistleblower protections under such laws.

The Contractor shall require, through documented policies and subsequent Contract amendments, that subcontractors train their staff (including management, contractors, students, and agents) on the following aspects of the Federal False Claims Act provisions:

1. Administrative remedies for false claims and statements.
2. Any State laws relating to civil or criminal penalties for false claims and statements.
3. The whistleblower protections under such laws.

**Disclosure of Information by Disclosing Entities:** The Contractor shall furnish to AHCCCS OIG the Disclosures of Information Required of Disclosing Entities by 42 CFR Part 455, Subpart B; 42 CFR 455.100 - 455.106 within the timeframes described in 42 CFR 455.104 (c) or upon request by AHCCCS and as specified in Section F, Attachment F1, Contractor Chart of Deliverables.

The Contractor and its subcontractors shall register as an AHCCCS provider and comply with AHCCCS policies and procedures for provider participation.

**Reporting Alleged Fraud, Waste and Abuse of the AHCCCS Program:** In accordance with ARS 36-2918.01, 36-2932, and 36-2905.04 the Contractor and its subcontractors are required to notify the AHCCCS OIG regarding all allegations of fraud, waste, or abuse of the AHCCCS Program as specified in Contract Section F, Attachment F3, Contractor Chart of Deliverables. The Contractor shall, upon ID, report all instances of Alleged Fraud, Waste, and Abuse of the AHCCCS Program, AHCCCS providers or AHCCCS members to AHCCCS OIG as specified in Section F, Attachment F1, Contractor Chart of Deliverables and as specified below:

1. If a Contractor discovers, or is made aware, that an incident of alleged fraud, waste, or abuse has occurred, the Contractor shall report the incident to AHCCCS OIG within 10 calendar days, by completing and submitting the Report Alleged Fraud, Waste or Abuse of the AHCCCS Program form available on the AHCCCS OIG web page: [Report Fraud](#) as specified in Section F, Attachment F3, Contractor Chart of Deliverables.. All pertinent documentation that would assist AHCCCS in its investigation shall be attached to the form.
2. If a Contractor or subcontractor identifies an incident that warrants self-disclosure, the incident shall be reported within 10 calendar days to AHCCCS OIG by completing and submitting the Provider Self-Disclosure form available on the AHCCCS OIG web page: [Providers](#). All pertinent documentation that would assist AHCCCS in its investigation shall be attached to the form.

#### 16. PERFORMANCE MONITORING AND OVERSIGHT

The Contractor shall:

1. Achieve the desired outcomes and maintain compliance with Contract obligations.
2. Cooperate with any procedure for monitoring the Contractor's operations and performance to ensure program compliance and identify best practices, including, but not limited to, evaluation of submitted deliverables, ad hoc reporting, and periodic focused and full reviews, or ad hoc audits, without notice, to monitor Contractual requirements and performance as needed.
3. Submit to AHCCCS, in advance, or as otherwise directed, all documents and information related to Contractor's policies, procedures, job descriptions, logs, clinical and business practices, financial reporting systems, quality indicators, and any other information requested by AHCCCS.
4. Make available on-site, or through other methods as directed by AHCCCS, all requested eligibility, and grievance and appeal records selected for review.
5. During a review, ad hoc audit, and/or when requested by AHCCCS, produce, as soon as possible, any documents not requested in advance by AHCCCS.
6. Allow AHCCCS to have access to the Contractor's staff, as identified in advance, and at all times during a review.
7. Provide AHCCCS with workspace, access to a telephone, electrical outlets, internet access and privacy for conferences while on-site.

8. Implement a CAP if an AHCCCS Operational Review or audit identifies deficiencies in performance.

CAPs and any modifications shall be approved by AHCCCS. The Contractor shall cooperate with AHCCCS' follow-up reviews, monitoring, or audits at any time after the completion of the initial review to determine the Contractor's progress in implementing a CAP. The Contractor shall accept AHCCCS technical assistance, when offered, and submit requested documents related to an audit or review, as directed by AHCCCS. The Contractor shall be on notice that review findings may be used in the scoring of subsequent bid Proposals submitted by the Contractor.

**Administrative Actions:** AHCCCS may issue the following Administrative Action(s) if it is determined that the Contractor is noncompliant with any provisions in this Contract. The type of remedy utilized by AHCCCS is at its sole discretion.

**Corrective Action:** The Contractor shall develop and implement an AHCCCS-approved CAP when AHCCCS determines and notifies the Contractor of noncompliance with any term of this Contract.

**Notice to Cure:** AHCCCS may provide a written Notice To Cure (NTC) to the Contractor outlining the details of the noncompliance and timeframe to remedy the Contractor's performance. If, at the end of the specified time period, the Contractor has complied with the NTC requirements, AHCCCS may choose not to impose a sanction.

**Sanction:** The Contractor may be subject to Sanction(s) or any other available remedy under this Contract if at the end of the specified cure period the Contractor has not complied with the NTC requirements. AHCCCS may impose Sanctions for any breach of the Contract or any failure to comply with applicable Federal or State laws or regulations, or any term of this Contract, including, but not limited to:

1. Misrepresentation or falsification of information provided to AHCCCS.
2. Noncompliance with financial requirements.
3. Noncompliance with applicable Federal or State laws or regulations.
4. Loss of any information contained in reports, deliverables, and records.
5. Untimely, incomplete, or inaccurate submission of reports, deliverables or other information requested by AHCCCS.

In the event of a Sanction, AHCCCS shall:

1. Consider the severity of the violation, at its sole discretion, to determine the amount of the sanction.

2. Provide written notice to the Contractor specifying the amount of the Sanction, the grounds for the Sanction, the amount of funds to be withheld from the Contractor's monthly payments, the steps necessary to avoid future Sanctions and the Contractor's right to file a claims dispute with AHCCCS to challenge the sanction.

AHCCCS may:

1. Offset against any payments due to the Contractor until the full Sanction amount is paid.
2. Impose additional Sanctions, which may be equal to or greater than the sanction imposed for the unresolved violation, in the event the Contractor fails to adequately correct the violation within established timeframes.

**Readiness Reviews:** A Readiness Review is conducted at the discretion of AHCCCS to review programmatic operations of the Contractor. The purpose of a Readiness Review is to assess a Contractor's readiness and ability to provide services in accordance with this Contract. The Contractor shall satisfy AHCCCS' requirements on all Readiness Review elements in order to continue operating under this Contract.

**Reporting Requirements:** The Contractor shall submit timely, accurate, and complete reports or other information to AHCCCS as required in this Contract. The Contractor shall be subject to corrective action or sanctions if a report or other information is submitted as untimely, inaccurate, or incomplete.

The Contractor shall comply with the following submission standards:

1. **Accuracy:** Reports or other information are prepared and submitted in strict conformity with appropriate authoritative sources and/or AHCCCS defined standards.
2. **Completeness:** Reports or other information are disclosed in a manner that is both responsive and relevant to the report's purpose with no material omissions.
3. **Timeliness:** Reports or other required data shall be received no later than 5:00 p.m. Arizona Time, on the scheduled due dates, as specified in Section F, Attachment F1, Contractor Chart of Deliverables. If the due date falls on a weekend or a State Holiday, the due date is 5:00 PM Arizona Time on the next business day, or as otherwise noted.

AHCCCS requirements regarding reports, report content, frequency, and submission of reports are subject to change at any time during the term of the Contract. The Contractor shall comply with all changes specified by AHCCCS. The Contractor shall be responsible for continued reporting beyond the term of the Contract.

**Requests for Information:** AHCCCS may, at any time during the term of this Contract, request financial, clinical, or other information from the Contractor. Responses shall fully disclose all financial, clinical, or other information requested. Information may be designated as confidential but may not be withheld from AHCCCS as proprietary. Information designated as confidential may not be disclosed by AHCCCS without the prior written consent of the Contractor except as required by law. Upon receipt of such requests for information from AHCCCS, the Contractor shall provide complete

Response to AHCCCS Requests for Information to AHCCCS as specified in Section F, Attachment F1, Contractor Chart of Deliverables.

If the Contractor believes the requested information is confidential and may not be disclosed to third parties, the Contractor shall provide a detailed legal analysis to AHCCCS, within the timeframe designated by AHCCCS, setting forth the specific reasons why the information is confidential and describing the specific harm or injury that would result from disclosure. In the event AHCCCS withholds information from a third-party as a result of the Contractor's statement, the Contractor shall be responsible for all costs associated with the nondisclosure, including but not limited to legal fees and costs.

**Technical Assistance:** For Technical Assistance, the Contractor shall note the following Technical Assistance Provisions:

1. Recognize AHCCCS' technical assistance to help the Contractor achieve compliance with any relevant Contract terms or Contract subject matter issues does not relieve the Contractor of its obligation to fully comply with all terms in this Contract.
2. Recognize that the Contractor's acceptance of AHCCCS' offer or provision of technical assistance shall not be utilized as a defense or a mitigating factor in a Contract enforcement action in which compliance with Contract requirements is at issue.
3. Recognize that AHCCCS not providing technical assistance to the Contractor as it relates to compliance with a Contract requirement or any and all other terms, shall not be utilized as a defense or a mitigating factor in a Contract enforcement action in which compliance with Contract requirements is at issue.
4. Recognize that a Contractor's subcontractor participation in a technical assistance matter, in full or in part, does not relieve the Contractor of its Contractual duties nor modify the Contractor's Contractual obligations.

## 17. FINANCIAL MANAGEMENT

The Contractor will be compensated through payment of a price per SMI Eligibility Determination/Removal of Designation packet received, regardless of outcome.

The Contractor shall be responsible for the cost for the SMI Eligibility Determination, related grievance, and appeal processes, and conducting follow-up evaluations in the event of a dispute between the applicant's treating behavioral health provider and the Contractor's SMI Eligibility Determination professional. The Contractor shall also be responsible for the cost for any SMI Removal of Designation. The Contractor shall develop and maintain internal controls and systems to separately account for AHCCCS related revenue, expenses, non-AHCCCS related revenue, and expenses by type and program and manage record and report funds in accordance with the practices, procedures, and standards in the State of Arizona Accounting Manual.

The Contractor shall notify and reimburse AHCCCS within 30 days of when the Contractor identifies an Overpayment by AHCCCS as specified in Section F, Attachment F1, Contractor Chart of Deliverables.

The Contractor shall submit an Invoice or Contractor Expenditure Report (CER) as specified in Section F, Attachment F1, Contractor Chart of Deliverables for monthly Title XIX/XXI and Non-Title XIX/XXI payments based on the number of SMI Eligibility Determinations and Removal of Designation received ("Packets Received") for Title XIX/XXI and Non-Title XIX/XXI members during the month multiplied by the Contracted price per SMI Eligibility Determination/Removal of Designation amount, as applicable, and be responsible for any charges or expenses imposed for transfers or related actions.

AHCCCS shall:

1. Have the right, at any time during the term of this Contract, to request financial or other information from the Contractor.
2. Provide funds that are subject to availability and the terms and conditions of this Contract.
3. Pay the Contractor, provided that the Contractor's performance complies with the terms and conditions of this Contract.
4. Not be responsible for payment to the Contractor for any purchases, expenditures, or subcontracts made by the Contractor in anticipation of funding.
5. Have the option to make payments to the Contractor by wire or National Automated Clearing House Association (NACHA) transfer and shall provide the Contractor at least 30 days' notice prior to the effective date of any such change.
6. Not be liable for any error or delay in transfer or indirect or consequential damages arising from the use of the electronic funds transfer process where payments are made by electronic funds transfer.
7. Adjust payments when an error is discovered and may make a payment adjustment through a corresponding decrease in a current Contractor's payment or by processing an additional payment to the Contractor.
8. Reserve the right to modify the awarded Contracted price per SMI Eligibility Determination/Removal of Designation amount by adjusting the denominator for fluctuations in the number of Determinations and Removal of Designations that would represent a significant change from the number of Determinations and Removal of Designations included in the denominator of the awarded price per SMI Eligibility Determination/Removal of Designation.
9. Monitor assessments and SMI Eligibility Determination and Removal of Designation metrics. AHCCCS may audit the Contractor's data if it is determined that the metrics indicate inappropriate increases in SMI Eligibility Determinations and/or Removal of Designations in order to artificially increase revenue and may issue Administrative Action. Refer to Section D, Paragraph 16, Monitoring Requirements for further information.
10. Require the Contractor to exclude prior contract year AHCCCS recoupments from revenue and imposed sanctions from expenses for the purpose of calculating profit.

[END OF SECTION D: PROGRAM REQUIREMENTS]

**DRAFT SMI**

**SECTION E: TERMS AND CONDITIONS**

**UNIFORM TERMS AND CONDITIONS**

1. **DEFINITIONS** - All definitions listed Section C, Definitions.
2. **Contract Interpretation**
  - a. Arizona Law. The Arizona law applies to this Contract including, ARS 36-2906 and its implementing rules,
  - b. 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,
  - c. 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,
  - d. 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,
  - e. 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, and
  - f. 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**
  - a. Records. Under ARS 35-214 and 35-215, the Contractor shall retain and shall contractually require each subcontractor to retain all data and other "records" relating to the acquisition and performance of the Contract for a period of five 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,
  - b. Non-Discrimination. The Contractor shall comply with State Executive Order No. 2009-09 and all other applicable Federal and State laws, rules, and regulations, including the Americans with Disabilities Act,
  - c. Audit. Pursuant to ARS 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, and
  - d. 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.

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 noncompliance

of the materials, the Contractor shall be responsible for the payment of all costs incurred by the State for testing and inspection.

- e. 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 cover sheet, unless otherwise stated in the Contract. 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,
- f. 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,
- g. Property of the State. Any materials, including reports, computer programs and other deliverables, created under this Contract 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,
- h. Ownership of Intellectual Property. Any and all intellectual property, including but not limited to copyright, invention, trademark, trade name, service mark, and/or trade secrets created or conceived pursuant to or as a result of this contract and any related subcontract (“Intellectual Property”), shall be work made for hire and the State shall be considered the creator of such Intellectual Property. The agency, department, division, board, or commission of the State of Arizona requesting the issuance of this contract shall own (for and on behalf of the State) the entire right, title, and interest to the Intellectual Property throughout the world. The Contractor shall notify the State, within 30 days of the creation of any Intellectual Property by it or its subcontractor(s). The Contractor, on behalf of itself and any subcontractor(s), agrees to execute any and all document(s) necessary to assure ownership of the Intellectual Property vests in the State and shall take no affirmative actions that might have the effect of vesting all or part of the Intellectual Property in any entity other than the State. The Intellectual Property shall not be disclosed by the Contractor or its subcontractor(s) to any entity not the State without the express written authorization of the agency, department, division, board, or commission of the State of Arizona requesting the issuance of this contract,
- i. Federal Immigration and Nationality Act. The 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, the 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 the Contractor and subcontractor records or to inspect papers of any employee thereof to ensure compliance. Should the State determine that the Contractor and/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 and/or debarment of the Contractor,

- j. E-Verify Requirements. In accordance with ARS 41-4401, Contractor warrants compliance with all Federal immigration laws and regulations relating to employees and warrants its compliance with ARS 23-214, Subsection A, and
- k. Offshore Performance of Work Prohibited. Any services that are described in the specifications or scope of work/program requirements that directly serve the State of Arizona or its clients and involve access to secure or sensitive data or personal client data shall be performed within the defined territories of the United States. Unless specifically stated otherwise in the specifications, this paragraph does not apply to indirect or 'overhead' services, redundant back-up services or services that are incidental to the performance of the contract. This provision applies to work performed by subcontractors at all tiers.

**4. Costs and Payments**

- a. Payments. Payments shall comply with the requirements of ARS Titles 35 and 41, Net 30 days. Upon receipt and acceptance of goods or services, the Contractor shall submit a complete and accurate invoice for payment from the State within 30 days,
- b. Delivery. Unless stated otherwise in the Contract, all prices shall be F.O.B. Destination and shall include all freight delivery and unloading at the destination,
- c. Applicable Taxes,
  - i. Payment of Taxes. The Contractor shall be responsible for paying all applicable taxes,
  - ii. 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,
  - iii. Tax Indemnification. The Contractor and all subcontractors shall pay all Federal, State, and local taxes applicable to its operation and any persons employed by the Contractor. The 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, and
  - iv. Internal Revenue Service (IRS) W9 Form. In order to receive payment the Contractor shall have a current IRS W9 Form on file with the State of Arizona, unless not required by law.
- d. 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, and
- e. 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 goods or services are not funded, the State may take any of the following actions:
  - i. Accept a decrease in price offered by the Contractor,
  - ii. Cancel the Contract, or
  - iii. Cancel the contract and re-solicit the requirements.

**5. Contract Changes**

- a. 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 work or materials, the revision of payment terms, or the substitution of work 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,
- b. 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. 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, and
- c. 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.

**6. Risk and Liability**

- a. Risk of Loss. The Contractor shall bear all loss of conforming material 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,
- b. Indemnification.
  - i. Contractor/Vendor Indemnification The parties to this contract agree that the State of Arizona, its departments, agencies, boards, and commissions shall be indemnified and held harmless by the Contractor for the vicarious liability of the State as a result of entering into this contract. However, the parties further agree that the State of Arizona, its departments, agencies, boards, and commissions shall be responsible for its own negligence. Each party to this contract is responsible for its own negligence.
- c. 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 ARS 41-621 and 35-154, this section shall not apply.
- d. Force Majeure.
  - i. Except for payment of sums due, neither party 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 public enemy; war; riots; strikes; mobilization; labor disputes; civil disorders; fire; flood; lockouts; injunctions-intervention-acts; or 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,
- ii. Force Majeure shall **not** include the following occurrences:
    - a) Late delivery of equipment or materials caused by congestion at a manufacturer's plant or elsewhere, or an oversold condition of the market,
    - b) 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
    - c) Inability of either the Contractor or any subcontractor to acquire or maintain any required insurance, bonds, licenses or permits.
  - iii. If either party 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, and
  - iv. 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.
  - e. 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**

- a. Liens. The Contractor warrants that the materials supplied under this Contract are free of liens and shall remain free of liens,
- b. Quality. Unless otherwise modified elsewhere in these terms and conditions, the Contractor warrants that, for one year after acceptance by the State of the materials, they shall be:
  - i. Of a quality to pass without objection in the trade under the Contract description,
  - ii. Fit for the intended purposes for which the materials are used,
  - iii. Within the variations permitted by the Contract and are of even kind, quantity, and quality within each unit and among all units,
  - iv. Adequately contained, packaged, and marked as the Contract may require, and
  - v. Conform to the written promises or affirmations of fact made by the Contractor.
- c. Fitness. The Contractor warrants that any material supplied to the State shall fully conform to all requirements of the Contract and all representations of the Contractor and shall be fit for all purposes and uses required by the Contract,
- d. Inspection/Testing. The warranties set forth in subparagraphs 7.1 through 7.3 of this paragraph are not affected by inspection or testing of or payment for the materials by the State,

- e. Compliance With Applicable Laws. The materials and services supplied under this Contract shall comply with all applicable Federal, State, and local laws, and the Contractor shall maintain all applicable license and permit requirements,
- f. Survival of Rights and Obligations after Contract Expiration or Termination,
  - i. 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 ARS12-510, except as provided in ARS 12-529, the State is not subject to or barred by any limitations of actions prescribed in A.R.S. Title 12, Chapter 5, and
  - ii. Purchase Orders. The Contractor shall, in accordance with all terms and conditions of the Contract, fully perform and shall be obligated to comply with all purchase orders received by the Contractor prior to the expiration or termination hereof, unless otherwise directed in writing by the Procurement Officer, including, without limitation, all purchase orders received prior to but not fully performed and satisfied at the expiration or termination of this Contract.

**8. State's Contractual Remedies**

- a. 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,
- b. Stop Work Order,
  - i. 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, and
  - ii. 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.
- c. Non-exclusive Remedies. The rights and the remedies of the State under this Contract are not exclusive,
- d. 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, and

- e. 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**

- a. Cancellation for Conflict of Interest. Pursuant to ARS 38-511, the State may cancel this Contract within three 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 ARS 38-511,
- b. 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 for 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 exemplary damages in the amount of three times the value of the Gratuity offered by the Contractor,
- c. 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,
- d. 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 accepted before the effective date of the termination. The cost principles and procedures provided in AAC R2-7-701 shall apply,
- e. Termination for Default.
  - i. 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,

- ii. 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, and
- iii. 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.
- f. 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, to the extent required by ARS 12-1518, except as may be required by other applicable statutes.

[END OF UNIFORM TERMS AND CONDITIONS]

**SPECIAL TERMS AND CONDITIONS**

1. **Assignment of Contract and Bankruptcy:** This contract is voidable and subject to immediate cancellation by the Procurement officer upon the 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 and shall create firewalls to prevent use of data obtained or generated from this Contract in these other Contracts or lines of business.
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:
  - a. The Contractor provides material that does not meet the specifications of the contract,
  - b. The Contractor fails to adequately perform the services set forth in the specifications of the contract,
  - c. The Contractor fails to complete the work required or furnish the materials required within the time stipulated in the contract,
  - d. 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, and
  - e. The Procurement officer may resort to any single or combination of the following remedies:
    - i. Cancel any contract,
    - ii. Reserve all rights or claims to damage for breach of any covenants of the contract,
    - iii. Perform any test or analysis on materials for compliance with the specifications of the contract. If the result of any test confirms a material noncompliance with the specifications, any reasonable expense of testing shall be borne by the Contractor, and
    - iv. 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:
      - a) Deduction from an unpaid balance,
      - b) Collection against the bid and/or performance bond, or
      - c) 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:
- a. The Contractor provides material that does not meet the specifications of the contract.
  - b. The Contractor fails to adequately perform the services set forth in the specifications of the contract.
  - c. The Contractor fails to complete the work required or furnish the materials required within the time stipulated by the contract.
  - d. 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.
  - e. Upon receipt of the written notice of concern, the Contractor shall have a minimum of 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.
    - i. Cancel any contract,
    - ii. Reserve all rights or claims to damage for breach of any covenant of the contract,
    - iii. Perform any test or analysis on materials for compliance with the specifications of the contract. If the result of any test confirms a material noncompliance with the specifications, any reasonable expense of testing shall be borne by the Contractor, and
    - iv. 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:
      - a) Deduction from an unpaid balance,
      - b) Collection against the bid and/or performance bond, or
      - c) Any combination of the above or any other remedies as provided by law.
6. **Contract Disputes:** Contract claims and disputes shall be adjudicated in accordance with State Law, AHCCCS Rules and this contract. Except as provided by 9 AAC Chapter 22, Article 6, the exclusive manner for the Contractor to assert any dispute against AHCCCS shall be in accordance with the process specified in 9 AAC Chapter 34 and ARS 6-2932:
- a. All disputes except as provided under 9 AAC Chapter 22, Article 6 shall be filed in writing and be received by AHCCCS no later than 60 days from the date of the disputed notice. All disputes shall state the factual and legal basis for the dispute.
  - b. Pending the final resolution of any disputes involving this contract, the Contractor shall proceed with performance of this contract in accordance with AHCCCS' instructions, unless AHCCCS specifically, in writing, requests termination or a temporary suspension of performance.
  - c. Any matters that cannot be addressed in 6.1 or 6.2 above shall be adjudicated in accordance with AHCCCS Rules.

- 7. Cooperation with other Contractors:** AHCCCS may award other contracts for additional or related work and the Contractor shall fully cooperate with such other contractors and AHCCCS employees or designated agents and carefully fit its own work to such other contractors' work. The Contractor shall not commit or permit any act which will interfere with the performance of work by any other contractor or by AHCCCS employees. AHCCCS shall equitably enforce this section to all contractors to prevent the imposition of unreasonable burdens on any contractor.
- 8. Confidentiality of Records and Disclosure of Confidential Information:**
- a. 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.
  - b. 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.
  - c. 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.
  - d. 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.
  - e. The Contractor and their subcontractors shall observe and abide by AAC R9-22-512 as well as the federal Health Insurance Portability and Affordability Act 45 CFR 160,162,164 and Confidentiality of Substance Use Disorder Records [42 CR Part 2] and its implementing regulations regarding use or disclosure of information concerning applicants for and recipients of AHCCCS services.
- 9. 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.

**10. Request for Proposal (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 Centers for Medicare and Medicaid Services (CMS) Section 1115 Waiver Demonstration for the State of Arizona; the Arizona State Plan Amendment (SPA); 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.

- a. The RFP consists of the following, in order of Precedence:
  - i. HIPAA Business Associates Agreement or Addendum (if included),
  - ii. Special Terms and Conditions,
  - iii. Uniform Terms and Conditions,
  - iv. Statement or Scope of Work/Program Requirements,
  - v. Attachments,
  - vi. Exhibits,
  - vii. Documents referenced or included in the Solicitation, and
  - viii. AHCCCS policies and procedures incorporated by reference.
- b. The awarded Contract between AHCCCS and the Contractor consist of the following:
  - i. All Contract Amendments issued after award in descending order,
  - ii. The RFP as described above, and
  - iii. The proposal submitted by the Contractor in response to the RFP including any Best and Final Offers.
- c. 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, and
- d. 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.

**11. 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.

**12. Fraud, Waste, and Abuse:**

- a. 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 AHCCCS OIG,
- b. As stated in ARS 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,
- c. The AHCCCS OIG is responsible for the Program Integrity for the AHCCCS, Arizona's Medicaid program. AHCCCS OIG is solely responsible for Fraud, Waste, and Abuse (FWA) of the AHCCCS program. All suspected fraud, waste, or abuse shall be reported to AHCCCS OIG. Additionally, only AHCCCS OIG is authorized to recover any overpayment identified due to fraud, waste, or abuse:
  - i. Fraud is defined as: An intentional deception or misrepresentation made by a person with the knowledge that the deception could result in some unauthorized benefit to himself or some other person. It includes any act that constitutes fraud under applicable Federal or State law ARS 13-2310 and 42 CFR 455.2,
  - ii. Waste is defined as: Over-utilization or inappropriate utilization of services, misuse of resources, or practices that result in unnecessary costs to the Medicaid Program, and
  - iii. Abuse of the AHCCCS program is defined as: Provider practices that are inconsistent with sound fiscal, business, or medical practices, and result in an unnecessary cost to the AHCCCS program, or in reimbursement for services that are not medically necessary or that fail to meet professionally recognized standards for health care, noncompliance with licensure standards, misuse of billing numbers, or misuse or abuse of billing privileges. It also includes beneficiary practices that result in unnecessary cost to the AHCCCS Program [42 CFR 455.2].
- d. Anyone can report Arizona Medicaid fraud, waste, or abuse. There are no restrictions. To report suspected fraud by an AHCCCS medical provider, call in Maricopa County: 602-417-4045, outside of Maricopa County: 888-ITS-NOT-OK or 888-487-6686. To report suspected fraud by an AHCCCS member, call in Maricopa County: 602-417-4193, outside of Maricopa County: 888-ITS-NOT-OK or 888-487-6686. Additionally, Provider and Member FWA can be reported online at:  
<https://www.azahcccs.gov/Fraud/ReportFraud/onlineform.aspx>.
- e. Questions can also be emailed to the AHCCCS/OIG at: [AHCCCSFraud@azahcccs.gov](mailto:AHCCCSFraud@azahcccs.gov).

- 13. 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, Federal Insurance Contributions Act (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 SSA, 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.

- 14. 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.
- 15. Lobbying:** No funds paid to the Contractor by AHCCCS, or interest earned thereon, shall be used for the purpose of influencing or attempting to influence an officer or employee of any Federal or State agency, a member of the United States Congress or State Legislature, an officer or employee of a member of the United States Congress or State Legislature in connection with awarding of any Federal or State contract, the making of any federal or State grant, the making of any Federal or State loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment or modification of any Federal or State contract, grant, loan, or cooperative agreement. The Contractor shall disclose if any funds other than those paid to the Contractor by AHCCCS have been used or will be used to influence the persons and entities indicated above and will assist AHCCCS in making such disclosures to CMS.
- 12. No Guaranteed Quantities:** AHCCCS does not guarantee the Contractor any minimum or maximum quantity of services or goods to be provided under this contract.
- 13. Non-exclusive Contract:** Any contract resulting from this solicitation shall be awarded with the understanding and agreement that it is for the sole convenience of AHCCCS. The state reserves the right to obtain like goods or services from another source when necessary.
- 14. Ownership of Information and Data:**
- a. Any data or information system, including all software, documentation, and manuals, developed by the 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,
  - b. Data, information, and reports collected or prepared by the 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 the Contractor's use of public funds in collecting or preparing such data, information, and reports. These items shall not be used by the Contractor for any independent project of the 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, the Contractor shall make available all such data to the Procurement officer within 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, and
  - c. Except as otherwise provided in this section, if any copyrightable or patentable material is developed by the 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 Federal or State government purposes. The Contractor shall additionally be subject to the applicable provisions of 45 CFR Part 74 and 45 CFR Parts 6 and 8.

**15. Records:**

- a. 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. AHCCCS records management guidelines are located at: Records shall include, but not be limited to, financial statements, case files (both hard copy and stored data), and other records specified by AHCCCS,
- b. 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, Federal or State government, and
- c. The Contractor shall preserve and make available all records for a period of five years from the date of final payment under this contract except as provided below:
  - i. 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,
  - ii. 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, and
  - iii. 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 herein above designated have been paid, discharged, or waived.

**17. Term of Contract and Option to Renew:**

- a. The initial term of this contract shall be for three (3) initial years with two (2) one-year options to extend, not to exceed a total contracting period of five (5) years. The Contract Year is October 1 to September 30. The terms and conditions of any such contract extension shall remain the same as the original contract, as amended. All contract extensions shall be through contract amendment and shall be at the sole option of AHCCCS,
  - Year one through three: October 1, 2023 – September 30, 2026
  - Year four (optional extension year): October 1, 2026 – September 30, 2027
  - Year five (optional extension year): October 1, 2027 – September 30, 2028
- b. When the Procurement officer issues an amendment to extend the contract, the provisions of such extension will be deemed to have been accepted 60 days after the date of mailing by the Procurement officer, even if the extension amendment has not been signed by the Contractor, unless within that time the Contractor notifies the Procurement officer in writing

that it refuses to sign the extension amendment. If the Contractor provides such notification, the Procurement officer will initiate contract termination proceedings, and

- c. If the Contractor chooses not to renew this contract, the Contractor may be liable for certain costs associated with the transition of its members to a different Contractor. If the Contractor provides the Procurement officer written notice of its intent not to renew this contract at least 180 days before its expiration, this liability for transition costs may be waived by the Procurement officer.

**18. Staff Background Checks:** For the purposes of this requirement, “Staff” is defined as any individual who is an employee, independent contractor, consultant, or subcontractor of the Contractor and who during their course of work on this Contract has or may have any direct contact with a member. Direct contact includes but is not limited to in-person, over the telephone, direct messaging, or video conferencing.

- a. The Contractor shall, at its own expense, complete a background check on all Staff,
- b. The background check shall be completed via a recognized law enforcement agency or qualified third-party within 30 days of assignment of Staff, and annually thereafter or as agreed to in writing by AHCCCS,
- c. The Contractor shall not allow any Staff to have access to a member after 30 days of assignment without clearance of their background check, unless otherwise agreed to in writing by AHCCCS, and
- d. The Contractor shall retain, and provide to AHCCCS upon request, written confirmation on an annual basis of all Staff who have been background checked and approved to work on the Contract.

**22. Warranty of Services:** The Contractor warrants that all services provided under this contract will conform to the requirements stated herein. AHCCCS' acceptance of services provided by the Contractor shall not relieve the Contractor from its obligations under this warranty. In addition to its other remedies, the Procurement officer may, at the Contractor's expense, require prompt correction of any services failing to meet the Contractor's warranty herein. Services corrected by the Contractor shall be subject to all of the provisions of this contract in the manner and to the same extent as the services originally furnished.

**23. Indemnification:** The Contractor shall indemnify, defend with counsel reasonably approved by the State, and hold harmless, the State, its departments, agencies, boards, commissions, universities, officers, agents, and employees (collectively, the “Indemnitee”) from and against any and all claims, actions, damages, costs (including attorneys’ fees), and losses arising under this Contract, including, but not limited to, bodily injury or personal injury (including death), or loss or damage to tangible or intangible property, but excluding damages arising solely from the gross negligence or willful misconduct of the Indemnitee. This indemnification obligation includes any claim or amount arising out of, or recovered under, the Workers’ Compensation Law or arising out of the failure of the Contractor to comply with any federal, state, or local law, statute, ordinance, rule, regulation, or court decree. The Contractor shall have control, subject to the reasonable approval of the State, of the defense of any action on such claim and all negotiations for its settlement or compromise, provided, however, that when substantial principles of government of public law are involved, or when involvement of the State is otherwise mandated

by law, the State may elect, in its sole and absolute discretion, to participate in such action at its own expense with respect to attorneys' fees and costs, but not liability and the State shall have the right to approve or disapprove any settlement which approval shall not be unreasonably withheld or delayed. The State shall reasonably cooperate in its defense and any related settlement negotiations.

**24. Insurance Requirements**

**Professional Service Contracts - Working with Children and/or Vulnerable Adults**

**Indemnification Clause**

To the fullest extent permitted by law, the 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 the 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 the 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 the Contractor from and against any and all claims. It is agreed that the 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 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 sub-contractor(s) is/are an agency, board, commission, or university of the State of Arizona.

**Insurance Requirements**

The 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.

**1. Minimum Scope and Limits of Insurance**

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

**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 include coverage for Sexual Abuse and Molestation (SAM). This coverage may be sub-limited to no less than \$500,000. The limits may be included within the General Liability limit or provided by separate endorsement with its own limits. If you are unable to obtain SAM coverage under your General Liability because the insurance market will not support it, it should be included with the Professional Liability.
  - b. Contractor shall provide the following statement on their Certificate(s) of Insurance: “Sexual Abuse and Molestation coverage is included” or “Sexual Abuse and Molestation coverage is not excluded.”
  - c. 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.
  - d. 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. 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.

**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 ARS 23-901, and when such Contractor or subcontractor executes the appropriate waiver form (Sole Proprietor or Independent Contractor).

**4. Professional Liability (Errors and Omissions Liability)**

- Each Claim \$ 2,000,000
  - Annual Aggregate \$ 2,000,000
    - a. If SAM coverage is being provided under this policy, then the Contractor shall provide the following statement on their Certificate(s) of Insurance: “Sexual Abuse and Molestation coverage is included” or “Sexual Abuse and Molestation coverage is not excluded.” This coverage may be sub-limited to no less than \$500,000.
    - b. In the event that the professional liability insurance required by this Contract is written on a claims-made basis, the Contractor warrants that any retroactive date under the policy shall precede the effective date of this Contract; and that 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. Policy shall cover professional misconduct or wrongful acts for those positions defined in the Scope of Work/Program Requirements of this Contract.

**2. Additional Insurance Requirements**

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

- a. 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 ARS 41-621 (E).
- b. Insurance provided by the Contractor shall not limit the Contractor's liability assumed under the indemnification provisions of this Contract.
- c. Notice of Cancellation

Applicable to all insurance policies required within the Insurance Requirements of this Contract, the Contractor's insurance shall not be permitted to expire, be suspended, be canceled, or be materially changed for any reason without 30 days prior written notice to the State of Arizona. Within two business days of receipt, the 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 sent directly to the Department and shall be mailed, emailed, hand delivered, or sent by facsimile transmission to (State Representative's Name, Address & Fax Number).

**3. Acceptability of Insurers**

The 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 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.

**4. Verification of Coverage**

The Contractor shall furnish the State of Arizona with certificates of insurance (valid ACORD form or equivalent approved by the State of Arizona) evidencing that the Contractor has the insurance as required by this Contract and submit as specified in Section F, Attachment F1, Contractor Chart of Deliverables. An authorized representative of the insurer shall sign the certificates.

- a. 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.
- b. 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.
- c. All certificates required by this Contract shall be sent directly to the Department. 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.

**5. Subcontractors**

The 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.

**6. Approval and Modifications**

The Contracting Agency, 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.

**7. 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.

[END OF SPECIAL TERMS AND CONDITIONS]

[END OF SECTION E: TERMS AND CONDITIONS]

**SECTION F: ATTACHMENTS**

**ATTACHMENT F1: CONTRACTOR CHART OF DELIVERABLES**

The following table is a summary of the periodic reporting requirements for the Contractor and are subject to change at any time during the term of the contract. The table is presented for convenience only and shall not be construed to limit the Contractor's responsibilities in any manner. Content for all deliverables is subject to review. The submission of late, inaccurate, or incomplete data shall be subject to the penalty provisions described in Section D, Paragraph 16, Monitoring Requirements.

The deliverables listed below are due by 5:00 PM Arizona Time on the due date indicated, if the due date falls on a weekend or a State Holiday the due date is 5:00 PM Arizona Time on the next business day.

All deliverables which are noted to be submitted via **SharePoint** are to be submitted to the [AHCCCS SharePoint Contract Compliance Site](#).

Should AHCCCS modify the submission process for deliverables; AHCCCS shall provide a letter of instruction to the Contractor outlining changes to the deliverable submission process.

Refer to Section F, Attachment F3, Contractor Chart of Deliverables in the separately attached Excel document.

[END OF ATTACHMENT F1: CHART OF DELIVERABLES]

[END OF SECTION F: ATTACHMENTS]