

***BID RESPONSE PACKET***  
***710-23-0026***

# BID SIGNATURE PAGE

Type or Print the following information.

PROSPECTIVE CONTRACTOR'S INFORMATION				
Company:	Healthwise Wellness Direct PLLC			
Address:	4014 Old Warren Rd.			
City:	Pine Bluff	State:	AR	Zip Code: 71603
Business Designation:	<input type="checkbox"/> Individual <input type="checkbox"/> Partnership	<input checked="" type="checkbox"/> Sole Proprietorship <input type="checkbox"/> Corporation	<input type="checkbox"/> Public Service Corp <input type="checkbox"/> Nonprofit	
Minority and Women-Owned Designation*:	<input type="checkbox"/> Not Applicable <input checked="" type="checkbox"/> African American <input type="checkbox"/> Asian American	<input type="checkbox"/> American Indian <input type="checkbox"/> Hispanic American <input type="checkbox"/> Pacific Islander American	<input type="checkbox"/> Service Disabled Veteran <input checked="" type="checkbox"/> Women-Owned	
	AR Certification #: _____ * See <i>Minority and Women-Owned Business Policy</i>			

PROSPECTIVE CONTRACTOR CONTACT INFORMATION			
<i>Provide contact information to be used for bid solicitation related matters.</i>			
Contact Person:	Tochi Amagwula, MD	Title:	Owner/ Physician
Phone:	870-454-4354	Alternate Phone:	281-777-1022
Email:	drkeeton@healthwisewellness.com		

CONFIRMATION OF REDACTED COPY
<input type="checkbox"/> YES, a redacted copy of submission documents is enclosed. <input checked="" type="checkbox"/> <del>NO</del> , a redacted copy of submission documents is <u>not</u> enclosed. I understand a full copy of non-redacted submission documents will be released if requested.
<p><i>Note: If a redacted copy of the submission documents is not provided with Prospective Contractor's response packet, and neither box is checked, a copy of the non-redacted documents, with the exception of financial data (other than pricing), will be released in response to any request made under the Arkansas Freedom of Information Act (FOIA). See Bid Solicitation for additional information.</i></p>

ILLEGAL IMMIGRANT CONFIRMATION
By signing and submitting a response to this <i>Bid Solicitation</i> , a Prospective Contractor agrees and certifies that they do not employ or contract with illegal immigrants. If selected, the Prospective Contractor certifies that they will not employ or contract with illegal immigrants during the aggregate term of a contract.

ISRAEL BOYCOTT RESTRICTION CONFIRMATION
By checking the box below, a Prospective Contractor agrees and certifies that they do not boycott Israel, and if selected, will not boycott Israel during the aggregate term of the contract.
<input checked="" type="checkbox"/> Prospective Contractor does not and will not boycott Israel.

**An official authorized to bind the Prospective Contractor to a resultant contract must sign below.**

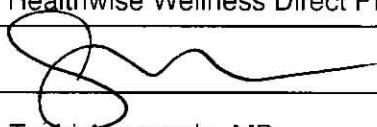
The signature below signifies agreement that any exception that conflicts with a Requirement of this *Bid Solicitation* **will cause the Prospective Contractor's bid to be disqualified:**

**Authorized Signature:**  **Title:** Owner/Physician  
**Printed/Typed Name:** Tochi Amagwula, MD **Date:** 02/21/2023

# SECTIONS 1 - 4 VENDOR AGREEMENT AND COMPLIANCE

- Any requested exceptions to items in this section which are NON-mandatory **must** be declared below or as an attachment to this page. Vendor **must** clearly explain the requested exception and should label the request to reference the specific solicitation item number to which the exception applies.
- Exceptions to Requirements **shall** cause the vendor's proposal to be disqualified.

By signature below, vendor agrees to and **shall** fully comply with all requirements as shown in the bid solicitation.

<b>Vendor Name:</b>	Healthwise Wellness Direct PLLC	<b>Date:</b>	02/21/2023
<b>Signature:</b>		<b>Title:</b>	Owner/Physician
<b>Printed Name:</b>	Tochi Amagwula, MD		

# PROPOSED SUBCONTRACTORS FORM

- **Do not** include additional information relating to subcontractors on this form or as an attachment to this form.

**PROSPECTIVE CONTRACTOR PROPOSES TO USE THE FOLLOWING SUBCONTRACTOR(S) TO PROVIDE SERVICES.**

*Type or Print the following information*

<b>Subcontractor's Company Name</b>	<b>Street Address</b>	<b>City, State, ZIP</b>
Escreen Inc.	8140 Ward Parkway, Suite 300	Kansas City, MO 64114

**PROSPECTIVE CONTRACTOR DOES NOT PROPOSE TO USE SUBCONTRACTORS TO PERFORM SERVICES.**

## 2.3 MINIMUM QUALIFICATIONS

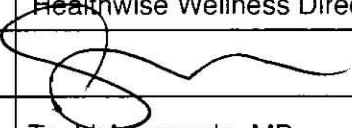
Contractor must have an after-hours emergency contact number and an after-hours testing facility. Include the phone number and designated contact name below:

After-Hours Facility: Healthwise Wellness Direct PLLC

Emergency Contact Number: 870-454-4354

Emergency Contact Name: Tochi Amagwula, MD

By signature below, vendor agrees to and **shall** fully comply with minimum qualifications as shown in the bid solicitation.

<b>Vendor Name:</b>	Healthwise Wellness Direct PLLC	<b>Date:</b>	02/21/2023
<b>Signature:</b>		<b>Title:</b>	Owner/Physician
<b>Printed Name:</b>	Tochi Amagwula, MD		

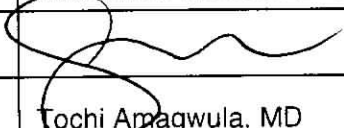
## COLLECTION LOCATIONS

Please list the name and address of each facility, hours of operation, and phone number for each location (include sub-contractor at which collections will be conducted, if applicable). Prospective Contractor may include a separate attachment for additional locations.

<b>Facility Name and Address</b>	<b>Phone / Fax / Email</b>	<b>Hours of Operation</b>	<b>County Location</b>
Healthwise Wellness Direct PLLC 4014 Old Warren Rd. Pine Bluff AR, 71603	870-454-4354	09:00 am- 04:00 pm	Jefferson
MedExpress 1005 SE Walton Blvd, Bentonville AR 72712	479-254-6734	M-F 8:00A - 8:00P	Benton
Mercy Hospital Berryville 214 Carter St, Berryville, AR 72616	870-423-3355	M-F 8:00 - 4:30	Carroll
Magnolia Regional Medical Center 101 Hospital Drive, Magnolia, AR 71753	870-235-3474	M-F 8:00 - 4:30	Columbia
Crossroads Drug & Alcohol 120 S Woods St, West Memphis, AR 72301	870-732-5002	M-F 8:00 - 5:00	Crittenden
MedExpress 1850 West Main St, Cabot, AR 72023	501-605-0009	M-F 8:00A - 8:00P	Lonoke
NEA Baptist - Osceola 616 W Keiser Ave, Osceola, AR 72370	870-563-5888	M-F 8:00 - 4:00	Mississippi
Brinkley Medical Clinic 110 N New York Ave, Brinkley, AR 72021	870-734-4405	M-F 8:00 - 5:00	Monroe
Glenwood Family Medicine 248 Highway 70 E, Glenwood, AR 71943	870-356-4801	M-F 8:30 - 5:00	Montgomery
Pafford Health System Medical Clinic 100 E 20th St, Hope, AR 71801	870-729-1911	M-F 8:00 - 5:00	Nevada
Howard Memorial Hospital 130 Medical Circle, Nashville, AR 71852	870-845-8060	M-F 8:00 - 5:00	Pike
1st Choice Healthcare 308 HWY 62 W, Ash Flat, AR 72513	870-994-2202	M-F 8:00 - 5:00	Sharp
MTSI/DATS 123 E. 3rd St, Stuttgart, AR 72160	870-672-7469	M-F 8:00 - 5:00	Arkansas
Drew Memorial Hospital 778 SCOGIN DR, Monticello, AR 71655	(870) 367-2411	M-F 8:00 - 4:30	Drew
MedExpress 305 hwy 62 East, Mountain Home, AR 72653	870-425-0176	M-F 8:00A - 8:00P	Marion
Main Street Medical Clinic 707 N Main St, Harrison, AR 72601	870-741-3592	M-F 8:30A - 4:30P	Newton
JustKam Quick Stick Lab 1235 W Hillsboro St, El Dorado, AR 71730	870-260-7990	M-F 7:30 - 6:00	Union

ADTS Hot Springs 211 Hobson Ave, Hot Springs National Park, AR 71913	501-574-9711	M-F 8:00 - 5:00	Clark
Mid-South Drug Testing 1906 Mockingbird Ln, Paragould, AR 72450	870-215-0025	M-F 8:30 - 5:00	Clay
Xpert Diagnostics 903 E Beebe-Caps Expwy, Searcy, AR 72143	501-268-8288	M-F 7:00 - 5:00	Cleburne
MedExpress 5510 South Olive Street, Pine Bluff, AR 71603	870-850-7605	M-F 8:00A - 8:00P	Cleveland
MedExpress 805 Oak St, Conway, AR 72032	501-504-2329	M-F 8:00A - 8:00P	Conway
NEA Baptist - Hilltop Occ Med 4901 E Johnson Ave, Jonesboro, AR 72401	870-936-7696	M-F 8:00 - 5:00	Craighead
MedExpress 4600 Rogers Ave, Fort Smith, AR 72903	479-494-7443	M-F 8:00A - 8:00P	Crawford
Urgent Team 411 South Falls Blvd, Wynne, AR 72396	870-238-3261	M-F 8:00 - 5:00	Cross
Need to Know Testing 133 Jackson St SW, Camden, AR 71701	870-360-9343	M-F 8:30 - 5:00	Dallas
Johnson Regional Medical Center 1100 E Poplar St, Clarksville, AR 72830	479-754-5463	M-F 7:00 - 3:30	Franklin
McClain Chiropractic 201 Hwy 223, Calico Rock, AR 72519	870-297-2273	M-F 8:30 - 5:00	Fulton
Ark-La-Tex Health Center 1414 Arkansas Blvd, Texarkana, AR 71854	870-773-7246	M-F 8:30 - 5:30	Hempstead

By signature below, vendor certifies the ability to provide specimen collection and testing services for all DHS offices listed in Attachment H.

<b>Vendor Name:</b>	Healthwise Wellness Direct PLLC	<b>Date:</b>	02/21/2023
<b>Signature:</b>		<b>Title:</b>	Owner/Physician
<b>Printed Name:</b>	Tochi Amagwula, MD		

## COLLECTION LOCATIONS

Please list the name and address of each facility, hours of operation, and phone number for each location (include sub-contractor at which collections will be conducted, if applicable). Prospective Contractor may include a separate attachment for additional locations.

Facility Name and Address	Phone / Fax / Email	Hours of Operation	County Location
Healthcare Express 1021 W Collin Raye Dr, De Queen, AR 71832	870-433-0790	M-F 9:00 - 5:00	Howard
Sherwood Urgent Care 1547 East Harrison St, Batesville, AR 72501	870-793-5800	M-F 8:00A - 8:00P	Independence
Helena Regional Medical Center 1801 Martin Luther King Jr Drive, Helena-West Helena, AR 72342	870-816-3840	M-F 8:00 - 5:00	Lee
MedExpress 2890 N College Ave, Fayetteville, AR 72703	479-582-1279	M-F 8:00A - 8:00P	Madison
Mena Regional Health System 311 Morrow St. N, Mena, AR 71953	479-243-2215	M-F 8:00 - 5:00	Polk
River Valley Drug Testing 1410 West Main, Russellville, AR 72801	479-435-7220	M-F 8:00 - 5:00	Pope
Xpert Diagnostics 425 W. Broadway, North Little Rock, AR 72114	501-376-9776	M-F 7:00 - 5:00	Pulaski
MedExpress 1501 Military Road, Benton, AR 72015	501-776-8341	M-F 8:00A - 8:00P	Saline
Ozark Medical Clinic 390 Factory Road, Clinton, AR 72031	501-745-3388	M-F 8:00 - 4:30	Searcy
Mainline Healthsystems 300 S School St, Dermott, AR 71638	870-538-5296	M-F 8:00 - 5:00	Chicot



# DOCUMENTATION CHECKLIST

*As outlined in section 2.3 Minimum Qualifications in the solicitation document, please provide the following:*

- Official documentation of active registration from the Arkansas Secretary of State's Office
- Copy of permit(s) for specimen collection
- Copy of each lab licensed by the Department of Health
- Official Bid Price Sheet
- All documents provided in the bid response packet
- Copy of Vendor's Equal Opportunity Policy
- Signed Addenda, if applicable
- EO 98-04 Disclosure Form (Attachment A)

State of Arkansas  
DEPARTMENT OF HUMAN SERVICES  
700 South Main Street  
P.O. Box 1437 / Slot W345  
Little Rock, AR 72203

**ADDENDUM 1**

**TO:** All Addressed Vendors  
**FROM:** Office of Procurement  
**DATE:** February 16, 2023  
**SUBJECT:** 710-23-0026 Drug and Alcohol Testing

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The following change(s) to the above referenced IFB have been made as designated below:

- Change of specification(s)
- Additional specification(s)
- Change of bid opening date and time
- Cancellation of bid
- Other

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**OTHER**

- Replace the Official Bid Price Sheet with the REVISED – Official Bid Price Sheet

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**CHANGE OF SPECIFICATION(S)**

- Section 2.3.C – Remove

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**ADDITIONAL SPECIFICATION(S)**

- Section 2.6.B – Add the following:  
Each collection site must have a permit for specimen collection. Upon request by DHS, Contractor shall provide copy of specimen collection permit(s).

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The specifications by virtue of this addendum become a permanent addition to the above referenced IFB. Failure to return this signed addendum may result in rejection of your proposal.

If you have any questions, please contact: Buyer's name, Buyer's email address and phone number.

  
\_\_\_\_\_  
Vendor Signature

2/21/23  
\_\_\_\_\_  
Date

Healthwise Wellness Direct PLLC

Company

CENTERS FOR MEDICARE & MEDICAID SERVICES  
CLINICAL LABORATORY IMPROVEMENT AMENDMENTS

*CERTIFICATE OF PROVIDER-PERFORMED MICROSCOPY PROCEDURES*

LABORATORY NAME AND ADDRESS	CLIA ID NUMBER
HEALTHWISE WELLNESS DIRECT PLLC 4014 OLD WARREN RD PINE BLUFF, AR 71603	04D2267158
	EFFECTIVE DATE
	08/22/2022
	EXPIRATION DATE
	08/21/2024

Pursuant to Section 353 of the Public Health Services Act (42 U.S.C. 263a) as revised by the Clinical Laboratory Improvement Amendments (CLIA), the above named laboratory located at the address shown hereon (and other approved locations) may accept human specimens for the purposes of performing laboratory examinations or procedures.  
This certificate shall be valid until the expiration date above, but is subject to revocation, suspension, limitation, or other sanctions for violation of the Act or the regulations promulgated thereunder.



  
Gregg Brandush, Director  
Division of Clinical Laboratory Improvement & Quality  
Quality & Safety Oversight Group  
Center for Clinical Standards and Quality

2026 Cers1 120622

- If this is a Certificate of Registration, it represents only the enrollment of the laboratory in the CLIA program and does not indicate a Federal certification of compliance with other CLIA requirements. The laboratory is permitted to begin testing upon receipt of this certificate, but is not determined to be in compliance until a survey is successfully completed.
- If this is a Certificate for Provider-Performed Microscopy Procedures, it certifies the laboratory to perform only those laboratory procedures that have been specified as provider-performed microscopy procedures and, if applicable, examinations or procedures that have been approved as waived tests by the Department of Health and Human Services.
- If this is a Certificate of Waiver, it certifies the laboratory to perform only examinations or procedures that have been approved as waived tests by the Department of Health and Human Services.

FOR MORE INFORMATION ABOUT CLIA, VISIT OUR WEBSITE AT [WWW.CMS.GOV/CLIA](http://WWW.CMS.GOV/CLIA)  
OR CONTACT YOUR LOCAL STATE AGENCY. PLEASE SEE THE REVERSE FOR  
YOUR STATE AGENCY'S ADDRESS AND PHONE NUMBER.  
PLEASE CONTACT YOUR STATE AGENCY FOR ANY CHANGES TO YOUR CURRENT CERTIFICATE.



# ARKANSAS STATE MEDICAL BOARD

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1401 West Capitol, Suite 340, Little Rock, Arkansas 72201 (501) 296-1802 FAX: (501) 603-3555

www.armedicalboard.org

## Detailed License Verification

Queried on: Sunday, February 19, 2023 at: 5:32 PM

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### General Information

Name: Healthwise Wellness Direct PLLC,  
Specialty:

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### Address Information

Mailing Address: 4014 Old Warren Road  
City/State/Zip: Pine Bluff, AR 71603  
Phone:  
Fax:

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### License Information

License Number: MC-3570  
Original Issue Date: 8/5/2022  
Expiration Date: 5/1/2023  
License Status: Active  
License Category: Unlimited

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No Information Found for: License Board History



# ARKANSAS STATE MEDICAL BOARD

1401 West Capitol, Suite 340, Little Rock, Arkansas 72201 (501) 296-1802 FAX: (501) 603-3555

www.armedicalboard.org

## Detailed License Verification

Queried on: Thursday, July 14, 2022 at: 11:08 AM

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### General Information

Name: Tochi Marie Amagwula, M.D.  
Specialty: Obstetrics & Gynecology

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### Address Information

Mailing Address: 4014 Old Warren Road  
City/State/Zip: Pine Bluff, AR 71603  
Phone:  
Fax:

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### License Information

License Number: E-9924  
Original Issue Date: 7/22/2016  
Expiration Date: 12/31/2023  
License Status: Active  
License Category: Unlimited

License Number: T2016-089  
Original Issue Date: 7/15/2016  
Expiration Date: 8/5/2016  
License Status: Inactive  
License Category: Temporary

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No Information Found for: License Board History

**Business Activity Description**  
PHYSICIANS AND SURGEONS



**License #: 1281**

Date Issued: 12/05/2022

Total Amount: \$336.00

City of Pine Bluff  
City Collector's Office

**Business License**  
**OCCUPATIONAL TAX- CYCLE 7**

*This License is Hereby Granted to:*

**HEALTHWISE WELLNESS DIRECT PLLC**  
4014 OLD WARREN RD. , PINE BLUFF, AR 71603

*This License is Hereby Effective in the City of Pine Bluff, County of Jefferson, State of Arkansas, for the Following Date Period:*  
7/1/2022 to 6/30/2023

CITY COLLECTOR

**INFORMATION OF IMPORTANCE TO HOLDER OF THIS ORIGINAL LICENSE:**

**This license:**

- Does not authorize a business to operate in conflict with the laws of the City of Pine Bluff (inclusive of zoning regulations) or the State of Arkansas.
- Must be posted in a conspicuous place at the business location being licensed.
- Is NOT transferable with respect to location, business classification, or ownership. Change in location, classification ownership or business name, will necessitate a new license.

**Warning!**

This license constitutes a privilege granted to the individual, partnership, or corporation named to engage only in the business described. Improper use is forbidden under penalty of law. License is due January 1<sup>st</sup> or July 1<sup>st</sup>, whichever is applicable of each year unless otherwise provided.

# STATE OF ARKANSAS



**John Thurston**

ARKANSAS SECRETARY OF STATE

To All to Whom These Presents Shall Come, Greetings:

I, John Thurston, Arkansas Secretary of State of Arkansas, do hereby certify that the following and hereto attached instrument of writing is a true and perfect copy of

## Certificate of Organization

of

## HEALTHWISE WELLNESS DIRECT PLLC

filed in this office

July 13, 2022

**In Testimony Whereof**, I have hereunto set my hand and affixed my official Seal. Done at my office in the City of Little Rock, this 13th day of July 2022.

  
John Thurston  
Secretary of State

Online Certificate Authorization Code: 55437162d044b26cf53  
To verify the Authorization Code, visit [sos.arkansas.gov](http://sos.arkansas.gov)





📍 4014 Old Warren Rd. Pine Bluff, AR 71603

☎ 870-454-4354

🌐 [www.healthwisewellness.com](http://www.healthwisewellness.com)

### **EQUAL EMPLOYMENT OPPORTUNITY**

In order to provide equal employment and advancement opportunities to all individuals, employment decisions at Healthwise Wellness Direct PLLC are based solely on merit, qualifications, and abilities.

Healthwise Wellness Direct PLLC provides equal employment opportunity to all employees and applicants for employment without regard to race, color, religion, gender, marital status, national origin, ancestry, age, disability, veteran status, or any other characteristic protected by law, in accordance with applicable federal, state, and local laws governing nondiscrimination in employment. This policy applies to all terms and conditions of employment including, but not limited to, hiring, placement, promotion, demotion, discipline, termination, lay-off, recall, transfers, leaves of absence, compensation, benefits and training.

Employees with questions or concerns about discrimination in the workplace are encouraged to bring these issues to the attention of either Dr. Tochi Amagwula and/or the Office Manager. Employees can raise concerns and make reports of discrimination without fear of reprisal. Anyone found to be engaging in any type of unlawful discrimination will be subject to disciplinary action up to and including termination of employment.



Contract Number \_\_\_\_\_  
 Attachment Number \_\_\_\_\_  
 Action Number \_\_\_\_\_  
 Failure to complete all of the following information may result in a delay in obtaining a contract, lease, purchase agreement, or grant award with any Arkansas State Agency.

**CONTRACT AND GRANT DISCLOSURE AND CERTIFICATION FORM**  
 SUBCONTRACTOR: \_\_\_\_\_ eScreen, Inc.  
 TAXPAYER ID NAME: Healthwise Wellness Direct PLLC  
 YOUR LAST NAME: Amagwula  
 ADDRESS: 4014 Old Warren Rd.  
 CITY: Pine Bluff  
 STATE: Arkansas  
 ZIP CODE: 71603  
 COUNTRY: United States

FIRST NAME: Tochi  
 M.I.: \_\_\_\_\_  
 IS THIS FOR: Goods?  Services?  Both?   
**AS A CONDITION OF OBTAINING, EXTENDING, AMENDING, OR RENEWING A CONTRACT, LEASE, PURCHASE AGREEMENT, OR GRANT AWARD WITH ANY ARKANSAS STATE AGENCY, THE FOLLOWING INFORMATION MUST BE DISCLOSED:**

**FOR INDIVIDUALS \***

Indicate below if: you, your spouse or the brother, sister, parent, or child of you or your spouse is a current or former: member of the General Assembly, Constitutional Officer, State Board or Commission Member, or State Employee:

Position Held	Mark (✓)		Name of Position of Job Held [Senator, representative, name of board/ commission, data entry, etc.]	For How Long?		What is the person(s) name and how are they related to you? [i.e., Jane Q. Public, spouse, John Q. Public, Jr., child, etc.]	Relation
	Current	Former		From MM/YY	To MM/YY		
General Assembly							
Constitutional Officer							
State Board or Commission Member							
State Employee							

None of the above applies

**FOR AN ENTITY (BUSINESS) \***

Indicate below if any of the following persons, current or former, hold any position of control or hold any ownership interest of 10% or greater in the entity: member of the General Assembly, Constitutional Officer, State Board or Commission Member, State Employee, or the spouse, brother, sister, parent, or child of a member of the General Assembly, Constitutional Officer, State Board or Commission Member, or State Employee. Position of control means the power to direct the purchasing policies or influence the management of the entity.

Position Held	Mark (✓)		Name of Position of Job Held [Senator, representative, name of board/commission, data entry, etc.]	For How Long?		What is the person(s) name and what is his/her % of ownership interest and/or what is his/her position of control?	Ownership Interest (%)	Position of Control
	Current	Former		From MM/YY	To MM/YY			
General Assembly								
Constitutional Officer								
State Board or Commission Member								
State Employee								

None of the above applies

Contract Number \_\_\_\_\_  
Attachment Number \_\_\_\_\_  
Action Number \_\_\_\_\_

### Contract and Grant Disclosure and Certification Form

**Failure to make any disclosure required by Governor's Executive Order 98-04, or any violation of any rule, regulation, or policy adopted pursuant to that Order, shall be a material breach of the terms of this contract. Any contractor, whether an individual or entity, who fails to make the required disclosure or who violates any rule, regulation, or policy shall be subject to all legal remedies available to the agency.**

**As an additional condition of obtaining, extending, amending, or renewing a contract with a state agency I agree as follows:**

1. Prior to entering into any agreement with any subcontractor, prior or subsequent to the contract date, I will require the subcontractor to complete a **CONTRACT AND GRANT DISCLOSURE AND CERTIFICATION FORM**. Subcontractor shall mean any person or entity with whom I enter an agreement whereby I assign or otherwise delegate to the person or entity, for consideration, all, or any part, of the performance required of me under the terms of my contract with the state agency.
2. I will include the following language as a part of any agreement with a subcontractor:  

*Failure to make any disclosure required by Governor's Executive Order 98-04, or any violation of any rule, regulation, or policy adopted pursuant to that Order, shall be a material breach of the terms of this subcontract. The party who fails to make the required disclosure or who violates any rule, regulation, or policy shall be subject to all legal remedies available to the contractor.*
3. No later than ten (10) days after entering into any agreement with a subcontractor, whether prior or subsequent to the contract date, I will mail a copy of the **CONTRACT AND GRANT DISCLOSURE AND CERTIFICATION FORM** completed by the subcontractor and a statement containing the dollar amount of the subcontract to the state agency.

**I certify under penalty of perjury, to the best of my knowledge and belief, all of the above information is true and correct and that I agree to the subcontractor disclosure conditions stated herein.**

Signature  Title OWNER Date 2/21/23

Vendor Contact Person Tochi Amagwula, MD Title Owner/Physician Phone No. (870) 454-4354

*Agency use only*

Agency Number 0710 Agency Name Department of Human Services Agency Contact Person \_\_\_\_\_ Contact Phone No. \_\_\_\_\_ Contract or Grant No. \_\_\_\_\_

## ATTACHMENT D

Except upon the approval of DHS, the terms and conditions set out in this section are non-negotiable items and will be transferred to the contract as written. DHS has determined that any attempt by any vendor to reserve the right to alter or amend the terms and conditions via negotiation, without the approval of DHS, is an exception to the terms and conditions that will result in rejection of the proposal. A statement accepting and agreeing to the terms and conditions set out in this section, or to alternate terms and conditions upon approval of DHS, is required to be submitted with the respondent's proposal.

### PROFESSIONAL SERVICES CONTRACT GENERAL TERMS AND CONDITIONS FOR NON-STATE AGENCY

In consideration of the premises and the mutual agreements hereinafter set forth, the Contractor and the Department of Human Services ("the Department") agree as follows:

**Legal Considerations**

The contract shall be construed according to the laws of the State of Arkansas, and the rights and remedies of the parties hereunder shall be determined in accordance with Arkansas law. Nothing in this contract may be construed as a waiver of the Department's sovereign immunity.

In no event shall the initial term of this contract extend beyond the end of the current biennial period unless the General Assembly, prior to the expiration of the biennial period, makes an appropriation for such purpose.

**Financial Terms of the Contract**

All services rendered under this contract must be billed as set out herein. No services may be billed to a Medicaid Provider or to any other contract. Payments will be made after services are provided based on the following financial terms:

Funding Source	Reimbursement Method *	Payment Limitations **	Match Requirements***	
			Maximum Amount of Match Required <u>OR</u> Percentage of Allowable Billing Required	Type(s) of Match (Select from listing below)
Healthwise Wellness Direct PLLC	Fixed Rate	None	None	None

\*Reimbursement Method: (Select from the following) Actual Cost Reimbursement; Final Negotiated Rate; Fixed Rate; Scheduled Reimbursement \*\*Payment Limitations: (Select from the following) Quarterly Cumulative; Monthly Cumulative; None \*\*\*Matching Requirements: The Contractor certifies the funds, property, goods, or services listed in this section will be used to meet the match requirements of this agreement. If there are no matching requirements for a funding source, enter "None" in the corresponding box above.

Type(s) of Match: The matching requirement may be satisfied by any one or a combination of the following methods unless specific funding source restrictions apply:

Cash Match: Cash will be obtained by the Contractor and will be applied against allowable costs

covered by this agreement.

**Donation of Property:** Title to or the use of property or equipment has been donated by a public agency for the program(s) covered by this agreement. If title to property is donated, match value is the fair market value of the property. If the use of the property or equipment is donated, match value is the fair rental value as determined by applicable Department policy will be used as matching of the payments.

**Third Party In-Kind Contributions.** Property, goods, or services have been donated by a non-federal agency for the programs(s) covered by this agreement without charge to the contractor. The Code of Federal Regulations, Title 45, Part 74, Subpart G shall be used to establish the basis of valuation.

**Funds Transfer:** Match funds will be submitted by a third party to the Department of Human Services by check or money order under the terms of this agreement. Matching funds are to be received by the Department in an amount sufficient to match billing before the contractor will be reimbursed for services.

The Contractor certifies that any funds to be donated under this agreement which are derived or come directly or indirectly from Federal or State funds, or any other contractor under contract to the Department, have been specifically listed as a source above.

The Contractor certifies that the matching arrangements comply with requirements established in the Code of Federal Regulations, Title 45, Part 74, Subpart G (Cost Sharing or Matching) and all applicable Department policy.

#### **Terms of Payment/Billing**

The Contractor agrees to submit all billing invoices within sixty days of the expiration of the contract. Any billings for services rendered during a particular state fiscal year which are not submitted within ninety days of the end of the fiscal year will not be paid.

#### **Termination of Contract**

The Department may cancel this contract unilaterally at any time, for any reason including convenience, unavailability of federal funds, state funds or both by giving the other party thirty (30) calendar days written notice, and delivering notice of cancellation either in person or by certified mail, return receipt requested, restricted delivery. Availability of funds will be determined at the sole discretion of the Department.

Payments for completed services or deliverables satisfactorily delivered to and approved by the Department shall be at the contract price. Payment for partially completed services or deliverables satisfactorily delivered to and not yet approved by the Department shall be at a price mutually agreed upon by the Contractor and the Department. In addition to any other law, rule or provision which may authorize complete or partial contract termination, the Department may immediately terminate this contract in whole or in part when the Department determines that the Contractor or subcontractor has failed to satisfactorily perform its contractual duties and responsibilities.

#### **Procedure on Expiration or Termination**

Upon delivery by certified mail to the Contractor of a Notice of Termination specifying the nature of the termination and the date upon which such termination becomes effective, the Contractor shall:

- 1. Stop work under the contract on the date and to the extent specified in the Notice of Termination,
- 2. Place no further orders or enter in any additional subcontracts for services,
- 3. Terminate all orders and subcontracts to the extent that they relate to the performance of work

terminated by the Notice of Termination,

- ☐ Assign to the Department in the manner and to the extent directed by the Department representative all of the right, title and interest of the Contractor in the orders or subcontracts so terminated. The Department shall have the right, in its discretion, to settle or pay any and all claims arising out of the termination of such orders and subcontracts,
- ☐ With the approval or ratification of the Department representative, settle all outstanding liabilities and all claims arising out of such termination of orders and subcontracts, the cost of which would be reimbursable, in whole or part, in accordance with the provisions of this Contract.
- ☐ Transfer title to the Department and deliver in the manner, at the time, and extent directed by the Department representative, all files, data, information, manuals, or other documentation, or property, in any form whatsoever, that relate to the work terminated by the Notice of Termination.
- ☐ Complete the performance of such part of the work as shall not have been terminated by the Notice of Termination.
- ☐ Take such action as may be necessary, or as the Department representative may direct, for the protection and preservation of the property related to the contract which is in the possession of the Contractor and in which the Department has or may acquire an interest.

The Contractor shall proceed immediately with the performance of the above obligations notwithstanding any delay in determining or adjusting the amount of any item or reimbursable price under this clause.

#### **Termination Claims**

After receipt of a Notice of Termination, the Contractor shall submit to the Department all outstanding claims within ten (10) working days. The Contractor and the Department may agree upon the amounts to be paid to the Contractor by reason of the total or partial termination of work as described in this section.

In the event of the failure of the Contractor and the Department to agree in whole or in part as to the amount with respect to costs to be paid to the Contractor in connection with the total or partial termination of work as described in this section, the Department shall determine, on the basis of information available, the amount, if any, due to the Contractor by reason of termination and shall pay to the Contractor the amount so determined.

#### **Contractor**

It is expressly agreed that the Contractor, officers, and employees of the Contractor or Sub-Contractor in the performance of this contract shall act in an independent capacity and not as officers or employees of the Department. It is further expressly agreed that the Department shall exercise no managerial responsibility over the Contractor nor shall this contract be construed as a partnership or joint venture between the Contractor or any subcontractor and the Department or the State of Arkansas.

The Contractor hereby represents and warrants to the Department that as of the execution date of this Contract:

- ☐ The Contractor has been duly organized and is validly existing and in good standing under the laws of the State of Arkansas, with power, authority, and legal right to enter into this Contract.
- ☐ There are no proceedings or investigations pending or threatened, before any court, regulatory body, administrative agency or other governmental instrumentality having jurisdiction over the Contractor or its properties (i) seeking to prevent the consummation of any of the transactions contemplated by this Contract; or (ii) seeking any determination or ruling that might materially and adversely affect the performance by the Contractor of

its obligations hereunder, or the validity or enforceability of this Contract.

All approvals, authorizations, consents, orders or other actions of any person or of any governmental body or official required to be obtained on or prior to the date hereof in connection with the execution and delivery of this Contract and the performance of the services contemplated by this Contract and the fulfillment of the terms hereof have been obtained.

The Contractor and the executive officers of the Contractor have not been the subject of any proceeding under the United States Bankruptcy Code.

#### **Force Majeure**

The Contractor will not be liable for delay in performing under the contract if the delay arises out of causes beyond the control and without the fault or negligence of the Contractor.

#### **Confidentiality of Information**

In connection with this contract, the Contractor will receive certain Confidential Information relating to DHS clients. For purposes of this contract, any information furnished or made available to the Contractor relating to DHS clients, the financial condition, results of operation, business, customers, properties, assets, liabilities or information relating to recipients and providers including but not limited to protected health information as defined by the Privacy Rule promulgated pursuant to the Health Insurance Portability and Accountability Act (HIPAA) of 1996, is collectively referred to as "Confidential Information". The Contractor shall comply with all DHS policies governing privacy and security of Confidential Information, including the contracting division's designation of the Confidential Information as required by the Arkansas Data and System Security Classification Standards, and shall implement and maintain reasonable security procedures and practices appropriate to the nature of the Confidential Information as required by A.C.A. § 4-110-104, the Personal Information Protection Act ("the Act"). In addition, the Contractor shall comply with the Business Associate Agreement between the parties, incorporated herein by reference, and shall disclose any breaches of privacy or security by contacting the Information Technology Security Officer within one (1) business day of the breach by notification to the following e-mail address: [dhs-it-security@arkansas.gov](mailto:dhs-it-security@arkansas.gov).

The contractor shall treat all Confidential Information which is obtained by it through its performance under the contract as Confidential Information as required by state and federal law and shall not use any information so obtained in any manner except as necessary for the proper discharge of its obligations. The parties acknowledge that the disclosure of Confidential Information in contravention of the provisions hereof would damage the party to whom the information disclosed relates and such party has the right to seek all remedies at law or equity to minimize such damage and to obtain compensation therefore. The Contractor agrees to retain all protected health information as defined by the Privacy Rule promulgated pursuant to HIPAA for

six (6) years or as otherwise required by HIPAA.

The contractor shall safeguard the use and disclosure of information concerning applicants for or recipients of Title XIX services in accordance with 42 CFR Part 431, Subpart F, and shall comply with 45 CFR Parts 160 and 164 and shall restrict access to and disclosure of such information in compliance with federal and state laws and regulations.

#### **Public Disclosure**

Upon signing of the contract by all parties, terms of the contract shall become available to the public, pursuant to the provisions of Ark. Code Ann., § 25-19-101 et seq.

#### **Inspection of Work Performed**

The State of Arkansas and its authorized representatives shall, at all reasonable times, have the right to enter the Contractor's work areas to inspect, monitor, or otherwise evaluate the quality, appropriateness, and timeliness of work, services, or both, that have been or are being performed.

#### **Subcontracts**

The Contractor is fully responsible for all work performed under the contract. The Contractor may, with the prior written consent of the Department, enter into written subcontract(s) for performance of certain of its functions under the contract. No subcontract under this contract shall in any way relieve the Contractor of any responsibility for performance of its duties. The Contractor agrees that all subcontracts shall adhere to Department policies.

The Contractor shall give the Department immediate notice in writing by certified mail of any action or suit filed and prompt notice of any claim made against the Contractor or any subcontractor which may result in litigation related in any way to the contract or the Department.

In accordance with Executive Order 98-04, IF the agreement between the contractor and the subcontractor is greater than \$25,000.00:

- The contractor shall require the subcontractor to complete a Contract and Grant Disclosure and Certification Form. This form must be signed no later than 10 days after entering into any agreement with a subcontractor and the contractor shall transmit a copy of this form to the agency.
- The contractor shall include the following in the contract between the Contractor and that Subcontractor:

Failure to make any disclosure required by Governor's Executive Order 98-04, or any violation of any rule, regulation or policy adopted pursuant to that Order, shall be a material breach of the terms of this subcontract. The party who fails to make the required disclosure or who violates the rule, regulation, or policy shall be subject to all legal remedies available to the contractor.

#### **Audit Requirement:**

Contractor shall comply with the Department audit requirements as outlined in "Arkansas Department of Human Services Audit Guidelines". Copies may be obtained from:

Arkansas Department of Human Services  
Office of Policy & Legal Services Audit Section  
P.O. Box 1437 – Slot S270  
Little Rock, Arkansas 72203-1437

#### **Indemnification**

The Contractor agrees to indemnify, defend, and save harmless the State, the Department, its officers, agents and employees from any and all damages, losses, claims, liabilities and related costs, expenses, including reasonable attorney's fees and disbursements awarded against or incurred by the Department arising out of or as a result of:

- Any claims or losses resulting from services rendered by any person, or firm, performing or supplying services, materials, or supplies in connection with the performance of the contract;
- Any claims or losses to any person or firm injured or damaged by the erroneous or negligent acts (including without limitation disregard of Federal or State regulations or statutes) of the Contractor, its officers or employees in the performance of the contract;
- Any claims or losses resulting to any person or firm injured or damaged by the Contractor, its officers or employees by the publication, translation, reproduction, delivery, performance, use, or disposition of any data processed under the contract in a manner not authorized by the contract, or by Federal or State regulations or statutes;
- Any failure of the Contractor, its officers or employees to observe local, federal or State of Arkansas laws or policies, including but not limited to labor laws and minimum wage laws.
- The Contractor shall agree to hold the Department harmless and to indemnify the Department for any additional costs of alternatively accomplishing the goals of the contract, as well as any liability, including liability for costs or fees, which the Department may sustain as a result of the Contractor's or its subcontractor's performance or lack of performance.

#### **Assignments**

The Contractor shall not assign the contract in whole or in part or any payment arising therefrom without the prior written consent of the Department representative.

#### **Waiver**

No covenant, condition, duty, obligation, or undertaking contained in or made a part of the contract will be waived except by the written agreement of the parties, and forbearance or indulgence in any other form or manner by either party in any regard whatsoever shall not constitute a waiver of the covenant, condition, duty, obligation, or undertaking to be kept, performed, or discharged by the party to which the same may apply; and until complete performance or satisfaction of all such covenants, conditions, duties, obligations, and undertakings, any other party shall have the right to invoke any remedy available under law or equity, notwithstanding any such forbearance or indulgence.

#### **Department Property**

Property, including intellectual property, acquired or created by the Contractor as a Contract deliverable, is the property of the Department. The Contractor shall be responsible for the proper custody and care of all Department owned property, including Department owned property used in connection with the performance of this contract and the Contractor agrees to reimburse the Department for its loss or damage due to negligence, theft, vandalism, or Acts of God.

#### **Use and Ownership of Software**

The Contractor will have access to all applications software that the Department requires the Contractor to use in the performance of the services covered in the contract, subject to customary confidentiality and other license terms and conditions. No changes in the applications software may be made without the written consent of the Contract Administrator if the change would have the effect of causing the Department to incur additional costs for either hardware or software upgrades or both.

Any applications software developed by the Contractor in the performance of the services under this contract must become the property of the State of Arkansas at no additional cost. Any existing software applications owned by the Contractor and used in the performance of the services under this contract must be granted to the State of Arkansas at no additional cost, subject to customary confidentiality and other license terms and conditions.

#### **Contract Variations**

If any provision of the Contract (including items incorporated by reference) is declared or found to



be illegal, unenforceable, or void, then both the Department and the Contractor shall be relieved of all obligations arising under such provision. If the remainder of the Contract is capable of performance, it shall not be affected by such declaration or finding and shall be fully performed.

#### **Attorney's Fees**

In the event that either party to this Contract deems it necessary to take legal action to enforce any provision of the contract, and the Department prevails, the Contractor agrees to pay all expenses of such action, including attorney's fees and costs at all stages of litigation as set by the court or hearing officer. Legal action shall include administrative proceedings.

#### **Liability**

In the event of non-performance of a contractual obligation by the Contractor or his agents which results in the determination by Federal authorities of noncompliance with Federal regulations and standards, the Contractor will be liable to the Department in full for all penalties, sanctions and disallowances assessed against the Department.

#### **Records Retention**

The Contractor agrees to retain all records for five (5) years after final payment is made under this Contract or any related subcontract. In the event any audit, litigation or other action involving these records is initiated before the end of the five (5) year period, the Contractor agrees to retain these records until all issues arising out of the action are resolved or until the end of the five (5) year period, whichever is later. The Contractor agrees to retain all protected health information as defined by the Privacy Rule promulgated pursuant to HIPAA for six (6) years or as otherwise required by HIPAA.

#### **Access to Contractor's Records**

The Contractor will grant access to its records upon request by state or federal government entities or any of their duly authorized representatives. Access will be given to any books, documents, papers or records of the Contractor which are related to any services performed under the contract. The Contractor additionally consents that all subcontracts will contain adequate language to allow the same guaranteed access to the records of subcontractors.

#### **Ownership of Documentation**

All documents and deliverables prepared by the Contractor and accepted by the Department shall become the property of the Department and shall not be used for any other purpose by the Contractor without the Department's specific written consent.

#### **Disclosure**

The failure of any person or entity to disclose as required under any term of Executive Order 98-04, or the violation of any rule, regulation or policy promulgated by the State Department of Finance and Administration pursuant to this Order, shall be considered a material breach of the terms of the contract, lease, purchase agreement, or grant and shall subject the party failing to disclose or in violation to all legal remedies available to the Department under the provisions of existing law.

#### **Set-Off**

The parties agree that the Department, in its sole discretion, shall have the right to set-off any money Contractor owes the Department from the Department's payment to Contractor under this contract.

#### **State and Federal Laws**

Performance of this contract by both parties must comply with State and federal laws and regulations. If any statute or regulation is enacted which requires a change in this contract or any attachment, then both parties will deem this contract and any attachment to be automatically

amended to comply with the newly enacted statute or regulation as of its effective date.

#### **Accessibility Act 1227 of 1999**

**TECHNOLOGY ACCESS:** When procuring a technology product or when soliciting the development of such a product, the State of Arkansas is required to comply with the provisions of Arkansas Code Annotated § 25-26-201 et seq., as amended by Act 308 of 2013, which expresses the policy of the State to provide individuals who are blind or visually impaired with access to information technology purchased in whole or in part with state funds. The Vendor expressly acknowledges and agrees that state funds may not be expended in connection with the purchase of information technology unless that system meets the statutory requirements found in 36 C.F.R. § 1194.21, as it existed on January 1, 2013 (software applications and operating systems) and 36 C.F.R. § 1194.22, as it existed on January 1, 2013 (web-based intranet and internet information and applications), in accordance with the State of Arkansas technology policy standards relating to accessibility by persons with visual impairments.

**ACCORDINGLY, THE VENDOR EXPRESSLY REPRESENTS AND WARRANTS** to the State of Arkansas through the procurement process by submission of a Voluntary Product Accessibility Template (VPAT) or similar documentation to demonstrate compliance with 36 C.F.R. § 1194.21, as it existed on January 1, 2013 (software applications and operating systems) and 36 C.F.R. § 1194.22, as it existed on January 1, 2013 (web-based intranet and internet information and applications) that the technology provided to the State for purchase is capable, either by virtue of features included within the technology, or because it is readily adaptable by use with other technology, of:

- Providing, to the extent required by Arkansas Code Annotated § 25-26-201 et seq., as amended by Act 308 of 2013, equivalent access for effective use by both visual and non-visual means;
- Presenting information, including prompts used for interactive communications, in formats intended for non-visual use;
- After being made accessible, integrating into networks for obtaining, retrieving, and disseminating information used by individuals who are not blind or visually impaired;
- Providing effective, interactive control and use of the technology, including without limitation the operating system, software applications, and format of the data presented is readily achievable by nonvisual means;
- Being compatible with information technology used by other individuals with whom the blind or visually impaired individuals interact;
- Integrating into networks used to share communications among employees, program participants, and the public; and
- Providing the capability of equivalent access by nonvisual means to telecommunications or other interconnected network services used by persons who are not blind or visually impaired.

If the information technology product or system being offered by the Vendor does not completely meet these standards, the Vendor must provide an explanation within the Voluntary Product Accessibility Template (VPAT) detailing the deviation from these standards.

State agencies cannot claim a product as a whole is not commercially available because no product in the marketplace meets all the standards. If products are commercially available that meets some but not all of the standards, the agency must procure the product that best meets the standards or provide written documentation supporting selection of a different product.

For purposes of this section, the phrase “equivalent access” means a substantially similar ability to communicate with, or make use of, the technology, either directly, by features incorporated within the technology, or by other reasonable means such as assistive devices or services which would constitute reasonable accommodations under the Americans with Disabilities Act or similar

state and federal laws. Examples of methods by which equivalent access may be provided include, but are not limited to, keyboard alternatives to mouse commands or other means of navigating graphical displays, and customizable display appearance. As provided in Act 308 of 2013, if equivalent access is not reasonably available, and then individuals who are blind or visually impaired shall be provided a reasonable accommodation as defined in 42 U.S.C. § 12111(9), as it existed on January 1, 2013.

As provided in Act 308 of 2013, if the information manipulated or presented by the product is inherently visual in nature, so that its meaning cannot be conveyed non-visually, these specifications do not prohibit the purchase or use of an information technology product that does not meet these standards.

#### **Employee Background Requirements**

Contractor shall comply with Arkansas Code Annotated (A.C.A.) §21-15-101 *et seq.*, or any amendments thereto, which requires all employees of state agencies, in designated positions including those providing care, supervision, treatment or any other services to the elderly, mentally ill or developmentally disabled persons, to individuals with mental illnesses or to children who reside in any state-operated facility or a position in which the applicant or employee will have direct contact with a child, to have a criminal history check and a central registry check. Should an applicant or employee be found to have been convicted of a crime listed in A.C.A. §21-15-101 *et seq.*, that employee shall be prohibited from providing services in a designated position as defined by Arkansas law or being present at the facility. Should an applicant or employee be found to have been named as an offender or perpetrator in a true, substantiated, or founded report from the Child Maltreatment Central Registry, the Adult Abuse Central Registry, or the Certified Nursing Assistant/ Employment Clearance Registry, the applicant/employee shall be immediately disqualified.

#### **Prohibition Against Contingent Fees**

It shall be a breach of ethical standards for a person to be retained, or to retain a person, to solicit or secure a state contract upon an agreement or understanding for a commission, percentage, brokerage, or contingent fee, except for retention of bona fide employees or bona fide established commercial selling agencies maintained by the contractor for the purpose of securing business.

#### **Compliance with Department Policy Issuances**

The Contractor agrees to deliver the services authorized by this contract or any attachment in accordance with all policies, manuals and other official issuances of the State of Arkansas and Department promulgated through the Administrative Procedures Act.

#### **Relinquishment**

The failure of the Department to insist upon the performance of any of the conditions in any one or more instances shall not be construed as a waiver or relinquishment of the future benefit of said condition.

#### **Entire Contract**

The parties acknowledge that each have read this Contract, understand it and agree to be bound by the terms. The parties further agree that this Contract is the complete and exclusive statement of the agreement of the parties with respect to the subject matter hereof and that it supersedes all prior proposals, representations, arrangements, understandings, and agreements, whether oral or written, between the parties with respect to the subject matter hereof.

This Contract may not be modified, amended, or in any way altered except by a written agreement duly executed by the parties and approved in accordance with the laws and established procedures of the State of Arkansas.

**Survival of Rights and Obligations**

The right and obligations of the Parties under this Contract shall survive and continue after the ending or expiration of the term of this Contract, and shall bind the parties, and their legal representatives, successors, heirs and assigns.

**Notices**

All demands, notices and communications hereunder shall be in writing and shall be deemed to have been duly given if mailed by first class mail, postage prepaid, to:

4014 Old Warren Rd. Pine Bluff, Arkansas 71603

(address)

Attention:

Tochi Amagwula, MD

(Name of contractor contact person or such other name or address as may hereafter be furnished to Department in writing by the Contractor)

**Notices to the Department should be mailed to:**

**DHS Office of Procurement**

Attention: Mary Kathryn Williams, CPO  
618 N Main St  
Little Rock, AR 72203-1437

**Severability of Provisions**

If any one or more of the covenants, agreements, provisions or terms of this Contract shall be for any reason whatsoever held invalid, then such covenants, agreements, provisions or terms shall be deemed severable from the remaining covenants, agreements, provisions or terms of this Contract and shall in no way affect the validity or enforceability of the other provisions of this Contract.

**Certification Regarding Lobbying:**

The Contractor will comply with public law 101-121, section 319 (section 1352 of Title 31 U.S.C.) for an award in excess of \$100,000.00 by certifying that appropriated federal funds have not been or will not be used to pay any person to influence or attempt to influence a federal official/employee in connection with the awarding of any federal contract, grant, loan or cooperative agreement.

If the Contractor has paid or will pay for lobbying using funds other than federal appropriated funds, Standard Form-LLL (Disclosure of Lobbying Activities) shall be completed and included as an attachment to this contract.

**Certification Regarding Debarment**

The Contractor, as a lower tier recipient of \$25,000.00 or more in federal funds, will comply with Executive Order 12549 (Certification Regarding Debarment, Suspension, Ineligibility, and Voluntary Exclusion-Lower Tier Covered Transactions). By signing and submitting this lower tier proposal, the prospective lower tier participant, as defined in 45 C.F.R. Part 76, certifies to the best of its knowledge and belief that it and its principals:

- are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction by any federal or state agency
- where the prospective lower tier participant is unable to certify to any of the above, such prospective participant shall attach an explanation to this proposal.

The prospective lower tier participant further agrees by submitting this proposal that it will include this clause entitled **\*Certification Regarding Debarment, Suspension, Ineligibility, and Voluntary Exclusion-Lower Tier Covered Transactions\*** without modification in all lower tier covered transactions.

**Contractor certifies that the Contractor is in compliance with Public Law 101-121 (Certification Regarding Lobbying) and Executive Order 12549 (Certification Regarding Debarment, Suspension, Ineligibility, and Voluntary Exclusion-Lower Tier Covered Transactions):**

**Certification Regarding Employment Practices**

Neither the Contractor nor its subcontractors shall discriminate against any employee or applicant for employment because of race, color, religion, sex, national origin, age (except as provided by law), marital status, political affiliation, or disability. The Contractor must take affirmative action to ensure that employees, as well as applicants for employment, are treated without discrimination because of their race, color, religion, sex, national origin, age (except as provided by law), marital status, political affiliation, or disability. Such action shall include, but not be limited to, the following:

- Employment;
- Promotion;
- Demotion or transfer;
- Recruitment or recruitment advertising;
- Layoff or termination;
- Rates of pay or other forms of compensation; and
- Selection for training, including apprenticeship.

Contractor certifies that neither the contractor nor its subcontractors shall discriminate against any employee or applicant for employment because of race, color, religion, gender, national origin, age (except as provided by law) or disability. Contractor must insure that employees, as well as applicants for employment, are treated without discrimination because of their race, color, religion, gender, national origin, age (except as provided by law) or disability. Such action shall include, but not be limited to, employment, promotion, demotion or transfer, recruitment or recruitment advertising, layoff or termination, rates of pay or other forms of compensation, and selection of training, including apprenticeships.



## STATE OF ARKANSAS SERVICES CONTRACT

<b>Contract #</b>		<b>Federal ID#</b>	
<b>Service Type</b>		<b>Procurement Method</b>	Invitation for Bid

1. **Contracting Parties.** State of Arkansas is hereinafter referred to as the Department and contractor is herein after referred to as the Contractor.

<b>Department No. &amp; Name</b>	0710 - Arkansas Department of Human Services		
<b>Division</b>	Choose Division or Office		
<b>Contractor Name</b>	Healthwise Wellness Direct PLLC		
<b>Contractor Address</b>	4014 Old Warren Rd. Pine Bluff, Arkansas 71603		
<b>Contractor Number</b>	100250966	<b>Minority/Women Owned Business</b>	<input checked="" type="radio"/> Yes <input type="radio"/> No

2. **Objectives, Scope, and Performance.** Identify, in reasonable detail, the objectives and scope of the contractual agreement and the methods the Department will use to determine whether the objectives of the contract (Contract) have been achieved. If space below is insufficient it may be supplemented with Attachment 4.

3. **Term Dates.** The original term (**Original Term**) of the Contract shall commence on \_\_\_\_\_, and shall continue until \_\_\_\_\_, unless earlier terminated or cancelled in accordance with the Contract or some other writing agreed to and signed by the parties, but in no event may the Original Term exceed a period of four (4) consecutive years from the effective date of the Original Term, unless exempt from Ark. Code Ann. § 19-11-238(c)(1). By written agreement of the parties, the term of the Contract may be extended or renewed for additional time beyond the Original Term. This allows for a total possible term (**Total Possible Term**) beyond the Contract's Original Term, as defined in the following paragraph.

The **Total Possible Term** of the Contract is a period comprised of the Original Term plus any extensions or renewals that may be agreed to by the parties in writing, but in no event longer than a period of seven (7) consecutive years from the effective date of the **Original Term**, unless otherwise provided by law. Subject to applicable law, the terms hereof, and an appropriation of necessary funding, the Total Possible Term of this Contract expires no later than \_\_\_\_\_ (mm/dd/yyyy).

**4. Contractor's Performance Obligations.** Contractor, for the duration of the Contract and as consideration for the Department's payment as set forth below, shall provide the following to the Department:

The parties agree that this paragraph 4 of the Contract, and any incorporated attachment, fully sets forth the Contractor's performance upon which the Department's obligation to pay the Contractor is conditioned. (if the space provided is not enough to fully specify the Contractor's duty to perform and to identify the standards of satisfactory performance, the Contractor's covenant to perform must be set forth in Attachment 5 hereto, Performance Details, the terms of which, if any, are incorporated herein by reference.)

**5. Department's Payment Obligations.** Department, as consideration for the Contractor's satisfactory performance of the Contractor's Performance Obligations, as set forth above, shall pay the Contractor as follows:

The parties agree that this paragraph 5 of the Contract, and any incorporated attachment, fully sets forth all applicable rates, fees, charges, costs (transportation, per diem, subsistence, out-of-pocket allowances, and any other costs that may apply), and items for which the Contractor is entitled to payment under the Contract as consideration for Contractor's satisfactory performance of its obligations under the Contract. The Department shall not pay Contractor except as set forth. The parties also agree that the method(s) of determining the amount of payment corresponding to the Contractor's satisfactory performance is/are set forth in this paragraph 5 such that the total payment owed under the Contract can be determined by

reference thereto. (If the space provided is not enough to fully set forth the information needed to determine proper compensation owed by the Department for Contractor's satisfactory performance under the Contract, that information must be set forth in Attachment 2, Calculation of Compensation, the terms of which, if any, are incorporated herein by reference.)

Assuming: (a) Contractor's full and satisfactory performance under the Contract for the duration of the **Original Term**, and (b) the corresponding compensation identified in paragraph 5; the maximum number of dollars that the Department may be obligated to pay to the Contractor under the terms of the Contract for the Original Term is: \_\_\_\_\_ (**Initial Contract Amount**).

Assuming: (a) Contractor's full and satisfactory performance under the Contract for the duration of its **Total Possible Term**, and (b) the corresponding compensation identified in paragraph 5, the maximum number of dollars that the Department may be obligated to pay to the Contractor under the terms of the Contract for the Total Possible Term is: \_\_\_\_\_ (**Total Projected Contract Amount**).

If either the **Total Projected Contract Amount** or the amount the Department may be obligated to pay the Contractor in any given year of the **Original Term**, or the **Total Possible Term** of the Contract meets or exceeds the threshold of Ark. Code. Ann. § 19-11-265, the Contract shall be submitted for legislative review prior to its effective date.

**6. Terms and Conditions of Solicitation Incorporated and Order of Precedence.** The parties agree that the agreement in this Contract memorializes and incorporates by reference any and all written representations, warranties, terms, and conditions, set forth in the underlying solicitation document and the bid or proposal that became the basis of the Contract award, which representations, warranties, terms, and conditions continue in full force and effect unless expressly amended hereby.

Accordingly, the provisions of this memorialization of the Contract should be read as being consistent therewith and supplementary thereto to the extent reasonably possible. However, in the event of a conflict between the provisions of this memorialization and the specific provisions of the bid or proposal that was the basis of award, such conflict shall be resolved by giving priority to the documents in the order listed below, including but not limited to conflicting order of precedence provisions.

- A. This Contract, as may be amended in writing by the parties;
- B. The solicitation \_\_\_\_\_ (Solicitation number) including all Addenda;
- C. Contractor's response to the solicitation.

**7. Termination & Cancellation Clauses.**

**A. Non-Appropriation Clause Pursuant to §19-11-1012(11).** In the event the State of Arkansas fails to appropriate funds or make monies available for any biennial period covered by the term of this contract for the services to be provided by the Contractor, this Contract shall be terminated on the last day of the last biennial period for which funds were appropriated or monies made available for such purposes.

This provision shall not be construed to abridge any other right of termination the agency may have.

**B. For Convenience.** The Department may terminate this contract for any reason by giving the Contractor written notice of such termination no less than sixty (60) days prior to the date of termination.

**C. For Cause.** The Department may cancel this Contract for cause when the Contractor fails to perform its obligations under it by giving the Contractor written notice of such cancellation at least thirty (30)



days prior to the date of proposed cancellation. In any written notice of cancellation for cause, the State will advise the Contractor in writing of the reasons why the State is considering cancelling the Contract and may provide the Contractor with an opportunity to avoid cancellation for cause by curing any deficiencies identified in the notice of cancellation for cause prior to the date of proposed cancellation. The parties may endeavor to agree to reasonable modifications in the Contract to accommodate the causes of the cancellation for cause and avoid the cancellation, to the extent permitted by law, and at the discretion of each party individually.

**8. Non-negotiable Governing Law and Venue.**

- A. This contract shall be governed by and construed in accordance with the Laws of the State of Arkansas. Exclusive venue arising under this Contract is Pulaski County, Arkansas.
- B. Any legislation that may be enacted subsequent to the date of this Contract, which may cause all or any part of the Contract to be in conflict with the laws of the State of Arkansas, will be given proper consideration if and when this contract is renewed or extended. At such time, the parties agree that the Contract shall be amended to comply with any applicable laws in effect.
- C. Under Arkansas law, the release of public records is governed by the Arkansas Freedom of Information Act found at Section 25-19-101 et. seq. of the Arkansas Code Annotated.

**9. Non-negotiable Sovereign Immunity.** Nothing in this Contract shall be construed as a waiver of the State's sovereign immunity. Any claims Contractor wishes to assert against the State in connection with this Contract shall be brought in the Arkansas State Claims Commission.

**10. Non-negotiable Intergovernmental/Cooperative Use.** In accordance with Arkansas Code Annotated § 19-11-249, any State public procurement unit may participate in this Contract with a participating addendum signed by the Contractor and approved by the chief procurement officer of the procurement agency issuing the contract.

**11. Non-negotiable Disclosure Required by Executive Order 98-04.** Any contract or amendment to a contract executed by an agency which exceeds \$10,000 shall require the Vendor to disclose information as required under the terms of Executive Order 98-04 and the Regulations pursuant thereto. The Vendor shall also require the subcontractor to disclose the same information. The Contract and Grant Disclosure and Certification Form shall be used for this purpose. Contracts with another government entity such as a state agency, public education institution, federal government entity, or body of a local government are exempt from disclosure requirements.

The failure of any person or entity to disclose as required under any term of Executive Order 98-04, or the violation of any rule, regulation or policy promulgated by the Department of Finance and Administration pursuant to this Order, shall be considered a material breach of the terms of the contract, lease, purchase

agreement, or grant and shall subject the party failing to disclose, or in violation, to all legal remedies available to the Agency under the provisions of existing law.

**12. Compliance.** The Contractor shall ensure, in cooperation with the Department, that the Contract adheres to the requirements of Arkansas procurement law, including without limitation the inclusion of any mandatory language and the submission of the contract for any required review. The signature of the Contractor on this Contract serves as an acknowledgement that the Contractor is:

- A. Equally responsible with the Department for adhering to the requirements of Arkansas Procurement

Law related to the content and review of the Contract; and

B. Subject to the relevant ethical provisions of § 19-11-701 et seq.

- 13. **Indemnity.** The Contractor shall be fully liable for the actions of its agents, employees, partners, and assigns and shall fully indemnify, defend, and hold harmless the Department, and their officers, agents, and employees from third party suits, actions, damages, and costs of every name and description, including attorney's fees to the extent arising from or relating to personal injury and damage to real or personal property, caused in whole or in part by the negligence or willful misconduct of Contractor, its agents, employees, partners, or assigns.
- 14. **Assignment/Subcontracting.** Contractor shall not assign, sell, transfer, subcontract or sublet rights, or delegate responsibilities under this Contract, in whole or in part, without the prior written approval of the Department.
- 15. **Amendments.** The terms of this Contract shall not be waived, altered, modified, supplemented or amended in any manner whatsoever without written approval of both parties. Any amendment that increases compensation or represents a material substantive change may require review by Legislative Council or Joint Budget Committee pursuant to Ark. Code Ann. § 19-11-265.
- 16. **Records.** Financial and accounting records reasonably relevant to State of Arkansas transactions under this Contract shall be subject to examination by appropriate Arkansas government authorities for a period of five (5) years from the date of expiration, termination or cancellation and final payment under this Contract, provided, however, that such government authorities will provide thirty (30) days written notice to the Contractor of its intent to conduct such examination contemplated by this section; and provided that such examination occurs pursuant to a mutually agreed upon location, during normal business hours and subject to reasonable confidentiality obligations.
- 17. **Non-waiver.** The failure by one party to require performance of any provision shall not affect that party's right to require performance at any time thereafter, nor shall a waiver of any breach or default of this Contract constitute a waiver of any subsequent breach or default or a waiver of the provision itself.
- 18. **Severability.** If any provision of this contract is held unenforceable, all remaining provisions of this Contract shall remain in full force and effect.

**19. Attachments.**

- 1. Certification of Contractor
- 2. Calculation of Compensation
- 3. Source of Funds
- 4. Objectives, Scope and Performance Standards
- 5. Performance Details
- 6. Budget

**20. Notices.**

**A. Method of Notice.** The parties shall give all notices and communications between the parties in writing by (i) personal delivery, (ii) a nationally-recognized, next-day courier service, (iii) first-class registered or certified mail, postage prepaid[, (iv) fax, or (v) electronic mail to the party's address specified in this Contract, or to the address that a party has notified to be that party's address for the purposes of this section.

**B. Receipt of Notice.** A notice given under this Contract will be effective on

**Contract #:** \_\_\_\_\_

- i. the other party's receipt of it, or
- ii. if mailed, the earlier of the other party's receipt of it and the fifth business day after mailing it.

**C. Issuance of Notice.** All notices and communications between the parties in writing shall be directed to the respective parties in accordance with the following:

**Contact #1** – Department Representative submitting/tracking this contract

_____	_____
Name	Title
_____	_____
Telephone#	Email

**Contact #2** - Department Representative with knowledge of this project (for general questions and responses)

_____	_____
Name	Title
_____	_____
Telephone#	Email

**Contact #3** - Department Representative Director or Critical Contact (for time sensitive questions and responses)

_____	_____
Name	Title
_____	_____
Telephone#	Email

**21. Technology Access.** If the Commodities are electronic information processing hardware or software, including telecommunications hardware or software (“Information Technology”), then the Contractor represents and warrants it shall comply with federal and state law relating to accessibility by persons with visual impairments and nonvisual access standards established by the Division of Information System, which standards can be found at <https://www.dfa.arkansas.gov/images/uploads/procurementOffice/technologyAccessClause.pdf> and are included herein by reference, as applicable.

**22. SIGNATURES**

DEPARTMENT SIGNATURE CERTIFIES NO OBLIGATIONS WILL BE INCURRED BY A STATE DEPARTMENT UNLESS SUFFICIENT FUNDS ARE AVAILABLE TO PAY THE OBLIGATIONS WHEN THEY BECOME DUE.

IN WITNESS WHEREOF, the Parties sign and cause this Contract to be executed. Notwithstanding verbal or other representations by the parties, the “Effective Date” of this Contract shall be the date provided in Section 3 above.

**CONTRACTOR AUTHORIZED SIGNATURE**

**DEPARTMENT AUTHORIZED SIGNATURE**

Tochi Amagwula, MD


\_\_\_\_\_  
Printed Name

Owner/Physician

\_\_\_\_\_  
Title

Healthwise Wellness Direct PLLC  
4014 Old Warren Rd.  
Pine Bluff Arkansas 71603

\_\_\_\_\_  
Address

  
\_\_\_\_\_  
Signature

02/21/2023

\_\_\_\_\_  
Date

\_\_\_\_\_  
Printed Name

\_\_\_\_\_  
Title

Arkansas Department of Human Services  
PO Box 1437 Slot  
Little Rock, AR 72203-1437

\_\_\_\_\_  
Address

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Date

**Attachment #1**

**CERTIFICATION OF CONTRACTOR**

Sections A, B and C apply to all service contracts. Sections D and E apply to Professional and Consulting Services contracts only.

A. "I, \_\_\_\_\_ (Contractor) \_\_\_\_\_ (Title)

certify under penalty of perjury that, to the best of my knowledge and belief, no regular full-time or part-time employee of the State of Arkansas will receive any personal, direct or indirect monetary benefits as a result of the execution of this contract that would violate the law." Where the Contractor is a widely-held public corporation, the term 'direct or indirect monetary benefits' shall not apply to any regular corporate dividends paid to a stockholder of said corporation who is also a State employee and who owns less than ten percent (10%) of the total outstanding stock of the contracting corporation."

B. List any other contracts or subcontracts Contractor has with any other state government entities. (Not applicable to contracts between Arkansas state departments. If no contracts or subcontracts, please put "Not applicable" or "None.")

C. Is Contractor currently engaged in any legal controversies with any state agencies or representing any clients engaged in any controversy with any Arkansas state department? If no controversies, please put "Not applicable" or "None."

D. Contractor shall list below, or on an attachment hereto, names, addresses, and relationship of those persons who will be supplying services to the State at the time of the execution of the contract. If the names are not known at the time of the execution of the contract, the Contractor shall submit the names along with the other information as they become known. Such persons shall, for all purposes, be employees or independent contractors operating under the control of the Contractor (sub-contractors), and nothing herein shall be construed to create an employment relationship between the departments and the persons listed below.

Name	Address	Relationship

**CERTIFICATION OF CONTRACTOR CONT'D**

E. The State has no managerial responsibilities over the Contractor or Contractor's employees. In carrying out this contract, Contractor understands and represents that there is no employment relationship between the contracting parties.

F. By checking the box below, the Contractor certifies that Contractor: (1) does not boycott Israel and shall not boycott Israel during the aggregate term of the corresponding Contract.

Contractor does not and shall not boycott Israel

**Attachment #2**

**Calculation of Compensation**

**Calculation of Compensation** (for Professional & Consulting Service Contracts Only):

A. In the table below, provide the various levels of expertise, the number of personnel for each level, the compensation rate, and total for each level, as applicable.

Level of Personnel	Number	Compensation Rate	Total for Level
<b>TOTAL COMPENSATION EXCLUSIVE OF EXPENSE REIMBURSEMENT(S)</b>			<b>\$ 0.00</b>

B. In the table below, provide any allowable reimbursable expenses, estimated rates, and a total for each level.

Reimbursable Expense Items (Specify)	Estimated Rate of Reimbursement	Total
<b>TOTAL REIMBURSABLE EXPENSES</b>		<b>\$ 0.00</b>

**Total compensation inclusive of expense reimbursement:** \_\_\_\_\_ **\$ 0.00**

**Annual Contract Amount:** \_\_\_\_\_

**Calculation of Services and Commodities** (for Technical & General Service Contracts Only):

A. In the table below, as applicable, provide the various services to be rendered, the quantity, cost per item, and total cost.

Services	Quantity	Cost Per Item	Total Cost
<b>TOTAL SERVICES</b>			<b>\$ 0.00</b>

B. In the table below, as applicable, provide the various commodities, quantity, cost per item, and total cost

Commodities	Quantity	Cost Per Item	Total Cost
<b>TOTAL COMMODITIES</b>			<b>\$ 0.00</b>

**Total services inclusive of commodities:** \_\_\_\_\_ **\$ 0.00**

**Annual Contract Amount:** \_\_\_\_\_

**Attachment #3**

**Source of Funds**

**Source of Funds the Department intends to draw on.** This is provided for informational purposes only. It is required under Arkansas Procurement Law and is not a performance obligation of the Department or an unconditional promise to pay from the sources identified.

Fund Source	Identify Source of Funds *	Fund	Fund Center	Amount of Funding	% of Total Contract Cost
					%
					%
					%
					%
					%
					%
<b>TOTALS</b>				<b>\$ 0.00</b>	<b>0.00 %</b>

Identify whether State general revenue funds (GRF), special revenue funds (SRF), federal funds (FED), or other public funds (Other) are the source. Identify each specific source of SRF, such as special taxes or fees, in the "Identify Source of Funds" column. Similarly, if Other public funds, such as tobacco funds, general improvement funds, etc., are being used to pay the Contractor, these should be specified in the "Identify Source of Funds" column.



## BUSINESS ASSOCIATE AGREEMENT

Arkansas Department of Human Services, Choose Division or Office (“Covered Entity”)  
and Healthwise Wellness Direct PLLC  
(“**Business Associate**”) enter into this Business Associate Agreement (“**BAA**”) as  
of (“**Effective Date**”).

Covered Entity and Business Associate agree that under \_\_\_\_\_ entered into by Covered Entity and  
Business Associate (the “**Agreement**”), Business Associate provides services for or on behalf of Covered Entity  
that may involve access to PHI (as defined below) and that, as such, the parties agree as follows:

### **I. DEFINITIONS**

Unless otherwise specified in this BAA, all capitalized terms used in this BAA not otherwise defined have the meanings ascribed by HIPAA and ARRA, as each may be amended from time to time.

- A. “**ARRA**” means the Health Information Technology for Economic and Clinical Health Act provisions of the American Recovery and Reinvestment Act of 2009, Pub. Law No. 111-5 and its implementing regulations.
- B. “**Breach**” means the actual or reasonably suspected acquisition, access, Use or Disclosure of PHI in a manner not permitted by the Privacy Rule that compromises the security or privacy of the PHI.
- C. “**Breach Notice Rule**” means the federal breach notification regulations issued pursuant to ARRA, as amended from time to time, 45 C.F.R. Parts 160 and 164.
- D. “**Compliance Date**” means, in each case, the date by which compliance is required under the referenced provision of ARRA’s or HIPAA’s implementing regulations, as applicable.
- E. “**Discovery**” means the first day on which Business Associate, or any workforce member, agent, or Subcontractor of Business Associate, knows, or, by exercising reasonable diligence would have known, of a Breach.
- F. “**Encrypt**” means to use an algorithmic process to transform data into a form in which there is a low probability of assigning meaning without use of a confidential process or key, which process conforms to NIST Special Publications 800-111, 800-52, 800-77, or 800-113, as appropriate, or that is otherwise validated against the Federal Information Processing Standards (FIPS) 140-2.
- G. “**ePHI**” means PHI as defined below, which is transmitted or maintained in electronic media.
- H. “**HIPAA**” means the Health Insurance Portability and Accountability Act of 1996 and its implementing regulations.
- I. “**PHI**” means Protected Health Information, as defined in 45 C.F.R. § 160.103, limited to the Protected Health Information received from, or received, created, or accessed on behalf of, Covered Entity.
- J. “**Privacy Rule**” means the federal privacy regulations issued pursuant to HIPAA, as amended from time to time, 45 C.F.R. Parts 160 and 164.
- K. “**Security Incident**” means the successful unauthorized access, Use, Disclosure, modification or destruction of ePHI or interference with system operations in an information system. Unsuccessful attempts to breach security, including pings and other broadcast attacks on Business Associate’s firewall, port scans, unsuccessful log-on attempts, denials of service and any combination of the above, so long as such incidents do not result in unauthorized access, use or disclosure of PHI, shall not be deemed Security Incidents. However, more than 20 unsuccessful attempts or other patterns of successive attempts, that are not individual deemed Security Incidents in themselves shall be considered Security Incidents due to the number or pattern of such events.

- L. **“Security Rule”** means the federal security regulations issued pursuant to HIPAA, as amended from time to time, 45 C.F.R. Parts 160 and 164.
- M. **“Subcontractor”** means Business Associate’s subcontractors and agents that create, receive, maintain or transmit PHI for the purpose of performing any of Business Associate’s obligations under the Agreement.

## **II. RESPONSIBILITIES OF BUSINESS ASSOCIATE.**

- A. Business Associate shall provide relevant training on HIPAA and the requirements of this agreement to all persons accessing PHI or ePHI. The training materials and records shall be provided to the covered entity upon request.
- B. Business Associate shall implement and use appropriate Technical, Physical and Administrative Safeguards to reasonably and appropriately protect the Confidentiality, Integrity and Availability of PHI and to prevent Use or Disclosure of PHI, other than as permitted by this BAA.
- C. Business Associate shall, within the earlier of the Compliance Date or 90-days from the Effective Date, comply with all applicable provisions of the Security Rule. The Business Associate shall conduct a risk assessment to evaluate compliance with the Security Rule and shall, at the request of the Covered Entity, provide a written attestation acknowledging completion and communicating the results of the risk assessment.
- D. Business Associate shall Encrypt all transmissions of ePHI and all portable media or storage devices on which ePHI may be stored, including laptops, back-up media, CDs, or USB drives.
- E. Within 30-days after receiving a written request from Covered Entity, make available information necessary for Covered Entity to make an accounting of disclosures of PHI about an Individual, as provided in 45 C.F.R. § 164.528; and in accordance with 42 U.S.C. § 17935(c) and its implementing regulations as of the Compliance Date, make that accounting directly to the Individual if directed to do so by Covered Entity.
- F. At the request of Covered Entity and in the time, manner, and form designated by Covered Entity, not to exceed 15-days, provide access to PHI in a Designated Record Set to Covered Entity or, if directed by Covered Entity, to an Individual or to a recipient designated by the Individual, in accordance with the requirements of 45 C.F.R. § 164.524. Business Associate shall not charge Covered Entity or any Individual any fee associated with the production of PHI in accordance with this section that exceeds fees described at 45 C.F.R. § 164.524.
- G. Make available PHI in a Designated Record Set, no more than 30-days following receipt of a written request by Covered Entity, PHI for amendment and incorporate any amendments to the PHI as directed by Covered Entity, all in accordance with 45 C.F.R. § 164.526.
- H. Business Associate shall notify Covered Entity, in writing, no more than 3-days following Business Associate’s receipt directly from an Individual of any request for an accounting of disclosures or access to or amendment of PHI as contemplated in Sections II (D) (E) or (F), above.
- I. Business Associate shall require each Subcontractor to agree, in writing, to the same restrictions and conditions that apply to Business Associate. Furthermore, to the extent that Business Associate provides ePHI to Subcontractor, Business Associate shall require Subcontractor to comply with all applicable provisions of the Security Rule upon the earlier of the Compliance Date or 90-days from the Effective Date. If Subcontractor is not subject to the jurisdiction or laws of the United States, or if any use or disclosure of PHI in performing the obligations under this BAA or the Agreement will be outside of the jurisdiction of the United States, Business Associate must require Subcontractor to agree by written contract with Business Associate to be subject to the jurisdiction of the Secretary, the laws, and the courts of the United States, and waive any available jurisdictional defenses that pertain to the parties’ obligations under this BAA, HIPAA, or ARRA.

- J. Business Associate shall not Use or Disclose PHI except as necessary to perform its obligations under the Agreement or as otherwise required by this BAA, provided that such Use or Disclosure is permitted by applicable law and complies with each applicable requirement of 45 C.F.R. § 164.504(e).
  - 1. In compliance with 45 C.F.R. § 164.502(b)(1), as of its Compliance Date or no more than 90-days following the Effective Date, whichever is earlier, Business Associate shall request, Use, and Disclose only the minimum amount of PHI necessary to accomplish the purpose of the request, Use, or Disclosure.
  - 2. Business Associate shall not use PHI to make or cause to be made any communication that would constitute Marketing.
- K. Without unreasonable delay, and in any event, no more than 24-hours after Discovery, Business Associate shall notify Covered Entity of any Breach, Use or Disclosure of PHI not permitted under this BAA, or any Security Incident. Business Associate shall deliver the initial notification of such Breach, in writing, which must include a reasonably detailed description of the Breach and the steps Business Associate is taking and would propose to mitigate or terminate the Breach. Furthermore, Business Associate shall supplement the initial notification, no more than 5 calendar-days following Discovery, with information including the identification of each individual whose PHI was or is believed to have been involved; a reasonably detailed description of the types of PHI involved, and written updates every 5 calendar-days until the event has been concluded; all other information reasonably requested by Covered Entity, including all information necessary to enable Covered Entity to perform and document a risk assessment in accordance with 45 C.F.R. Part 164 subpart D; and all other information necessary for Covered Entity to provide notice to individuals, the U.S. Department of Health & Human Services (“HHS”), or the media, if required. Despite anything to the contrary in the preceding provisions, in Covered Entity’s sole and absolute discretion and in accordance with its directions, Business Associate shall conduct, or pay the costs of conducting, an investigation of any Breach and shall provide or pay the costs of providing any notices required by the Breach Notice Rule or other applicable law.
- L. Business Associate shall mitigate, to the extent practicable, any harmful effect that is known to Business Associate of a Use or Disclosure of PHI by Business Associate that is not permitted by this BAA.
- M. Business Associate shall make available to HHS its internal practices, books, and records, relating to the Use and Disclosure of PHI pursuant to the Agreement for purposes of determining Business Associate’s and Covered Entity’s compliance with the Privacy Rule.
- N. Business Associate shall not directly or indirectly receive remuneration in exchange for any PHI.
- O. To the extent Business Associate is to carry out one or more of Covered Entity’s obligations under the Privacy Rule, the Business Associate shall comply with the requirements of the Privacy Rule that apply to Covered Entity in the performance of such obligations.
- P. Business Associate shall provide contact information for one primary person and one secondary person in Appendix A. Any changes in the contact information shall be forwarded to the Covered Entity.
- Q. The Business Associate shall respond in writing within 10 business days to the Covered Entity’s request(s) to attest to the Business Associate’s compliance with the Privacy Rule, the Security Rule, and the Responsibilities of the Business Associate as specified in this BAA. The Business Associate shall make available to the Covered Entity its internal practices, books, and records, relating to the Use and Disclosure of PHI as necessary to substantiate the attestation of compliance.

### **III. RESPONSIBILITIES OF COVERED ENTITY**

Covered Entity shall notify Business Associate, in writing, of an Individual’s request to restrict the Use or Disclosure of such Individual’s PHI, any limitations in Covered Entity’s Privacy Notice relevant to Business Associate’s performance of its obligations under this BAA or the Agreement, or any revocation by an Individual of authorization to Use or Disclose PHI.

#### **IV. TERM, TERMINATION AND DAMAGES**

- A. This BAA is effective as of the Effective Date and terminates when Business Associate and its Subcontractors no longer have access to PHI, and when all of the PHI in Business Associate's possession, inclusive of PHI in the possession of Business Associate's Subcontractors, has been returned or destroyed, unless earlier terminated in accordance with Sections IV(B) through (C) of this BAA.
- B. Upon Covered Entity's determination of a breach of a material term of this BAA by Business Associate, Covered Entity may terminate this BAA. As of the Compliance Date of 45 C.F.R. § 164.504(e)(1)(iii), if either party knows of a pattern of activity or practice of the other party that constitutes a material breach or violation of this BAA, the non-breaching party will provide notice thereof to the other party. Such notice must clearly specify the nature of the breach or violation. Each party must take reasonable steps to cure the breach or end the violation. If after 30-days or such longer time specified in writing by the non-breaching party, the non-breaching party reasonably determines that such steps are unsuccessful in curing the breach or ending the violation, the non-breaching party may terminate this BAA and the Agreement, if feasible. In the event that termination is not feasible, the non-breaching party shall report the problem to HHS.
- C. Except as provided below, Business Associate shall return or destroy all PHI, including all PHI in possession of its Subcontractors, immediately following the termination or expiration of this BAA. However, in the event that Business Associate is legally obligated to retain such PHI, Business Associate may do so provided that:
  - 1. Business Associate notifies Covered Entity of such legal obligation, in writing, immediately upon Business Associate's notice of such legal obligation, which such writing must describe in detail the legal obligation;
  - 2. Business Associate extends all protections, limitations, and restrictions contained in this BAA to Business Associate's Use or Disclosures of any PHI retained after termination or expiration of this BAA;
  - 3. Business Associate limits any further Use or Disclosures solely to satisfying such legal obligation for which it has provided Covered Entity with written notice in accordance with Section IV(C)(1), above.
  - 4. Business Associate returns or destroys all PHI when such legal obligation has been fulfilled or has concluded.
- D. In addition to any damages recoverable under this BAA, the parties acknowledge that certain breaches or violations of this BAA may result in litigation or investigations pursued by federal or state governmental authorities of the United States resulting in civil liability or criminal penalties. Each party shall cooperate in good faith in all respects with the other party in connection with any request by a federal or state governmental authority for additional information and documents or any governmental investigation, complaint, action, or other inquiry.

#### **V. INDEMNIFICATION**


Business Associate shall indemnify Covered Entity, its owners, employees and representatives in the event Business Associate's performance or failure to perform under this BAA has given rise to liabilities, costs, damages, and losses (including attorneys' fees) reasonably and properly incurred by Covered Entity in connection with any actual, threatened, or pending, civil, criminal, or administrative cause of action, claim, inquiry, investigation, lawsuit, or other proceeding (collectively a "Claim"). Upon demand by Covered Entity, Business Associate shall defend any Claim brought or threatened against Covered Entity, at Business Associate's expense, by counsel acceptable to Covered Entity. Business Associate shall not authorize or enter into any settlement without Covered Entity's written consent.

**VI. GENERAL TERMS**

- A. This BAA amends and is made a part of the Agreement. Any changes or modification to this BAA must be in writing and signed by both parties.
- B. To the extent not clear, the terms of this BAA are to be construed to allow for compliance by the parties with HIPAA or ARRA. If any provision of the BAA is in conflict with any provision of the Agreement, the conflicting provision of this BAA prevails to the extent necessary for the parties to comply with HIPAA and ARRA.
- C. Nothing in this BAA confers upon any person other than the parties and their respective successors or assigns, any rights, remedies, obligations, or liabilities, whatsoever.
- D. Sections II(G)(H)(J)(M) and Sections IV, V, VI(E)(F) survive the termination for any reason or expiration of this BAA.
- E. In the event Business Associate receives a notification from or on behalf of HHS regarding a compliance review, an audit, or an investigation or inquiry of any kind pertaining to the services provided under the Agreement or Covered Entity, it will notify Covered Entity no more than 3-days following its receipt of that notice.
- F. The law of the State of Arkansas without regard to its internal law on the conflict of laws, controls this BAA. The Business Associate consents and submits to the jurisdiction of the federal and/or state courts of Arkansas, and hereby waives any defense based upon venue, inconvenience of forum, or lack of personal jurisdiction in any action or suit brought in connection with or relating to this BAA or related matters. The Business Associate will bring any action or suit concerning this Agreement or related matters in federal or state court or the Arkansas Claims Commission with appropriate subject matter jurisdiction in Little Rock, Arkansas. **The Business Associate acknowledges that it has read and understands this clause and agrees willingly to these terms.**
- G. The parties may execute this BAA in a number of counterparts and each counterpart signature, when taken with the other counterpart signatures, is treated as if executed upon one original of this BAA. A facsimile or pdf signature, or a scanned image of an original signature, of any party to this BAA is binding upon that party as if it were an original.

Signed:

BUSINESS ASSOCIATE: Healthwise Wellness Direct PLLC

Signed:   
Title: ~~Owner~~ Physician

Date: 02/21/23

COVERED ENTITY Choose Division or Office

Signed:

Title:

Date:

**Appendix A: Business Associate Contact Information**

Business Associate Primary Contact:

Business Associate Secondary Contact:

Name: Tochi Amagwula, MD  
Title: Owner/Physician  
Address: 4014 Old Warren Rd.  
City: Pine Bluff  
State: Arkansas  
Phone: 870-454-4354  
Fax: 870-228-0123  
Email: admin@healthwisewellness.com

Name:  
Title:  
Address:  
City:  
State:  
Phone:  
Fax:  
Email: