****

**Draft Contract for**

**[Customer Engagement Center Services] [and]**

**[Customer Relationship Management System Services]**

**Between**

**Florida Healthy Kids Corporation**

**and**

**[Vendor]**

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**CONTRACT**

This Contract is entered into between the Florida Healthy Kids Corporation (“FHKC”), a Florida not-for-profit corporation established pursuant to chapter 617 and section 624.91, Florida Statutes, and with offices at 1203 Governors Square Boulevard, Suite 400, Tallahassee, Florida 32301, and [Vendor] (“Vendor”) [address] (each, a “Party” and collectively, the “Parties”) to provide [CEC Services] [and] [CRM System Services]. All appendices to this Contract are hereby incorporated into the Contract by reference. Vendor responded to FHKC’s Customer Engagement Center Services and Customer Relationship Management System Services Solicitation 2019-200-01. FHKC has accepted Vendor’s proposal as modified and enters into this Contract in accordance with the terms and conditions of the solicitation and subsequent negotiation.

**RECITALS**

WHEREAS, FHKC requires services to [develop and maintain an interactive, web-based Customer Relationship Management System to provide support services for State of Florida Children’s Health Insurance Program and Full-Pay Applicants, Enrollees, and their families for benefits administration and reporting] [and provide Customer support and services through the Customer Engagement Center];

[WHEREAS, Vendor agrees to develop and maintain an interactive, web-based Customer Relationship Management System to provide support services for State of Florida Children’s Health Insurance Program and Full-Pay Applicants, Enrollees, and their families for benefits administration and reporting;] [and]

[WHEREAS, Vendor agrees to provide Customer support and services through the Customer Engagement Center;] [and]

WHEREAS, Vendor agrees to provide personnel, where necessary, all in accordance with and pursuant to the terms of this Contract.

NOW THEREFORE, in consideration of the premises and mutual covenants set forth herein, the Parties agree as follows:

# Contract, Definitions, and Contract Interpretation Instructions

## Entire Agreement

This Contract contains all terms and conditions agreed upon by the Parties relating to the subject matter of this Contract and supersedes all other agreements, negotiations, understanding, or representations, verbal or written, between the Parties relative to the subject matter hereof.

## Definitions

Capitalized terms used in this Contract without definition shall have the meanings ascribed below:

**Access:** to review, inspect, approach, instruct, communicate with, store data in, retrieve data from, or otherwise make use of any data, regardless of type, form, or nature of storage. Access to a computer System or network includes local and remote access.

**Applicant:** a parent or guardian of a child or a child whose disability of nonage has been removed under chapter 743, Florida Statutes, who applies for determination of eligibility for health benefits coverage under sections 409.810-820, Florida Statutes.

**Business Day**: means any day of the week excluding weekends and holidays approved by FHKC.

**Calendar Days:** any day in a month, including weekends and holidays.

**Change Management Plan (also referred to herein as CMP)**: Vendor’s plan that establishes standardized processes for electronic Requests for Change for the CRM System.

**Children’s** **Medical Services Managed Care Plan (also referred to herein as CMS Plan):** the statewide managed care plan administered by the Department of Health (DOH) for children with special health care needs under Florida’s CHIP and Medicaid programs.

**Children’s Health Insurance Program (also referred to herein as CHIP):** the health benefits offered in the State of Florida pursuant to Title XXI of the Social Security Act.

**Confidential Information:** Vendor’s business information that is confidential, proprietary, trade secret, exempt, or otherwise not subject to disclosure pursuant to chapter 119, Florida Statutes, the Florida Constitution or other authority.

**Contract:** this [CEC Customer Engagement Center Services][CRM Customer Relationship Management System Services] agreement between FHKC and Vendor resulting from Invitation to Negotiate 2019-200-01.

**Contract Term:** the period(s) of time in which this Contract is effective, including the initial term and any Renewal period(s).

**Corrective Action Plan (also referred to herein as CAP):** a step-by-step plan of action, including estimated dates of completion, developed, and implemented to appropriately address errors or deficiencies in Vendor’s policies, processes, or other work under this Contract.

**Coverage Month:** the calendar month in which benefits and services are provided to Enrollees.

**Customer:** any former, current, or potential Applicant; any former, current or potential, Enrollee; and any other parent as defined in 42 CFR § 435.603, authorized representative, or legal guardian.

**Customer Portal:** the online, secure web application through which Customers may Access account information.

**Customer Relationship Management System** **(also referred to herein as CRM System):** integrated business software used to process Program transactions in a single software solution and to provide the Customer Engagement Center the ability to interact with Customers.

**Cut-Over** – the act of FHKC, Vendor, or FHKC’s alternative Vendor taking over operating responsibility for the [CRM System] [Customer Engagement Center] Services.

**Data:** any representation of information, knowledge, facts, concepts, computer software, computer programs, or instructions related to or arising from this Contract. Data may be in any form, including storage media, computer memory, in transit, presented on a display device, or in physical media such as paper, film, microfilm, or microfiche. Data includes the original form of the Data and all metadata associated with the Data.

**Data Change:** automated or manual method of overwriting a data element within an electronic table so that it has a different value and the appending, deletion, or purging of records when determined the action would have no effect on systems.

**Effective Date of Services:** the date on which Vendor commences provision of Services to Customers (October 1, 2021).

**Enrollee:** an individual who is receiving health benefits under the Program.

**Event of Default:** an action or failure thatrenders the Contract terminable as set forth in Section 7.

**Family Account:** the record stored in the CRM System containing all information pertaining to an Enrollee’s household.

**Florida Healthy Kids:** the Florida CHIP and Full-Pay health benefits plans established by sections 624.91 and 409.813, Florida Statutes, administered by the Florida Healthy Kids Corporation (FHKC), and offered to children age five through the end of age 18.

**Florida KidCare:** the benefits program established by section 409.813, Florida Statutes.

**Florida KidCare Application:** the information submitted by an Applicant to receive health benefits under Florida KidCare.

**Florida KidCare Customer Engagement Center (also referred to herein as Customer Engagement Center or CEC):** Vendor location(s) staffed with customer service representatives that provide service support to Customers.

**FHKC Materials:** documents, files, manuals, databases, configurations, programs, customizations, templates, or other items owned by or licensed to FHKC that describe the functionality required to manage Services.

**Financial Consequences:** the amount Vendor shall be assessed for failure to perform as specified in this Contract. Financial Consequences are not liquidated damages.

**Full-Pay Plan:** the non-CHIP health and dental insurance coverage available to children who are ineligible for CHIP but are otherwise eligible for health benefits through the Program.

**HIPAA:** as may from time-to-time may be amended, the (i) Health Insurance Portability and Accountability Act of 1996, Public Law 104-191, including its Omnibus Rule; (ii) applicable provisions of the Health Information Technology for Economic and Clinical Health Act as incorporated in the American Recovery and Reinvestment Act of 2009; and (iii) their accompanying regulations, including the Privacy Rule (as defined herein) and the Security Rule (as defined herein). “Privacy Rule” means the Standards for Privacy of Individually Identifiable Health Information at 45 CFR, part 160 and part 164, subparts A and E, providing for federal privacy protections for an individual’s PHI held by entities subject to HIPAA requirements (each, a “Covered Entity”) and describing patient rights with respect to their PHI. “Security Rule” means HIPAA Security Standards (45 CFR Parts 160, 162, and 164).

**Inquiry:** any form of Customer contact to the CEC including by phone, email, regular mail, social media, and webchat.

**Insurer(s):** medical and dental insurance carriers offered by AHCA, DOH, and FHKC and administered through the CRM System.

**Interactive Voice Response (also referred to herein as IVR):** an automated voice interface into certain Data accessible through any touch-tone telephone.

**Intellectual Property Rights:** worldwide common law and statutory rights associated with:

1. Patents and patent applications of any kind;
2. Copyrights, copyright registrations, and copyright applications, “moral”, “economic” rights and mask work rights;
3. The protection of trade and industrial secrets and confidential information;
4. Logos, trademarks, trade names, and service marks;
5. Domain names and web addresses; and
6. Any other proprietary rights relating to technology, including any analogous rights to those set forth above.

**Limited Special Access Group (also referred to herein as LSAG):** the limited number of highly specialized employees, managers and/or Subcontractors of Vendor having special security rights under this Contract.

**MediKids:** the Florida CHIP and Full-Pay health benefits plans established by section 409.813, Florida Statutes, administered by the Agency for Health Care Administration (AHCA), and offered to children age one through the end of age four.

**Notice:** written notification in accordance with Section 10.24 from one Party to the other Party regarding performance under the Contract.

**Personally Identifiable Information (also referred to herein as PII):** information that can be used to distinguish or trace an individual’s identity, either alone or when combined with other personal or identifying information that is linked or linkable to a specific individual.

**Production Data:** Customer Data considered to be the official record.

**Program:** the CHIP and Full-Pay plans (i.e., CMS Plan, Florida Healthy Kids CHIP, Florida Healthy Kids Full-Pay, MediKids CHIP, and MediKids Full-Pay) offered under the Florida KidCare brand for which Vendor provides the Services required in this Contract.

**Protected Health Information (also referred to herein as PHI):** individually identifiable health information transmitted by electronic media, maintained in electronic media, or transmitted or maintained in any other form or medium except for individually identifiable health information:

1. In education records covered by the Family Educational Rights and Privacy Act, as amended, 20 U.S.C. 1232g;
2. In records described at 20 U.S.C. 1232g(a)(4(B)(iv);
3. In employment records held by a covered entity (under HIPAA) in its role as employer; and
4. Regarding a person who has been deceased for more than 50 years.

**Renewal:** effectuating the enforceability of this Contract after the initial Contract Term.

**Request for Change (RFC):** A need, not currently supported by the CRM System, that is identified, submitted under, and governed by the CMP.

**Security Plan:** describes the procedures and security measures for the protection of Data and related information processed and stored by Vendor and that safeguard Vendor’s and FHKC’s valuable IT resources and assets.

**Services:** the services, reports, documents, and other work to be provided by Vendor as described in this Contract unless otherwise mutually agreed upon in writing pursuant to this Contract.

**Subcontractor:** any individual or entity, including independent contractors, with whom Vendor has a written agreement that relates directly or indirectly to the performance of Vendor’s obligations under this Contract. The term “Subcontractor” includes subsidiaries and affiliates.

**System:** any technological system used to support or provide Services under this Contract.

**System Defect:** as recorded in the active defect and workaround log, an error, flaw, or fault in a System that causes an incorrect or unexpected result or behavior in an unintended way contrary to the agreed-upon design requirements of a System.

**System Enhancement:** a change or upgrade that increases or expands the hardware or software capabilities of a System or System component.

**Transition Period:** the time period prior to the commencement of Services by a different vendor, during which time Vendor continues to provide the Services in this Contract and provides transition services as set forth in Section 8.2 of this Contract.

**User:** any authorized FHKC employee, CEC employee, CRM System employee, agency partner employee, grantee, application assistor, Insurer employee, or other person permitted by FHKC to Access the CRM System.

## Acronyms

Acronyms commonly used in this Contract shall have the meanings ascribed in this Section unless otherwise expressly stated:

**AHCA:** Agency for Health Care Administration

**BAA:** Business Associate Agreement

**CAP:** Corrective Action Plan

**CEC:** Customer Engagement Center

**CHIP:** Children’s Health Insurance Program

**CMP:** Change Management Plan

**COOP**: Continuity of Operations Plan

**CRM System:** Customer Relationship Management System

**CSR:** Customer Service Representatives

**HHS:** U.S. Department of Health and Human Services

**GUI:** Graphical User Interface

**IVR:** Interactive Voice Response

**LSAG:** Limited Special Access Group

**NIST:** National Institute of Standards and Technology

**PHI:** Protected Health Information

**PII:** Personally Identifying Information

**PMPM**: Per member (i.e., Enrollee) per month

**RFC:** Request for Change

## Hierarchy of Documents

In the event of conflict among the Contract documents, the order of precedence is as follows:

1. This contract document;
2. The appendices to this contract document;
3. ITN 2019-200-01 including all addenda, in reverse order of posting by date on the Florida Healthy Kids website, which are incorporated by reference;
4. Vendor’s Best and Final Offer to ITN 2019-200-01, which is incorporated by reference; and
5. Vendor’s response to ITN 2019-200-01, which is incorporated by reference.

In the event the terms of this Contract conflict with federal or state laws or regulations, the federal or state laws or regulations prevail.

## Rules of Interpretation

This Contract is and shall be deemed jointly drafted and written by all Parties to it and shall not be construed or interpreted against the Party originating or preparing it.

Unless otherwise indicated or required by context, the following rules of interpretation apply:

1. All references to a section or an appendix, unless otherwise indicated, are to a Section or appendix of this Contract;
2. The term “Section” refers to sections, subsections, sub-subsections, etc., of this Contract, as indicated by the text;
3. The table of contents and Section headings are for reference purposes only and do not limit or affect the meaning or interpretation of the text;
4. All singular terms include the plural and all plural terms include the singular;
5. Masculine, feminine, and neutral gender terms include all genders;
6. The word “include” and its derivatives are deemed to be followed by the phrase “but not limited to”;
7. Reference to a governmental entity or person includes the authorized successors and assigns of the governmental entity or person; and
8. Reference to a federal or state law or regulation includes the federal or state law or regulation as amended or replaced.

## Appendices

The following appendices to this Contract are hereby incorporated into the Contract by reference:

Appendix A: Reports and Other Documents

Appendix B: Performance Standards

Appendix C: Vendor Affidavit of Compliance

Appendix D: Vendor Affidavit of Warranty of Security

Appendix E: FHKC Materials

Appendix F: Third-party Vendor Software Products

Appendix G: Business Associate Agreement

Appendix H: Conflict of Interest Disclosure Form

Appendix I: General Contract Conditions

# Term and Compensation

## Initial Contract Term

The initial term of this Contract is five years beginning on October 1, 2021 and ending after 11:59 p.m. on September 30, 2026 unless terminated or renewed.

## FHKC’s Right to Renew Contract

At FHKC’s sole discretion, the Parties may renew this Contract, in whole or in part, beyond the initial term for up to an additional five years. FHKC may renew this Contract in multiple-year or smaller increments. The Parties acknowledge the Renewal is contingent upon satisfactory performance evaluations by FHKC and subject to the availability of funds. Vendor may not charge costs associated with the Renewal of the Contract.

## Amendments to the Contract

This Contract may be amended by the mutual written consent of the Parties at any time.

The provisions of this Contract shall be automatically modified without a written agreement to the extent necessary to comply with federal or state laws or regulations.

Upon FHKC’s Notice to Vendor, the provisions of this Contract shall be automatically modified without a written agreement to the extent necessary to comply with the requirements of FHKC’s contract with AHCA.

## Compensation

Vendor agrees to perform all obligations under this Contract for the compensation and financial arrangements set forth in this Contract. No additional compensation shall be allowed unless specifically agreed upon in writing by the Parties.

## Invoices

Invoices shall be submitted to FHKC in the format prescribed in advance by FHKC and shall contain sufficient documentation and detail (i) for a proper pre-audit and post-audit thereof and (ii) to enable FHKC to confirm whether the amounts set forth on each invoice accurately reflect the amounts due and payable under this Contract (“Proper Invoice”).

Vendor shall submit a Proper Invoice by the 10th day of each month for Services provided during the previous month. Excluding only “Disputed Amounts” (as defined in Section 2.6), FHKC shall pay the entire amount of such Proper Invoice within 30 Calendar Days after receipt of a Proper Invoice (the “Payment Date”) via electronic funds transfer to the Vendor’s account. If FHKC requests additional information regarding an invoice, Vendor shall provide detail or clarification within five Business Days to FHKC for review. FHKC shall remit payment on undisputed amounts and deduct any undisputed invoice credits for liquidated damages and Financial Consequences within 30 Calendar Days of receipt of such detail or clarification.

If full payment for any undisputed amount is not made by FHKC on the Payment Date or if any Disputed Amount determined to be owed to Vendor by FHKC is not paid within 30 Calendar Days after the date of such determination, an interest payment will be due at a rate as established pursuant to section 55.03(1), Florida Statutes, on the unpaid balance from the time such amount was due until such time as Vendor receives full payment on the unpaid balance. Invoice payment requirements do not start until a Proper Invoice is provided to FHKC.

FHKC reserves the right to delay payment without change in any of Vendor’s obligations under this Contract when such payment delay is the result of any act described in section 7.4, changes to Florida’s Title XXI Children’s Health Insurance Program, lack of legislative appropriation, or other temporary shortfalls resulting from mitigating actions for an emergency or urgent situation. In the event of such delay, FHKC shall act in good faith to resolve and make the delayed payments to Vendor.

## Disputed Invoices

In the event FHKC disagrees with or questions any amount due under an invoice provided by Vendor (“Disputed Amount”), FHKC will provide Vendor with written notice of any Disputed Amount and the basis for the dispute within 30 Calendar Days after receipt of the Proper Invoice. The Parties agree to work in good faith to resolve the disputed billing amount within 30 Calendar Days of the notice. In the event an invoice dispute is not resolved, the Parties shall resolve the dispute in accordance with Section 9 of this Contract.

## Advanced Funds

Vendor agrees to use advanced funds, if any, only for the Services identified under this Contract.

## Overpayments

Vendor shall return to FHKC any overpayments due to unearned or disallowed funds that were paid under this Contract within 45 Calendar Days of identification by either Party.

If FHKC overpays Vendor, Vendor shall immediately credit to FHKC such overpayment together with interest calculated from the date of the overpayment at the rate set forth in section 55.03(1), Florida Statutes. Each Party will provide the other with timely notice of the nature of any error or inaccuracy relating to an invoice or a payment as soon as such Party becomes aware of the error or inaccuracy.

## Appropriations

FHKC’s ability and obligation to make payment for services performed under this Contract is contingent upon annual appropriations from the Florida Legislature and federal funding under Title XXI of the Social Security Act.

The foregoing does not in any way limit, abrogate, or otherwise modify Vendor’s rights or remedies under applicable law, including Vendor’s rights to seek a legislative claims bill.

## Contract Term Price

FHKC agrees to pay Vendor the monthly payments listed below until this Contract expires or is terminated in accordance with Section 7 of this Contract.

[TBD CRM System Vendor]

[TBD CEC Vendor]

## Renewal Term Price

If Section 2.2 of this Contract is exercised, FHKC may renew the Contract at the same pricing as those specified in this Contract or lower negotiated pricing. In exercising the Renewal provision of this Contract, FHKC’s expectation of Vendor is a price reduction and improved Services to the [CEC] [and] [enhanced CRM System functionality].

## Payment Upon Expiration or Termination

Upon expiration or termination of this Contract, FHKC agrees to pay Vendor the amounts due and owing to Vendor for Services rendered pursuant to this Contract. Within 60 Calendar Days of expiration or termination, Vendor must submit to FHKC a request for payment of such amounts; however, FHKC shall pay any amounts previously invoiced and not paid, as well as amounts due and owing pursuant to Section 7 of this Contract. Requests submitted later than 60 Calendar Days prior to expiration or termination shall not be honored and will be returned unpaid. Payment for Services requested and provided after termination or expiration shall be paid in the same manner as set forth in Sections 2.5, 2.6, and 2.8.

# Scope of Services

The purpose of this Contract is to define the Services to be delivered to FHKC by Vendor and the terms and conditions under which such Services will be provided. As more particularly described below, the objective of this Contract is to maintain a suite of Services to support Customers, the Florida KidCare Application process, and enrollment in the Program, as well as provide information and Data to other Users.

## Implementation

Vendor shall ensure all resources needed for a timely and complete implementation are available so that Services can be fully provided as determined by FHKC beginning on the Effective Date of Services.

Within 20 Business Days of Contract execution, Vendor shall provide to FHKC for approval a comprehensive, specific implementation plan that includes:

1. Each task necessary to fully implement this Contract;
2. The start and end dates for each task;
3. Any task dependencies, including tasks required by FHKC or other vendors;
4. Identification of key milestones;
5. The responsible Party for each task; and
6. Any potential alternative tasks, with start and end dates, that could be pursued when an identified task is delayed due to dependency.

Vendor shall be liable for Financial Consequences equal to $1,000 per Calendar Day the implementation plan is late. If the submitted implementation plan is not approved by FHKC, Vendor shall have three Business Days from notification of disapproval to revise the implementation plan for approval. Vendor shall be liable for Financial Consequences equal to $1,000 per Calendar Day the revised implementation plan is late.

Vendor shall update the implementation plan weekly, or as specified by FHKC, until implementation is complete as determined by FHKC. Changes to task due dates require written approval from FHKC. Vendor may be liable for Financial Consequences equal to $1,000 per Calendar Day the weekly implementation plan is late, up to $3,000 per incident.

Financial Consequences apply to each Calendar Day beyond the due date until provided to FHKC. Financial Consequences apply to the initial due date and to subsequent due dates should the final implementation plan require revisions prior to FHKC approval.

If Vendor is unable to fully provide Services as determined by FHKC by the Effective Date of Services, (a) Vendor shall be liable for $35,000 in liquidated damages per Calendar Day beginning on the Effective Date of Services until such time FHKC approves the full provision of Services, and (b) FHKC may terminate the Contract in accordance with Sections 7.1, 7.2, or 7.3.

Vendor shall reimburse FHKC via invoice credit for any such Financial Consequences and/or liquidated damages.

### Unit Testing

At least 120 Calendar Days prior to the Effective Date of Services, Vendor and FHKC shall commence a series of unit tests to verify that each process of the System produces the expected results as defined in this Contract.

### Parallel Testing

At least 60 Calendar Days prior to the Effective Date of Services, Vendor shall commence a series of parallel tests in conjunction with all necessary Subcontractors and FHKC-contracted vendors that shall replicate the results of the existing production process. Vendor shall continue parallel testing until implementation.

### Data Migration

Following successful parallel testing and readiness verification, the hand-off of Production Data from the current transitioning vendor will be scheduled at the most logical time that minimizes any impact on Customers. The Parties will establish a database cut-off date of three to five Business Days preceding the Cut-Over for the purpose of shifting all incoming Data edits to Vendor while the database is updated to an “as-of” date. Vendor will assume all Data edits received after the database cut-off date. Vendor shall describe the Data migration, which may be adjusted according to implementation plan weekly meetings, in a Data migration plan as required by Appendix A.

### Operational Plans

As required in Appendix A, Vendor shall complete the following operational plans for the Contract Term, all of which shall be tested and approved by FHKC at least 45 Calendar Days prior to the Effective Date of Services:

1. [CRM] Change Management Plan (CMP), which shall be the governing document for Section 3.3.5. The CMP shall describe the required elements of a Request for Change (RFC) and how an RFC may be approved, withdrawn, denied, merged, and amended within the process. The CMP shall describe how FHKC or Vendor will submit an RFC and how Vendor will respond with a change scope report. Vendor will describe the required elements of a change scope report, including how Vendor will verify information in the RFC; assess and describe impacts on other Systems and System components; and assess risk, with or without the change, as well as consideration of other reasonable alternatives to the proposed change. FHKC shall designate a change manager to serve as the point of contact for Vendor for change management;
2. System test plan, which shall describe the use of the development and test environments and how testing will be performed within the [CRM System change management process] [and] [CEC process of testing any CEC equipment];
3. Unit and parallel test plan, which shall guide the use of unit and parallel testing prior to implementation. This test plan shall define how the success or failure of the various processes are to be tested and how these outcomes are determined. Vendor shall ensure that the processes included in the unit and parallel testing plan comprise all the necessary processes to assure the readiness of the System;
4. System security plan, which shall include the elements required in Appendix A; and
5. Other plans to be determined.

## Reports and Other Documents

Vendor shall update and provide, at no additional cost to FHKC, reports and other documents by the established due dates as described in Appendix A. Financial Consequences are noted in Appendix A for reports and other documents not approved by or delivered to FHKC by the established due dates and times. Vendor shall reimburse FHKC via invoice credit for any such Financial Consequences.

The Parties agree to work cooperatively to amend these reports and other documents as necessary during the Contract Term. Vendor shall make no changes to reports or other documents without FHKC’s prior written consent, which shall not be unreasonably withheld.

In addition to the due dates provided in Appendix A, Vendor shall update and provide to FHKC the most current version of each report and other documents at Transition Period commencement and upon termination or expiration of the Contract.

The Parties agree that the need for additional reports and other documents may arise during the Contract Term. The Parties will work cooperatively to define the requirements, including delivery timeframes, of such reports and other documents.

This Section 3.2 shall survive termination or expiration of the Contract.

## CRM System Services

Vendor shall provide the CRM System functionality and fully support the CRM System operations and requirements throughout the Contract Term and as required by this Contract. In addition to providing this CRM System functionality, Vendor agrees to implement additional optimization initiatives to enhance functionality. Vendor shall work cooperatively with FHKC and FHKC’s vendors and agency partners to recommend opportunities to enhance functionality, create efficiencies, and improve the Customer and User experience.

At the time of the Effective Date of Services, the CRM System performs on [TBD application/platform].

Vendor shall maintain a single tenant server model whereby Data is maintained and secured separately from the Data of other clients of Vendor.

FHKC’s preference is for the data center to be located within the State of Florida; however, FHKC acknowledges that Vendor’s business model may result in the data center being located outside of the State of Florida. Under no circumstance will FHKC allow Vendor to locate its data center outside the continental U.S. FHKC reserves the right to inspect the data center(s) with or without notice during the Contract term.

### CRM System Data

The Vendor shall maintain a database as the system of record to meet FHKC, State of Florida, and federal data and account requirements. This database shall house Data that includes the following elements:

1. Family Account Number – A unique number assigned to each family unit used for tracking and identification purposes. All account data is tied to this value;
2. Person Account Number – A unique number, which is not the Social Security number, assigned to each person used for tracking and identification purposes;
3. Family information and demographics – Names, dates of birth, Social Security numbers, address, etc.;
4. Customer Inquiries – A record of all Customer Inquiries as described in Section 3.4.8;
5. Account Status – Identifiers that indicate the processing phase of a Customer in the application, eligibility, and enrollment processes, as well as other detailed indicators;
6. Documents – All documents shall be stored and indexed on an imaging retrieval system, including all correspondence templates;
7. Account History – A record of historical Data, including Florida KidCare Applications, referrals, eligibility activity, Program enrollment history, financial records, incoming and outgoing correspondence, and any other forms of communications with the Customer. Audit records of all transactions on the account must be readily available; and
8. Other Data as needed to provide Services.

The architectural design and operation of the database shall consider risk, optimal communication structure, overall capability, ease of use, efficiency, adaptability, use of rules engines, and workflow management engines to simplify system changes and meet FHKC’s requirements.

As required in Appendix A, Vendor shall include a data dictionary as part of the database documentation. This data dictionary shall include all essential data elements, the definition, and uses/examples of each. Any changes to the data dictionary must be approved in advance by FHKC.

Vendor shall assure the integrity of all Data using data quality controls documented in a data quality plan. The data quality plan shall be provided as required in Appendix A.

### User Software Application

Vendor shall provide CRM System software that permits the entry, modification, and deletion of Data described in Section 3.3.1 and drives all Program rules in accordance with 42 CFR § 435.603; sections 409.814 and 624.91, Florida Statutes; the Florida CHIP State Plan; and other applicable federal and state laws, rules, regulations, and policies for Program eligibility and enrollment. As applicable, AHCA, DOH, or FHKC shall be the final authority for determining eligibility.

Vendor shall design a logically organized and customizable graphical user interface (GUI) for Users to perform the above functionality that shall comply with the provisions of Americans with Disability Act (ADA) and section 508 of the Rehabilitation Act, and the security requirements of Section 3.3.8. The design of this GUI shall be subject to FHKC approval. The functionality shall permit sorts and searches of prescribed fields and documents as determined by FHKC. Vendor shall log all changes for audit purposes.

Vendor shall provide functionality that accepts scanned documents into the CRM System and triggers appropriate procedural actions for paper and electronic correspondence.

### Data Imports and Exports

Vendor shall install, configure, and maintain application Systems to facilitate secure information exchange between the CRM System, State of Florida agencies, Insurers, and other entities through data exchange methods, including web services interface, command line interface, or application program interface, as directed by FHKC. The format specifications associated with a file or a stream of data being exchanged shall conform to applicable federal and industry standards.

Vendor shall establish and maintain imported or exported Data through interfaces or data exchanges in a manner approved by FHKC, including the following:

1. AHCA Medicaid Match – Export/Import;
2. AHCA MediKids Enrollment Data – Export;
3. AHCA MediKids Pending Choice Referrals – Export;
4. Automatic Clearing House (ACH) Receipts – Export/Import;
5. Banking Institution – Export;
6. Broward County School Board Payroll Deduction Premium Payments – Import;
7. CMS Plan Enrollment Data to CMS and Insurer – Export;
8. CMS Plan Referrals – Export/Import;
9. DCF Federal Hub – Export/Import;
10. DCF Federally Facilitated Marketplace – Export/Import;
11. DCF Medicaid Closures Expedited – Import;
12. DCF Medicaid Referrals – Export;
13. DCF Medicaid Share of Cost – Export;
14. Discrepancy Reporting – Import/Export;
15. DFS State Employee Request – Export/Import;
16. Florida Department of Economic Opportunity – Export/Import;
17. Florida Healthy Kids Capitation Data to Insurers – Export;
18. Florida Healthy Kids Enrollment Data to Insurers – Export;
19. Florida Healthy Kids Voided Refunds (from FHKC) — Import;
20. Florida Department of Revenue – Export/Import;
21. Institute for Child Health Policy – Export;
22. Lock Box/Automated Payment Receipt – Import;
23. Medicaid Screening – Export/Import; and
24. Qsource Enrollment File – Export.

Vendor shall establish and maintain any other interfaces or data exchanges as required by FHKC.

### Ongoing CRM System Operations

Vendor shall ensure ongoing CRM System operations by providing the following at no additional cost to FHKC:

1. Data Changes such as adding/deleting Insurers and mapping Enrollee coverage from one Insurer to another Insurer as directed by FHKC;
2. Data Changes such as changing applicable premium and contracted Insurer rates;
3. Data Changes such as adjusting the Insurer enrollment allocation;
4. Data Changes such as changing FMAP and Federal Poverty Limits (FPL) percentages;
5. Developing, updating, and mailing annual renewal statements, as well as any FHKC-provided inserts that do not increase postage costs included with these documents;
6. Updating content, format, headers, and footers on CRM System-generated letters;
7. Suppressing and updating labels and format for field names within detail screens, dropdown menus, table menus, overview tables, reports (all formats), report filters, buttons, links, tasks, alerts, login page(s), landing pages, and any similar editorial changes to the CRM System, Customer Portal, and website;
8. Maintaining customary calendar, fiscal, and federal activities and processes;
9. Implementing role-based Access to the fully encrypted CRM System for FHKC employees or other Users identified by FHKC;
10. Analyzing legislation that could impact the CRM System; and
11. Publishing reports developed in conjunction with FHKC within the CRM System and making such reports available to Users based on their security access.

### Change Management

The CMP allows for the review and approval of all CRM System changes. FHKC will review and approve all aspects of the processes required to enable a CRM System change. Vendor shall make approved changes, except where such changes interfere with federal and state laws, security requirements as described in Sections 3 and 6 of this Contract, or the ability to exercise other provisions in this Contract.

#### Requests for Change Initiated by FHKC

The Vendor shall accept FHKC-initiated RFCs that include a number and title for the change, description of the change, date approved by FHKC, relevant analysis and/or conditions that provide guidance on how the change should be made, and requested date of deployment. The analysis and/or conditions and date of deployment will not be required information for any RFC initiated by FHKC. Vendor shall detail additional processes for managing RFCs in its CMP described in Section 3.1.4(a).

FHKC shall be allotted [TBD] System enhancement hours annually to be used for RFCs that are not covered under Section 3.3.5. Up to [TBD] unused and uncommitted System enhancement hours shall be carried forward to the next fiscal year. For this purpose, once the hours are committed, they are considered used, regardless of when Vendor completes the development. FHKC will be charged the actual hours used, up to the estimated hours FHKC approved, to implement the change or enhancement. FHKC may receive an advance of future System enhancement hours upon reasonable terms to be mutually agreed upon by the Parties.

System enhancement hours will be consumed at two resource levels:

1. Development level: IT developers, IT specialists, and senior consultants performing System, strategy, or plan development will consume one System enhancement hour each per hour of effort provided.
2. Support level: Trainers, quality analysts, and business analysts performing User training or business/data gathering and analysis, and any other resources performing business operational or repetitive tasks will consume one half System enhancement hour each for every hour of effort provided.

The Parties must agree in advance on how and when the System enhancement hours will be used.

The change scope report described in Section 3.3.5.4 is considered a cost of doing business and its completion shall not be counted as a reduction in System enhancement hours.

As required by Appendix A, Vendor shall report System enhancement hours throughout the Contract Term. On a monthly basis, Vendor shall report the number of hours available from the current fiscal year plus any carried over from the previous fiscal year (if applicable) by resource level. Vendor shall provide a separate detail report of RFCs opened or active at any point during the fiscal year. For each RFC on the separate detail report, Vendor will state the number of hours that were estimated and the number of hours that were expended by resource level and by any other criteria required by FHKC that could assist tracking these hours.

#### Requests for Change Initiated by Vendor

Vendor shall create an RFC for each distinct System Change deemed necessary to maintain integrity in any part of the CRM System. RFCs initiated by Vendor shall include changes as described in Sections 3.3.1, 3.3.2, 3.3.5.3, 3.3.7, 3.3.9, as well as other changes Vendor deems necessary. The FHKC change manager will accept and evaluate the Vendor-initiated RFC according to the CMP.

#### CRM System Updates and Upgrades

Vendor shall use versions of the components of the CRM System Software that are currently maintained and supported by their third-party vendors. Vendor shall install each patch or upgrade (e.g., security patch, security upgrade, service/support patch, CRM System patch, CRM System enhancement pack, and any other patches or updates as applicable) at its sole expense, within 45 Calendar Days after such item has been released by the third-party vendor. If the patch or upgrade includes a critical security fix, Vendor shall take all necessary actions to implement within seven Calendar Days of such release. Vendor shall document all such changes in the systems design workbook required in Appendix A.

With FHKC approval, Vendor may be excused from installing such patches or upgrades if it is able to provide a reasonable justification (other than cost).

As required by Appendix A, Vendor shall provide FHKC a copy of a CRM System Software Update Assessment from an independent auditor demonstrating Vendor has performed security testing and applied all patches and upgrades.

#### Change Review and Approval

Vendor shall review all RFCs and submit to FHKC’s change manager a change scope report that includes an estimate of hours required, earliest estimated completion date, and a description of how the change will be applied in the CRM System.

For FHKC-initiated RFCs, change scope reports are due within 15 Business Days after FHKC’s submission of the RFC. Vendor may be subject to Financial Consequences of $500 per Business Day for every day beyond the due date or the date mutually agreed upon by the Parties for submitting a change scope report. Vendor shall reimburse FHKC via invoice credit for any such Financial Consequences.

The RFC is active when the FHKC change manager approves the change scope report or asks that the scope be amended and re-evaluated. In the event of an emergency situation as described in an RFC, Vendor may proceed to testing and deployment without the change manager’s input or approval only when no System Enhancement hours are being charged. In this case, Vendor shall explain to the change manager the emergency and the reason for proceeding to testing and deployment as specified in the CMP.

#### Testing and Acceptance

Vendor shall follow the approved CMP to complete all analysis and development of the change prior to making the change available in an appropriate environment for testing. As dictated by the CMP, an appropriate person or team shall be designated for testing all changes prior to the change affecting production output. The change scope report shall explain any change that Vendor believes either cannot be tested or for which testing cannot provide valid results, in which case FHKC may waive testing requirements. FHKC shall have sole authority to accept the results of testing and approve the change as part of production.

#### System Defects and Workarounds

Vendor shall document all deviations to the approved change scope report and all System Defects, with or without workarounds and not resolved before deployment. Vendor shall resolve System Defects within 30 Calendar Days after the closure of the RFC from which the System Defects emanated or within the timeframe to be approved by FHKC. Failure of Vendor to resolve System Defects within 30 Calendar Days or the FHKC-approved timeframe, as applicable, may result in Financial Consequences of $250 per Business Day for each day beyond the due date. Vendor shall reimburse FHKC via invoice credit for any such Financial Consequences.

#### Deployment and Verification

Vendor shall determine the window for RFC deployment, to be approved by FHKC, and conduct the required steps to complete deployment, including coordination with FHKC and other third parties, as necessary. FHKC shall verify the change has been successfully implemented in production whenever possible. Upon completion of any change, Vendor shall revise any documentation related to the CRM System (e.g., technical guides, user guides, etc.) within 30 Calendar Days or sooner as required by law or FHKC. FHKC shall request the closure of the RFC upon verifying Vendor has properly completed all RFC documentation in accordance with the CMP, including providing this information in the systems design workbook required in Appendix A. Vendor shall have 15 Calendar Days to deploy an FHKC-approved RFC, unless otherwise agreed upon by the Parties. Failure of Vendor to deploy an FHKC-approved RFC by the due date may result in Financial Consequences of $1,000 per Business Day for each day beyond the due date. Further, Vendor shall have 15 Calendar Days, unless otherwise agreed upon by the Parties, to resolve technical errors present in testing and found after deployment. Failure of vendor to resolve such technical errors may result in Financial Consequences of $500 per Business Day for each day beyond the due date. Vendor shall reimburse FHKC via invoice credit for any such Financial Consequences.

#### Ongoing Review for Changes

Vendor and FHKC shall conduct regular meetings to review progress on active RFCs; determine the active RFCs that may be closed, withdrawn, or modified; determine the conditions that may generate additional RFCs; and address all technical issues related to the progress of active or proposed RFCs. Vendor or FHKC may propose revisions to the CMP at these meetings; revisions shall be approved by the FHKC change manager.

### Testing Environments

Vendor shall be responsible for implementing, securing, hosting, and maintaining separate development, user-acceptance testing (UAT), and production environments for development and testing for the CRM System, except when otherwise approved by FHKC.

FHKC shall have view access into the UAT and the production environments. FHKC shall have the same full update access into the UAT environments as it has in the production environment. The UAT environment will be fully automated except for inbound/outbound file interfaces.

Vendor shall refresh UAT environments regularly at a time agreed upon by the Parties by applying the latest Production Data to the environments. All environments shall be secured at all times. Non-Production Data shall be scrambled as required by FHKC.

### System Maintenance

Vendor shall perform all routine System maintenance that may interfere with production operations, such as database backups and server patching, during scheduled maintenance windows approved by FHKC. Vendor shall advertise (e.g., IVR and website messages) scheduled maintenance windows to Users Accessing Production Data. Likewise, Vendor shall be responsible for additional notification by email to FHKC, third parties, and Subcontractors when maintenance has been completed, regardless of the length of the maintenance window. Unscheduled maintenance shall follow this same procedure but be reported through the change management process. Vendor may schedule maintenance to non-production environments both regularly and as needed with approval by FHKC; such maintenance windows need only be noticed to the affected Users.

### CRM System Security Requirements

#### Data Center Security

Vendor shall maintain an audited security program, such as SOC 2, ISO 27001, or Fed Ramp compliance standards. Vendor site(s) shall be highly restricted to both physical and electronic Access through public (internet) and private (intranet) networks to eliminate unwanted interruptions.

#### Alerting & Monitoring

Vendor shall use Security Information and Event Management tools to alert engineers and administrators to anomalies. Error rates, abuse scenarios, application attacks, and other anomalies shall trigger automatic responses and alerts to the appropriate teams for response, investigation, and correction. Vendor shall ensure the CRM System captures and stores logs of all events.

#### User Access Control

Vendor shall allow Customers, Users, and Vendor staff to Access the CRM System based on security and information Access requirements through a web browser. Notwithstanding anything to the contrary in this Contract, Vendor shall:

1. Provide FHKC with a minimum of 12 User licenses that will provide read/write Access to the CRM System Graphical User Interface (GUI);
2. Provide a minimum of four FHKC employees with CRM System technical network account and read-only database Access, as well as Access to third-party vendor customer support sites;
3. Provide read/write Access to a minimum of 100 CEC staff;
4. Provide read-only Access to a minimum of 300 grantees, partners, other Users, as determined by FHKC;
5. Create unique Customer and User accounts based on FHKC criteria;
6. Establish role-based Access with differing levels of privilege;
7. Maintain internal security controls to record the security ID of any User who Accesses an account, as well as a recorded date and time stamp for each transaction;
8. Require account authentication or "identity validation;"
9. Limit each User to one account with a unique username and password;
10. Allow password modification only in the event of a password breach;
11. Make electronic signature authority available for electronic transactions with proper security;
12. Provide credentialing using two-factor authentication;
13. Log and retain all User actions for security auditing;
14. Allow for and fully support single sign-on capability with other secure websites (e.g., Insurer member websites) as agreed upon by the Parties and as determined by FHKC. Vendor shall be responsible for hosting and maintaining the single sign-on database and engine;
15. Support the current and previous two versions of the following browsers: Internet Explorer, Firefox-Mozilla, Safari, Chrome, and Microsoft Edge. Browser updates will be reviewed by Vendor for compatibility with the CRM System and certified if compatible within 30 Calendar Days of release. If a newly released version cannot be supported within 30 Calendar Days, Vendor shall notify FHKC within 10 Calendar Days of the release, identifying: (i) when the update will be fully supported, (ii) what activities must occur to become fully supported, and (iii) what barriers prevent Vendor from fully supporting the new version within that timeframe. The intent is for the CRM System to be browser agnostic; and
16. At no additional cost to FHKC, purchase and/or renew and apply Secure Socket Layer (SSL) Certificates from Verisign (or comparable vendor using leading SSL certification and encryption) for Accessing the CRM System prior to expiration or termination so the CRM System is secure.

#### Account and Password Security Protocols

Vendor shall implement and enforce secure account and password requirements for Users and Customers, with documented exceptions, that meet or exceed industry standards, including:

1. Password length between 10 and 64 characters with use of uppercase, lowercase, numbers, and special characters;
2. Presenting a real-time indicator of how strong the password is when establishing a new password;
3. Providing two-factor authentication;
4. Locking accounts based on incorrect login attempts per NIST Publication 800-53, as revised;
5. Changing passwords;
6. Resetting passwords;
7. Providing email notification when the password has been changed;
8. Providing email notification when the account has been locked;
9. Providing email notification when the account is unlocked with a password change; and
10. Providing the ability to recover the login ID (e.g., email the login ID).

Appropriate FHKC personnel shall have Access to Data being shared, including any service systems, through a password-protected interface.

#### Security Monitoring

Vendor shall implement automated System monitoring that effectively ensures the CRM System is not exposed to Data security threats and known security risks (e.g., must conduct routine penetration testing, internet vulnerability testing, and other types of security testing on the Customer Portal, mobile application, database, and all other appropriate layers of the CRM System and the Subcontractor Systems) and is protected against all known threats at all times. System monitoring must ensure that newly introduced threats to any component of the CRM System are quickly identified. Once threats are identified, any necessary protective steps must be immediately taken to ensure security of the CRM System.

### Electronic Information Repository

Vendor shall provide a reliable, electronic information repository (“repository”) with intuitive search functionality that easily retrieves information by topic, keyword, and posting date. The repository shall allow for document printing capabilities.

Vendor shall maintain documentation of all resources necessary for it to perform Services. The functional rules and requirements include System connectivity, interface requirements, rules, and procedural requirements. Vendor shall work cooperatively with FHKC and other third parties to recommend opportunities to enhance functionality, create efficiencies, and improve the Customer and User experience.

### FHKC Website

Subject to FHKC approval, Vendor shall redesign and launch FHKC’s public-facing website by the Effective Date of Services. As required in Appendix A, Vendor shall conduct a usability study of the website and act on recommendations of study experts and participants according to the time and manner specified by FHKC. The website shall comply with the provisions of Americans with Disability Act (ADA), section 508 of the Rehabilitation Act, and the security requirements of Section 3.3.8. The website shall be designed for optimal viewing experiences on both desktop computers and mobile devices, including for any transactional services that may be available on the website. Vendor shall translate all content to Spanish and Haitian Creole and ensure the option for the user to translate content is available on all pages of the website.

Vendor shall provide content update access to FHKC, including the ability to post documents and add banners. Vendor shall maintain the website throughout the Contract Term, which includes monthly verification that all links are functional and provide the intended result. Design, substantive content, and navigation changes may be subject to the Change Management Process described in Section 3.3.5 at FHKC’s sole discretion.

### Customer Portal

Vendor shall design and make available through the FHKC website and integrated with the CRM System a web application that provides the means for a Customer to create an account. Within this web application, a Customer must be able to create a unique login user name and a password that meets the requirements of Section 3.3.8.4. The design of the Customer Portal web application shall be subject to FHKC approval.

The Customer Portal shall comply with the provisions of Americans with Disability Act (ADA), section 508 of the Rehabilitation Act, and the security requirements of Section 3.3.8. The Customer Portal shall be designed for optimal viewing experiences on both desktop computers and mobile devices, including all transactional services. Vendor shall translate all content to Spanish and Haitian Creole and ensure the option for the user to translate content is available on all pages of the Customer Portal.

Vendor shall make available features in the Customer Portal that include the following:

1. The ability for a Customer to create and submit a Florida KidCare Application, which shall be designed in a step-by-step manner, display only questions relevant to the Applicant, and permit the Customer to add another person to an existing Florida KidCare Application. Vendor shall ensure the Florida KidCare Application can be saved, closed, and continued at any step;
2. The display of a tracking gauge that indicates the processing phase (e.g., Florida KidCare Application received, under review, pending information, eligibility approved, enrollment pending payment, enrolled for Coverage Month) for the Customer;
3. An email box for Inquiries that includes a dropdown by category, a section for the question or comment, a section for the Customer’s contact information, the ability for the Customer to transmit to the CEC, and the ability for the Customer to view the status of open and closed cases, as applicable. The CRM System shall send an automated, immediate receipt reply to the Customer; and
4. Other features, including webchat; links, with and without single sign-on functionality, to Insurers’ and other websites determined by FHKC; screen features, such as pop-ups, that require Customers to confirm changes to the database; and features that allow Customers to make premium payments, select Insurers, view correspondence, download correspondence (PDF format), upload documents, access the knowledge base set forth in Section 3.3.11, and update certain demographic, eligibility, and enrollment information to be specified by FHKC.

Vendor shall conduct a usability study of the Customer Portal as required by Appendix A.

### Knowledge Base

Vendor shall establish the knowledge base, a rule-based solution finder that supports "if/then" logic to allow CSRs, Customers, and Users to retrieve information, view the Florida KidCare Application tutorial, and accurately resolve questions. This knowledge base shall support a reliable, intuitive search functionality that easily retrieves information by topic, keyword, and posting date while the Family Account and CSR script remain visible. The knowledge base shall also allow saving and printing of information in a readable format. As specified by FHKC, Vendor shall integrate the knowledge base with the FHKC website, the Customer Portal, and the Florida KidCare Application to update website content. All knowledge base content is subject to FHKC review and approval.

### Webchat

Vendor shall develop secure webchat functionality. Vendor shall safeguard Customers’ security by ensuring all webchat Data and chat transcripts are encrypted. Customers with Family Accounts shall authenticate themselves through the webchat session. Webchat conversations shall be attached to the Customer’s account and shall be searchable and reportable. Webchat functionality shall support live CSR and artificial intelligence engagement with the Customer in a manner to be specified by FHKC.

### Florida KidCare Application

Vendor shall be responsible for receiving Florida KidCare Applications submitted online or referred from DCF. Vendor shall ensure the CRM System allows the CEC to create Florida KidCare Applications on behalf of an Applicant. Vendor shall automatically make available all Florida KidCare Application Data and documents to the CEC for review.

### Eligibility and Enrollment

Vendor shall ensure insurance coverage becomes effective on the first day of the calendar month following the month in which a determination of eligibility is made and full premium payment is received. Vendor shall assign Enrollees to Insurers as required by FHKC. The CRM System shall permit alterations of the allocation ratio formula within two Business Days. Customers may change Insurers during an initial and annual open enrollment period as defined by FHKC.

### Fiscal Administration

#### Premium Payments

Vendor shall load premium payments data received from FHKC’s payment processing vendor and post such payments to the respective Family Accounts. Payments that cannot be matched to Family Accounts shall be posted to a suspense account for CEC research and posting.

#### CEC Financial Support

Vendor shall ensure the CRM System supports fiscal administration performed by the CEC as described in Section 3.4.19. The CRM system functionality shall support double entry accounting practices and posted transaction dates to ensure accuracy of balances and reporting and for auditing purposes. The CRM System shall maintain account payment history and any refund payments. By way of example, the CRM System shall use actual transaction dates to report monthly aging Family Account balances and provide the annual Unclaimed Property Report required by Appendix A.

The CRM System shall accurately apply payment convenience fee credits to Family Accounts as directed by FHKC.

#### Enrollment Payment Data

Vendor shall generate and make available to Insurers, AHCA, and DOH a monthly capitation (premium payment) file reflecting all enrollment changes related to an Insurer and the amount to be paid or offset for each Enrollee listed. Vendor shall submit this Data in the manner specified by FHKC.

### Outbound Campaigns

Vendor shall support the CEC in the delivery of Customer contact campaigns that use email, text messaging, or other communication tools. Vendor shall provide the list of targeted Customers to be contacted during campaigns in the manner specified by FHKC.

### Third-Party Software

Vendor shall use FHKC Materials (Appendix E) and the third-party vendor software products as described in Appendix F (or similar third-party vendor products as approved in writing by FHKC) to provide the functionality required to manage Services covered under this Contract. Vendor shall be responsible for any licenses, customizations of source and object code, file interfaces, and reports, as well as configuration of rules, system settings, parameters, master data files, and maintenance of the CRM System. CRM System customizations and configuration shall include all training manuals, user manuals, specifications, and other materials in written form prepared by Vendor, including any updates or modifications thereto.

### Business Analytics and Reporting

FHKC shall have Access to Data in real-time or near real-time to perform analysis for reporting purposes. The CRM System shall be designed in consultation with FHKC to ensure Data collection and reporting meets FHKC’s needs, including integration with third-party data visualization tools. The CRM System shall produce System-generated and manual tracking and monitoring reports as determined by FHKC.

### User Satisfaction

Vendor shall offer autonomous satisfaction surveys via a window or screen dialog box (or similar functionality) to gauge real-time user satisfaction with the Customer Portal and webchat. Such satisfaction surveys must be approved by FHKC and offered at no additional cost to FHKC.

## Florida KidCare Customer Engagement Center Services

Vendor shall provide CEC Services throughout the Contract Term and as described in this Contract. Vendor shall answer all inquiries from Customers and maintain a Florida KidCare Customer Engagement Center staffed by CSRs and other staff dedicated solely to providing Services under the Contract.

### Hours of Operation

Vendor shall answer and respond to Inquiries Monday through Friday from 7:30 a.m. to 7:30 p.m., Eastern Time. The CEC shall only be closed on holidays established by FHKC. Vendor must obtain FHKC’s approval prior to any change to holiday schedules. The hours of operation for the IVR shall be seven days a week, 24 hours a day., with the exception for scheduled maintenance.

When the CEC is closed, Vendor’s call System shall play a “closed” message when the call is answered that states when the CEC will be opened and offer the caller the option to leave a voicemail for response on the next Business Day. The IVR shall also play a “temporarily unavailable” message when technical issues prevent Customers from connecting to the IVR.

### Customer Engagement Center Location

The CEC shall be located in [city], Florida. Upon approval by FHKC, Vendor may temporarily and infrequently use a back-up location to supplement staffing needs, provided such personnel are subject to the security requirements set forth in this Contract and sufficiently knowledgeable of the Program to accurately respond to Inquiries. FHKC reserves the right to inspect the CEC and back-up location(s) during the Contract Term with or without notification.

### Languages

At a minimum, Vendor shall staff its CEC with English-, Spanish-, and Haitian Creole-speaking CSRs. Vendor shall make available three-way call with translation services (e.g., a language line) for callers with limited English proficiency and provide callers access to American Sign Language interpreters using a video relay service.

### CEC Systems Integration

Vendor shall design a logically organized and customizable graphical user interface (GUI) that integrates with the IVR and CRM System. The GUI shall accept Customer search information and display required information for authentication and response to Inquiries. Vendor shall provide its CSRs with the desktop configuration necessary to provide Services efficiently to Customers.

### Customer Engagement Center Security Requirements

Vendor shall ensure the following CEC security requirements are met:

1. Disable the printing capability of all CSRs who handle in-bound calls. For all other CEC employees, Vendor shall prohibit the printing of Production Data without utilization of a pin number or passcode associated with the sender of the document;
2. Perform daily desk audits of CSRs and log results to ensure Production Data is protected;
3. Configure all computers used by CSRs with Access to Production Data to prohibit the storage of information to any location other than the network server or central server, including USB/PIN drive, compact disk (CD), DVD, or similar device or drive; to the extent any computer retains such devices, they shall be disabled;
4. Configure all computers used by CSRs with Access to Production Data to restrict internet access (or the ability to transmit Production data by any other electronic means). Vendor personnel working offsite or outside Vendor’s locations may only Access Production Data via Vendor’s virtual private network;
5. Perform random quarterly audits of its employees’ and managers’ computers to determine if Production Data has been downloaded, stored, or inappropriately used. All audits shall be provided to FHKC upon request;
6. Prohibit CSRs that work with Production Data from using mobile devices, including cellular telephones and tablets or any devices with imaging capability, on the CEC floor where computer workstations are located and where such work is performed. The foregoing shall not apply to other areas of the CEC, Vendor’s supervisors, managers, and persons in the LSAG;
7. Strongly discourage printing of any documentation containing Production Data; however, when printing is unavoidable, Vendor shall shred all paper documents no longer necessary for daily support purposes and employ an accredited shredding company to dispose of shredded documents. Vendor shall supervise all on-site shredding activities;
8. Ensure all printer and computer hard drives are erased/cleaned or destroyed prior to surplus, sale, or return to lessor;
9. Prominently post a written notice in the CEC reminding employees of their responsibility to safeguard Production Data and requiring them to report suspected instances of security violations and perceived weaknesses in security procedures to their manager;
10. Provide a privacy disclosure policy to its employees and require signatures denoting the employee’s understanding of the security provisions of this Contract;
11. Ensure employees receive annual training regarding information privacy and security. Upon request, Vendor shall provide a copy of the privacy and security training materials and employee training logs to FHKC; and
12. Immediately report any problems or concerns discovered during the course of business or as a result of an investigation or audit to FHKC.

### Interactive Voice Response

Vendor shall provide intuitive, easy-to-follow self-service for English, Spanish, and Haitian Creole using touch tone IVR functions, as well as caller-directed transfers to designated entities, including Insurers and any others determined by FHKC. Vendor shall configure and scale the IVR with the capacity to establish automated messaging, call segmentation, and an option for the caller to speak to a live CSR any time during the call.

The IVR shall provide callers an estimated wait time to speak to a live CSR and an option to leave a voicemail for a callback while in the wait queue. The IVR shall provide automatic caller identification, intelligent call routing, and on hold messaging to be developed in coordination with FHKC.

A recorded message will play when the IVR is unavailable indicating when the IVR will be back online, if known. When possible, the message shall include the reason for the downtime. The Parties shall evaluate the effectiveness of the IVR on an annual basis, and Vendor shall make modifications to the IVR to improve the Customer experience as required by FHKC.

#### IVR Support Services

Vendor shall provide the following IVR support services for CEC operations:

1. Telephone, voicemail, and email services and systems;
2. Call recording and call monitoring Systems;
3. LAN/WAN network services;
4. data center monitoring;
5. legal and finance services;
6. maintenance of email application/System;
7. patch and antivirus management;
8. configuration management;
9. centralized Information Technology (IT) asset management; and
10. Private Branch Exchange (PBX)/Automatic Call Distribution (ACD).

### Family Account Management

Vendor shall maintain and update all Family Accounts in the CRM System for any Customer-reported changes or other information received that may affect the Customer’s account, status, or eligibility. All changes to these Family Accounts shall be fully documented and tracked as part of the Inquiry management record and serve as the audit log.

### Inquiry Management

Vendor shall manage all Customer Inquiries across the communication methods described in Sections 3.4.8.1 through 3.4.8.4. All incoming Inquiries shall be logged and linked to the Family Account or under an account created for individuals without a Family Account. For the Family Account, each Inquiry management record shall contain, at a minimum, a unique reference number; Inquiry type; research conducted, if any; actions taken; dates; and all contacts related to the Inquiry. For individuals without a Family Account, Vendor and FHKC shall determine what information should be requested and how it should be logged.

Vendor shall respond to Inquiries as required in Appendix B. For Inquiries received after business hours, Vendor shall resolve Inquiries that do not require research (e.g., information is readily available in the CRM System or knowledge base) no later than the next Business Day. Inquiries that require research are “cases” and shall be resolved as required by Appendix B. Vendor shall exercise reasonable judgment on whether its substantive response should be via phone, email, regular mail, social media, or webchat based on the content and tone of the Inquiry and FHKC-approved policies.

The CSR shall enter information about an Inquiry and a case into the CRM System for resolution by Vendor or FHKC, as applicable. In addition to being able to view all Inquiries and cases, FHKC shall have the ability to update FHKC-assigned Inquiries and cases and the ability to create new Inquiries within the CRM System.

Vendor shall answer requests for information regarding any FHKC business function in a timely manner so decisions can be supported and any needed responses can be provided to requester.

Vendor shall document and track all Inquiries and cases, analyze the effectiveness of communications, and propose improvements to FHKC.

#### Inbound Calls

Vendor shall use the FHKC-provided, toll-free phone number to provide Customer support. Vendor shall manage calls through automated telephonic systems with web-based accessibility and a CEC that records, tracks, manages, and reports on inbound calls.

CSRs shall answer and resolve Inquiries related to the following topics, at a minimum: Florida KidCare Application completion; Florida KidCare Application processing status; eligibility determination, redetermination, and annual renewal determination; enrollment status; payment status; and document requirements related to these topics. CSRs shall assist callers with completing Florida KidCare Applications and, in accordance with 42 CFR § 435.907, shall complete Florida KidCare Applications in their entirety by telephone upon request by or on behalf of the Applicant.

Vendor may supplement staffing (e.g., from other client accounts) needs to meet performance standard requirements for high call volume situations. Such staff members are subject to the security and background screening requirements in this Contract and must be sufficiently knowledgeable of the Program to accurately respond to Inquiries. In addition, Vendor shall be permitted to temporarily and infrequently use FHKC-dedicated CSRs to support other Vendor client accounts upon notice to and approval by FHKC.

FHKC will provide to Vendor throughout the Contract Term any available information that could reasonably be expected to have a material impact on contact volumes, handling, and staffing to support Vendor in its efforts to staff and effectively perform the Services.

#### Call Transfer Responsibilities

Vendor shall provide call transfer capabilities to other toll-free numbers through the IVR and from CSRs. When feasible, CSRs shall warm transfer a caller to a third party by introducing the caller or connecting with the third party’s IVR or voicemail and then disconnecting from the call.

#### Email, Social Media, and Webchat Management

Vendor shall use the CRM System’s email and webchat capabilities and social media community support to supplement website and phone support, use CSR time more efficiently, and provide faster Customer service.

Subject to FHKC’s approval, Vendor shall develop call, email, social media post, and webchat template responses consistent with the knowledge base described Sections 3.3.12 and 3.4.12 for CSRs to assist Customers. When template responses cannot be used, CSRs with extensive Program knowledge and excellent written communications skills shall monitor and respond to emails, social media posts, and/or webchats and have the ability to handle two or more webchats simultaneously without reducing Customer service satisfaction. All responses shall be accurate, complete, and without ambiguity to avoid possible misinterpretation, and written to avoid follow-up questions asking for clarity and interpretation.

FHKC and Vendor shall develop rules and templates about what can be shared via email, social media posts, and webchat to maintain Data security. CSRs shall verify Data collected against Customer records in accordance with these rules.

### Outbound Calls

Vendor shall maintain an efficient outbound call system methodology to contact Customers. These outbound calls shall be used to secure required information and address Customer issues. By way of example, Vendor shall make outbound calls to individuals who return unsigned, incomplete, or illegible documents (including those damaged by the mail); to clarify any missing or unclear information; to callers that were disconnected; to resolve Inquiries; and to request verification of information previously provided.

All outbound calls shall be recorded, and the date, time, and nature of the call shall be documented in the Family Account.

Vendor shall use a predictive dialer or other automatic outbound dialer to automatically dial the primary telephone number and then direct the call to an available CRM when the telephone is answered. These calls shall be managed through IVR and automated call distribution Systems with web-based accessibility.

#### Welcome Calls

Vendor shall make welcome calls to newly eligible Customers and deliver the following information:

1. Confirm mailing address and email address are correct;
2. Determine preferred method of communication (e.g., phone, email, or text);
3. Ensure the family received the approval communication and remitted payment for the first month;
4. Describe payment options and when payments are due;
5. Inform the family of the assigned Insurer, where Insurer and benefits information may be found, and the timeframe to change Insurers; and
6. Explain the annual renewal process.

Vendor shall make three telephone attempts on different days beginning on the Business Day after eligibility is determined until the Customer contact (i.e., completed call script with the Customer) is complete. Voicemail shall be left, if possible, on the third call if there is no Customer contact. Vendor shall complete all welcome calls within five Business Days after eligibility is determined.

If Vendor is unable to contact the Customer or leave a voicemail, then Vendor shall send a letter or email requesting the Customer contact the CEC.

Vendor shall produce a monthly report including the number of Customer contacts made within the month, the number of calls attempted, voicemails, incorrect or disconnected phone numbers, and calls dropped by Customer. This monthly report shall be produced as required in Appendix A.

### Outbound Customer Campaigns

Vendor shall conduct outbound campaigns to support FHKC’s mission to ensure Florida’s children and to maintain contact with current Customers. Vendor shall conduct these campaigns using U.S. mail, auto dialer, email, social media posts, online webforms, and text messaging, as well as live, individual calls when required by FHKC.

Before initiating any such campaigns, Vendor shall identify the target audience and draft content based on the target audience and purpose of the campaign. FHKC shall approve such content before any Customer campaign begins.

### Electronic Information Repository

Vendor shall store and update in the electronic information repository all reports, documents, and materials listed in Appendix A and Appendix D and all other documents necessary to perform Services. These items shall be specified and organized in a manner specified by FHKC.

The repository shall house all standard operational policies and procedures (SOPs) and comprehensive business process diagrams developed by the Vendor and approved by FHKC. At a minimum, SOPs shall include instruction on use of interpreter services; escalation processes; protocols for authenticating callers; collecting verification documentation; handling emergencies and challenging callers; and emergency procedures for business continuity, including fire drills, temporary technical computer/application/server outage issues, temporary power outages, and all CSRs being logged out/unavailable to answer calls. FHKC reserves the right to request modifications or revisions to any SOP as it deems appropriate. After written FHKC approval, Vendor shall post these SOPs within the repository, implement them within the CRM System and CEC, and provide ongoing management and process improvement review.

Vendor shall maintain documentation of all resources necessary for it to perform Services. Vendor shall work cooperatively with FHKC and other third parties to recommend opportunities to enhance functionality, create efficiencies, and improve the Customer and User experience.

### Knowledge Base

Vendor shall maintain an online knowledge base that houses and makes available scripts and information to CSRs, Customers, and Users, as applicable. Vendor shall extract the most commonly used knowledge base articles monthly and add them to the frequently asked questions (FAQ) section of FHKC’s website(s) (e.g., ten most frequently used articles). Vendor shall review and propose revisions to the knowledge base at least annually and more frequently in response to policy changes, Customer feedback, or other criteria as determined by FHKC. All knowledge base content is subject to FHKC review and approval.

### Call Recordings

Vendor shall record all inbound and outbound calls received or made in the CEC in support of the Services. This includes the initial call, transferred calls, or any calls made by CEC staff (e.g., CSRs, supervisors, managers, client services) outbound to Customers. Vendor shall also provide screen capturing call recording technology to synchronize voice and video of a CSR’s interactions with Customers. The intent is to capture not only the call itself but the activity that took place on the CSR’s screen.

Vendor agrees to provide FHKC remote access to the call recording platform owned or licensed by Vendor and used for Florida KidCare calls. FHKC shall provide Vendor a list of FHKC’s employees prior to receiving Access and shall identify only those employees who have a legitimate business need to receive Access. FHKC shall notify Vendor of any FHKC employees who should no longer be granted Access. Upon receipt of such notice, Vendor shall, as soon as reasonably possible, remove Access to the call recording platform.

Vendor shall maintain the calls for a minimum of 10 years with an internal Vendor policy in place ensuring the criteria for which recordings should be retained for further investigation. Vendor shall ensure calls less than 90 days old are readily available.

### Inbound Correspondence

Vendor shall scan and upload all correspondence received via the U.S. mail, fax, and email into the CRM System. Vendor shall ensure all correspondence is scanned as legibly as possible and linked to the appropriate Family Account.

#### Florida KidCare Applications

Vendor shall accept completed paper Florida KidCare Applications and scanned Florida KidCare Applications. Applications shall be date stamped to record the date of receipt, with this date of receipt being the date by which Florida KidCare Application-processing standards shall be applied. All Florida KidCare Applications received shall be tracked as to their receipt, status, and disposition.

#### Payments by Mail

Payments received by mail are not considered inbound correspondence. Vendor shall mail such payments to the address for FHKC’s lockbox within one Business Day of receipt, note the Family Account, and notify the Customer.

#### Returned Mail

Vendor shall record all returned mail under the Family Account in the CRM System. If the mail is returned undeliverable, Vendor shall exercise due diligence to obtain the correct address and resend the correspondence. If a forwarding address is provided on the returned mail, Vendor shall update the address and resend the correspondence. When the correct mailing address is not available, Vendor shall make good-faith efforts to contact or provide materials through alternate, allowable methods.

#### Returned Email

Vendor shall record all returned email under the Family Account in the CRM System. Vendor shall review the email address for obvious errors or otherwise attempt to obtain the correct address and resend the correspondence. When the correct email address is not available, Vendor shall make good-faith efforts to contact or provide materials through alternate, allowable methods.

### Outbound Correspondence

Vendor is responsible for the preparation, cost, and distribution of Customer correspondence. Vendor shall maintain a list as required in Appendix A with descriptions of all outbound correspondence sent to Customers.

Vendor shall print correspondence in compliance with industry standard for contrast and readability and comply with 45 CFR §§ 92.9 and 438.10 for language and notice requirements. Vendor shall use a font size no smaller than 12-point in all written materials. Written materials shall comply with all notice requirements set forth in section 1557 of the Affordable Care Act.

Vendor shall use a standard set of correspondence templates approved by FHKC to ensure consistent content. Templates shall be customizable (e.g., drop-in), event-driven, or both as determined by FHKC. Vendor shall provide a means for FHKC to change correspondence templates and drop-ins and to develop ad hoc letters at no cost to FHKC.

Vendor shall manage all outbound mail operations, including verification of accurate addresses by completing National Change of Address matches at least every six months for all current Applicants and current Enrollees.

For Customers who have indicated email is their preferred method of receiving information, Vendor shall make the image of the outbound correspondence available in the Customer Portal and send an email notification.

Vendor shall insert printed correspondence into appropriate size envelopes using an automated inserter process. Outbound mail shall be processed automatically (e.g., through a Multi-line Optical Character Reader sorter with a Coding Accuracy Support System and a Multi-Line Accuracy Support System certification cycle) so that an accurate delivery point barcode can be applied to each piece of mail. Vendor shall presort mail for optimal postage savings; correct postage shall be applied to outbound mail based on weight.

Vendor shall ensure capacity is sufficient to process the expected monthly outbound mail volume, with the ability to accommodate a monthly surge volume when needed for enrollment periods and Customer campaigns.

### Eligibility Determinations

Vendor shall determine eligibility in accordance with 42 CFR § 435.603; sections 409.814 and 624.91, Florida Statutes; the Florida CHIP State Plan; and other applicable federal and state laws, rules, regulations, and policies for Program eligibility and enrollment. As applicable, AHCA, DOH, or FHKC shall be the final authority for determining eligibility.

Vendor shall employ the eligibility determination workflow developed by FHKC in accordance with the timeframes and specifications provided by FHKC.

#### Florida KidCare Application Data Entry

Vendor shall ensure all Florida KidCare Applications are accurately stored in the CRM System. For Florida KidCare Applications uploaded from paper or taken by phone, Vendor shall accurately enter all data provided by the Applicant under the appropriate Family Account.

#### Eligibility Review

Vendor shall initiate the eligibility determination workflow and ensure the appropriate step (e.g., Florida KidCare Application received, under review, pending information, eligibility approved, enrollment pending payment, enrolled) is reflected in the CRM System. Vendor shall notify the Customer if any additional information is required to complete the eligibility determination. Vendor shall apply any new information received to the Family Account.

Vendor shall follow business rules codified in a business rules engine to screen for potential Medicaid eligibility and determine eligibility for the Program.

Customers may submit documents affecting their eligibility status at any time during their 12-month continuous eligibility period. Vendor shall conduct an eligibility review at that time.

#### Annual Renewals

Vendor shall conduct an annual review to renew any Family Account with at least one potentially eligible Enrollee. Vendor shall perform either an automatic or manual renewal after the tenth month of each continuous eligibility period. Vendor shall complete automatic renewals for Enrollees when information available to Vendor is current and the Enrollee meets eligibility requirements. When an automatic renewal cannot be conducted, Vendor shall initiate a manual renewal by notifying the Customer that additional information is required. Once eligibility is determined and a renewal is approved, a new 12-month continuous eligibility period is established, and Vendor shall notify the Customer of continued eligibility.

### Enrollment

As required in Appendix B, Vendor shall accurately and timely provide all enrollment information necessary for Insurers to provide insurance coverage and services to Enrollees effective at 12:00 a.m. the first day of every Coverage Month. Vendor shall also accurately and timely provide disenrollment information necessary for Insurers to terminate insurance coverage and services. Vendor shall comply with the rules and policies of enrollment and disenrollment as specified by FHKC.

From time to time, Vendor may receive information that may require changes related to eligibility and enrollment once the Coverage Month has begun. Vendor shall make any changes at the direction of FHKC and within one Business Day of receipt of such information so that Data is available to Insurers in as near real-time as possible.

### Disputes and Grievances

Vendor shall support and meet all timeframes required by the eligibility and enrollment dispute and grievance process established by FHKC in compliance with 42 CFR §§ 457.1130-457.1180 and Rule 59G-14.001, Florida Administrative Code.

### Fiscal Administration

Vendor is responsible for all fiscal administration activities except those responsibilities specifically assigned to FHKC’s contracted payment processing vendor. Vendor is also responsible for fiscal reporting as set forth in Appendix A in the manner specified by FHKC.

#### Lockbox Services

FHKC has a contractual relationship with a lockbox provider for the purpose of receiving insurance premiums mailed from Customers. Vendor shall reimburse FHKC via invoice credit the monthly lockbox fees paid by FHKC.

#### Account Balances and Transactions

Vendor shall maintain Family Account balances so that premiums and Family Account histories are accurate. Vendor shall timely and accurately complete the following transactions in the CRM System in the manner specified by FHKC:

1. Apply all premium credits and debits to Family Accounts, including any customized payment services such as payroll deduction;
2. Apply all premium credits to the oldest open invoice;
3. Process returned payments (i.e., insufficient funds) to ensure accounts are debited;
4. Verify premium payments imported from FHKC’s payment processing vendor to ensure accounts are credited;
5. Post premium payments received through the lockbox to the correct Family Account in accordance with Appendix B;
6. Post to a suspense account and complete research within two Business Days for any payments that cannot be matched to a Family Account; and
7. Ensure any payment convenience fee credits are properly applied to Family Accounts.

The Family Account maintenance activities Vendor shall perform include:

1. Bank balance activity posted and reconciled to Family Accounts;
2. Maintain liability balances by KidCare plan and age of balance for all Family Accounts and reconcile such balances each month (prepaid family premium dollars not yet used for the Coverage Month); and
3. Make manual adjustments or generate overrides for Family Account balances or transactions determined to be in error and log any such adjustments.

Vendor shall produce expenditure and financial balancing reports for FHKC analysis and review as required in Appendix A.

#### Refunds

As required in Appendix A, Vendor shall timely identify Customer overpayments and produce preliminary and final refund files. These files shall exclude convenience fee credits, if any, be compatible with FHKC’s financial institution’s extensible provisioning check protocols, and meet other requirements as specified by FHKC.

Vendor shall submit to FHKC a refund accrual report and refund files as prescribed in Appendix A in the manner specified by FHKC. Vendor shall submit to FHKC a separate listing each month of all Family Accounts for which a refund cannot be issued as prescribed by FHKC. Vendor shall submit this report as required in Appendix A. Vendor shall contact Customers with stale account balances each month to update their address so refund checks can be sent.

Vendor shall process a voided refund check import file from FHKC to add account balances to the Family Account after voids.

#### Underpayments

Vendor shall timely identify premium underpayments for Enrollees caused by a System Defect or administrative error by the CEC. For administrative errors, Vendor shall remit on behalf of the Enrollee the amount necessary to correct the premium underpayment and hold the Enrollee harmless.

#### Chargebacks

As needed, Vendor shall work with FHKC’s payment processing vendor to defend against Customer-requested credit card and debit card chargebacks, which are not permitted once the Coverage Month has begun and the Enrollee has received coverage.

### Discrepancy Reports

Vendor shall resolve discrepancies either discovered internally or reported by external entities related to exchange of information via Data exchange or service calls.

#### Enrollment Data Discrepancies

Insurers shall provide to Vendor discrepancy reports based on enrollment information within five Business Days of receipt of final enrollment Data for a Coverage Month. Discrepancies may include duplicate records, address errors, demographic errors, misspelled names, records rejected by Insurer’s system, and other errors that call the Data into question.

Vendor shall analyze discrepancy reports to determine whether errors exist and conduct the research necessary, which includes contacting Customers, to correct errors in the CRM System. Vendor shall provide a discrepancy response report as required in Appendix A to Insurers detailing corrections made or corrections that must be made in the Insurer’s system three Business Days before the next month’s enrollment Data is generated.

Vendor shall monitor and maintain discrepancy reports to determine whether the same errors continue to occur. In such cases, Vendor shall coordinate with FHKC and the Insurer to determine the cause and correct the error.

As set forth in this Section, Vendor shall analyze and respond to discrepancy reports provided by any other organization (e.g., AHCA, DOH) as required by FHKC.

### Quality Control

Vendor shall assure quality performance in all aspects of conducting Services for the Program.

#### Staff Performance

Vendor shall conduct quality assurance operational reviews to evaluate the quality of all CEC Services documented in the training plan required in Appendix A in the timeframe specified by FHKC. Quality assurance operational reviews shall be designed to continually assess the staff used to provide CEC Services, identify improvement opportunities, and implement ongoing training.

#### Training

Vendor shall train staff who perform the Services under this Contract and such staff shall demonstrate sufficient knowledge about and the ability to perform the Services relevant to the position. Vendor shall establish a training schedule for all staff.

The schedule to train CSRs shall include new hire training, 90-day follow-up training, refresher training, soft skills training, and specialized training (e.g., privacy and security, changes in policy). In-bound call training shall focus on “in-call” instead of “pre-call” to leverage the capabilities of the CRM System and integrated knowledge base to guide CSRs during the call and give them access to the exact information needed. Vendor shall use this knowledge-centered support approach to target hiring efforts to individuals with strong interpersonal skills with less focus on memorization of information.

FHKC shall approve all training materials and may attend training sessions upon reasonable advance notification to Vendor. Vendor shall provide FHKC its training plan as required in Appendix A.

#### Business Processes

Vendor shall document CEC standard processes and provide them to FHKC annually. This documentation shall be consolidated into the CEC Business Processes Workbook as required in Appendix A using the format and template agreed to by both Parties. Changes to laws, rules, or regulations or other circumstances may require, and Vendor or FHKC may propose, revisions to these business processes. FHKC must approve all changes to documentation before changes to business processes are effective.

To review and evaluate business processes for continuous improvement, Vendor shall establish a rigorous Quality Assurance (QA) program using an experienced QA director, who is independent of the day-to-day CEC staff and management team. The QA director shall review the efficacy of all processes related to Customer support and provide an annual business processes quality report regarding the outcome of such reviews in a format agreed to by both Parties and as required in Appendix A. The report shall document changes needed to improve efficiency and accuracy. All changes are subject to FHKC approval.

### Customer Satisfaction Surveys

Vendor shall conduct the surveys described in Sections 3.4.22 through 3.4.22.3. Survey results shall be used to identify continuous improvement opportunities. Vendor shall submit a report of actions taken to improve Customer satisfaction as required in Appendix A and store the raw Data associated with survey results in the CRM System.

FHKC may, at its sole discretion, also require Vendor to conduct other types of surveys related to any aspect of the Program. Such surveys shall be by phone, email, or text, and Vendor shall include results the report required in Appendix A and store raw Data associated with survey results in the CRM System.

Vendor shall be subject to a Corrective Action Plan if the results of any survey related to the Services required under this Contract are below satisfactory for three months in a row.

FHKC may perform its own customer satisfaction survey and provide the results to Vendor to inform a performance improvement plan or assess the need for additional Services.

#### Point-of-Service Survey

Vendor shall offer all callers an automated, point-of-service survey whereby the CSR does not have the ability to determine whether the caller receives the survey. The point-of-service survey questions and scoring methodology will be agreed upon by the Parties at least 60 Calendar Days before the Effective Date of Service. This survey is subject to the performance standard prescribed in Appendix B.

#### New Customer Survey

Vendor shall develop and deploy a new Customer satisfaction survey to secure feedback on the Florida KidCare Application and enrollment processes. Vendor shall distribute the FHKC-approved survey via email or text (with link to survey) for Customers electing paperless correspondence and via the welcome packet for other Customers.

Within three Business Days of the receipt of the survey results, Vendor shall record new Customer survey response Data, along with any written comments, in the CRM System and make follow-up calls, as required by FHKC, to Customers who stated they were not satisfied in response to one or more survey questions.

Vendor shall communicate the results of the new Customer survey to FHKC in the manner and timeframe specified by FHKC.

#### Exit Survey

Vendor shall develop and deploy an exit survey to secure feedback from Customers who have been disenrolled from the Program. Within 10 Business Days of disenrollment, Vendor shall distribute the FHKC-approved survey via email or text (with a link to the survey) for those Customers electing paperless correspondence and via U.S. mail for all other Customers.

Within three Business Days of the receipt of the survey results, Vendor shall record exit survey response Data, including written comments, in the CRM System and make follow-up calls to Customers as required by FHKC.

Vendor shall communicate the results of the exit survey to FHKC in the manner and timeframe specified by FHKC.

### Business Analytics and Reporting

FHKC shall have real-time or near real-time access to Data to perform analysis for reporting purposes. Any Systems the CEC uses to monitor and track performance outside of the CRM System, including the IVR and integration with third-party data visualization tools, shall be designed in consultation with FHKC to ensure Data collection and reporting meets FHKC’s needs. Such Systems shall produce system-generated and manual tracking and monitoring reports as determined by FHKC.

### Physical Space for FHKC Personnel

Vendor shall make space available to accommodate FHKC personnel during visits to the CEC. FHKC personnel shall not disrupt normal business operations but, consistent with Vendor’s security requirements, may interact with Vendor staff and generally monitor Vendor’s provision of the Services.

### Readiness Assessment

Starting at least 45 Calendar Days prior to the Effective Date of Services, FHKC shall conduct a readiness assessment to ensure Vendor’s readiness and ability to perform its obligations under this Contract. The readiness assessment shall include:

1. Desk and onsite reviews of policies and procedures and related documents;
2. Process demonstrations;
3. System demonstrations; and
4. Interviews with Vendor staff.

Vendor shall participate and cooperate in any readiness assessment, including making documents and appropriate staff available.

Vendor shall pass any readiness assessment to FHKC’s satisfaction by the dates established during the readiness assessment. In the event Vendor fails to pass any readiness assessment by the established due date, Vendor may be subject to a Corrective Action Plan as set forth in Section 4.9. Vendor's failure to meet this obligation may also be an Event of Default, subject to cure upon Notice from FHKC as provided in Section 7.5 and will entitle FHKC to recover any other damages it incurs (including any actual out-of-pocket expenses incurred by FHKC to investigate and remediate the violation) and to pursue injunctive relief.

## Warranty

Vendor shall provide the Services in a professional, workmanlike manner in accordance with the requirements of this Contract and the standards and quality prevailing among first-rate, nationally recognized firms in the industry and warrants that it will remain in such condition during the Contract Term. If FHKC discovers that the reports and other documents and Services are not in such condition during the Contract Term, Vendor shall promptly correct, cure, replace, or otherwise remedy the condition at no cost to FHKC. This provision does not affect any other rights or remedies of FHKC, including FHKC’s right to terminate all or a portion of the Contract for breach or default.

Vendor warrants that for a period of 180 days after the termination or expiration of this Contract, the CRM System will operate in all material respects in the manner in which it operated while Vendor performed the Services, provided, however, FHKC has not modified the System customizations or configurations as delivered and FHKC (or its alternative Vendor) has properly replicated Vendor’s environment to the extent such environment is defined and is necessary to operate the CRM System.

This Section 3.5 shall survive termination or expiration of the Contract.

# Contract Administration

## Organizational Roles and Responsibilities

The Parties agree that in order for efficient and effective communication to occur, clear lines of authority and areas of responsibility need to be identified for each Party.

### Key Personnel

The Parties shall maintain with the Contract file a key personnel contact matrix as required in Appendix A that denotes the key personnel related to this Contract. The key personnel contact matrix shall include the name; email address; direct office telephone number; work cell phone number, if any; respective duties; and organizational reporting relationship for each individual. Each Party shall provide its respective key personnel contact matrix at the time of Contract execution and when changes occur.

FHKC’s key personnel will include the following positions at a minimum: executive officers, contract administrator, security officer, privacy officer, director of accounting, change manager, and contract manager.

Vendor’s key personnel shall include the following positions at a minimum: executive officer (with signature authority), general counsel, contract administrator (see Section 4.1.2), [CEC site manager,] [CEC eligibility and enrollment manager,] IT director, business analytics manager, [CEC finance manager,] security officer (Section 6.1), privacy officer, [CEC correspondence manager,] and account manager (Section 4.1.3).

Other personnel may be designated key personnel upon agreement by the Parties.

Each Party will provide written notice to the other Party of any potential change or changes to key personnel or the information reported in the key personnel contact matrix. In no event shall notice be provided later than one Business Day after the change. When feasible, Vendor shall provide FHKC 30 Calendar Days advance notice prior to removing key personnel from the FHKC account.

FHKC shall have the right to interview proposed candidates under consideration to fill the vacancy or anticipated vacancy and provide final approval prior to hire. Vendor shall fill key personnel vacant positions within four weeks of the vacancy, unless an extension is approved in advance by FHKC.

### Contract Administrator

Each Party shall have a contract administrator responsible for maintaining its respective, official Contract file during the Contract Term.

### Vendor Account Manager and FHKC Contract Manager

Vendor shall designate an account manager to serve as FHKC’s primary day-to-day contact. The account manager shall facilitate requests and ensure obligations are met during the term of this Contract.

FHKC will designate a contract manager to serve as Vendor’s primary contact for day-to-day activities related to the performance of Services. The contract manager will oversee Vendor’s performance during the term of this Contract.

### Staffing

[CRM Vendor shall maintain an experienced and competent staff of information technology (IT) professionals, which may include independent contractors, who are familiar with the CRM System. Vendor shall maintain an IT staffing level sufficient to perform all ongoing maintenance, enhancements, and other Services required by this Contract. IT staff shall be managed by a director-level position that possesses an extensive background in IT and project management. To optimize Vendor’s resources, the Parties will cooperate in the scheduling of IT staff work assignments at least one month in advance or more frequently if necessary.]

[CEC Vendor shall provide sufficient number of CEC staff whose skills and experience match specific job requirements in this Contract. CEC staff shall be managed by a dedicated, director-level position that possesses an extensive background in CEC delivery. Vendor shall ensure the CEC has at least one supervisor available to assist CSRs during normal operating hours, including lunch breaks and special events.]

FHKC reserves the right to request and receive staffing numbers, including dedicated and shared personnel, at any time.

With reasonable Notice and justification, FHKC has the right to remove any Vendor or Subcontractor employee from performing Services under the Contract.

## Major Organizational Changes

No change in Vendor’s structure, ownership, or controlling interest releases Vendor from its obligations under this Contract.

Vendor shall give FHKC notice of regulatory agency approval, if applicable, prior to any transfer or change in control.

FHKC has the right to elect to continue or terminate this Contract, at its sole discretion, in the event of a change in Vendor’s ownership, structure, or controlling interest. In such event, FHKC shall provide at least 30 Calendar Days Notice to Vendor of the decision to terminate the Contract.

## FHKC Information and Access

Upon execution of the Contract, FHKC will, in accordance with this Contract, provide Vendor with timely information and access to operating guidelines, policies, procedures, information systems and databases, FHKC leadership, management, and employees in order for Vendor to perform the Services contemplated in this Contract, including providing the reports and other documents specified in Appendix A.

## Meetings

Meetings between the Parties shall be held at the FHKC offices in Tallahassee, Florida, or via conference call, as determined by FHKC. Vendor shall be available to attend meetings or present requested information to other stakeholders, as directed by FHKC. Vendor shall not be entitled to additional compensation for any meeting preparation or attendance, including travel.

Upon FHKC request, Vendor shall provide to FHKC for approval a proposed agenda in advance of scheduled meeting dates. Vendor shall publish and distribute the approved agenda and related documents and/or handouts within the timeframe specified by FHKC. Vendor shall provide detailed and well-documented minutes of meetings as required by FHKC. Within three Business Days after the meetings, Vendor shall provide draft meeting minutes to the contract manager for review, any correction, and approval.

## Subcontractor Requirements

Vendor may delegate performance of work required under this Contract to Subcontractors with prior written approval from FHKC; however, Vendor maintains ultimate responsibility for adhering to and otherwise fully complying with all terms and conditions of this Contract. Vendor is responsible for all acts or omissions of Subcontractors utilized by Vendor during the Contract Term. FHKC has no liability of any kind for any Subcontractor demands, losses, damage, negligence, or direct or indirect expenses. If Vendor lets any subcontract, Vendor must, when applicable, take affirmative steps to assure that small and minority businesses, women’s business enterprises, and labor surplus area firms are used when possible in accordance with 45 CFR §75.330(b)(1)-(5).

Vendor’s failure to comply with the provisions of this Section shall constitute an Event of Default.

### Subcontractor Approval

FHKC has the right to withhold approval of any subcontract or amendment to approved Subcontractor contracts.

Vendor shall submit any proposed new or amended Subcontracts to FHKC for review at least 90 Calendar Days before the proposed effective date of the contract or amendment. Upon request, FHKC may, at its sole discretion, waive the submission timeframe with evidence of good cause.

All requests for Subcontractor approval shall include a copy of the Subcontract, including the BAA, if applicable. If a request solely involves an amendment, Vendor may, with prior approval from FHKC, submit the proposed amendment without a copy of the approved subcontract in effect.

### Subcontractor Subcontracts

Except as otherwise provided in this Contract, Vendor shall ensure that all Subcontractor subcontracts (or amendments to an existing subcontract) shall contain terms or conditions substantially similar to the following:

1. Specify the delegated activities or obligations, including related reporting responsibilities;
2. Require Subcontractor to perform the delegated activities and reporting responsibilities in a manner that complies with Vendor’s obligations under this Contract;
3. Provide for the revocation of the delegation of activities or obligations or specify other remedies in instances where Vendor or FHKC determines that the Subcontractor has not performed satisfactorily;
4. Subcontractor shall not contract with an entity to perform Services without prior written approval by FHKC;
5. Require compliance with all applicable laws, regulations, and sub-regulatory guidance and contract provisions, including record retention and audit requirements;
6. Require Subcontractor to allow FHKC to visit its work location(s) with and without notice; and
7. Require Subcontractor to maintain complete and accurate records.

### Subcontractor Compliance

In the event FHKC determines a subcontract or subcontractor’s performance is not in compliance with the requirements of this Contract, Vendor must correct the deficiency to receive FHKC approval to continue the subcontract.

### Subcontractor Monitoring

As required in Appendix A, Vendor shall develop a monitoring plan for each Subcontractor and conduct routine monitoring and risk assessments of all Subcontractors and their delegated activities related to this Contract. The outcome of a risk assessment or audit, as described in this Section 4.5.4, shall directly inform Vendor’s Subcontractor monitoring plan. Vendor shall conduct non-routine monitoring, as needed.

As required in Appendix A, Vendor shall provide a quarterly summary of Subcontractor monitoring, including any findings and corrective action taken during the quarter. In FHKC’s sole discretion, FHKC may require more frequent monitoring and/or reporting should FHKC determine Vendor’s performance, the Subcontractor’s performance, other risk, or perceived value of increased reporting frequency compel such change.

Vendor shall have a contingency plan for each Subcontractor to safeguard performance of the delegated obligations should the Subcontractor cease to perform or adequately perform its obligations under the subcontract.

In the event FHKC determines a Subcontractor is not in compliance with the requirements of this Contract, Vendor shall promptly correct the Subcontractor’s non-compliance.

Except as otherwise provided in this Contract, Vendor shall perform annual audits (with on-site audits occurring at least every other year) to verify that all Subcontractors and Subcontractor employees and agents comply with all applicable security requirements under the Contract and the Security Plan with regard to handling of Data. Vendor shall provide a Subcontractor audit checklist or scope document to FHKC for approval in advance of performing Subcontractor audits. Vendor shall provide FHKC a copy of all annual audit results.

Except as otherwise provided in this Contract, Vendor shall require at least annual training of Subcontractors and their employees for all privacy and security requirements applicable to them under the Contract and the Security Plan with regard to handling Data. Upon request by FHKC, Vendor shall provide a copy of any training materials and training logs demonstrating the participation of the Subcontractors and their employees.

### Failure to Perform

Each time Vendor fails to obtain the necessary Subcontractor approvals or otherwise fails to perform a material obligation under Sections 4.5 through 4.5.5, the resulting damages to FHKC will not be readily ascertainable; therefore, FHKC shall be entitled to credit the monthly invoice for liquidated damages equal to $25,000 per occurrence. This invoice credit shall cover FHKC’s internal staffing and administrative costs as well as the diminished value of Services provided under the Contract. Vendor's failure to perform these obligations shall also be an Event of Default, subject to cure upon Notice from FHKC as provided in Section 7.5 and will entitle FHKC to recover any other damages it incurs (including any actual out-of-pocket expenses incurred by FHKC to investigate and remediate the violation) and to pursue injunctive relief.

## Performance Standards

Vendor’s failure to meet the deliverables required in Appendix A and performance standards required in Appendix B shall be deemed a default. For each such default, Vendor shall be liable to FHKC for Financial Consequences as set forth in this Section and Section 10.35. FHKC shall inform Vendor in writing, by email or mail, of any Financial Consequences incurred and Vendor shall reimburse FHKC via invoice credit.

When reporting performance standards results, Vendor shall round the results at the tenth decimal place to the nearest whole number as follows, unless otherwise specified in Appendix B:

* For percentages with numbers zero through four (0-4) in the tenth decimal place, round down.
* For percentages with numbers five through nine (5-9) in the tenth decimal place, round up.

### Performance Standards General Provisions

In addition to the requirements set forth elsewhere in the Contract, Vendor shall meet the performance standards set forth in Appendix B. Vendor shall work collaboratively with FHKC to develop the performance standard methodology used to measure each performance standard (e.g., greater detail on the criteria, descriptions, calculations, and methodology used). Except where indicated, these performance standards will be measured each month. For performance standards requiring a random sample, Vendor shall use a random sampling methodology approved by FHKC. Vendor shall not pull more than one random sample per standard, per month. The random sampling documents shall be made available upon FHKC’s request.

### Financial Consequences

For each month and for each performance standard that Vendor fails to meet the performance standards established in Appendix B, Vendor shall be subject to Financial Consequences and shall reimburse FHKC via invoice credit for any such Financial Consequences.

### Performance Standard Report

Except as otherwise agreed by the Parties, Vendor shall provide FHKC with a report for all performance standards, by the 10th day of each month for the previous month as required by Appendix A. The performance standard report shall (i) indicate whether Vendor met the measurement for each performance standard set forth in Appendix B; and (ii) include all supporting data including each performance standard name, the measurement, the percentage achieved, and a detailed explanation of each instance in which Vendor’s performance did not meet the measurement. FHKC has the right to audit the information in the report, and Vendor shall provide FHKC with sufficient access and information to perform such audits.

### Review and Adjustment of Performance Standards

Each year, beginning on March 31 or any other time as mutually agreed, the Parties shall evaluate the effectiveness and relevance of each performance standard. In the event the Parties mutually agree upon changes, additions, or deletions to the performance standards, the Contract shall be amended accordingly.

### Other Rights and Remedies

Financial Consequences are intended only to cover FHKC’s internal staffing and administrative costs and the diminished value of the Services provided under the Contract. In accepting any Financial Consequences, FHKC does not waive its right to pursue a Corrective Action Plan as set forth in Section 4.9 or other remedies for costs and damages not covered by any Financial Consequences.

### Performance Standard Default

The inclusion of performance standards and the related Financial Consequences in this Contract is intended to address unsatisfactory performance in the context of ongoing operations without resort to the Event of Default remedies set forth in Section 7. If Vendor's performance falls below the minimum level of performance for the same performance standard set forth in this Contract for three consecutive months or fails to meet a total of five or more performance standards in six out of 12 months (regardless of standard), and such failure is not otherwise excused, then FHKC may follow the process outlined in Section 7.4 in lieu of accepting any Financial Consequences.

## Excused Performance Standard Failures

Vendor shall be excused for failing to meet any performance standard to the extent such failure is caused directly and solely by FHKC not performing one or more of its obligations under the Contract or the following acts or omissions of FHKC, Insurers, Users, or third parties (other than the Subcontractors and their contractors other than Vendor) providing Services to or for FHKC (including telecommunications carriers):

1. FHKC's or a third-party's System is down or performance is degraded;
2. FHKC's or a third-party's infrastructure fails; or
3. Vendor is unable to access FHKC or a third-party's System and/or process transactions because of FHKC or third-party's Systems.

In addition, relevant performance standards shall not apply during scheduled System maintenance down times, major System enhancements, and force majeure events or occurrences under Section 10.12.

Vendor shall advise FHKC in writing as soon as possible of any circumstance or occurrence which would excuse or affect Vendor's ability to achieve any of the performance standards. In all such instances, Vendor will continue to make all reasonable efforts to achieve all performance standards.

## Payment of Claims

At its sole discretion, FHKC may require Vendor to pay any medical, pharmacy, and dental claims billed or paid out of pocket for health care services incurred by an Enrollee because Vendor’s error or failure to perform resulted in a lapse or cancellation of such Enrollee’s insurance coverage or enrollment under the incorrect Insurer. Vendor shall have the ability to negotiate with the health care provider to reduce the amount billed. Vendor shall remit payment to the health care provider or reimburse the Enrollee for any claims paid out of pocket within 45 Business Days of receipt of the final amount due and the health care provider’s payment information, if applicable. Vendor shall report to FHKC within two Business Days of when payments are remitted or reimbursed.

## Corrective Action Plans

FHKC may require Vendor to propose and implement a Corrective Action Plan (CAP) to address and correct the cause of any deficiencies in Vendor’s performance of any Services under this Contract.

If Vendor's performance falls below the minimum level of performance for the same performance standard set forth in this Contract for three or more consecutive months, Vendor shall provide a CAP to remediate the performance and prevent it from occurring in the future.

Vendor shall submit a CAP to FHKC for approval within the timeframe specified by FHKC.

If the CAP is not subsequently approved by FHKC, Vendor shall submit a revised CAP within three Business Days from the notification of FHKC’s disapproval.

At a minimum, CAPs shall include a description of the problem being corrected, a description of the solution, and an implementation plan detailing the implementation of the solution with anticipated completion dates.

Regarding Vendor’s failure to timely submit a CAP, Vendor shall be liable for Financial Consequences of $500 per Calendar Day, limited to $15,000 per CAP. Financial Consequences apply to each Calendar Day beyond the due date until provided to FHKC. Financial Consequences apply to the initial due date and to subsequent due dates should the CAP require revisions prior to FHKC approval.

Vendor shall submit CAP updates on a routine basis. The schedule for such updates shall be established for each CAP. Unless otherwise required by FHKC, Vendor shall recommend to FHKC for approval an update schedule for the CAP.

Vendor shall be liable for Financial Consequences of $1,000 per Calendar Day, limited to $30,000 per CAP, for failure to complete implementation of the approved CAP by the date established in the CAP schedule. Financial Consequences apply to each Calendar Day beyond the due date until the CAP is implemented.

Vendor shall reimburse FHKC via invoice credit for any such Financial Consequences.

## Ownership of Work Product

Unless otherwise expressly set forth in Appendix A with respect to particular reports and other documents, Work Product shall be and shall remain the property of FHKC and may not be used by Vendor or Vendor’s Subcontractors for any purpose except for the benefit of FHKC. For purposes of this Section, Work Product means all results of the Services created or developed by or on behalf of Vendor, by itself or jointly with FHKC or others, including the reports and other documents, modification and improvements to FHKC Materials, program code, business methods or processes, data development, operating instructions, specifications, technical information, ideas, inventions, drawings, works of authorship, designs, concepts, and all other documentation developed for or relating to this Contract, and all documents, Data, and other information of any kind, including information incorporating, based upon, or derived from the foregoing, and reports and notes prepared by Vendor or Vendor affiliates, agents, or Subcontractors, or agents thereof, whether completed or not, together with all modifications, revisions, changes, copies, translations, compilations, and derivative works of the foregoing.

During the Contract Term, Vendor shall promptly disclose to FHKC any Work Product. Vendor represents it does not have any commitments to any other party under which Vendor is obligated to assign to such party Work Products or rights therein in conflict with Vendor’s obligations to FHKC pursuant to this Contract.

FHKC shall have all right, title, and interest, including worldwide ownership, of all Intellectual Property Rights in and to the Work Product and all copies made from it. To the extent any of the Work Product is not deemed a “work for hire” by operation of law, Vendor hereby irrevocably assigns, transfers, and conveys to FHKC, and shall cause Vendor’s personnel, Subcontractors, agents, affiliates, and agents thereof to assign, transfer, and convey to FHKC without further consideration, all of its and their right, title, and interest in and to such Work Product, including all Intellectual Property Rights in and to such Work Product. Vendor acknowledges, and shall cause Vendor’s personnel, Subcontractors, agents, affiliates, and agents thereof to acknowledge, that FHKC and its successors and permitted assigns shall have the right to obtain and hold in their own name any Intellectual Property Rights in and to such Work Product, unencumbered by any claim by Vendor or Vendor’s personnel, Subcontractors, agents, affiliates, and agents thereof.

Vendor agrees to execute, and shall cause Vendor’s personnel, Subcontractors, agents, affiliates, and agents thereof to execute, any documents or take any other actions as may reasonably be necessary, or as FHKC may reasonably request, to evidence, perfect, maintain, and enforce FHKC’s ownership of any such Work Product, whether during the Contract Term or thereafter. The territorial extent of the rights in the Work Product assigned to FHKC by Vendor and Vendor’s personnel, Subcontractors, agents affiliates, and agents thereof under this Contract shall extend to all the countries in the world. The assignment of the Work Product and all Intellectual Property Rights therein by Vendor and Vendor’s personnel, Subcontractors, agents, affiliates, and agents thereof to FHKC shall be royalty-free, absolute, irrevocable, and perpetual.

Vendor agrees, and shall require that its personnel, Subcontractors, agents, affiliates, and agents thereof to agree, that FHKC shall have the right to have an independent accounting firm conduct an audit at Vendor and its Subcontractors, agents’, affiliates, and agents thereof premises during normal business hours to verify that Vendor Vendor’s personnel, Subcontractors, agents, affiliates, or agents thereof are furnishing any of the Work Product to any third party. Vendor will bear the cost of the audit if the audit reveals that Vendor or its personnel, Subcontractors agents, affiliates, or agents thereof are furnishing, or have furnished, any such Work Product to any third-party.

## Change Orders

It is the Parties’ intent that this Contract address Services FHKC seeks to outsource to Vendor. However, the Parties recognize that changes (including additions and deletions) to the Services are normal and that an orderly process should be established for those occasions. The Parties shall document the requirements and costs of any changes to the Services (“Change Order”).

The Change Order, which describes the changes to be made to the manner or method of providing the Services, shall include the costs associated with making the change, the assumptions upon which the costs were determined, the performance schedule, start and expiration dates, and any other terms and conditions agreed upon by the Parties. In addition, the Change Order shall include:

1. Description of changes;
2. Implementation activities and timeline;
3. Impact to Contract;
4. Resource and cost estimation;
5. Risk exposure (delivery risks and associated risk mitigation plans relating to the proposed change); and
6. Other necessary information.

The Change Order shall be made in writing, executed by the Parties’ authorized representatives, and otherwise in accordance with the terms of the Contract. A Party will have no obligation or authority to commence work in connection with any Change Order proposal until the written Change Order is signed by the Parties with the same formality of signing this Contract.

If a change is expected to result in net savings to Vendor over the Contract Term, there shall be an equitable reduction to the price set forth in Section 2.10. The price reduction will be credited to the monthly invoice. Vendor is not required to pass along any savings resulting from internal cost efficiency measures implemented by Vendor that are unrelated to a particular change.

If a change is expected to result in increased costs to the Vendor over the Contract Term, the Parties shall negotiate any increase, which shall be subject to funding in accordance with Section 2.9

## Audit, Investigation, Inspection, and Review Rights

FHKC, AHCA, AHCA’s Office of Inspector General, CMS, HHS, HHS’s Office of Inspector General, the Comptroller General of the U.S. and their designees, any vendor contracted with FHKC, or any state or federal agency authorized by law have authority to perform audits, investigations, inspections, and reviews. These entities may, at any time, inspect the premises, physical facilities, and equipment where and on which work related to this Contract is conducted.

All entities shall have access to electronic and physical records and Data in the possession of the Vendor or its Subcontractors related to, or created as a result of, this Contract to fulfill their audit, investigation, inspection, and review responsibilities. The following records are specifically excluded from inspection, copying, and audit rights under this Contract, unless those documents would be required to be produced for inspection and copying under the requirements of chapter 119, Florida Statutes, and any other provision of the Florida Statutes, or Article I, Section 24, of the Florida Constitution:

1. Financial and other internal company records of the Vendor or its Subcontractors that are not created or received in connection with this Contract;
2. Documents that are confidential attorney work product or subject to attorney-client privilege; and
3. Information of the Vendor or its agents, affiliates, or Subcontractors (to include any of their other customers) that is confidential, proprietary, or trade secret.

Vendor shall be responsible for the costs associated with the audits, investigations, inspections, and reviews. If practical, FHKC will use reasonable efforts to minimize the number and duration of such audits, investigations, inspections, and reviews and to conduct such audits, investigations, inspections, and reviews in a manner that will minimize the disruption to the Vendor's or its affiliates’, agents’, or Subcontractors’ business operations.

FHKC agrees to share any of its audit findings with Vendor, and Vendor agrees to respond to audit findings within 20 Business Days of receipt of the audit findings. FHKC may extend the date for responding to audit findings if Vendor is acting diligently and requests additional time.

Vendor shall cooperate in any evaluative efforts conducted by FHKC, FHKC’s contracted vendors, or authorized state or federal agencies during the Contract Term and for a period of at least 10 years following the Contract Term. These efforts may include a post-Contract audit. In the event records must be sent to FHKC, Vendor is responsible for production, delivery, and associated costs.

Under section 20.05(5), Florida Statutes, Vendor agrees and shall ensure its Subcontractors agree that it is the duty of every state officer, employee, agency, special district, board, commission, contractor, and subcontractor to cooperate with the inspector general in any investigation, audit, inspection, review, or hearing.

Vendor shall require any subcontracts associated with this Contract to include this provision.

Failure to comply with this provision may constitute an Event of Default and may render this Contract subject to unilateral cancellation by FHKC as determined by FHKC in its sole discretion.

### SSAE-18

The American Institute of Certified Public Accountants (AICPA) Statement on Auditing Standards for Attestation Engagements No.18 (SSAE-18), Reporting on Service Organization Controls (SOC), provides authoritative guidance that allows auditors of service organizations to disclose to user organizations’ information and assurance about the controls at a service organization that affect the security, availability, and processing integrity of the Systems the service organization uses to process Data and the confidentiality and privacy of the information processed by these Systems. On an annual basis, Vendor and each Subcontractor shall engage at its own expense a service auditor for the purpose of obtaining a report, commonly known as a SSAE-18 SOC 2, Type II report, for the audit period of state fiscal year July 1 through June 30.

The report shall describe Vendor or Subcontractor’s controls related to this Contract relevant to security, availability, processing integrity, confidentiality, and privacy, and the results of the auditor’s tests of operating effectiveness. Annually, Vendor shall request from FHKC its input related to controls and control testing. Such request shall afford the Parties at least 45 Calendar Days for planning, and the scope of each SSAE-18 SOC 2, Type II audit shall be mutually agreed upon by the Parties before the audit commences. Vendor or Subcontractor shall also require the service auditor to include evaluations of subservice organizations where necessary.

The service auditor’s report shall include the Vendor or Subcontractor’s response to the report and include a complete description of planned corrective actions. The work performed and the report shall be completed in accordance with AT Section 101, AICPA Professional Auditing Standards, and other applicable auditing standards. A copy of that report shall be provided annually at no charge to FHKC by [date].

In addition to the foregoing requirements and as required in Appendix A, Vendor shall provide to FHKC a report summary, on Vendor’s letterhead and signed by a Corporate Officer of Vendor, a letter providing the areas in the SSAE-18 SOC 2 Type II reports that pertain to the Program and an explanation of any findings related to those areas. In the event no finding has occurred, Vendor shall provide written confirmation of such.

Vendor shall use the most current version in the event the SSAE-18 or any component is superseded by a revised standard.

## Third-party Monitoring

FHKC reserves the right to contract for third-party consultant services to deliver independent verification and validation that provides an objective assessment of software products, processes, Contract requirements, [CRM the CRM System,] and Services throughout the Contract Term. The third-party consultants shall be reasonably acceptable to Vendor, execute a nondisclosure agreement, and shall have the authority to access any and all documents and information or otherwise gain access afforded FHKC under this Contract. FHKC will provide reasonable notice to Vendor of such monitoring and use reasonable efforts to conduct such independent verification and validation reviews in a manner to minimize the disruption to the business operations of Vendor and its agents, affiliates, or Subcontractors. The purpose of initiating independent verification and validation services includes:

1. Early assessment of CRM System performance;
2. Early detection and correction of System Defects;
3. Enhanced management insight into business processes and System or security risk;
4. Ensure conformance to performance standards, schedule and reasonable use of change management practices;
5. Improved software development and maintenance processes to minimize customizations; and
6. Increased standardization and efficiency to improve business processes.

## Disaster Recovery

Vendor shall maintain and submit a disaster plan and a COOP as required in Appendix A. Vendor shall activate the COOP to restore [CRM System application, online availability, and database functionality (includes front-end)] [CEC IVR and related Systems] for Services provided to Users and Customers within the recovery time objective (“RTO”) and recovery point objective (“RPO”) as set forth herein.

The disaster recovery plan shall address:

1. Risk Assessment and business impact analysis (BIA);
2. “RTO” of eight hours and “RPO” of 15 minutes;
3. Response strategy guidelines and detailed procedures including communications procedures, data backup procedures, guidelines for initiating a response strategy, and post-disaster activities;
4. Identify and classify disaster recovery sites as hot, warm, or cold sites;
5. Defined incident response team;
6. Defined IT disaster recovery services if a third-party resource or cloud computing solution is leverage (Disaster-Recover-as-a-Service or DRaaS);
7. Defined maintenance and testing activities; and
8. Items required by 45 CFR §§164.308(7) and 164.310(a)(2)(i).

Vendor shall:

1. Maintain the COOP and keep it current;
2. Conduct a COOP test annually and provide FHKC a final report providing details on what was tested, the success status of tested processes, the resolution for items that failed during testing, and a certification of completion of the annual test for all Systems; and
3. In lieu of FHKC receiving COOPs for all Subcontractors, Vendor shall provide FHKC a signed certification (included in the COOP) on an annual basis that Vendor reviewed the COOP of each of its Subcontractors and that either Vendor or the Subcontractor successfully tested all Subcontractor COOPs.

The updated COOP, the report certifying testing completion, and the Subcontractor certification shall all be submitted to FHKC by the due date prescribed in Appendix A. At a minimum, the COOP shall address:

1. A plan of action for any unexpected interruption of business operations that is beyond the scope of daily operating response procedures;
2. Maintenance of backup Systems for all Production Data maintained on Vendor’s System;
3. A determination of the general nature and potential range of adverse events, so the COOP adequately addresses the risks;
4. Procedures to activate an immediate, orderly response to emergency situations to protect and/or recover critical assets and functions;
5. Procedures to obtain critical resources necessary for recovery, including hardware, software, space, files, human resources, power, and finances;
6. Procedures for transferring operations to the secondary site in the event the primary site is not available and to the primary site at all times the primary site is available;
7. Procedures to promptly facilitate an orderly restoration of site operations;
8. Identification of key team personnel, with established and assigned team responsibilities, and training requirements for each team member to perform specific duties; and
9. A methodology and identification of current and future critical applications and Services.

As required in Appendix A, Vendor shall provide FHKC written notification of any COOP activation with an initial cause assessment within one Business Day and an after-action report within 10 Business Days of the closure of any COOP event.

# Insurance Coverage and Bonds

Vendor and Subcontractors shall, at no cost to FHKC, secure and continuously maintain the insurance coverage required by law and this Section and the bonds required by this Section. Performance may not commence on this Contract until such time as insurance and bonds are secured by Vendor and Subcontractors and approved by FHKC, which approval shall not unreasonably be withheld or delayed. Vendor and Subcontractors shall be responsible for any deductible payments. In no event shall FHKC be liable for any insurance claim from Vendor, Subcontractors, or agents or employees thereof. Once obtained by Vendor, Vendor shall keep all insurance coverages and bonds in effect throughout the remainder of the Contract Term.

## Commercial General Liability

Vendor shall secure and continuously maintain commercial general liability insurance (inclusive of any amounts provided by an umbrella or excess policy) in a face amount of $25,000,000. FHKC shall be listed as an additional insured in the commercial general liability coverage policy with respect to its liability for Vendor’s acts. Each insurance certificate for such policy shall include an agreement that the insurer shall endeavor to provide 30 Calendar Days prior written notice to FHKC of cancellation for any coverage.

## Workers' Compensation Insurance

Vendor shall secure and continuously maintain workers' compensation insurance coverage as required under all relevant workers' compensation statutes. Such coverage shall comply fully with all applicable state and federal laws governing workers' compensation. The insurance shall cover all of Vendor’s employees connected with the provision of Services under this Contract. Should any work be subcontracted, Vendor shall require the Subcontractor to provide workers' compensation coverage for all of the Subcontractor's employees unless such employees are covered by the protection afforded by Vendor. For any employee engaged in hazardous work under this Contract who is not protected or otherwise covered under applicable workers' compensation statutes, Vendor shall provide, and require each Subcontractor to provide, adequate insurance coverage for such employee that is satisfactory to FHKC.

Vendor may use a self-insurance program approved by the Florida DFS, Division of Workers’ Compensation, or if a force majeure condition causes Services to be provided by Vendor’s employees located outside of the state, Vendor may use a self-insurance workers’ compensation program approved by the state where the Services are performed and Vendor’s employees are located.

## Professional Indemnity Insurance

Vendor shall secure and continuously maintain professional indemnity insurance that shall cover Professional Liability and Error and Omissions in the face amount of $25,000,000.

Vendor shall indemnify, defend, and hold harmless FHKC and its employees and agents from and against any third-party claims, demands, loss, damage, or expense caused by Vendor in connection with the performance of the Services related to Professional Liability and Error and Omissions. Each insurance certificate for such policy shall include an agreement that the insurer shall endeavor to provide 30 Calendar Days’ prior written notice to FHKC of cancellation for any coverage.

## Cyber Liability Insurance

Vendor must continuously maintain cyber liability insurance with limits of liability necessary to provide reasonable financial protections to Vendor and FHKC under the Contract. If Vendor self-insures for cyber liability insurance, Vendor shall provide FHKC with the total amount self-insured and the total amount of any excess coverage in place. If Vendor’s self-insured amount is lower than the minimum required aggregate, Vendor must provide proof of insurance coverage for an amount that at least meets the minimum required amount in combination with the self-insurance.

## Proof of Insurance

Within 10 Calendar Days after execution of this Contract by both Parties, Vendor shall provide a certificate of insurance as proof of coverage for each type of insurance required under this Contract. As required in Appendix A, Vendor shall provide proof of continuing coverage to FHKC by December 31st each year or by the date of expiration of the certificate of insurance, whichever is earlier.

## Performance and Payment Bond

As required in Appendix A, within 10 Calendar Days after execution of this Contract by both Parties, Vendor shall provide a surety commitment letter to provide the performance and payment bonds required by this Section 5.6.

As required in Appendix A, no later than 30 Calendar Days before the Effective Date of Services, Vendor shall furnish a performance bond in an amount equal to [CRM System Services $3,000,000] [CEC Services $3,000,000]. The performance bond shall be issued by a surety authorized to do business in the State of Florida and approved in writing by FHKC, and such bond shall be payable to, in favor of, and for the protection of FHKC. The bond shall be conditioned for the prompt and faithful performance of this Contract. Vendor shall maintain the performance bond throughout the Contract Term.

No later than 30 Calendar Days before the Effective Date of Services, Vendor shall furnish a payment bond in the amount of $7,500,000. The payment bond shall be issued by a surety authorized to do business in the State of Florida and approved in writing by FHKC, payable to, in favor of, and for the protection of FHKC. The bond shall be conditioned for the prompt payment of all persons furnishing labor, materials, equipment, supplies, services, and licenses to or for Vendor in its performance of this Contract. Vendor shall maintain the payment bond throughout the Contract Term.

Vendor shall provide proof of its performance and payment bonds on an annual basis and upon the request of FHKC.

## Fidelity Bond

As required in Appendix A, within 10 Calendar Days after execution of this Contract by both Parties, Vendor will furnish a blanket fidelity bond on all personnel in its employment during the Contract Term. The bond shall be issued in the amount of at least $500,000 per occurrence. The surety company issuing the bond must comply with the provisions of chapter 624, Florida Statutes. The bond shall protect FHKC from any losses sustained through any fraudulent or dishonest act or acts committed by any employees of Vendor and Subcontractors.

# Security

## Security Officers

Each Party will provide an employee to serve as a security officer. Each Party's security officer will work with the other Party's security officer with respect to security matters and related issues concerning the Contract. This does not preclude either security officer from working on other matters unrelated to the Contract. Vendor’s security officer shall oversee security issues at Vendor facilities where Services are provided.

## Background Screening

All Vendor employees, Subcontractors, and agents performing work under the Contract must comply with all security and administrative requirements of FHKC.

In addition to any background screening required by Vendor as a condition of employment, Vendor warrants that it will conduct a criminal background screening of, or ensure that such a screening is conducted for, each of its employees, Subcontractor personnel, independent contractors, leased employees, volunteers, licensees, or other persons (hereinafter referred to as “Person” or “Persons”) who directly perform Services under the Contract, whether or not the Person has Access to Data, as well as those who have direct or indirect Access to Data, regardless of whether they perform Services under the Contract. Vendor warrants that all Persons will have passed the Background Screening described herein before they have Access to Data or begin performing services under the Contract. The look-back period for such background screenings shall be for a minimum of 10 years where 10 years of historical information is available.

The minimum background screening process shall include a check of the following databases through a law enforcement agency or a professional background screener accredited by the National Association of Professional Background Screeners or a comparable standard: (i) Social Security Number Trace; and (ii) Criminal Records (federal, state, and county criminal felony and misdemeanor, national criminal database for all states which make such data available).

Vendor is responsible for all costs and expenses in obtaining and maintaining the criminal background screening information for each Person described above. Vendor shall maintain documentation of the screening and FHKC may review the Person’s background screening file upon request. Vendor shall abide by all applicable laws, rules, and regulations including the Fair Credit Reporting Act and equal opportunity laws, rules, regulations, or ordinances.

As required in Appendix A, Vendor shall warrant its compliance with the requirements of this Section 6.2 by submitting the Vendor Affidavit of Warranty of Security in Appendix D before the Effective Date of Services and annually thereafter.

### Disqualifying Offenses

Vendor shall perform, or ensure performance of, a criminal background screening comparable to a level 2 background screening as described in section 435.04, Florida Statutes, for all individuals employed, directly or indirectly, by Vendor or Subcontractor(s) in the performance of Vendor’s obligations under this Contract who have Access to PHI, PII, or financial information related to this Contract. Such background screening shall be required to be completed prior to each individual’s Access to Data and every five years thereafter. Vendor shall maintain documentation of all background screening records pursuant to Section 10.27.

Unless an exemption is granted, Vendor shall not allow any individual to perform work under this Contract who has unacceptable background screening results as described in:

1. Described in section 435.04(2) and (3), Florida Statutes;
2. Relating to the criminal use of PII as described in chapter 817, Florida Statutes;
3. Offenses described in sections 812.0195, 815.04, 815.08, Florida Statutes; or
4. That were subject to criminal penalties for the misuse of PHI under 42 U.S.C. § 1320d-5.

Vendor shall develop and submit policies and procedures related to the background screening requirement, including a procedure to grant an exemption from disqualification for disqualifying offenses revealed by background screening, as described in section 435.07, Florida Statutes, to FHKC for approval by the date required in the approved implementation plan.

Vendor shall provide an annual attestation of compliance with this provision.

### Failure to Perform Background Screening Obligations

Each time Vendor or its Subcontractors fail to perform its obligations under Section 6.2, the resulting damages to FHKC will not readily ascertainable. As such, FHKC shall be entitled to an invoice credit on each monthly invoice for liquidated damages equal to $1,000 for each violation (i.e., per employee not screened timely, including partial months) until the violation is remedied. Vendor’s failure to perform these obligations shall also entitle FHKC to recover any other damages it incurs (including any actual out-of-pocket expenses to investigate or remediate the violation) and pursue injunctive relief.

## Network Security and Perimeter Protections

Vendor shall ensure network security protections are designed to prevent unauthorized network access to and within the internal product infrastructure. These security controls shall include enterprise-grade routing and network access control lists to allow for finely grained control of network traffic from a public network as well as between server instances on the interior of the infrastructure. Vendor shall actively monitor and manage through the Change Management Plan.

## Configuration Management

Vendor shall manage server level configuration by using images and configuration scripts through the Change Management Plan.

## Infrastructure Access

Vendor shall ensure entire categories of potential security events are prevented with a stringent, consistent, and well-designed access control model. Vendor shall strictly control Access to the System with a role-based Access control model reported as required in Appendix A. For emergency Access, Vendor may use a Just-In-Time-Access (JITA) module in which Users can request Access to privileged functions.

## Encryption In-Transit and At-Rest Requirements

Vendor shall establish, maintain, and enforce (and Vendor shall ensure its affiliates, agents, and Subcontractors establish, maintain, and enforce) a policy that restricts the sending of any Production Data that is customarily considered to be sensitive or confidential in nature (e.g., social security number) by electronic mail. Vendor agrees to encrypt the transmission of all Production Data that is customarily considered to be sensitive or confidential in nature (e.g., social security number), whether or not it is sent through the CRM System or through other electronic means. Vendor shall obtain FHKC’s approval for the encryption software and procedures used by Vendor. NIST recommends the use of Advanced Encryption Standard (AES) 256-bit encryption for ePHI transmitted through email. Production data in motion shall be configured to support TLS 1.1, and should be configured to support TLS 1.2.

The foregoing encryption requirement under this Section 6.6 shall not apply to messages sent over secure, dedicated lines (i) from Vendor employees and agents to other Vendor employees or agents, or (ii) from Vendor to FHKC, a Covered Entity or an Enrollee. Further, notwithstanding any provision in this Contract to the contrary, Vendor shall be permitted to receive emails or other electronic transmissions from FHKC, a Covered Entity, or an Enrollee containing any Production Data; further, in the event of such transmission, Vendor shall protect the confidentiality of such Data. Vendor shall ensure that all laptop computers, tablets, and other portable computer or data storage devices used to Access Production Data shall have FIPS-compliant full disk encryption (FDE) technology. Vendor shall require its Subcontractors to comply with the requirements to the extent applicable to Subcontractor’s Services.

## Internal Security Controls

For each System and as required in Appendix A, Vendor shall maintain a valid systems security plan to provide an overview of the security requirements of the System and describe the controls in place or planned, responsibilities, and expected behavior of all Users who Access the System.

## Data Access

Vendor shall ensure all production and test Systems follow the prescribed operating rules with respect to Data Access.

### Production Systems

Vendor and its Subcontractors shall require all hardware and software Systems that support the Program (“Production Systems”) to follow, at a minimum, all standard protocols and security compliance guidelines defined by the International Organization of Standardization.

1. Production Data shall not leave, or be Accessed or maintained from outside, the continental U.S;
2. Vendor and its Subcontractors may perform Services and/or Access Production Data from outside of the State of Florida but within the continental U.S. for purposes of (i) implementing or testing the disaster recovery plan, (ii) providing desktop support services, or (iii) providing/receiving occasional and limited consulting assistance to or from a company affiliated with Vendor;
3. Members of the LSAG may perform Services and/or Access Production Data from outside Vendor’s Florida CEC(s) but within the continental U.S. Such persons may also, on a limited basis, Access Production Data from outside of the continental U.S. in order to provide emergency production support Services so long as FHKC consents to such Access in advance or is advised within one Business Day after such Access;
4. Persons in the LSAG must be pre-approved by FHKC, which approval shall not be unreasonably withheld. FHKC shall promptly review each request and either state its objections or request more information. Vendor shall advise FHKC’s Contract Manager of any changes in the LSAG and annually provide FHKC with an updated LSAG Master Listing as required in Appendix A;
5. Vendor may use Oracle and other third-party software or hardware vendors to provide certain IT services from outside the State of Florida and outside the continental U.S. to support those who provide Services under this Contract. In the course of providing such emergency services, these third-party vendors may Access Production Data but shall not have direct access to the CRM System. Vendor shall use reasonable efforts to obtain FHKC’s written consent prior to giving such Access to these third-party vendors and shall advise FHKC within one Business Day after such Access;
6. Employees of Vendor (other than CSRs) may use their business laptop computers to Access Production Data by reading, replying, forwarding, having or using electronic mail, or otherwise utilizing the electronic mail System, on a temporary, limited basis when traveling outside the State of Florida and/or outside the continental U.S. so long as (i) the employee has a legitimate business need to Access the Data; (ii) the restrictions in Appendix G: BAA, Section 6.6, and Section 6.8 are met; (iii) the amount of any Production Data that is customarily considered to be sensitive or confidential (e.g., social security number) being Accessed is minimal; and (iv) there is no practical risk of a breach of PHI under HIPAA. For purposes of this paragraph, an employee of Vendor shall be deemed to include U.S.-based management employees of Vendor, any U.S.-based IT employee of Vendor who is essential in the provision of Services, and members of the LSAG;
7. Employees of Vendor and any third-party software or hardware vendor (but not a Subcontractor) may provide ancillary support services to Vendor. These employees may Access Production Data in the course of providing such Services so long as the employee has a legitimate business need to Access the Production Data and the following conditions are met: (i) the employees do not have direct access to the CRM System; (ii) the Access occurs within the continental U.S. to the extent practicable; (iii) there is no practical risk of a breach of PHI under HIPAA; (iv) the restrictions in Appendix G: BAA, Section 6.6, and Section 6.8 are met; and (v) the employees meet the standard background screening requirements for their employer. The Parties acknowledge that this Section 6.8.1 does not require any new or additional background screening processes;
8. FHKC understands that some of the ancillary support services, particularly in the area of IT and engineering services, may involve business models that call upon available resources regardless of geographic location. FHKC acknowledges the impracticality of changing these business models for one customer and recognizes that Vendor may continue to perform these ancillary support services from outside the continental U.S. FHKC expects Vendor to notify FHKC in advance if the ancillary support services are provided outside of the continental U.S;
9. In-house legal staff and internal audit staff, outside law firms, and independent auditing firms retained by Vendor may have limited Access to Production Data within the continental U.S. as is customary and reasonable within the scope of their professional engagement. These persons shall not be given direct Access to the CRM System;
10. Vendor may store emails containing Production Data on servers located in secure Vendor work locations outside the State of Florida but within the continental U.S. for employees who are based outside the State of Florida, or for employees who are based inside the State of Florida but whose emails are regularly stored on servers located outside of the State of Florida but within the continental U.S; and
11. Any other requests to have Production Data maintained or Accessed from outside the continental U.S. shall require FHKC’s prior written consent.

### Test Systems

Vendor shall build test Systems to be secured from unauthorized users and separate from production operations. Customer Data cannot be identifiable in the test environment.

## Telework and Telecommuting

Vendor shall maintain policies and procedures for telework (i.e., User Access from a facility where Data does not reside) and telecommuting (i.e., User Access from home or travel (e.g., hotel) environment). For purposes of this Section, “telework” includes “telecommuting.” Telework policies and procedures and other related documents shall meet the standards required for compliance with all laws and regulations, including HIPAA and the Gramm-Leach-Bliley Act.

In addition, Vendor’s telework policies and procedures shall at least meet the recommendations and best practices identified in the NIST Special Publication 800-46, Revision 2 or its replacement, including the recommendations and best practices contained in relevant cross-referenced NIST publications. Vendor shall conduct and consider risk assessments when developing, implementing, or changing its telework security policy, particularly for those aspects of the telework security policy for which various approaches may provide acceptable safeguards or for which unauthorized Access to PHI or PII is likely to occur without appropriate safeguards. Vendor shall require multifactor authentication or more stringent practices for any level of remote Access.

Upon request, Vendor shall provide FHKC with enough information to assure FHKC that appropriate policies, procedures, and practices are in place. Such release of information is not required to be at the level of detail that may present a notable security risk.

## No Offshoring

Except as authorized in Section 6.3, Vendor and its Subcontractors and agents are prohibited from (i) performing any of the Services outside of the continental U.S., or (ii) sending, transmitting, or Accessing any Production Data outside of the continental U.S. The Parties agree that a violation of this provision will:

1. Result in immediate and irreparable harm to FHKC, entitling FHKC to immediate injunctive relief provided; however, this shall not constitute an admission by Vendor to any liability for damages under subsection (c) below or any claims, liability, or damages to a third-party, and is without prejudice to Vendor in defending such claims;
2. Entitle FHKC to an invoice credit of $500,000 per violation. As to an Authorized CRM System Entity, credits under this Section 6.10 will be capped at $1,000,000 per occurrence. This credit is intended only to cover FHKC’s internal staffing and administrative costs of investigations and audits of the sending, transmitting, or Accessing of Production Data outside the continental U.S;
3. Entitle FHKC to recover damages, if any, arising from a breach of this Section 6.10 above and beyond those covered under subsection (b). Vendor expressly agrees that FHKC’s recovery of damages in this subsection (c) is not subject to the limitations in Section 10.17; and
4. Constitute an Event of Default not subject to the 45-day cure period in Section 7.5 or the dispute resolution provisions in Section 9.

The invoice credits in subsection (b) are in the nature of liquidated damages and not intended to be a penalty. Vendor acknowledges and agrees the costs intended to be covered by subsection (b) are not readily ascertainable. Vendor agrees that it will not argue, and is estopped from arguing, that such costs are a penalty or otherwise unenforceable. For purposes of determining the amount of credits due hereunder, a group of violations relating to a common set of operative facts (e.g., same location, same time period, same off-shore entity) shall be treated as a single violation. The credits will be applied against the monthly invoices submitted by Vendor and are exclusive of any other right to damages.

## Liquidated Damages for Late Notice Under Business Associate Agreement

If timely notice to individuals is not provided as prescribed in Sections 4.5 and 4.6 of the Business Associate Agreement, then FHKC shall be entitled to an invoice credit on the monthly invoice for liquidated damages equal to $1,000 per day for the first 30 Calendar Days; thereafter, liquidated damages will be assessed $1,000 per day plus $50,000 for each 30 Calendar Day period (prorated if less than 30 Calendar Days) from the date Vendor was required to provide notice to Enrollees or Applicants. This invoice credit shall cover FHKC’s internal staffing and administrative costs as well as the diminished value of Services provided under this Contract. Such costs and damages are not readily ascertainable. These liquidated damages and corresponding invoice credits shall not exceed $500,000 per event.

## Confidentiality and Public Records

Vendor shall treat all information obtained through its performance under this Contract as confidential to the extent such information is protected under Florida and federal law. Vendor shall not use any information except as necessary for the proper discharge of its obligations under this Contract.

Vendor shall not use or disclose any PHI, PII, or other identified information obtained through its performance under this Contract, except as allowed under this Contract and Florida and federal laws, including HIPAA; sections 624.91 and 409.821, Florida Statutes; and chapter 119, Florida Statutes. Such information shall not be disclosed without the written consent of FHKC, the Applicant, or the Enrollee, except as otherwise required under Florida or federal law.

This Section does not prohibit the disclosure of information in summary, statistical, or other de-identified forms.

The Parties agree to maintain the integrity of the other Party’s confidential, trade secret, or proprietary information to the extent provided under the law and this Contract. Neither Party will disclose or allow others to disclose the other Party’s confidential, trade secret, or proprietary information except as provided by law or this Contract.

### Marked and Redacted Copies of Confidential Information

Records produced or used in relation to the performance of this Contract may be subject to chapter 119, Florida Statutes. If Vendor considers any portion of any documents, Data, or records submitted to FHKC to be Confidential Information, Vendor must (i) clearly mark “CONFIDENTIAL INFORMATION” on every page that contains Confidential Information and (ii) simultaneously provide FHKC with a separate, redacted copy of the information it claims as exempt and briefly describe in writing the grounds for claiming exemption from the public records law, including the specific statutory citation for such exemption. This redacted copy shall contain the Contract name and number and shall be clearly titled “Redacted Copy.” The redacted copy should only redact those portions of material that Vendor claims are confidential, proprietary, trade secret, or otherwise not subject to disclosure. The following methods of redacting are not sufficient for designating information as confidential, proprietary, trade secret, or otherwise not subject to disclosure:

1. Statements to the effect that the record “may” contain confidential, trade secret, proprietary, or exempt information;
2. Designations outside the body of the record such as in an electronic document title or in the body of an email providing the record; or
3. Placement or formatting that interferes with FHKC’s ability to access the information such as using an opaque watermark.

If Vendor fails to submit a redacted copy of information it claims is confidential, proprietary, trade secret, or otherwise not subject to disclosure, FHKC is authorized to produce the entire documents, Data, or records in response to a public records request or other lawful request for those records.

Records in which the sole Confidential Information is PHI or PII are excluded from this redaction requirement.

### Request for Confidential Information

In the event of a public records or other disclosure request pursuant to chapter 119, Florida Statutes, the Florida Constitution or other authority, to which documents marked as “Redacted Copy” are responsive, FHKC will provide Vendor-redacted copies to the requester. If a requester asserts a right to the Confidential Information, FHKC will notify Vendor such an assertion has been made. It is Vendor’s responsibility to assert that the Confidential Information is not subject to disclosure under chapter 119, Florida Statutes, or other applicable law. If FHKC becomes subject to a demand for discovery or disclosure under legal process regarding the Confidential Information, FHKC shall give Vendor prompt notice of the demand prior to releasing the information (unless otherwise prohibited by applicable law). Vendor shall be responsible for defending its determination that the redacted portions of its records are confidential, proprietary, trade secret, or otherwise not subject to disclosure.

### Indemnification

Vendor shall protect, defend, and indemnify FHKC for any and all claims arising from or relating to Vendor’s assertion that any materials or information is confidential, proprietary, trade secret, or otherwise not subject to disclosure. FHKC shall be entitled to attorneys’ fees and court costs under this Section 6.12.3.

### Vendor as Agent

Vendor agrees to advise FHKC prior to the release of any information in response to a request for public records and, upon FHKC’s request, provide FHKC with a copy of the requested records at no cost. All records stored electronically must be provided to FHKC in a format that is compatible with the FHKC’s information technology Systems.

Section 409.821, Florida Statutes, provides certain public records exemptions for Florida KidCare documents. If, under this Contract, Vendor is providing services and is acting on behalf of a public agency, as provided by section 119.0701, Florida Statutes, Vendor shall:

1. Keep and maintain public records required by the public agency to perform the service;
2. Upon request from the public agency’s custodian of public records, provide the public agency with a copy of the requested records or allow the records to be inspected or copied within a reasonable time at a cost that does not exceed the cost provided in this chapter or as otherwise provided by law;
3. Ensure that public records that are exempt or confidential and exempt from public records disclosure requirements are not disclosed except as authorized by law for the duration of the Contract Term and following completion of the Contract if Vendor does not transfer the records to the public agency;
4. Upon completion of the Contract, transfer, at no cost, to the public agency all public records in possession of the Vendor or keep and maintain public records required by the public agency to perform the service. If Vendor transfers all public records to the public agency upon completion of the Contract, the Vendor shall destroy any duplicate public records that are exempt or confidential and exempt from public records disclosure requirements. If Vendor keeps and maintains public records upon completion of the Contract, Vendor shall meet all applicable requirements for retaining public records. All records stored electronically must be provided to the public agency, upon request from the public agency’s custodian of public records, in a format that is compatible with the information technology Systems of the public agency; and
5. **IF VENDOR HAS QUESTIONS REGARDING THE APPLICATION OF CHAPTER 119, FLORIDA STATUTES, TO VENDOR’S DUTY TO PROVIDE PUBLIC RECORDS RELATING TO THIS CONTRACT, CONTACT THE EMAIL ADDRESS AND MAILING ADDRESS PROVIDED FOR THE CONTRACT MANAGER.**

### Access to Records

Vendor recognizes and acknowledges the requirements of chapter 119, Florida Statutes, and Article I, Section 24 of the Florida Constitution. Upon reasonable notice, Vendor shall provide FHKC with reasonable access to inspect and copy all public records and information, including physical and electronic records and information, related to or created as a result of this Contract. Except as provided herein, under no circumstances whatsoever shall Vendor refuse to provide, delay, or prohibit FHKC’s access to public records in the possession of Vendor or its Subcontractors.

### Vendor’s Failure to Comply

FHKC may unilaterally terminate this Contract for Vendor’s failure to comply with Section 6.12.6 by not allowing public access to all documents, papers, letters, or other material made or received by Vendor in conjunction with the Contract, unless the records are exempt from Article I §24(a) of the Florida Constitution and chapter [119.07](http://www.leg.state.fl.us/statutes/index.cfm?App_mode=Display_Statute&Search_String=&URL=0100-0199/0119/Sections/0119.07.html), Florida Statutes.

## Indemnification

Vendor will defend, indemnify, and hold harmless the State of Florida, FHKC, and FHKC’s officers, directors, and employees for all liabilities, damages, losses, claims, suits, or proceedings of any kind to the extent caused by the failure of Vendor (and its agents, employees, partners, Subcontractors, or any other persons or entities utilized by Vendor) to perform the obligations under Section 6 of the Contract. FHKC agrees to provide written notice with reasonable promptness to Vendor of any demand for indemnity. If a suit or proceeding is initiated for which Vendor must indemnify FHKC, then FHKC will reasonably cooperate with Vendor’s defense of such suit or proceeding. Vendor may settle any claim, suit, or proceeding (at Vendor’s sole expense) without FHKC’s approval provided the settlement does not include any obligation and/or admission of FHKC. FHKC shall be entitled to attorneys’ fees and court costs under this Section 6.13.

# Termination, Default, and Remedies

## Right of Termination

### Termination for Cause

FHKC has the right to terminate the Contract in the event of an uncured Event of Default as specified in Section 7.4.

### Termination for Non-Appropriation of Funds

FHKC may, in its sole discretion, terminate this Contract by providing 60 Calendar Days Notice to Vendor if the State of Florida and/or U.S. fails to appropriate sufficient funds to perform FHKC’s obligations under this Contract. The Contract shall terminate on the last day of the fiscal year in which the funds were appropriated, subject to the terms in this Contract.

The effective date of the termination may be extended to allow for a Transition Period under Section 8 if

1. FHKC pays all undisputed amounts pursuant to Sections 2.5 and 2.8; and
2. Adequate funds are appropriated to cover the fees and costs FHKC will incur during such Transition Period.

## FHKC’s Right to Terminate for Convenience

FHKC may terminate for convenience the Contract, in whole or in part, upon 60 Calendar Days Notice to Vendor when FHKC determines, in its sole discretion, that it is in its interest to do so. Vendor shall not furnish any Services after the date of termination, except as necessary to complete the continued portion of the Contract, if any. Vendor shall not be entitled to recover any cancellation charges, consequential damages, or lost profits. Vendor’s sole and exclusive remedy is recovery of the lesser of (a) direct costs actually incurred for authorized Services satisfactorily performed prior to the termination plus the costs of any continued Services, or (b) its monthly payment pursuant to Section 2.4.

## Right to Equitable Relief

In lieu of terminating the Contract upon the occurrence of an Event of Default, FHKC may institute legal proceedings to compel performance of any obligation required to be performed by Vendor hereunder including, where appropriate, actions for specific performance and injunctive relief. Vendor agrees that it does not have any right to equitable relief against FHKC and will not attempt to institute any proceeding for equitable relief against FHKC.

## Events of Default

Each of the following constitutes an Event of Default by Vendor:

1. Breach of a material obligation under this Contract;
2. The occurrence of any one or more of the following events:
   * 1. Vendor fails to pay any sum of money due hereunder;
     2. Vendor fails to provide the reports and other documents specified in Appendix A or the Services as required under the Contract;
     3. Vendor employs an unauthorized alien in the performance of any work required under the Contract;
     4. Vendor fails to correct work that FHKC has rejected as unacceptable or unsuitable;
     5. Vendor discontinues the performance of the work required under the Contract;
     6. As specified by FHKC, Vendor fails to resume work that has been discontinued;
     7. Vendor abandons the project;
     8. Vendor becomes insolvent or is declared bankrupt;
     9. Vendor files for reorganization under the bankruptcy code;
     10. Vendor commits any act of bankruptcy or insolvency, either voluntarily or involuntarily;
     11. Vendor fails to promptly pay any and all taxes or assessments imposed by and legally due FHKC;
     12. Vendor makes an assignment for the benefit of creditors without the approval of FHKC;
     13. Vendor made or has made a material misrepresentation or omission in any materials provided to FHKC;
     14. Vendor fails to furnish and maintain the bonds required by this Contract;
     15. Vendor fails to procure and maintain the required insurance policies and coverages required by this Contract;
     16. FHKC determines that the surety issuing a bond securing Vendor’s performance of its obligations hereunder becomes insolvent or unsatisfactory;
     17. A change in Vendor’s ownership, structure, or control in violation of the Contract;
     18. Vendor utilizes a Subcontractor in the performance of the work required by the Contract which has been placed on State of Florida’s Convicted Vendors List;
     19. Vendor is suspended or is removed as an authorized vendor by any state or federal agency or Vendor is convicted of a felony;
     20. Vendor refuses to allow FHKC access to all equipment, documents, papers, letters, or other material subject to the audit terms of this Contract;
     21. Vendor refuses to allow auditor access as required by the Contract;
     22. Vendor permits Data to be transmitted, viewed, or Accessed outside of the U.S., except as otherwise allowed in this Contract;
     23. Vendor’s engagement of a Subcontractor in violation of the Contract;
     24. For any other cause whatsoever that Vendor fails to perform in an acceptable manner as determined by FHKC, including failure to meet the performance standards set forth in Appendix B, pay associated Financial Consequences, or pay liquidated damages;
     25. Failure to timely notify FHKC upon discovery of problems or issues impacting a System; or
     26. Failure to comply with the requirements of Section 10.21.
3. Continuous Performance Default – Regarding the Performance Standards set forth in Appendix B, the following will constitute a Continuous Performance Default unless otherwise excused or cured as provided in this Contract:
4. Vendor fails to meet the same performance standard for at least three consecutive months; or
5. Vendor fails to meet a total of five or more performance standards in six out of 12 consecutive months.
6. For any other reason identified elsewhere in the Contract as an Event of Default.

## Opportunity to Cure Default

If Vendor has an Event of Default, FHKC will provide Vendor Notice of the Event of Default and request that such default be cured (“Cure Notice”), except in those circumstances specified in this Contract for which the ability to cure is not available. If Vendor fails to cure the specified Event of Default within 45 Calendar Days of receipt of the Cure Notice (or such other mutually agreed upon time) and the Parties have completed the dispute resolution process in Section 9 without resolution (“Default”), then FHKC shall have the right to initiate transition as set forth in Section 8. The Transition Period set forth in Section 8.1 will commence upon 30 Calendar Days Notice to Vendor (“Termination Notice”), unless otherwise agreed to by the Parties, subject to any continuing rights or obligations hereunder. FHKC’s right to terminate this Contract or commence the Transition Period shall automatically expire if Vendor has cured the Event of Default prior to Vendor’s receipt of the Termination Notice.

In the instance of a Continuous Performance Default as set forth in Section 7.4, FHKC must provide a Cure Notice to Vendor within120 Calendar Days after FHKC receives a performance standard report indicating Continuous Performance Default. FHKC’s right to terminate the Contract under this provision shall be in addition to any other rights and remedies at law or in equity.

## Consequences of Termination

If FHKC terminates this Contract prior to Contract expiration, the Transition Period shall commence on the effective date set forth in the Termination Notice. Nothing in this Section shall preclude either Party from asserting any rights to seek damages incurred (including without limitation FHKC’s costs to replace the Services to the extent those costs exceed what FHKC would have paid for the Services under the Contract). The limitations of liability in Section 10.17 and all other provisions intended to survive termination shall continue in effect.

## FHKC’s Default

Upon material breach by FHKC, Vendor will give FHKC Notice of the breach and request that such default be cured (“Cure Notice”). If FHKC fails to cure the specified breach within 45 Calendar Days of receipt of the Cure Notice (or such other mutually agreed upon time) and the Parties have completed the dispute resolution process in Section 9 without resolution (“Default”), then Vendor shall be entitled to pursue compensation due for reports and other documents specified in Appendix A and Services as provided in Section 3. Vendor will not, however, discontinue or terminate its Services or work. Vendor is not entitled to, and will not seek, any compensation or damages other than the compensation provided for in Section 2.4. Vendor will not be entitled to consequential damages, lost profits, lost business opportunity, or any damages other than the compensation provided for in Section 2.4.

## Rights Cumulative, No Waiver

The rights and remedies provided and available to FHKC and Vendor in this Contract are distinct, separate, and cumulative remedies, and no one of them, whether or not exercised by a Party, shall be deemed to be in exclusion of any other. The election of one remedy shall not be construed as a waiver of any other remedy or of any rights and remedies either Party may have in law or equity.

## FHKC’s Rights Upon Uncured Vendor Default

If Vendor commits an uncured Event of Default under this Contract, FHKC may perform or engage a third party to perform the uncured Services at the reasonable expense of Vendor. Vendor shall repay FHKC for all costs and expenses incurred, subject to the limitations of liability contained herein, together with a rate of interest pursuant to section 55.03(1), Florida Statutes. The rate of interest shall be measured from the date Vendor receives Notice from FHKC that such payment is due until Vendor pays or credits such amount to FHKC.

## Third-party Satisfaction

In the event FHKC issues a termination Notice because of Vendor’s Event of Default, Vendor shall satisfy all undisputed obligations to its Subcontractors providing Services and all other third parties before FHKC shall pay Vendor for Services rendered.

# Transition

## Transition Period

The Transition Period shall commence upon the anticipated expiration of the Contract or any Notice of termination pursuant to Section 7 of the Contract. FHKC has the right to commence the Transition Period up to two years prior to Contract expiration, or in anticipation of Contract termination for such time as determined by FHKC. FHKC may exercise the right to commence the Transition Period upon 90 Calendar Days prior Notice. Unless otherwise agreed to in writing or extended pursuant to this Section, the Transition Period shall end on the date FHKC (or its alternative vendor) takes over operating responsibility for the [CRM System][CEC] Vendor.

FHKC may extend the Transition Period by advising Vendor in writing no later than 45 Calendar Days before the end of the Transition Period. The Contract will terminate at the end of the Transition Period, subject to the Services Vendor shall provide to FHKC after Cut-Over as set forth in 8.2 and any obligations that survive the Contract as set forth in Section 10.31. Nothing in this Section shall limit a Party’s rights and remedies in the event of the other Party’s default.

This Section 8.1 survives termination or expiration of this Contract.

## Transition Services

FHKC is responsible for and shall oversee transition services that will occur in the event of Contract termination or expiration. Vendor is responsible for reporting and conducting all activities with an appropriate timeline to FHKC, including addressing changes in the affected business processes; [CRM System] [and] [CEC] hardware, software, and application support; [CRM System] [and] [CEC] knowledge transfer (including delivery to FHKC all FHKC Materials); [CEC business processes and institutional knowledge transfer]; and communication with affected stakeholders, such as the FHKC Board of Directors. This information and the requirements below will comprise the transition plan as determined by FHKC. Vendor shall (i) cooperate with FHKC (and FHKC-contracted consultants and vendors and any other third parties, as required by FHKC) as FHKC plans for the transition of Services and Systems at the end of this Contract, and (ii) notify FHKC of changes to the dates, schedules, and lists within the transition plan, as needed.

Vendor shall provide FHKC with the transition plan as required by Appendix A, including the following:

1. Design consulting services for the following:
2. Hardware implementation plan;
3. Software implementation plan;
4. System architecture plan;
5. Data center and network capacity plan;
6. Third-party software implementation integration testing plan;
7. Conversion plan;
8. Interface integration testing plan;
9. CEC business process;
10. Implementation plan;
11. Cut-Over plan;
12. Disaster recovery plan;
13. Change management and communication plan;
14. Staffing acquisition plan; and
15. Training plan.
16. Build
17. Procurement, configuration, and set up of all hardware, software, and all related tools required to enable business processes including System architecture, documentation storage, workflow management, transport Systems, QA Systems, Interactive Voice Response Systems, customer service reporting and escalation tracking, and standard reporting;
18. System documentation including applications and infrastructure, System customizations, existing System interfaces, CEC processes, CEC volume and performance data; and
19. Institutional knowledge transfer for application and infrastructure support, and CEC Services.
20. Test
21. Implementation activities includes developing a full test plan, including a detailed test project plan, test scripts and related documentation and a description of all activities that will be tested;
22. The test plan must consider all System components, front-end, back-end, Subcontractor Systems, IVR and all other related Systems;
23. The test plan must consider all configuration and coding for each respective System; and
24. The test plan must include the progressive test steps for QA testing, UAT, at least three parallel testing cycles and change management activities (communication and training).
25. Deploy
26. Cut-Over, contingency planning, and post production support; and
27. A full deployment plan that includes a detailed project plan and a description of all activities, tools, and resources required to complete the activities.

The following conditions are applicable to transition services:

1. During the Transition Period, FHKC may choose to use available System Enhancement hours to pay for transition services, or FHKC may purchase transition services from Vendor at an hourly rate as follows:
2. IT developers, IT specialists, and senior consultants will be $[TBD] per hour; and
3. For outside consultants and Subcontractors, the actual labor costs charged to and paid by Vendor, plus any pre-approved travel expenses pursuant to section 112.061, Florida Statutes.
4. In performance of transition services, Vendor and its Subcontractors shall cooperate with FHKC and any subcontractor or third party hired by FHKC to assist in the transition. Vendor and its Subcontractors shall provide sufficient experienced personnel and will use their best efforts to perform these transition services;
5. To the extent the FHKC Materials are found to be incomplete, Vendor and its Subcontractors shall use their best efforts to identify and supply the missing materials at no cost to FHKC (except for any third-party license fees);
6. For six months after Cut-Over, Vendor and its Subcontractors shall continue to offer consulting services to FHKC at the rates set forth below at FHKC’s discretion. Vendor shall use reasonable efforts to provide the requested services using personnel with sufficient experience and knowledge of the CRM System;
7. IT developers, IT specialists, and senior consultants will be $[TBD] per hour; and
8. Trainers, and business analysts will be $[TBD] per hour.

In performing the transition services, Vendor may develop, or have developed on its behalf, Work Product as defined in Section 4.10. Such Work Product and the transition plan are Services and all rights, title, and interest therein will be owned by FHKC at creation pursuant to Section 4.10. Vendor must submit invoices for transition services on a monthly basis, which FHKC will pay in accordance with Sections 4.11 and 2.5.

This Section 8.2 survives termination or expiration of this Contract.

# Dispute Resolution

## Overview

Any conflict or dispute between FHKC and Vendor relating to the Contract will be resolved in accordance with the procedures specified in this Contract, which will be the sole and exclusive procedures for the resolution of any such disputes prior to litigation. Negotiations and mediation as herein prescribed are conditions precedent to litigation; however, this Section 9 will not apply in the case of Termination for Convenience as provided in Section 7.2.

## Informal Negotiations / Informal Resolution

Whenever FHKC and Vendor have a dispute related to the Contract, the contract manager for each Party will immediately attempt to resolve the dispute, subject to the approval of the authorized signatory of the Parties or their designees.

## Informal Executive-Level Negotiations

If the dispute is not resolved pursuant to Section 9.2, Vendor and FHKC will attempt in good faith to resolve any dispute promptly by negotiation between executives of FHKC and Vendor or their designees having authority to settle the controversy, and who are at a higher level of management than persons with direct responsibility for the administration of the Services at issue. Either Party may declare the informal negotiation process terminated by delivering Notice thereof to the other Party

## Mediation

Within five Business Days after delivery of the Notice declaring the informal negotiation process terminated, either Party may initiate a mediation proceeding by a request in writing. The mediation is a condition precedent to filing any action by either Party.

### Mediation Procedure

All mediation proceedings will be conducted in accordance with the Contract, the Florida Rules for Certified and Court-Appointed Mediators, and applicable Florida Statutes.

### Selection of a Neutral Mediator

If FHKC and Vendor do not agree on the selection of a neutral mediator within 10 Calendar Days of the request for mediation, then FHKC will unilaterally select the mediator, who must be a Florida certified mediator. Both Parties will promptly cooperate with the appointed mediator to effectuate mediation.

### Location of Mediation

Unless otherwise agreed in writing by FHKC and Vendor, mediation sessions will occur in Tallahassee, Florida.

### Mediation Period

Mediation pursuant to this Section will be conducted over a period of 45 Calendar Days following the appointment of a mediator, unless otherwise agreed upon by the Parties. If the dispute cannot be resolved by the mediation deadline or by the end of any mutually agreed continuation thereof, FHKC, Vendor, or the mediator may give Notice declaring the mediation process terminated.

## Obligation to Mediate

The Parties regard the obligation to mediate as an essential provision and one that is legally binding on each. Either Party may bring an action to enforce this obligation in the circuit court of Leon County, Florida.

## Performance to Continue

Each Party will continue to perform its obligations under this Contract pending final resolution of any dispute arising out of this Contract.

## Confidentiality

The Parties agree to maintain the confidentiality of any mediation regarding disputes arising under this Contract.

## Notice of Decision

If the procedures outlined above do not resolve the dispute, the dispute will be decided by FHKC’s Chief Operating Officer, who will reduce the decision to writing and serve a copy to Vendor. The decision of FHKC’s Chief Operating Officer will be final and conclusive unless Vendor files an action in circuit court within 21 Calendar Days from the date of receipt of the contract manager’s decision. Exhaustion of administrative remedies is an absolute condition precedent to Vendor's ability to pursue any action in circuit court.

## Forum and Venue

Without limiting the dispute resolution process set forth in Sections 9.1 through 9.8, the exclusive forum and venue for any legal action that arises out of or relates to the Contract for which there is no administrative remedy shall be a state court of competent jurisdiction in Leon County, Florida, or, on appeal, the First District Court of Appeal. Florida law will apply to any such action, without giving effect to Florida’s choice of law principles. The Parties waive any right to jury trial. Further, hearings and depositions for any legal action shall be held in Leon County, Florida. FHKC, in its sole discretion, may waive this venue for depositions.

## Payment of Fees and Costs

Except as provided by the indemnity clauses contained herein, FHKC and Vendor will each bear its own attorneys’ fees, costs, and legal expenses incurred in connection with any negotiations, mediation, administrative proceeding, or legal action pursuant to this Contract. The Parties will equally share the cost of the mediator. The prevailing Party shall be entitled to attorneys’ fees and court costs under this Section 9.10.

# General Requirements

## Advertising

Except for disclosures and notices made pursuant to law or regulation, Vendor shall submit to FHKC all press releases and other publicity matters relating to this Contract or mentioning or referencing FHKC or any FHKC personnel. Vendor shall not publish or use press releases or publicity matters without obtaining FHKC’s written consent, which will not be unreasonably withheld or delayed. This provision shall not apply to Vendor’s marketing materials that merely list FHKC as a client.

Vendor shall not use the marketing materials, logos, trade names, service marks, or other materials belonging to FHKC without FHKC’s written consent. Written authorization must be received for each individual use or activity prior to use.

Vendor shall not use any marketing materials, logos, trade names, service marks, or other materials identifying Florida KidCare without obtaining prior written authorization from the entity holding the rights to such names or marks.

## Amendments

Except for Changes made pursuant to Section 4.11 any changes, modifications, or deletions to this Contract shall be in writing and must contain the signature of the (i) Vendor’s president or authorized representative and (ii) FHKC’s Chief Executive Officer or other authorized corporate officer.

## Americans with Disabilities Act Requirements/Unauthorized Aliens

Vendor assumes the sole responsibility for compliance with all laws, rules, and regulations stated in the Americans with Disabilities Act. Vendor acknowledges and affirms that the employment of unauthorized aliens by Vendor may be considered a violation of Section 247A of the Immigration and Nationality Act. By execution of this Contract, Vendor affirms to the best of its knowledge that it is not in violation of either law at the time of execution. The Parties agree that failure to comply with this Section 10.3 may constitute an Event of Default and may be grounds for termination of this Contract in accordance with Section 7.1at FHKC’s discretion.

## Assignment

Vendor shall not sell, assign, or transfer any of its rights, duties, or obligations under this Contract without the prior written consent of FHKC. No change in Vendor’s organization, if any, shall operate to release Vendor from its liability for the prompt and effective performance of its obligations under the Contract. All terms and provisions of this Contract shall be binding upon and inure to the benefit of the Parties hereto and their successors and assigns.

At least 90 Calendar Days prior to the anticipated effective date an assignment, Vendor shall provide FHKC with a transition plan in accordance with Section 8.2 of this Contract.

## Bankruptcy

Insurer shall provide FHKC notice of intent to petition for bankruptcy or reorganization or arrangement at the time of the filing and immediately provide a copy of such filing to FHKC. In the event FHKC chooses to terminate the Contract in accordance with Section 7.4, FHKC shall provide Vendor 30 Calendar Days’ notice.

## Conflict of Interest

Vendor must disclose the name of any of its officers, directors, or employees who is also an FHKC employee, Board member, or committee member. Further, Vendor must disclose the name of any FHKC employee, Board member, or committee member who owns an interest of 5 percent or more in Vendor.

Vendor shall submit the conflict of interest disclosure form provided by FHKC identifying any potential conflicts of interest as required in Appendix A:

FHKC shall be the sole determiner of whether a conflict of interest exists and the action needed to resolve the conflict.

## FHKC’s Responsibilities

In addition to the other obligations of FHKC set forth in this Contract, FHKC must, on an ongoing basis, promptly provide all information and materials that are reasonably necessary for Vendor to perform its duties and obligations (e.g., providing to Vendor Florida KidCare’s policies and procedures, Insurers, action plans). FHKC must take such other actions as necessary for Vendor to perform the Services.

## Documents and Data

In the course of Vendor’s performance of this Contract, Vendor agrees that Data and FHKC-generated data is and shall remain the sole and exclusive property of FHKC, free and clear of any and all claims of Vendor.

All Data and FHKC-generated data shall be immediately delivered to FHKC in the format to be mutually agreed upon by the Parties as requested or upon commencement of the Transition Period.

## Drug Free Workplace Program

Vendor agrees to implement a drug free workplace program as defined in section 287.087, Florida Statutes, throughout the term of this Contract. The Parties agree that failure to comply with this Section 10.9 shall constitute an Event of Default and shall be grounds for termination of this Contract in accordance with Section 7.1.

## Employment Eligibility Verification (E-Verify)

Upon execution of the Contract by the Parties, Vendor shall enroll and participate in the Employment Eligibility Verification Program (“E-Verify”) administered by the U.S. Department of Homeland Security (“DHS”). Vendor shall use E-Verify to verify the employment status of all new employees employed by Vendor. Upon request, Vendor shall provide FHKC with documentation of enrollment in E-Verify in the form of a copy of the “Edit Company Profile” page in E-Verify, or other documentation of enrollment that includes acknowledgment from DHS of Vendor’s name or Company ID Number provided by DHS;

Upon execution of the Contract, Vendor shall ensure that each of its Subcontractors that provides Services uses E-Verify to verify the employment status of all new employees employed by the Subcontractor. Vendor shall require each Subcontractor that provides Services under the Contract to enroll and participate in E-Verify. Vendor shall obtain from the Subcontractor(s) a copy of the “Edit Company Profile” page in E-Verify or other documentation of enrollment that includes acknowledgment from DHS of the Subcontractor’s name or Company ID Number provided by DHS. This enrollment documentation shall be made available to FHKC upon request; and

Vendor shall maintain records of its participation and compliance with the provisions of E-Verify, including participation by its Subcontractors as provided above, and make such records available to FHKC.

## Entire Contract

This Contract and any amendments thereto constitute the full and complete Contract of the Parties hereto and supersedes any prior contracts, arrangements, and communications, whether oral or written, with respect to the subject matter hereof. Each Party acknowledges that it is entering into the Contract solely on the basis of the representations contained herein, and for its own purposes and not for the benefit of any third party. This Contract will not apply to any events or transactions occurring prior to the Effective Date of Services.

## Force Majeure and No Damages for Delay

Vendor shall not be responsible for interruption or delay of Services resulting from its failure to perform if (i) neither the fault nor the negligence of Vendor or its employees contributed to the delay and (ii) the delay is due directly to acts of God, wars, public enemies, strikes, fires, floods, or other similar cause wholly beyond Vendor’s control, or for any of the foregoing that affect Subcontractors if no alternate source of supply is available to Vendor. For any such delay, Vendor must notify FHKC in writing of the delay or potential delay and describe the cause of the delay as follows, whichever occurs first: (i) within five Calendar Days after the cause or event first arose that creates the delay; (ii) within five Calendar Days after Vendor’s knowledge of the cause or event that will create the delay, if Vendor could reasonably foresee that a delay could occur as a result; or (iii) if delay is not reasonably foreseeable, within five Calendar Days after the date Vendor first had reason to believe that a delay could result.

If Vendor believes that any other delay is attributable to an act or omission of FHKC, Vendor must notify FHKC in writing of the delay or potential delay and describe the cause of the delay either (i) within five Calendar Days after the cause that creates or will create the delay first arose, if Vendor could reasonably foresee that a delay could occur as a result, or (ii) if delay is not reasonably foreseeable, within five Calendar Days after the date Vendor first had reason to believe that a delay could result.

Providing Notice in strict accordance with this Section 10.12 and Section 10.24 is a condition precedent to any remedy. Vendor will not assert any claim for damages against FHKC arising from the delay events described above. Vendor’s sole remedy for such delays shall be an extension of time, and Vendor shall not be entitled to an increase in the Contract price or payment of any kind from FHKC for direct, indirect, or consequential damages or expenses, impact costs, other costs, including costs of acceleration or inefficiency, arising because of delay, disruption, interference, or hindrance from any cause whatsoever.

If performance is suspended or delayed, in whole or in part, due to any of the causes described in this Section 10.12, after the causes have ceased to exist Vendor shall perform at no increased cost, unless FHKC determines, in its sole discretion, that the delay will significantly impair the value of the Contract to FHKC. In such an event, FHKC may (i) accept allocated performance from Vendor, provided that Vendor grants preferential treatment to FHKC with respect to Services subject to allocation, or (ii) purchase from other sources (without recourse to and by Vendor for the related costs and expenses) to replace all or part of the Services that are the subject of the delay, which purchases may be deducted from the Contract value, or (iii) terminate the Contract in whole or in part.

THE FOREGOING SHALL CONSTITUTE VENDOR’S SOLE REMEDY OR EXCUSE WITH RESPECT TO DELAY.

## Further Assurances

Subsequent to the Effective Date of Services, the Parties will execute and deliver any further legal instruments and perform any acts that are or may become necessary to effectuate the purposes of this Contract.

## Good Standing

Vendor must maintain good standing as a Florida or foreign profit or non-profit corporation, partnership, limited liability company, or other recognized business entity authorized to transact business pursuant to the laws of Florida. As required in Appendix A, Vendor shall submit a certified copy of a Certificate of Status from the Secretary of State, Division of Corporations, to FHKC concurrent with the execution of this Contract.

## Indemnity

### General

Vendor shall indemnify, defend, and hold harmless FHKC and its employees and agents from and against any third-party claims, demands, loss, damage, or expense (including attorneys’ fees and court costs) relating to bodily injury or death of any person or damage to real and/or tangible personal property directly caused or alleged to be caused by Vendor or its employees, principals, partners, agents, or Subcontractors in connection with the performance of the Services hereunder.

### Intellectual Property

Vendor will indemnify, defend, and hold FHKC harmless from any third-party claim or actions, losses, liabilities, damages, and expenses (including attorneys’ fees and court costs) made, assessed, or awarded against FHKC to the extent such claim, action, loss, liability damage, or expense results from or is based on a claim or allegation that any Work Product as defined in Section 4.10 or portion of Services infringes a U.S. patent, copyright, or a trade secret of any third party. The obligations of this Section 10.15.2 do not apply to the extent the claim or allegation of infringement results from (i) FHKC’s misuse or modification of the Services or Work Product or (ii) FHKC’s failure to use corrections or enhancements to the Services or Work Product made available by Vendor.

If any Services are, or in Vendor’s opinion likely to be, held to be infringing, Vendor shall at its expense and option either: (i) procure the right for FHKC to continue using it, (ii) replace it, as approved by FHKC, with a non-infringing product or service equivalent in function and capabilities, or (iii) modify it, as approved by FHKC, to make it non-infringing but equivalent in function and capabilities.

FHKC shall have unlimited rights to use, disclose and duplicate all information and Data developed, derived or provided by Vendor under this Contract regardless of whether such information and data is copyrightable, patentable, or trademarkable.

Vendor’s use of intellectual property in connection with this Contract that results in any royalties or costs are understood to be included in Vendor’s compensation under this Contract and shall not be charged to FHKC, without exception.

This provision shall survive termination or expiration of the Contract.

## Independent Vendor

In connection with this Contract, each Party is considered an independent entity and as such shall not have any authority to bind or commit the other. Nothing herein shall be deemed or construed to create a joint venture, partnership, or agency relationship between the Parties for any purpose. Under no circumstance shall one Party's employees be construed to be employees of the other Party, nor shall one Party's employees be entitled to participate in the profit sharing, pension, or other plans established for the benefit of the other Party's employees. Neither Party shall be deemed a joint employer of the other’s employees; each Party being responsible for any and all claims by its employees. Neither Party’s employees shall be deemed “leased” employees of the other Party for any purpose. The agreements of the Parties set forth in this Contract are not intended for, nor shall they be for the benefit of or be enforceable by, any person not a Party.

## Liability

Notwithstanding anything in this Contract or otherwise to the contrary, (i) neither FHKC nor Vendor shall be liable to the other Party or to any third party for any lost profits or any loss of business or any consequential, special losses, or damages of any kind; and (ii) the sole and exclusive remedy of Vendor and FHKC for any claim, loss, or damages in any way related to, or arising out of, this Contract or any Services provided or anticipated to be provided shall be limited to such Party's actual, direct damages. None of the limitations expressed in (i) and (ii) shall preclude FHKC from seeking injunctive relief.

## FHKC Materials

### License

FHKC will provide Vendor with access to FHKC Materials. FHKC hereby grants Vendor a limited, revocable, fully paid-up, royalty-free, non-exclusive, non-transferable license and privilege to use; operate; reproduce; copy; modify; prepare derivative works based on; perform; display; and view FHKC Materials for the sole purpose of performing under this Contract. If Vendor creates or develops modifications or improvements to FHKC Materials or refers to FHKC Materials to create or develop any other materials, the resulting modifications, improvements, and materials, including all Intellectual Property Rights therein, will be deemed FHKC Materials, and FHKC will own all right, title, and interest thereto.

Except as permitted in this Contract or as otherwise authorized in writing by FHKC, Vendor shall not:

1. Sell, lease, license, sublicense, loan, encumber, or otherwise deal in any portion of FHKC Materials;
2. Use any portion of FHKC Materials to compete with FHKC’s licensors for customers;
3. Provide, disclose, divulge, make available to, or permit use of FHKC Materials by persons other than FHKC’s employees;
4. Authorize any person to engage in actions restricted by this Section 10.18.1; and
5. Object to the continued use of FHKC Materials by FHKC or its licensors in the pursuit of other business.

For clarity, this license does not include any right for Vendor to exploit FHKC Materials for the benefit of Vendor or any third-party, including without limitation any other client of Vendor.

### Ownership

Vendor acknowledges and agrees that this Contract does not provide any ownership interest in or rights to FHKC Materials. Vendor shall reproduce, and shall not alter or modify, any copyright notices affixed to, on, or in FHKC Materials.

### Termination of License

FHKC may terminate for convenience the license granted in Section 10.18.1.

### Disclaimer of Warranties

FHKC Materials are provided by FHKC “as is” and without any warranty or condition, either express or implied, including to (i) implied warranties and conditions of merchantability, fitness for a particular purpose, title, or non-infringement, and (ii) any warranty against errors or omissions.

### Non-disclosure

FHKC Materials are confidential. Without FHKC’s prior written consent, Vendor will not directly or indirectly disclose, or permit to be disclosed, FHKC Materials to any third party except its employees who have a need to know and who are bound by a duty of confidentiality. Vendor shall exercise due care in protecting FHKC Materials from unauthorized use and disclosure.

### Notification of Unauthorized Disclosure

Vendor shall notify FHKC in writing without unreasonable delay of any possession or use of FHKC Materials that exceed the license rights of Section 10.18.1. Vendor shall inform FHKC of the circumstances surrounding such possession or use and reasonably cooperate with FHKC to stop such possession or use.

### Audit

FHKC will have no obligation to share with Vendor findings of an audit performed under Section 4.12 in regard to Vendor’s compliance with its obligations with respect to FHKC Materials.

### Liquidated Damages

If Vendor uses or authorizes a third party to use FHKC Materials beyond the license of Section 10.18.1, the resulting damages to FHKC are by their nature impossible to ascertain presently and will not be readily ascertainable. The issues involved in determining such damages will be numerous, complex, and unreasonably burdensome to prove. Accordingly, the Parties agree that (i) Vendor will promptly notify FHKC of any violations hereunder, and (ii) FHKC shall be entitled to an invoice credit on the monthly invoice for liquidated damages equal to $1,000 per day per item of FHKC Materials for such a violation, beginning on the date the violation occurred and ending on the date the violation ceases. The Parties acknowledge that these liquidated damages are exclusive of any other right to damages, are not intended to be a penalty, and are solely intended to compensate for unknown and unascertainable damages.

## Lobbying

Vendor shall disclose information regarding the lobbying activities of Vendor, its Subcontractors, and its agents in compliance with applicable state and federal requirements. Vendor shall ensure no funds have been or will be used for the purpose of lobbying in accordance with section 216.347, Florida Statutes, and 31 U.S.C. §1352. As required in Appendix A, Vendor shall provide the lobbying certification at Contract execution and annually by January 15th.

## Gift Prohibitions

Vendor shall not offer any gifts, including any meal, service, or item of value, even if such value is de minimis, to FHKC Board members, FHKC ad hoc Board members, or FHKC employees.

## Loss of Data

In the event of loss of any Data where such loss is not due to FHKC’s action, Vendor shall provide Notice within 24 hours of such loss and be responsible for recreating such lost Data in the manner it existed or in a comparable manner reasonably acceptable to FHKC on a reasonable schedule set by FHKC.

## Non-discrimination and Equal Opportunity

Vendor agrees to not discriminate on the basis of race, religion, sex, creed, national origin, disability, age, marital status, or veteran’s status in its employment practices. Vendor agrees to comply with the laws of Florida and of the U.S., regarding such non-discrimination and equality of opportunity, which are applicable to Vendor. Furthermore, in accordance with section 287.134, Florida Statutes, an entity or affiliate who has been placed on the discriminatory vendor list may not submit a bid on a contract to provide goods or services to a public entity and may not be awarded or perform work as a Vendor, supplier, subcontractor, or consultant under contract with any public entity, and may not transact business with any public entity. Vendor shall ensure that it and its Subcontractors are, to the best of their knowledge, not in violation of any laws referenced in this Section 10.22 as of the Effective Date of Services. The Parties agree that failure to comply with this Section 10.22 may constitute an Event of Default and may be grounds for termination of this Contract in accordance with Section 7.1.1.

## Non-Solicitation

Vendor acknowledges that FHKC recruits and trains personnel to perform work directly and indirectly related to this Contract and that this is a costly and time-consuming effort. Vendor agrees that during the Contract Term and the 12 months following the termination or expiration of this Contract, Vendor shall not recruit or directly or indirectly employ any individual who is employed by FHKC during the Contract Term, unless FHKC waives such instance in writing.

## Notices

Vendor shall prepare any Notices under this Contract on Vendor’s letterhead, signed by an executive officer, and serve such Notices upon FHKC by email attachment (read receipt requested) to FHKC’s chief operating officer and contract manager, by certified mail (return receipt requested), or personal delivery to:

Florida Healthy Kids Corporation

1203 Governors Square Boulevard

Suite 400

Tallahassee, FL 32301

All Notices under this Contract to be served upon Vendor shall be served by email attachment (read receipt requested), certified mail (return receipt requested), or personal delivery to:

[Vendor]

[Address]

The Parties agree that any change in the above-referenced address or name of the contact person shall be submitted in a timely manner to the other Party. All Notices under this Contract shall be deemed duly given: (i) when delivered in person to the recipients named above, (ii) upon personal delivery to the intended recipients, or (iii) when delivered by certified U.S. mail, return receipt requested, postage prepaid, addressed by name and address to the Party intended.

## Other Compliance Requirements

Each Party shall comply with all federal, state, and local laws, ordinances, rules, and regulations applicable to such Party and applicable to its performance under this Contract.

Vendor shall notify FHKC within three Calendar Days of any change to federal, state, and local laws, ordinances, rules, and regulations pertaining to Vendor’s performance under this Contract. AHCA, DOH, and FHKC retain sole responsibility for interpreting, establishing, and administering federal and state policies, rules, procedures, and directives. FHKC does not delegate any authority or discretion to Vendor in regards thereto.

As required in Appendix A, Vendor shall provide an affidavit of compliance substantially in the form provided in Appendix C for itself and all Subcontractors approved under Section 4.5 prior to the Effective Date of Services and annually thereafter. The certification must be signed by the executive officer and properly notarized. Vendor shall provide the signed certification to FHKC. As part of the certification process, Vendor and all approved Subcontractors shall undertake to review all requirements under this Contract and investigate and confirm compliance with all Contract requirements.

If during that process (or at any other time), Vendor or any approved Subcontractor discovers that it is not in compliance with the Contract obligations, Vendor and Subcontractor shall immediately take corrective action. As part of the corrective action, Vendor and the Subcontractor shall, within three Business Days, or sooner if required elsewhere in the Contract, of discovering the noncompliance, notify FHKC of the particulars and shall provide to FHKC a corrective action plan in accordance with Section 4.9 that details the actions to be taken to comply with the Contract requirements.

## Public Entity Crime

Vendor certifies that during the term of this Contract that neither Vendor, nor any of its Subcontractors, are listed on the convicted vendor list maintained by the State of Florida or any convicted vendor list maintained by the federal government. Vendor agrees that it may not be awarded or perform work as a Vendor, supplier, Subcontractor, or consultant for the state for a period of 36 months from the date of being placed on the convicted vendor list. The Parties agree that failure to comply with this Section 10.26 shall constitute an Event of Default and shall be grounds for termination of this Contract in accordance with Section 7.1.1.

## Record Retention

Vendor shall retain all records associated with this Contract for (i) at least 10 years following the Contract Term or from the date of completion of any audit or (ii) in accordance with FHKC’s record retention schedule, whichever is later. FHKC will make its record retention schedule available to Vendor upon request.

Vendor shall maintain records and documentation in accordance with generally acceptable accounting principles sufficient to substantiate all expenditures under this Contract.

Vendor shall securely store such records as appropriate for the contents of the record. Vendor is responsible for all storage costs associated with record maintenance under this Contract. Destruction of records is Vendor’s responsibility.

Failure to comply with this provision may constitute an Event of Default and may render this Contract subject to unilateral cancellation by FHKC as determined by FHKC in its sole discretion. This Section 10.27 survives termination or expiration of the Contract.

## Representation of Ability to Perform

Vendor represents that there is no pending or threatened action, suit, proceeding, inquiry, or investigation at law or equity before or by any court, governmental agency, public board, or other body that would materially prohibit, restrain, or enjoin the execution or delivery of Vendor’s obligations, diminish Vendor’s obligations, or diminish Vendor’s financial ability to perform the terms of this Contract. During the term of this Contract, if any of the aforementioned events occur, Vendor shall immediately notify FHKC in writing. Vendor shall remain adequately capitalized during the term of this Contract. Vendor’s failure to comply with this Section constitutes an Event of Default and shall be grounds for termination of this Contract in accordance with Section 7.1.1.

## Vendor’s Property

Vendor, at no cost to FHKC, shall furnish, install, operate, and maintain all property required to perform Vendor’s obligations under this Contract. FHKC and its authorized agent, provided such agent is not a competitor of Vendor, reserve the right to inspect the area in Vendor’s facilities where Services are performed at any time.

## Severability Clause

If any term or provision of this Contract is found by a court of competent jurisdiction to be invalid, illegal, or otherwise unenforceable, the same shall not affect the other terms or provisions hereof or the whole of the Contract, but such term or provision shall be deemed modified to the extent necessary to render such term or provision enforceable, and the rights and obligations of the Parties shall be construed and enforced accordingly, preserving to the fullest permissible extent the intent of the Parties.

## Survival Clause

All provisions in the Contract that expressly or customarily survive the termination or expiration of the Contract shall continue in effect after the Contract is terminated or expires.

## Taxes

FHKC does not pay federal excise and sales taxes on direct purchases of tangible personal property. If applicable, FHKC will provide Vendor a tax-exempt certificate for sales of tangible personal property to FHKC by Vendor or purchases of tangible personal property made by Vendor on behalf of FHKC in connection with this Contract, where the title vests in FHKC; however, Vendor acknowledges and agrees that FHKC is without liability to Vendor in the event the Florida Department of Revenue or other regulatory agency denies any such claimed exemption.

## Waiver

Unless otherwise agreed, the delay or failure by either Party to exercise or enforce any of its rights under this Contract shall not constitute or be deemed a waiver of that Party’s right thereafter to enforce those rights, nor shall any single or partial exercise of any such right preclude any other or further exercise thereof or the exercise of any other right.

## Scrutinized Company List

In executing this Contract, Vendor certifies that it is not listed on either the Scrutinized Companies with Activities in Sudan List or the Scrutinized Companies with Activities in the Iran Petroleum Energy Sector List, created pursuant to section 215.473, Florida Statutes. Vendor agrees FHKC may immediately terminate this Contract for cause if Vendor is found to have submitted a false certification or if Vendor is placed on the Scrutinized Companies with Activities in Sudan List or the Scrutinized Companies with Activities in the Iran Petroleum Energy Sector List during the Contract Term.

## Financial Consequences, Liquidated Damages, and Invoice Credits

Vendor acknowledges that the Financial Consequences and invoice credits tied to due dates for reports and other documents as set forth in Section 3.2 and Appendix A and the Financial Consequences and invoice credits tied to Section 3.1, Section 3.2, Section 3.3.5.4, Section 3.3.5.6, Section 3.3.5.7, Section 4.6, Section 4.6.2, Section 4.9, and Appendix B are solely for Vendor’s failure to perform the minimum level of service required by the Contract.

Notwithstanding anything in the Contract to the contrary, the total of any and all Financial Consequences shall not exceed [CEC $250,000] [CRM $50,000] or 15 percent of the monthly invoice, whichever is greater, for any calendar month.

Vendor may dispute or request a waiver of any Financial Consequences assessed by submitting such request in writing to FHKC’s contract manager within five Business Days of receipt of the Financial Consequences assessment. Requests shall clearly identify the Financial Consequences being assessed, provide a narrative describing Vendor’s reasoning for the dispute or waiver request, and include any supporting documentation. FHKC shall review and respond to the request in writing. FHKC’s decision shall be the final determination.

FHKC may waive Financial Consequences, in whole or in part, for any reason in its sole discretion. The waiver of Financial Consequences in one instance does not provide Vendor any right or expectation to future waived Financial Consequences under the same or any other circumstances.

Vendor acknowledges the liquidated damages and invoice credits specified in Section 4.5.5, Section 6.2.2, Section 6.10, Section 6.11, and Section 10.18.8. FHKC may waive liquidated damages, in whole or in part, for any reason in its sole discretion. The waiver of liquidated damages in one instance does not provide Vendor any right or expectation to future waived liquidated damages under the same or any other circumstances.

In addition to any Financial Consequences or liquidated damages, FHKC shall be entitled to reimbursement of any assessment against FHKC by any state or federal agency due to Vendor’s failure and any other remedies available under the Contract.

## Environmental Protection

Vendor shall comply with all applicable standards, orders, or regulations issued pursuant to the Clean Air Act (42 U.S.C. §§7401-7671q) and the Federal Water Pollution Control Act as amended (33 U.S.C. §§1251-1387).

**TWO SIGNATURE PAGES FOLLOW**

IN WITNESS WHEREOF, the Parties have caused this Contract to be executed by their undersigned officials, who are duly authorized.

**\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_**

**FOR [Vendor]**

**NAME: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_**

**TITLE: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_**

**DATE SIGNED: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_**

**STATE OF** **\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_**

**COUNTY OF** **\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_**

The foregoing instrument was acknowledged before me before this day of 20\_\_\_, by , as on behalf of the . He/She is personally known to me or has produced as identification.

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Signature

Notary Public – State of Florida

Print, Type or Stamp Name of Notary Public

My Commission Expires

**FOR FLORIDA HEALTHY KIDS CORPORATION:**

**\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_**

**NAME:**

**TITLE: Chief Executive Officer**

**DATE SIGNED: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_**

STATE OF FLORIDA

COUNTY OF LEON

The foregoing instrument was acknowledged before me before this \_\_\_\_\_\_ day of \_\_\_\_\_\_, 20\_\_\_, by\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, as Chief Executive Officer, on behalf of the Florida Healthy Kids Corporation. He/she is personally known to me or has produced \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ as identification.

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Signature

Notary Public – State of Florida

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Print, Type or Stamp Name of Notary Public

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

My Commission Expires

1. Reports and Other Documents

**[CRM System Services]**

Vendor must provide to FHKC the following CRM System Services reports and other documents as required below for Contract implementation and/or throughout the Contract Term. Financial Consequences shall be assessed per day or per partial day if Vendor fails to provide the report or other document by the due date by the time indicated, if any, and/or if the report or other document is inaccurate, incomplete, or otherwise not approved by FHKC. All times listed are Eastern. Unless otherwise required by FHKC, if the due date falls on a weekend or an FHKC holiday, the report is due the following Business Day. For purposes of this Appendix A, “The Effective Date of Services” is abbreviated as “EDS”.

|  | **CRM System Services Reports and Other Documents with Descriptions** | **During**  **Implementation** | **Frequency**  **Thereafter** | **Due Date(s)** | **Financial**  **Consequence** |
| --- | --- | --- | --- | --- | --- |
|  | **Affidavit of Compliance –** Provides certification of compliance with all federal, state, and local laws, ordinances, rules, and regulations applicable to Vendor and its Subcontractors and their performance under this Contract.  See Section 10.25 and Appendix C. | At least 15 Calendar Days before EDS | Annually | December 15 | $2,000 |
|  | **Audited Financial Statements –** Vendor’s company’s audited financial statements. The audited financial statements must comprise the complete set of financial statements, including notes, disclosures, and Form 10-k (if applicable) for the parent and subsidiary companies; include the auditor’s opinion letter; and be certified by a Certified Public Accountant that the financial statements meet the requirements of the U.S. Generally Accepted Accounting Principles. | With executed Contract | Annually | TBD | $1,000 |
|  | **Certificate of Status –** Certified copy from the Secretary of State, Division of Corporations.  See Section 10.14. | With the executed Contract | N/A | N/A | $1,000 |
|  | **Change Management Plan –** Describes an efficient change management process.  See Section 3.1.4(a). | At least 45 Calendar Days before EDS | Annually | September 1 | $500 |
|  | **Commercial General Liability Insurance –** Certificate of insurance with FHKC listed as additional insured.  See Sections 5.1 and 5.5. | Within 10 Calendar Days of full Contract execution | Annually | Earlier of December 31 or date of expiration | $1,000 |
|  | **Conflict of Interest Disclosure Form** – Disclosure of any potential conflicts of interest or attestation of no conflicts of interest.  See Section 10.6 and Appendix H. | With the executed Contract | Annually  Within 10 Business Days after becoming aware of any potential conflicts of interest. | January 15 | $500 |
|  | **Continuity of Operations Plan (COOP) –** Describes the methodology and timelines associated with business continuity in the event of a disaster or major CRM System outage and includes a signed certification that COOP testing has been completed for all Subcontractors.  See Section 4.14. | At least 45 Calendar Days before EDS | Annually | April 1 | $1,000 |
|  | **COOP After-action Report –** Describes COOP event, from activation through closure, and identifies any issues and next steps related to the event and/or activation that require resolution.  See Section 4.14. | Within 10 Business Days of COOP closure | Within 10 Business Days of COOP closure | N/A | $500 |
|  | **COOP Initial Cause Assessment –** Notices FHKC of the disaster or major CRM System outage that triggers a COOP activation.  See Section 4.14. | Within 1 Business Day of COOP activation | Within 1 Business Day of COOP activation | N/A | $250 |
|  | **CRM System Services Manual –** A compilation of the CRM System application’s code, processes, and workflows that details the performance and management of the CRM System.  See Section 3.3.2. | On the EDS | N/A | N/A | $1,000 |
|  | **Customer Portal Usability Study –** Report of test version of the Customer Portal by design experts and Customers, focusing on compliance with applicable accessibility laws and usability and mobile device optimization.  See Section 3.3.11. | At least 120 Calendar Days before EDS | N/A | N/A | $2,000 |
|  | **Cyber Liability Insurance –** Certificate of insurance  See Sections 5.4 and 5.5. | Within 10 Calendar Days of full Contract execution | Annually | Earlier of December 31 or date of expiration | $1,000 |
|  | **Data Dictionary –** Lists all Data elements within all tables of the database, including format, data type, and any related constraints and values.  See Section 3.3.1. | At least 15 Calendar Days before EDS | Annually | July 1 | $500 |
|  | **Data Imports and Exports Report –** Describes all files or streams of data exchanged and any subsequent requirements established by FHKC. This report shall include the following elements:   1. File name (technical and common) 2. File description 3. Name of entity the file is sent to or received from 4. Frequency of the interface 5. File layout and detailed build / load specifications   See Section 3.3.3. | At least 15 Calendar Days before EDS | Annually | July 1 | $1,000 |
|  | **Data Migration Plan –** Details the times and processes required for the Cut-Over and transfer of Data from the transitioning vendor, including steps required and methods of testing that will be performed to ensure the Data received encompasses the complete database without errors.  See Section 3.1.3(d). | At least 60 Calendar Days before EDS | N/A | N/A | $2,500 |
|  | **Data Security Notification Letter** **–** Documentation and notification of the occurrence of any security incident under HIPAA, breach of PHI under HIPAA, or breach under section 501.171, Florida Statutes, involving Data, the CRM, or any Subcontractor or Vendor facility housing Data. In the event no security incident or breach has occurred, Vendor shall provide written confirmation of such.  See section 4.4 of the Business Associate Agreement. | N/A | Annual Report  Upon occurrence  Upon occurrence | At least 60 days prior to Contract anniversary  Preliminary report within two Business Days of becoming aware of occurrence.  Full report within five Business Days from becoming aware of occurrence. | $1,000 |
|  | **Data Quality Plan –** Describes the documented data quality controls in place to assure Data integrity.  See Section 3.3.1. | At least 20 Calendar Days before EDS | Annually | July 1 | $500 |
|  | **Disaster Plan** – Describes the components of and steps to be taken in the event of a disaster.  See Section 4.14. | At least 45 Calendar Days before EDS | Annually | April 1 | $1,000 |
|  | **FHKC Materials Listing** **–** Materials that describe the functionality required to manage Services covered under this Contract. The FHKC Materials Listing is reviewed annually and amended as necessary.  See Section 10.18 and Appendix E. | At least 15 Calendar Days before EDS | Annually | July 1 | $1,000 |
|  | **Fidelity Bond –** Bond to protect FHKC from any losses sustained through any fraudulent or dishonest act or acts committed by employees of Vendor and Subcontractors.  See Section 5.7. | Within 10 Calendar Days of full Contract execution | Annually | TBD | $1,000 |
|  | **Implementation Plan –** Sets forth all resources needed for a timely and complete implementation, including weekly updates.  See Section 3.1. | Within 20 Business Days of Contract execution | N/A | N/A | $1,000 |
|  | **Internet Browser Report** **–** Lists the internet browsers that are fully supported (Vendor or Subcontractor has validated that the browser version works within the CRM without any degradation of performance), browsers that are permitted (access is allowed using the browser version; however, Vendor or Subcontractor has not validated the browser version works within the CRM without any degradation of performance), and browsers that are blocked (no access is allowed using the browser version) when accessing the CRM System, Florida KidCare Application website or Customer Portal, or accessing the system functionality through a mobile application.  See Section 3.3.8.3(o). | At least 15 Calendar Days before EDS | Annually | July 1 | $1,000 |
|  | **Key Personnel Contact Matrix –** Lists key personnel and their contact information.  See Section 4.1.1. | With executed contract | Annually or as changes occur | January 15 | $250 |
|  | **Lobbying Certification –** Certification that Vendor shall not expend FHKC funds for the purpose of lobbying.  See Section 10.19. | With executed contract | Annually | January 15 | $500 |
|  | **LSAG Master Listing –** Lists the limited number of highly specialized employees, managers of Vendor and Subcontractors having special security rights under this Contract  See Section 6.8.1. | At least 15 Calendar Days before EDS | Annually or as changes occur | July 1 | $500 |
|  | **Payment and Performance Bonds Surety Letter –** Letter of Vendor’s commitment to provide payment and performance bonds.  See Section 5.6. | Within 10 Calendar Days of full Contract execution | N/A | N/A | $1,000 |
|  | **Payment Bond –** Payable, to, in favor of, and for the protection of FHKC.  See Section 5.6. | At least 30 Calendar Days before EDS | Annually | TBD | $1,000 |
|  | **Performance Bond –** Payable, to, in favor of, and for the protection of FHKC.  See Section 5.6 | At least 30 Calendar Days before EDS | Annually | TBD | $1,000 |
|  | **Performance Standard Report** **–** Reports (i) whether Vendor met each performance standard set forth in Appendix B; and (ii) provides all supporting information including each performance standard name, the agreed upon standard (i.e., percentage required), the percentage achieved, and a detailed explanation of each instance in which Vendor’s performance did not meet the defined standard.  See Section 4.6.3 and Appendix B. | N/A | Monthly | 10th | $1,000 |
|  | **Position Organization Chart –** Shows the relationships of all Vendor positions that provide or assist in providing Services.  See Section 4.1.1. | With executed Contract | Annually or as changes occur | January 15 | $250 |
|  | **Professional Indemnity Insurance –** Certificate of insurance.  See Sections 5.3 and 5.5. | Within 10 Calendar Days of full Contract execution | Annually | Earlier of December 31 or date of expiration | $1,000 |
|  | **Reports Listing** **–** Lists all standard reports maintained by Vendor in the CRM, all reports provided to FHKC, and all other reports Vendor uses to provide Services under this Contract.  See Section 3.2. | At least 15 Calendar Days before EDS | Annually | December 15 | $500 |
|  | **Role-based Access List –** Denotes the role codes available and their privileged User-capabilities.  See Sections 3.3.8.3 and 6.5. | At least 15 Calendar Days before EDS | Annually | October 15 | $500 |
|  | **SSAE-18 SOC 2, Type II Letter –** Summarizes the areas in the SSAE-18 SOC 2 Type II reports that pertain to the Program and an explains any findings related to those areas. In the event no finding has occurred, Vendor shall provide written confirmation of such. Vendor shall provide the letter on Vendor’s letterhead and it shall be signed by a Corporate Officer of Vendor.  See Section 4.12.1. | N/A | Annually | TBD | $2,000 |
|  | **SSAE-18 SOC 2, Type II Report –** Describes Vendor or Subcontractor’s controls related to this Contract relevant to security, availability, processing integrity, confidentiality, and privacy, and the results of the auditor’s tests of operating effectiveness.  See Section 4.12.1. | N/A | Annually | TBD | $5,000 |
|  | **Subcontractor Monitoring Plan –** Provides a schedule for and describes Vendor’s routine Subcontractor monitoring activities, annual audits, risk assessments, training activities, and contingency planning in the event Subcontractor fails to adequately perform its obligations under the subcontract.  See Section 4.5.4. | At least 60 Calendar Days before EDS | Annually | December 1 | $1,000 |
|  | **Subcontractor Monitoring Report –** Summarizes Vendor monitoring of each Subcontractor for the previous quarter; describes findings, any corrective action taken, and performance after corrective action; recommends options if performance is consistently inadequate.  SeeSection 4.5.4. | N/A | Quarterly | 30 Business Days after the previous quarter | $1,000 |
|  | **System Design Workbook** **–** Describes each instance where [TBD] or any other software system code was implemented, modified, configured, or customized for Systems used to support the Program. The Workbook shall be organized by business process. Business processes shall be named and include a description of the customization or configuration (e.g., Business Server Pages, Web Dynpro, master data files within the CRM System, or materialized views), the reason or source of the customization or configuration, the Requests for Change, confirmation that Vendor has completed changes and any other information necessary to properly document the change.  See Sections 3.3.5.3 and 3.3.5.7. | Within 45 Calendar Days of EDS | Annually | November 1 | $1,000 |
|  | **System Enhancement Hours Report** **–** Details the system hours in summary and detail spreadsheets.  See Section 3.3.5.1. | N/A | Monthly | 5th | $250 |
|  | **System Security Plan (SSP) –** Describes theSystem security. The SSP shall include all System specifications, settings, rules, test scripts, audit tracking, error detection, User role-based Access, scripts, routines, schedules, reports, extracts, transports, files, logs, libraries, directories, batch processes, System errors and messages, System architecture diagrams (e.g., servers, links, hardware, software), and hardware, software and operating System security set-up and complete specification, including their related attributes, settings and capacities (e.g., usage, model, number of, switches, disk space, virtualized or not, product vendor, type of license, release version, support pack version, security pack version). In addition, the SSP shall include validation of all applicable NIST controls. Vendor shall review the Security Plan annually and amend as necessary.  See Sections 3.1.4(d) and Section 6.7. | At least 45 Calendar Days before EDS | Annually | December 15 | $5,000 |
|  | **System Test Plan –** Describes the use of the development and test environments for the testing of CRM System changes.  See Section 3.1.4(b). | At least 45 Calendar Days before EDS | Annually | September 1 | $500 |
|  | **Transition Plan –** Describes services required as FHKC plans for any transition of Services and Systems.  See in Section 8. | N/A | Annually | October 1 | $1,000 |
|  | **Unit and Parallel Test Plan –** Describes the methods of testing CRM System changes.  See Section 3.1.4(c). | At least 45 Calendar Days before EDS | Annually | September 1 | $500 |
|  | **Warranty of Security** **–** Certification of compliance with background screening requirements.  See Section 6.2 and Appendix D. | At least 30 Calendar Days before EDS | Annually | October 1 | $1,000 |
|  | **Website Usability Study –** Report of test version of the FHKC website by design experts and Customers, focusing on compliance with applicable accessibility laws and usability and mobile device optimization.  See Section 3.3.10. | At least 120 Calendar Days before EDS | N/A | N/A | $2,000 |
|  | **Workers’ Compensation Insurance –** Certificate of Vendor’s insurance and certificate for each Subcontractor’s insurance  See Sections 5.2 and 5.5. | Within 10 Calendar Days of full Contract execution | Annually | Earlier of December 31 or date of expiration | $1,000 |

**[CEC Services]**

Vendor must provide to FHKC the following CRM System Services reports and other documents as required below for Contract implementation and/or throughout the Contract Term. Financial Consequences shall be assessed per day or per partial day if Vendor fails to provide the report or other document by the due date by the time indicated, if any, and/or if the report or other document is inaccurate, incomplete, or otherwise not approved by FHKC.. All times listed are Eastern. Unless otherwise required by FHKC, if the due date falls on a weekend or an FHKC holiday, the report is due the following Business Day. For purposes of this Appendix A, “The Effective Date of Services” is abbreviated as “EDS”.

|  | **CEC Reports and Other Documents and Description** | **During Implementation** | **Frequency**  **Thereafter** | **Due Date(s)** | **Financial**  **Consequence** |
| --- | --- | --- | --- | --- | --- |
|  | **Affidavit of Compliance –** Provides certification of compliance with all federal, state, and local laws, ordinances, rules, and regulations applicable to Vendor and its Subcontractors and their performance under this Contract.  See Section 10.25 and Appendix C. | At least 15 Calendar Days of EDS | Annually | December 15 | $2,000 |
|  | **Audited Financial Statements –** Vendor’s company’s audited financial statements. The audited financial statements must comprise the complete set of financial statements, including notes, disclosures, and Form 10-k (if applicable) for the parent and subsidiary companies; include the auditor’s opinion letter; and be certified by a Certified Public Accountant that the financial statements meet the requirements of the U.S. Generally Accepted Accounting Principles. | With executed Contract | Annually | TBD | $1,000 |
|  | **Autopay Premium Amount Change Report** **—** Report to notify FHKC’s payment processing vendor that an automated payment amount has changed so the amount to be automatically paid can be updated. | N/A | Monthly | 15th | $500 |
|  | **CEC Attrition Rate –** Report of CSR attrition by reason and count. | N/A | Annually | January 31 | $1,000 |
|  | **CEC Business Processes Quality Review –** Report to describe quality review of business processes, findings, and recommended improvements.  See Section 3.4.21.3. | N/A | Annually | February 15 | $1,000 |
|  | **CEC Business Processes Workbook** **–** Includes the steps, activities, roles, and measures of standard business processes; process review documents and maps; and knowledge base references (including related process flows) as appropriate.  See Section 3.4.21.3. | At least 120 Calendar Days before EDS | Annually | June 1 | $2,500 |
|  | **CEC Customer Contact Report –** Report on inbound calls, email, social media posts, and webchat use, volume, time to respond, and trends; CSR performance; and opportunities to improve Customer engagement and knowledge base.  See Section 3.4.8. | N/A | Monthly | 15th | $500 |
|  | **CEC Inbound Call Reports** **–** Reports of the following:   1. Average Hold Time 2. Average Length of Call 3. Average Speed to Answer Call 4. Number of Non-English-Speaking Callers 5. Outbound Calls (broken out by tier level) 6. Total Number of Inquiries per Customer 7. Total Number of TTY Calls and Callers | N/A | Monthly | 5th | $500 |
|  | **Certificate of Status –** Certified copy from the Secretary of State, Division of Corporations.  See Section 10.14. | With the executed Contract | N/A | N/A | $1,000 |
|  | **Conflict of Interest Disclosure Form** – Disclosure of any potential conflicts of interest or attestation of no conflicts of interest.  See Section 10.6 and Appendix H. | With the executed Contract | Annually  Within 10 Business Days after becoming aware of any potential conflicts of interest. | January 15 | $500 |
|  | **Commercial General Liability Insurance –** Certificate of insurance with FHKC listed as additional insured.  See Sections 5.1 and 5.5. | Within 10 Calendar Days of full Contract execution | Annually | Earlier of December 31 or date of expiration | $1,000 |
|  | **Continuity of Operations Plan (COOP) –** Describes the methodology and timelines associated with business continuity in the event of a disaster or major CRM System outage and includes a signed certification that COOP testing has been completed for all Subcontractors  See Section 4.14. | At least 45 Calendar Days before EDS | Annually | April 1 | $3,000 |
|  | **COOP After-action Report –** Describes COOP event, from activation through closure, and identifies any issues and next steps related to the event and/or activation that require resolution.  See Section 4.14. | Within 10 Business Days of COOP closure | Within 10 Business Days of COOP closure | N/A | $500 |
|  | **COOP Initial Cause Assessment –** Notices FHKC of the disaster or major CRM System outage that triggers a COOP activation.  See Section 4.14. | Within 1 Business Day of COOP activation | Within 1 Business Day of COOP activation | N/A | $250 |
|  | **Convenience Fee Credit Report** **—** Report of payment convenience fee credits applied to Family Accounts. | N/A | Monthly | 15th | $500 |
|  | **Customer Satisfaction Survey Reports –** Includes survey results, related results analysis, and improvement plans, as applicable, for Customer Satisfaction Surveys.  See Section 3.4.22. | N/A | Monthly | 5th | $500 |
|  | **Cyber Liability Insurance –** Certificate of insurance  See Sections 5.4 and 5.5. | Within 10 Calendar Days of full Contract execution | Annually | Earlier of December 31 or date of expiration | $1,000 |
|  | **Data Security Notification Letter** **–** Provides documentation and notification of the occurrence of any security incident under HIPAA, breach of PHI under HIPAA, or breach under section 501.171, Florida Statutes, involving Data, the CRM, or any Subcontractor or Vendor facility housing Data. In the event no security incident or breach has occurred, Vendor shall provide written confirmation of such.  See section 4.4 of the Business Associate Agreement. | N/A | Annual Report  Upon occurrence  Upon occurrence | At least 60 days prior to Contract anniversary  Preliminary report within two Business Days of becoming aware of occurrence.  Full report within five Business Days from becoming aware of occurrence. | $1,000 |
|  | **Disaster Plan** – Describes the components of and steps to be taken in the event of a disaster.  See Section 4.14. | At least 45 Calendar Days before EDS | Annually | April 1 | $1,000 |
|  | **Discrepancy Response Report** **–** Provides response to Insurers’ discrepancy reports for actions taken on Family Accounts.  See Section 3.4.20.1. | N/A | Monthly | 15th | $250  (per Insurer  per day) |
|  | **Expenditure Report: Preliminary** **–** Set of reports that provides detailed information on the regular enrollment for the medical and dental plans.   1. Florida Healthy Kids Expenditure Summary — Summarizes enrollment and participant premiums for CHIP and Full-Pay Insurers. 2. Florida Healthy Kids Federal Medical Preliminary — Provides detailed information for the regular CHIP enrollment by county and by Insurer. 3. Florida Healthy Kids Full-Pay Medical Preliminary — Provides detailed information for the regular Full-Pay enrollment by county and by Insurer. 4. Florida Healthy Kids Federal Dental Preliminary — Provides detailed information for the regular enrollment for CHIP by county and by Insurer. 5. Florida Healthy Kids Full-Pay Dental Preliminary — Provides detailed information for the regular Full-Pay dental enrollment by county and by Insurer. | N/A | Monthly | Noon on the 25th for the upcoming month | $5,000 |
|  | **Expenditure Report: Final** **–** A set of reports that provides the final enrollment and capitation payments for FHKC medical and dental plans:   1. Florida Healthy Kids Expenditure Summary Final Compare – Summarizes the total enrollment and participant premiums for all FHKC plans. 2. Florida Healthy Kids Expenditure Summary Final – Provides a summarized report for the final, retro, and total enrollments and participant premiums for all FHKC plans. 3. Florida Healthy Kids Federal Medical Final – Provides detailed information for the final enrollment for the CHIP expenditures. 4. Florida Healthy Kids Full-Pay Medical Final – Detailed information for the final Full-Pay enrollment and capitation payments. 5. Florida Healthy Kids Federal Dental Final – Detailed information for the final dental enrollment and capitation payments. 6. Florida Healthy Kids Full-Pay Dental Final – Detailed information for the final Full-Pay dental enrollment and capitation payments. 7. Insurer Expenditure Medical Final Total – Final enrollment and capitation totals for medical Insurers. 8. Insurer Expenditure Dental Final Total – Final enrollment and capitation totals for dental Insurers. 9. CMS Plan Final Total – Detailed information on the CMS Plan enrollment by county. 10. MediKids Final Total – Detailed report on the enrollment for MediKids by county. 11. Florida KidCare Enrollment Final – Detailed information by Program plan. | N/A | Monthly | Noon on the 8th of the same month of enrollment | $5,000 |
|  | **FHKC Materials Listing** **–** Materials that describe the functionality required to manage Services covered under this Contract. The FHKC Materials Listing is reviewed annually and amended as necessary. | At least 15 Calendar Days before EDS | Annually | July 1 | $1,000 |
|  | **Fidelity Bond –** Bond to protect FHKC from any losses sustained through any fraudulent or dishonest act or acts committed by employees of Vendor and Subcontractors.  See Section 5.7. | Within 10 Calendar Days of full Contract execution | Annually | TBD | $1,000 |
|  | **Financial Balancing Report** **–** Comprehensive financial report containing all financial transactions made by Vendor for the month – includes banking activity   1. Part 1 – Compares Vendor’s accounting system generated finance data with banking data 2. Part 2 – Participant premium payment, refund and return activity balances. Additionally, this report shall break down the account balances by program (HK Subsidized, Full Pay, CMS, MK, MK Full Pay) 3. Part 3 – Participant premium receivables balance 4. Part 4 – Detailed list of current month Participant premium activity 5. Part 5 – Participant accounts receivable aging report 6. Part 6 – Report by customer aging the account activity by date from current to 60+ months 7. Rollforward – Prepaid participant premium schedule 8. FinBal – Reconciliation of Vendor’s accounting system balance to bank account. Additionally, this report shall provide the crosswalk between FBR to Expenditure Reports 9. Bank – Bank statement detail information 10. ACH – Reconciliation of ACH deposits to Vendor’s accounting system 11. Application – Reconciliation of application deposits to Vendor’s accounting system 12. Credit card – Reconciliation of credit card deposits to Vendor’s accounting system 13. EFT – Reconciliation of EFT deposits to Vendor’s accounting system 14. Text Pay – Reconciliation of text pay deposits to Vendor’s accounting system 15. Lockbox – Reconciliation of lockbox deposits to Vendor’s accounting system 16. Fidelity – Reconciliation of Fidelity deposits to Vendor’s accounting system 17. Electronic check processing vendor – Reconciliation of lockbox (check free) deposits to Vendor’s accounting system 18. Payroll deductions – Reconciliation of payroll deduction deposits to Vendor’s accounting system 19. Suspense – Reconciliation of suspense payments 20. Misc. Payments – Reconciliation of miscellaneous deduction deposits to Vendor’s accounting system Returned payments – Reconciliation of returned payments to Vendor’s accounting system 21. Adjustments – Listing of bank adjustments | N/A | Monthly | Noon on the 15th for the prior month | $5,000 |
|  | **Implementation Plan –** Sets forth all resources needed for a timely and complete implementation, including weekly updates.  See Section 3.1. | Within 20 Business Days of Contract execution | N/A | N/A | $1,000 |
|  | **Invalid Contact Information Refund Report** **–** Listing of Family Accounts for which a refund cannot be issued because mailing address is invalid. | N/A | Monthly | 15th | $500 |
|  | **IVR Process Flow** **–** Detailed process flow for the IVR, including messages.  See Section 3.4.6. | At least 60 Calendar Days before EDS | Annually or as revised | August 1 | $2,500 |
|  | **IVR Self-Service Interaction Tracking Report** **–** Listing by type, reason for call, and call volume for calls into the IVR | N/A | Monthly | 5th | $500 |
|  | **Key Personnel Contact Matrix –** Lists key personnel and their contact information.  See identified Section 4.1.1. | With executed contract | Annually or as changes occur | January 15 | $250 |
|  | **Letters, Forms, and Inserts Report** **–** Lists, describes trigger, and summarizes content of the all System-generated, picklist, and manual letter templates, forms, and inserts used by Vendor to provide outbound correspondence. Vendor shall also document version control on this report. | At least 120 Calendar Days before EDS and includes all letter templates | Annually | June 1 | $1,000 |
|  | **Lobbying Certification –** Certification that Vendor shall not expend FHKC funds for the purpose of lobbying.  See Section 10.19. | With executed contract | Annually | January 15 | $500 |
|  | **Outbound Correspondence Campaigns Report** **–** Analysis of data (e.g., calls answered, emails opened, and Customer responses) after each campaign so that any metrics set as part of the campaign can be evaluated. | N/A | As required | Within 30 Calendar Days of campaign | $500 |
|  | **Payment and Performance Bonds Surety Letter –** Letter of Vendor’s commitment to provide payment and performance bonds.  See Section 5.6 | Within 10 Calendar Days of full Contract execution | N/A | N/A | $1,000 |
|  | **Payment Bond –** Payable, to, in favor of, and for the protection of FHKC.  See Section 5.6 | At least 30 Calendar Days before EDS | Annually | TBD | $1,000 |
|  | **Performance Bond –** Payable, to, in favor of, and for the protection of FHKC.  See Section 5.6 | At least 30 Calendar Days before EDS | Annually | TBD | $1,000 |
|  | **Performance Standard Report** **–** Reports (i) whether Vendor met each performance standard set forth in Appendix B; and (ii) provides all supporting information including each performance standard name, the agreed upon standard (i.e., percentage required), the percentage achieved, and a detailed explanation of each instance in which Vendor’s performance did not meet the defined standard.  See Section 4.6.3 and Appendix B. | N/A | Monthly | 10th | $1,000 |
|  | **Position Organization Chart –** Shows the relationships of all Vendor positions that provide or assist in providing Services.  See Section 4.1.1. | With executed Contract | Annually | January 15 | $250 |
|  | **Professional Indemnity Insurance –** Certificate of insurance.  Sections 5.3 and 5.5 | Within 10 Calendar Days of full Contract execution | Annually | Earlier of December 31 or date of expiration | $1,000 |
|  | **Refund Accrual Report** **—** Accrual basis refund accrual report to reconcile the refund request received, less refunds issued, and capture accrual for refund requests received but not issued. | N/A | Monthly | 15th | $500 |
|  | **Refund File Preliminary** **–** Biweekly preliminary report that lists in .csv format the potential refunds owed to Customers. | N/A | Monthly | Noon on the 15th and 30th | $500 |
|  | **Refund File Final** **–** Final report that lists in .csv format the refunds to be issued bimonthly to Customers. | N/A | Monthly | Noon on the 20th and 5th | $500 |
|  | **Reports Listing** **–** Lists all standard reports maintained by Vendor in the CRM, all reports provided to FHKC, and all other reports Vendor uses to provide Services under this Contract.  See Section 3.2. |  | Annually | December 15 | $500 |
|  | **SSAE-18 SOC 2, Type II Letter –** Summarizes the areas in the SSAE-18 SOC 2 Type II reports that pertain to the Program and an explains any findings related to those areas. In the event no finding has occurred, Vendor shall provide written confirmation of such. Vendor shall provide the letter on Vendor’s letterhead and it shall be signed by a Corporate Officer of Vendor.  See Section 4.12.1. | N/A | Annually | TBD | $2,000 |
|  | **SSAE-18 SOC 2, Type II Report –** Describes Vendor or Subcontractor’s controls related to this Contract relevant to security, availability, processing integrity, confidentiality, and privacy, and the results of the auditor’s tests of operating effectiveness.  See Section 4.12.1. | N/A | Annually | TBD | $5,000 |
|  | **Subcontractor Monitoring Plan –** Provides a schedule for and describes Vendor’s routine Subcontractor monitoring activities, annual audits, risk assessments, training activities, and contingency planning in the event Subcontractor fails to adequately perform its obligations under the subcontract.  See Section 4.5.4. | At least 60 Calendar Days before EDS | Annually | December 1 | $1,000 |
|  | **Subcontractor Monitoring Report –** Summarizes Vendor monitoring of each Subcontractor for the previous quarter; describes findings, any corrective action taken, and performance after corrective action; recommends options if performance is consistently inadequate.  SeeSection 4.5.4. | N/A | Quarterly | 30 Business Days after the previous quarter | $1,000 |
|  | **System Security Plan (SSP) –** Describes theSystem security. The SSP shall include all System specifications, settings, rules, test scripts, audit tracking, error detection, User role-based Access, scripts, routines, schedules, reports, extracts, transports, files, logs, libraries, directories, batch processes, System errors and messages, System architecture diagrams (e.g., servers, links, hardware, software), and hardware, software and operating System security set-up and complete specification, including their related attributes, settings and capacities (e.g., usage, model, number of, switches, disk space, virtualized or not, product vendor, type of license, release version, support pack version, security pack version). In addition, the SSP shall include validation of all applicable NIST controls. Vendor shall review the Security Plan annually and amend as necessary.  See Sections 3.1.4(d) and Section 6.7. | At least 45 Calendar Days before EDS | Annually | December 15 | $5,000 |
|  | **Training Plan –** Describes how and when Vendor trains its staff as required in Section 3.4.21.2 and as further specified by FHKC. | At least 90 Calendar Days before EDS | Annually | July 1 | $2,500 |
|  | **Transition Plan –** Describes services required as FHKC plans for any transition of Services and Systems.  See in Section 8. | N/A | Annually | October 1 | $1,000 |
|  | **Unclaimed Property Report** **–** Lists unclaimed property for the previous calendar year using the National Association of Unclaimed Property Administrators file format for any Family Account with balances for 60 months or more, subject to unclaimed property laws. | N/A | Annually | January 25th (starting 2022) | $3,000 |
|  | **Unit and Parallel Test Plan –** Describes the methods of testing System changes.  See Section 3.1.4(c). | At least 45 Calendar Days before EDS | Annually | September 1 | $500 |
|  | **Warranty of Security** **–** Certification of compliance with background screening requirements.  See Section 6.2 and Appendix D. | At least 10 Calendar Days before EDS | Annually | TBD | $2,500 |
|  | **Welcome Call Tracking Report** **–** Lists live calls made to new Enrollees as set forth in Section 3.4.15. | N/A | Monthly | 5th | $500 |
|  | **Workers’ Compensation Insurance –** Certificate of Vendor’s insurance and certificate for each Subcontractor’s insurance  See Sections 5.2 and 5.5. | Within 10 Calendar Days of full Contract execution | Annually | Earlier of December 31 or date of expiration | $1,000 |

1. Performance Standards
   1. [CEC] Application Processing Timeliness
      1. Definition:

“Application Processing Timeliness” shall mean the timeframe in which Florida KidCare Applications are reviewed and an initial determination or request for information is provided to the Applicant.

* + 1. Standard:

100 percent processed within seven business days.

* + 1. Performance Credit:

$500 per Florida KidCare Application where the standard is missed.

* + 1. Data Source(s):

CRM System.

* + 1. Calculation:

All Florida KidCare Applications received shall be included within the measurement. The days to complete shall be determined by subtracting the date a Florida KidCare Application is received by the Vendor from the date an initial determination is made or a request for information is provided to the Applicant.

In the event a Florida KidCare Application is received after 7 p.m., Eastern Time, the Florida KidCare Application will be considered received on the next business day.

Weekends and approved FHKC holidays shall not count towards this requirement.

* 1. [CEC] Final Eligibility Processing Timeliness
     1. Definition:

“Final Eligibility Processing Timeliness” shall mean the timeframe in which final eligibility determinations or redeterminations are made by the Vendor.

* + 1. Standard:

100 percent of final determinations made within 5 Business Days.

* + 1. Performance Credit:

$1,000 per Florida KidCare Application where the standard is missed.

* + 1. Data Source(s):

CRM System

* + 1. Calculation:

All complete Florida KidCare Applications, renewals, and requests to process eligibility received by Vendor shall be included within the measurement. The days to complete shall be determined by subtracting the date of a Florida KidCare Application, the date of the renewal, or date of the request to process eligibility received by the Vendor from the date a final eligibility determination is made.

In the event a Florida KidCare Application, renewal, or eligibility request is received after 7 p.m., Eastern Time, the date of receipt will be considered received on the next business day.

Weekends and approved FHKC holidays shall not count towards this requirement.

For purposes of this Section, “complete” shall mean no additional information or documents are required to be provided by the Customer for the Vendor to determine eligibility.

* 1. [CEC] Customer Satisfaction Score
     1. Definition:

“Customer Satisfaction Score” shall mean the average score of the responses given in an applicable month to the point-of-service customer satisfaction survey questions related to overall CEC satisfaction.

* + 1. Standard:

Vendor shall attain a 90 percent customer satisfaction score.

* + 1. Performance Credit:

$2,000 per percentage point below the standard within the reporting month.

* + 1. Data Source(s):

Survey responses from IVR (and other surveys as applicable).

* + 1. Calculation(s):

Total number of survey respondents providing [x] response divided by total number of respondents multiplied by 100.

* 1. [CEC] Timeliness of Calls Answered
     1. Definition:

“Timeliness of Calls Answered” shall mean the speed at which the Vendor answers Customer calls entering Vendor’s queue.

* + 1. Standard:

Greater than or equal to 80 percent calls answered within 30 seconds.

* + 1. Performance Credit:

$2,000 per day the standard is missed.

* + 1. Data Source(s):

IVR system or other such system capable of logging calls.

* + 1. Calculation(s):

Total number of Customer calls entering Vendor’s queue that are answered by a CSR within standard divided by the total number of calls that entered Vendor’s queue.

* 1. [CEC] Timeliness of Email Answered
     1. Definition:

“Timeliness of Email Answered” shall mean the Vendor response time to an email inquiry with a formal answer or resolution. (This standard does not include the immediate automated reply notifying the requester of receipt of their inquiry which shall be provided for 100 percent of email inquiries.).

* + 1. Standard:

Greater than or equal to 80 percent within 15 minutes and 100 percent within two hours.

* + 1. Performance Credit:

$1,000 per day the standard is missed.

* + 1. Data Source:

CRM System.

* + 1. Calculation:

The time measurement shall be calculated as the time the email is received subtracted from the time a formal answer is provided.

The percentage shall be the number of email responses within the standard divided by the total number of email responses.

The performance standard will evaluate both portions of the standard independently and apply Financial Consequences based on both standards.

In the event an email is received after 7 p.m., Eastern Time, the date of receipt will be considered received at 7 a.m. on the next business day.

Weekends and approved corporate holidays shall not count towards this requirement.

* 1. [CEC] Timeliness of Voicemail Answered
     1. Definition:

“Timeliness of Voicemail Answered” shall mean the Vendor response time to a voicemail inquiry with a formal answer or resolution.

For the purposes of this standard, a formal answer or resolution does not include a voicemail left by Vendor in response to the inquiry.

A minimum of three attempts shall be made to return all voice mail messages.

* + 1. Standard:

Return greater than or equal to 98 percent of all voice mail messages no later than 11:00 a.m., Eastern Time, next Business Day or at the time specified by the caller.

* + 1. Performance Credit:

$1,000 per percentage point below the standard within the reporting month.

* + 1. Data Source:

CRM System or other system capable of logging voicemail receipt and call-back.

* + 1. Calculation:

The total number of returned voice mail messages within the standard divided by the total number of voice mail messages.

In the event an inquiry requires multiple attempts to respond to the inquiry, an additional four hours shall be added to the standard for each attempt.

Inquiries which are unable to be responded to after the third attempt shall be reported, but not counted in this standard.

* 1. [CEC] Timeliness of Webchat Answered
     1. Definition:

“Timeliness of Webchat Answered” shall mean the Vendor response time to a webchat inquiry. (This standard does not include the immediate automated reply notifying the Customer of receipt of their inquiry which shall be provided for 100 percent of webchat inquiries.)

* + 1. Standard:

Greater than or equal to 80 percent of webchats answered within 30 seconds

* + 1. Performance Credit:

$2,000 per day the standard is missed

* + 1. Data Source(s):

CRM system or other such system capable of logging webchats

* + 1. Calculation:

The number of Customer webchats entering Vendor’s queue (less abandoned webchats) that are answered by a CSR within the standard divided by the total number of webchats that entered Vendor’s queue (less abandoned webchats).

* 1. [CEC] Timeliness of Social Media Posts Answered
     1. Definition:

“Timeliness of Social Media Posts Answered” shall mean the Vendor response time to social media posts. (This standard does not include the immediate automated reply notifying the Customer of receipt of their posts which shall be provided for 100 percent of social media posts.).

* + 1. Standard:

Greater than or equal to 95 percent social media posts answered within 30 minutes.

* + 1. Performance Credit:

$2,000 per day the standard is missed.

* + 1. Data Source(s):

CRM system or other such system capable of logging social media posts.

* + 1. Calculation:

The number of Customer social media posts entering Vendor’s queue that are answered by a CSR within the standard divided by the total number of social media posts that entered Vendor’s queue.

* 1. [CEC] Blocked Calls
     1. Definition:

“Blocked Calls” shall mean a call which is prevented from entering the IVR.

* + 1. Standard:

Less than or equal to one-tenth percent.

* + 1. Performance Credit:

$1,000 per day the standard is missed.

* + 1. Data Source:

IVR system or other such system capable of logging calls.

* + 1. Calculation:

Number of calls that are prevented from entering Vendor’s IVR divided by the total calls received, excluding documented spam or robocalls.

* 1. [CEC] Call Abandonment Rate
     1. Definition:

“Call Abandonment Rate” shall mean the percentage of inbound calls from Customers that enter the queue and are not answered by Vendor.

* + 1. Standard:

Less than or equal to three percent.

* + 1. Performance Credit:

$2,000 per day the standard is missed.

* + 1. Data Source:

IVR system or other such system capable of logging calls.

* + 1. Calculation:

Total number of Customer calls that enter the queue and are not answered by Vendor divided by total number of Customer calls that enter the queue.

* 1. [CEC] Initial Inquiries Resolution
     1. Definition:

“Initial Inquiries Resolution” shall mean the Inquiries whereby the Customer is provided a satisfactory response during the initial Inquiry transaction without requiring subsequent Customer Inquiry or call back by either the CSR or a CSR supervisor.

For the purposes of this standard, a transaction may involve Customer engagement through several contact mediums such that a Customer inquiry could begin as a webchat or email and transition to a CSR initiated phone call. Such a situation would be considered part of the initial inquiry and be counted as a single inquiry.

* + 1. Standard:

Greater than or equal to 85 percent.

* + 1. Performance Credit:

$1,000 per percentage point below the standard for the reporting month.

* + 1. Data Source(s):

CRM System.

* + 1. Calculation:

Total inquiries that enter the queue (less abandoned inquiries) where resolution received on initial contact divided by total inquiries that enter the queue (less abandoned inquiries).

If Customer makes multiple contacts regarding the same Inquiry, then those webchats, emails, and calls shall not be counted in the numerator.

* 1. [CEC] Eligibility Accuracy
     1. Definition:

“Eligibility Accuracy” shall mean the number of eligibility determinations which are based on state and federal law and rule, as of the date the eligibility determination was made by Vendor.

* + 1. Standard:

Greater than or equal to 99 percent.

* + 1. Performance Credit:

$2,000 per percentage point below the standard for the reporting month.

* + 1. Data Source(s):

CRM System.

* + 1. Calculation:

Vendor shall conduct a statistically valid random sample of all eligibility determinations representing a 99 percent confidence level with a margin of error of 5 percent to ensure that accurate information is being provided.

As an example and following standard statistical modeling, if the random sampling of eligibility determinations results in 100 determinations being audited and five of these determinations revealed an inaccurate determination was made, then the percentage for this standard would result in a 95 percent accuracy rate, which would not meet the standard.

Vendor shall provide FHKC a report of the accounts in which eligibility determinations were used within the sample and the results of the review. At a minimum, the report shall include the Person’s identification number, whether or not the determination was accurate, and the actions taken to remedy the inaccurate information provided.

* 1. [CEC] Response Accuracy
     1. Definition:

“Response Accuracy” shall mean the number of Inquiries by Customers when accurate information is provided by the CEC CSR, CSR follows approved response templates, and all inquiry documentation is added to the Customer record divided by the total number of Inquiries.

* + 1. Standard:

Greater than or equal to 95 percent for each contact channel (i.e., phone calls, email, social media, and webchat).

* + 1. Performance Credit:

$2,000 per percentage point below the standard for the reporting month for each contact channel.

* + 1. Data Source(s):

CRM System, IVR System, and other systems as necessary.

* + 1. Calculation:

For each contact channel, Vendor shall conduct a statistically valid random sample of all inquiries representing a 99 percent confidence level with a margin of error of 5 percent to ensure that accurate information is being provided.

As an example and following standard statistical modeling, if the random sampling of answered Inquiries for phone calls results in 100 calls being audited and five of these calls revealed the CEC CSR provided inaccurate information, then the percentage for this standard would result in a 95 percent accuracy rate for phone calls, which would meet the standard for phone calls.

Performance credits shall be applied based on each contact channel.

Vendor shall provide FHKC a report of the Inquiries used within the sample and the results of the review. At a minimum, the report shall include the member of the Customer’s identification number, the reason for the inquiry, whether or not the response was accurate, and the actions taken to remedy the inaccurate information provided.

* 1. [CEC] Case Resolution Rate
     1. Definition:

“Case Resolution Rate” shall mean the percentage of cases (i.e., Inquiries requiring research) opened by a CSR, resolved, and the Customer notified of the resolution within the standard divided by the number of cases opened.

For the purpose of this Performance Standard, "Resolved" is defined as meaning the case has been closed per the established business rules and Customer has been notified of the resolution.

If Vendor has to request (from the Customer, FHKC, Vendor IT department, Insurer, or other vendor) additional information or data necessary to resolve the case, Vendor must send a request for information from the Customer within one Business Day and place the case in a pending status. The count of Business Days resumes once the additional information is received.

If it is determined that the resolution of the case will involve a System enhancement, then the case should be closed and the Customer notified.

If a case is pended and no information has been received from the Customer in five Business Days, the case shall be closed.

* + 1. Standard:

Greater than or equal to 98 percent within two Business Days.

* + 1. Performance Credit:

$2,000 per percentage point below the standard within the reporting month.

* + 1. Data Source:

CRM System.

* + 1. Calculation:

The total number of cases resolved within the standard divided by the total number of cases.

* 1. [CEC] Premium Posting Accuracy Rate
     1. Definition:

“Premium Posting Accuracy Rate” shall mean the percentage of premium payments received via the lockbox and the payment processing vendor file that are accurately applied to member accounts in the CRM System by the CEC.

Accurate premium posting is defined as applying the correct payment amount to the correct member account for the correct Coverage Month(s) the first time based on FHKC’s defined premium remittance process and associated documentation.

* + 1. Standard:

Greater than or equal to 99.9 percent.

* + 1. Performance Credit:

$1,000 per tenth of a percentage point below the standard within the reporting month.

* + 1. Data Source(s):

CRM System.

* + 1. Calculation:

Vendor shall conduct a statistically valid random sample of all premium postings representing a 99 percent confidence level with a margin of error of 5 percent to ensure that accurate information is being is being posted and payments are accurately applied to member accounts.

For example, if the random sampling results in 100 records being audited and two of these records were not accurately posted, then the percentage for this standard would result in a 98 percent accuracy rate, which would not meet the standard.

Vendor shall provide FHKC a report of those premiums within the sample population where the premium was not correctly posted. At a minimum, the report shall include the Customer’s name and User ID, the type of premium(s), and the actions taken to remedy the incorrect posting.

* 1. [CEC] Premium Posting Timeliness
     1. Definition:

“Premium Posting Timeliness” shall mean the timeframe in which the Vendor posts premiums received via the lockbox and the payment processing vendor file for any Enrollee who is properly enrolled or rejects and reports premium payments after receipt of financial information.

For the purpose of this performance standard, the following instances will be excluded from the computation of this standard: (i) the premium payment information was inadequate to post as defined in the premium remittance procedures and (ii) Vendor has requested (from the Enrollees, FHKC, or other third-party vendor) all information necessary to resolve the case and is awaiting such information.

* + 1. Standard:

Greater than or equal to 98 percent in two Business Days and 100 percent within three Business Days.

* + 1. Performance Credit:

$1,000 per percentage point below standard within the reporting month.

* + 1. Data Source(s):

CRM System.

* + 1. Calculation:

The number of premiums posted within the standard divided by the total number of premiums posted.

The performance standard will evaluate both portions of the standard independently as outlined in the definition and apply Financial Consequences based on both standards.

* 1. [CEC] Premium Refund Accuracy Rate
     1. Definition:

“Premium Refund Accuracy Rate” shall mean the percentage of eligible individual Customer premium refunds submitted for payment by Vendor with no errors or omissions of required data once the required research has determined that a refund is due.

* + 1. Standard:

Greater than or equal to 99.9 percent.

* + 1. Performance Credit:

$1,000 per tenth of a percentage point below standard within the reporting month.

* + 1. Data Source(s):

CRM System.

* + 1. Calculation:

Vendor shall conduct a statistically valid random sample of all premium refunds representing a 99 percent confidence level with a margin of error of 5 percent to ensure that refunds were processed accurately.

For example, if the random sampling results in 100 records being audited and two of these records were not accurately refunded, then the percentage for this standard would result in a 98 percent accuracy rate.

Vendor shall provide FHKC a report of those premium refunds within the sample population where the premium was not correctly refunded. At a minimum, the report shall include the Customer’s name and User ID, the type of refund and the actions taken to remedy the incorrect refund.

* 1. [CEC] Premium Refund Timeliness
     1. Definition:

“Premium Refund Timeliness” shall mean the timeframe in which the Vendor processes premium refunds submitted for payment after receipt of the request.

* + 1. Standard:

Equal to 100 percent within five Business Days.

* + 1. Performance Credit:

$500 per refund processed outside the standard.

* + 1. Data Source(s):

CRM System.

* + 1. Calculation:

The date of the refund request subtracted from the date of processing the refund.

* 1. [CEC] Nonsufficient Funds (NSF) Processing Timeliness
     1. Definition:

“NSF Processing Timeliness” shall mean the timeframe in which the Vendor processes NSFs after receipt.

* + 1. Standard:

Equal to 100 percent within two Business Days.

* + 1. Performance Credit:

$500 per NSF processed outside the standard.

* + 1. Data Source(s):

CRM System.

* + 1. Calculation:

The date of the NSF received subtracted from the date of processing the NSF.

* 1. [CEC] Account Financial Balance Accuracy
     1. Definition:

“Account Financial Balance Accuracy” shall mean the percentage of Family Account balances with no errors or omissions.

* + 1. Standard:

Greater than or equal to 99.9 percent.

* + 1. Performance Credit:

$1,000 per tenth of a percentage point below standard within the reporting month.

* + 1. Data Source(s):

CRM System.

* + 1. Calculation:

Vendor shall conduct a statistically valid random sample of all Family Account balances representing a 99 percent confidence level with a margin of error of 5 percent to ensure that balances are accurate.

For example, if the random sampling results in 100 records being audited and two of these records were not accurate, then the percentage for this standard would result in a 98 percent accuracy rate.

Vendor shall provide FHKC a report of those Family Account balances within the sample population where the balance was not correct. At a minimum, the report shall include the Customer’s name and User ID, account balance, and the balance discrepancy.

* 1. [CEC] Outbound Paper Correspondence Timeliness
     1. Definition:

“Outbound Paper Correspondence Timeliness” shall mean the timeframe in which the Vendor mailed information (e.g., letters, forms, brochures, pamphlets, guides) to a Customer after the request or event occurs.

* + 1. Standard:

Greater than or equal to 95 percent shipped within two Business Days and 100 percent within three Business Days.

* + 1. Performance Credit:

$1,000 per percentage point below standard within the reporting month.

* + 1. Data Source(s):

CRM System and other systems necessary to track correspondence.

* + 1. Calculation:

The total number of outbound correspondences sent within the standard divided by the total number of requests for outbound correspondences. The performance standard will evaluate both portions of the standard independently and apply Financial Consequences based on both standards.

* 1. [CEC] [CRM] Electronic Correspondence Timeliness
     1. Definition:

“Electronic Correspondence Timeliness” shall mean the timeframe in which the Vendor electronically mailed information (e.g., letters, forms, brochures, pamphlets, guides) to a Customer after the request or event occurs.

* + 1. Standard:

Greater than or equal to 80 percent sent within 15 minutes and 100 percent within two hours.

* + 1. Performance Credit:

$1,000 per percentage point below standard within the reporting month.

* + 1. Data Source(s):

CRM System.

* + 1. Calculation:

The total number of outbound correspondences sent within the standard divided by the total number of requests for outbound correspondences.

The performance standard will evaluate both portions of the standard independently and apply Financial Consequences based on both standards.

* 1. [CRM] Enrollee Data Accuracy Rate
     1. Definition:

"Enrollee Data Accuracy Rate" shall mean the percentage of Enrollee table rows or records that are included on the enrollment data feed which accurately portray the current Enrollees using the FHKC approved format.

For purposes of this Performance Standard, data entry errors (i.e., incorrect enrollments or improper employee information) by the Enrollees will be excluded from the computation of this standard.

* + 1. Standard:

Equal to 100 percent.

* + 1. Performance Credit:

$500 per inaccurate table row or record within the reporting month.

* + 1. Data Source:

CRM System.

* 1. [CEC] [CRM] Enrollment Data Timeliness
     1. Definition:

“Enrollment Data Timeliness” shall mean the timeframe in which the Vendor delivers or makes enrollment Data available to the Insurers, AHCA, and DOH using the FHKC-approved format.

* + 1. Standard:

Equal to 100 percent.

* + 1. Performance Credit:

$500 per record delivered or made available outside of agreed upon standards within the reporting month; performance credit shall not exceed $75,000.

* + 1. Data Source:

CRM System or other system capable of logging when Data are delivered.

* 1. [CEC] [CRM] Report Timeliness
     1. Definition:

“Report Timeliness” shall mean the number of reports, excluding the reports and other documents required in Appendix A, sent to FHKC by the mutually agreed upon schedules using the established format.

* + 1. Standard:

Equal to one hundred percent.

* + 1. Performance Credit:

$500 per report per day delivered outside of standards within the reporting month.

* + 1. Data Source(s):

CRM System or other system capable of logging when reports are delivered

* 1. [CEC] [CRM] System Availability Percentage
     1. Definition:

“System Availability Percentage” shall mean the time that the CRM System applications (TBD) are available to the Users divided by the time the CRM System applications are to be available to the Users. This Performance Standard assumes seven days a week, 24 hours per day of availability. The Parties will agree to any downtime related to a major System release or scheduled System maintenance downtime in advance, and any mutually agreed upon downtime associated with the release or maintenance will be excluded from the computation of this standard. An application is considered not available to the User if any function, module or section of any of the applications mentioned above is not available.

* + 1. Standard:

Greater than or equal to 99.9 percent.

* + 1. Performance Credit:

$1,000 per day standard is not met within reporting month.

* + 1. Data Source:

CRM System logs and independent, third-party tools utilized to determine system availability.

* + 1. Calculation(s):

((Total possible minutes of System availability – scheduled downtime minutes) – unscheduled downtime minutes) / (total possible minutes of System availability - scheduled downtime minutes).

For purposes of this standard, “total possible minutes” is defined as the total number of minutes of System availability for all components of the CRM System added together; “scheduled downtime minutes” is defined as the total number of scheduled downtime minutes for all components of the CRM System added together.

1. Vendor Affidavit of Compliance

I, \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, certify that:

1. I have reviewed the contractual obligations of <<Insert Vendor name>> in the performance of its Contract dated \_\_\_\_\_\_\_\_\_\_\_\_\_\_, for [Customer Engagement Center Services] [and] [Customer Relationship Management System Services], and any amendments thereto (collectively referred to as the "Contract”), with the Florida Healthy Kids Corporation.
2. To the best of my knowledge and upon reasonable investigation, the performance of <<Insert Vendor name>> and its Subcontractors is consistent with and in compliance with the Contract (including the terms of the Security Plan dated \_\_\_\_\_\_\_\_).
3. To the best of my knowledge and upon reasonable investigation, <<Insert Vendor name>> and its Subcontractors have complied with all applicable federal, state, local laws, ordinances, rules, and regulations related to performance under this Contract, including the documentation and verification requirements of section 274A of the Immigration and Nationality Act (8 U.S.C. §1324a) concerning the unlawful employment of aliens.
4. Any exceptions to these representations must be stated on this affidavit.
5. I am duly authorized to execute this Affidavit as an executive officer of <<Insert Vendor name>>.

Sworn to (or affirmed) and subscribed before me on this \_\_\_\_\_\_ day of \_\_\_\_\_\_\_\_\_\_\_\_ 20\_\_\_\_

by \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

(signature of Notary)

Check one:

Personally known to me

Produced the following ID

1. Vendor Affidavit of Warranty of Security

Regarding the Contract between

Florida Healthy Kids Corporation

and

[TBD] (“Vendor”)

The undersigned hereby attests that Vendor is in compliance with Section 6.2 of the Contract.

**Authorized Signature:** \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

**Printed Name:** \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

**Title:** \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

**Date:** \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Sworn to (or affirmed) and subscribed before me on this \_\_\_\_\_\_ day of \_\_\_\_\_\_\_\_\_\_\_\_ 20\_\_\_\_

by \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

(signature of Notary)

Check one:

Personally known to me

Produced the following ID

Appendix E FHKC Materials

Vendor shall use the below listed FHKC Materials, as well as Vendor’s own programming, web-based software or processes, interactive voice response related software or processes, software modifications and customizations, software configurations, application program interfaces, business methods and processes, statistical research and analysis, training methods or training materials identified in this Appendix to provide the functionality required to manage Services covered under this Contract.

| **Item No.** | **Topic** | **Description** | |
| --- | --- | --- | --- |
| **I. General Documentation, Materials, Records and Data** | | | |
|  | FHKC Data | All transactional and historical Data stored in the CRM System and (optionally) any data warehouse, as well as all Data stored by third-party vendors. | |
|  | FHKC Business Blueprint Documents | Original blueprinting documents where available from the original go live requirements. | |
|  | [CRM] Change Requests | Listing of all categories of Change Requests (e.g., enhancements, defects). These include changes that were handled outside the BRD process (e.g., small changes, name/label changes) and changes FHKC has requested that have not yet been implemented (e.g., no BRD or FDD yet). | |
|  | Letters/Forms/Inserts – (System generated and manual) | Lists of manual and System generated letters; other forms and inserts related to the Services. | |
|  | Knowledge Base | List of the Knowledge Base category and task summary/index as well as documentation of FHKC policies and procedures (these are links to policy clarifications). | |
|  | [CEC] Process Flows | Desktop procedures for offline processes. | |
|  | Training Plans and Materials | Content related to FHKC policies, practice and process flows (e.g., training calendar, outline of training topics, FHKC provided content). | |
|  | Archived Records | All paper and electronic records in the records repositories and call recording Systems (includes call recordings from less than two years old prior to Cut-Over). | |
|  | [CEC] Materials relating to Lockbox | All materials related to Lockbox processing. | |
|  | Subcontracts – provide most current contracts (including addendums) with all Subcontractors | Vendor contracts with all Subcontractors providing Services. | |
|  | [CEC] Inquiry Management Data | All Data from call Systems and the CRM System. | |
| **II.  System Architecture, Interfaces, Code, Customizations, Configurations, and Processes** | | | |
|  | FHKC Specific CRM System Custom Code and Configuration | All customizations and configuration coding for all Systems, the transactional database, portal, and related supporting tools (Business Server Pages (BSP), Web Dynpro,) and any other related files, code, and configurations. | |
|  | [CRM] Data Warehouse (optional) | Any data warehouse used to transform and store historical and transactional data for reporting and analytical purposes (e.g., tables, universes, views, materialized views, triggers, functions, procedures and packages). | |
|  | System Parameters | System specifications, settings, rules, and standard reports as well as transaction volumes for both CRM System and CEC activities. | |
|  | CRM System Architecture Diagrams | System architectural diagram that clearly reflects the current landscape (servers, links, hardware, software, URLs, DMZs, etc.). | |
|  | File Interfaces – Inbound and Outbound | List of interfaces, file layouts and specifications. | |
|  | Testing and Quality Assessment | Test scripts for items moved to production, as well as regression test scripts. | |
|  | Environment, Audit Tracking, Error Detection, and Security Set-up | Specifications for the audit tracking, backend IT Security parameters and settings, and error messages. | |
|  | [CRM] Error Logs | All hardware and software error logs for the CRM System, any data warehouse, and all other ancillary products that support the CRM System. | |
|  | [CEC] Toll-Free Telephone Number | Existing Florida KidCare toll-free numbers. | |
|  | [CRM] Domains and Web Services | FHKC-owned Domain Name Services, Secure Socket Layer certificates, Website Hosting, Email Hosting, and other web services | |
|  |  |  |  |

Appendix F Third-party Vendor Software Products

The following software products and their associated documentation are used to provide Services. Some may be subject to written consents to transfer from third-party vendors for use as referenced in 3.3.17.

| **Item No.** | **Technology Component** | **Product Name and Version** | **Description** |
| --- | --- | --- | --- |
|  | [CEC] Call Recording and Archive |  | Technology used to record all calls to/from Vendor and the Enrollees and to access and listen to the recorded calls. |
|  | [CRM] Data Warehouse (optional) |  | Centralized Data repository for historical and current transactional Data for the Enrollees (excluding customizations). |
|  | [CRM] Customizations Tool |  | Centralized repository developed by Vendor to store information regarding FHKC-specific business processes (e.g., CRM System and any data warehouse). |
|  | [CRM] Data Warehouse Reporting Tool (optional) |  | Technology used to execute canned reports and to create ad hoc reports. |
|  | [CEC] Document Processing |  | Document processing technology used to scan, classify and route documents to the right CEC tower for processing. |
|  | Electronic Records Archive |  | Technology used to archive imaged documents.  System is integrated with Inquiry Management. |
|  | [CEC] Facsimile Processing |  | Facsimile server used to send and receive electronic images of paper documents. |
|  | [CRM] Integrated Development Environment (IDE) |  | Supports the development and runtime environment for CRM System business applications and is used to extend code and integrate with other applications and Systems. The primary development language used on the platform is ABAP, but other supported languages include C, C++, and Java EE. |
|  | [CEC] Interactive Voice Response (IVR) |  | The IVR routes calls through the CEC and, in some instances, to external applications. The IVR includes integration with the CRM System. |
|  | Load Balance and Stress Testing |  | Automated software used for load and stress testing. |
|  | Lockbox |  | Technology used by FHKC’s vendor to manage the receipt of manual payments. |
|  | [CRM] Operating System |  | The supporting operating System platform that hosts the CRM System application, IDE (Integrated Development Environment), database, web services, and any data warehouse. |
|  | [CRM] Oracle Development Environment (optional) |  | Software used to support rapid web application development of reports for any Oracle-based data warehouse. |
|  | Performance Standards Reporting Tool |  | Technology used for reporting functions regarding performance standards. |
|  | [CRM] CRM System Database |  | The CRM System transactional database layer. |
|  | Customer Portal |  | Technology used to deliver the Customer Portal. |
|  | Reports Module |  | A customized User interface to accommodate reporting needs. |
|  | [CRM] Secured File Transfer Protocol (SFTP) |  | Used to send and receive secure transmissions for all inbound and outbound System interface files. These files are used to exchange data between the CRM System (or any data warehouse) and external parties and other related applications. |
|  | [CRM] Single Sign-On Tool |  | Technology used to conduct single sign-on activities with Insurers’ secure member systems and other related systems. |

Appendix G Business Associate Agreement

THIS BUSINESS ASSOCIATE AGREEMENT (“AGREEMENT”) is entered into by and between Florida Healthy Kids Corporation, a Florida non-profit corporation, (“FHKC” or “Covered Entity”) and \_\_\_\_\_\_\_\_\_\_\_ (the “BA”), and is incorporated in the Contract between FHKC and \_\_\_\_\_\_\_\_\_\_\_ (“Contract”).

**Section 1: HIPAA Compliance**

FHKC and BA agree to comply with the Health Insurance Portability and Accountability Act of 1996, Pub. L. No. 104-191, codified at 42 U.S.C. §1320d through d-9, as amended from time to time (“HIPAA”) and the Health Information Technology for Economic and Clinical Health Act (“HITECH”).  BA recognizes and agrees that it is directly obligated by law, through the Contract, and through any other written agreement and this Agreement to meet the applicable provisions of HIPAA and HITECH.

**Section 2: Definitions for Use in this Agreement**

Terms used but not otherwise defined in this Agreement or the Contract shall have the same meaning as those terms in 45 C.F.R. Parts 160, 162, and 164.

“Access” means to review, inspect, approach, instruct, communicate with, store data in, retrieve data from, or otherwise make use of any data, regardless of type, form, or nature of storage. Access to a computer System or network includes local and remote access.

“Security Incident” means the successful unauthorized Access, Use, Disclosure, modification, or destruction of information or interference with operations.

**Section 3: Obligations and Activities of BA (Privacy Rule)**

**3.1 Operation on Behalf of FHKC**

The BA shall use and disclose Protected Health Information (“PHI”) only as shall be permitted by the Contract, this Agreement, or as required by law.  BA shall have the same duty to protect FHKC’s PHI as such term is defined in the Contract and under HIPAA, and in furtherance of the duties therein.

**3.2 Compliance with the Privacy Rule**

BA agrees to fully comply with the requirements under the Standards for Privacy of Individually Identifiable Health Information (“Privacy Rule”) applicable to "business associates," as that term is defined in the Privacy Rule, and not use or further disclose PHI other than as permitted or required by the Contract, this Agreement, or as required by law.

BA shall create and/or adopt policies and procedures to periodically audit BA’s adherence to all HIPAA regulations. BA acknowledges and promises to perform such audits pursuant to the terms and conditions set out herein. BA shall make such audit policies and procedures available to FHKC for review.

To the extent BA is to carry out one or more of FHKC’s obligations under the Privacy Rule, BA agrees to comply with the requirements of the Privacy Rule that apply to FHKC in the performance of such obligations.  Except as otherwise allowed in this Agreement and under HIPAA, BA shall not directly or indirectly receive remuneration in exchange for any PHI of an Individual unless the Individual has provided a valid authorization compliant with HIPAA and state law.

**3.3 Privacy Safeguards and Policies**

BA agrees to use appropriate safeguards to prevent Use or Disclosure of PHI other than as provided for by the Contract, any Ancillary Agreement(s), this Agreement, or as required by law.

**3.4 Mitigation of Harmful Effect of Violations**

BA agrees to inform FHKC without unreasonable delay and mitigate, to the extent practicable, any harmful effect that is known to BA resulting from Access, acquisition, Use, or Disclosure of PHI by BA, or by a Subcontractor or agent of BA, resulting from a violation of the requirements of this Agreement.

**3.5 Privacy Obligations regarding Breaches and Security Incidents**

**3.5.1  Privacy Breach**

BA will report to FHKC, immediately following discovery and without unreasonable delay, any Access, acquisition, Use, or Disclosure of FHKC’s PHI not permitted by HIPAA, the Contract, this Agreement, or in writing by FHKC. In addition, BA will report, immediately following discovery and without unreasonable delay, but in no event later than five (5) business days following discovery, any Breach of Unsecured Protected Health Information, notwithstanding whether BA has made an internal risk assessment and determined that no notification is required. BA shall cooperate with FHKC in investigating the Breach and in meeting FHKC’s obligations under HIPAA and any other security breach notification laws. In the event of a Breach, BA and FHKC will work together to comply with any required regulatory filings.

Any such report shall include the identification (if known) of each Individual whose Unsecured PHI has been, or is reasonably believed by BA to have been, Accessed, acquired, used, or disclosed during such Breach. BA will make the report to FHKC’s Privacy Officer not more than five (5) business days after BA discovers such non-permitted Access, acquisition, Use, or Disclosure.

Regarding any items not known at the time of the initial report, BA will subsequently report to FHKC as answers are determined. All elements will be reported no later than thirty (30) days after the date of the initial report, or as soon as feasible, whichever is sooner.

BA shall track all Breaches and shall periodically report such Breaches in summary fashion as may be requested by FHKC, but not less than annually within sixty (60) days of each anniversary of this Agreement.

**3.5.2  Access of Individual to PHI and other Requests to Business Associate**

If BA receives PHI from FHKC in a designated record set, BA agrees to provide access to such PHI to FHKC in order for FHKC to meet its requirements under 45 CFR § 164.524. If BA receives a request from an Individual for a copy of the Individual's PHI, and the PHI is in the sole possession of the BA, BA will provide the requested copies to the Individual in compliance with 45 CFR § 164.524 and notify FHKC of such action within five (5) business days of completion of the request. If BA receives a request for PHI in the possession of FHKC or receives a request to exercise other individual rights as set forth in the Privacy Rule, BA shall promptly forward the request to FHKC within two (2) business days. BA shall then assist FHKC as necessary in responding to the request in a timely manner. If a BA provides copies of PHI to the Individual, it may charge a reasonable fee for hard copies as the regulations shall permit.  If requested, BA shall provide electronic copies as required by law.

**3.5.3  Recording of Designated Disclosures of PHI**

BA agrees to maintain and make available information required to provide an accounting of disclosures to FHKC as necessary to satisfy FHKC’s obligations under 45 CFR § 164.528.  BA agrees to provide to FHKC, within fifteen (15) days and in a secure manner, information collected in accordance with this provision, to permit FHKC to respond to a request by an Individual for an accounting of disclosures of PHI in accordance with 45 CFR § 164.528 and applicable state law.

**3.5.4  Requests to Make an Amendment to the PHI**

BA agrees to make any amendments to PHI in a designated record set as agreed to by FHKC pursuant to 45 CFR § 164.526 or take other measures as necessary to satisfy FHKC’s obligations under 45 CFR § 164.526.

**3.5.5  Security and Privacy Compliance Review upon Request**

**HHS Inspection**

BA shall make its internal practices, books, and records relating to the Access, acquisition, Use, and Disclosure of PHI available to the HHS for purposes of determining Covered Entity’s compliance with HIPAA.  Except to the extent prohibited by law, BA agrees to notify FHKC of all requests served upon BA for information or documentation by or on behalf of the HHS. BA shall provide to FHKC a copy of any PHI that BA provides to the HHS concurrently with providing such PHI to the HHS.

**FHKC Inspection**

Upon written request, BA agrees to make available to FHKC during normal business hours BA’s internal practices, books, and records relating to the use and disclosure of PHI or Electronic Protected Health Information (“EPHI”)received from, or created or received on behalf of, FHKC in a time and manner designated by FHKC for the purposes of FHKC determining compliance with the HIPAA Privacy and Security Requirements.

**Section 4: Obligations and Activities of BA (Security Rule)**

**4.1  Compliance with Security Rule**

BA shall ensure compliance with the HIPAA Security Standards for the Protection of EPHI, 45 C.F.R. Part 160 and Part 164, Subparts A and C (the “Security Rule”), with respect to EPHI covered by the Contract and this Agreement.

**4.2  Security Safeguards and Policies**

BA agrees to implement administrative, physical, and technical safeguards that reasonably and appropriately protect the confidentiality, integrity, and availability of the EPHI that it creates, receives, maintains, or transmits on behalf of FHKC as required by the Security Rule. The BA will maintain appropriate documentation of its compliance with the Security Rule. These safeguards include:

* Annual training to relevant employees, contractors, and Subcontractors on preventing improper Access, acquisition, Use, or Disclosure of PHI, updated as appropriate;
* Adopting policies and procedures regarding the safeguarding of PHI, updated and enforced as necessary;
* Implementing appropriate technical and physical safeguards to protect PHI, including access controls, transmission security, workstation security, etc.

**4.3  Security Provisions in Business Associate Contracts**

In accordance with 45 CFR §§ 164.502(e)(1)(ii) and 164.308(b)(2), if applicable, BA shall ensure that any Subcontractors that create, receive, maintain, or transmit PHI on behalf of BA agree in writing to the same restrictions and conditions that apply to BA with respect to such information.

**4.4  Reporting of Security Incidents**

BA shall track all Security Incidents and shall periodically report such Security Incidents in summary fashion as may be requested by FHKC, but not less than annually within sixty (60) days of each anniversary of this Agreement. The BA shall reasonably use its own vulnerability assessment of damage potential and monitoring to define levels of Security Incidents and responses for BA’s operations. However, the BA shall expediently notify FHKC’s Privacy Officer of any Security Incident, including any Breach of Security under section 501.171, Florida Statutes, in a preliminary report within two (2) business days, with a full report of the incident not less than five (5) business days of the time it became aware of the incident. The BA shall likewise notify FHKC in a preliminary report within two (2) business days of any unauthorized Access or acquisition, including but not limited to internal user Access to non-test records reported to BA’s privacy manager, and any Use, Disclosure, modification, or destruction of PHI by an employee or otherwise authorized user of its system of which it becomes aware with a full report of the incident not less than five (5) business days from the time it became aware of the incident.

BA shall identify in writing key contact persons for administration, data processing, marketing, information systems and audit reporting within thirty (30) days of the execution of this Agreement. BA shall notify FHKC of any reduction of in-house staff during the term of this Agreement, in writing, within ten (10) business days.

**4.5  Unsecured Protected Health Information**

For all Unsecured PHI maintained or transmitted by BA or BA’s Subcontractors, BA shall notify each Individual whose Unsecured PHI has been Accessed, acquired, Used, or Disclosed in a manner not permitted under the HIPAA Privacy Rule which compromises the security and privacy of the PHI, except when law enforcement requires a delay pursuant to 45 CFR § 164.412. If BA cannot identify the specific Individuals whose Unsecured PHI may have been Accessed, BA shall notify all persons whose Unsecured PHI reasonably may have been Accessed.

On behalf of FHKC, BA shall notify such Individuals without unreasonable delay, and in no case later than sixty (60) days after discovery of the Breach.  However, where applicable state law, such as section 501.171, Florida Statutes, requires notification to be sent within a shorter time period, BA agrees to comply with such state laws in notifying the affected Individuals.  The notice required under HIPAA shall be made as follows:

* By written notice in plain language including, to the extent possible:
* A brief description of what happened, including the date of the breach and the date of the discovery of the breach, if known;
* A description of the types of Unsecured PHI involved in the breach (including but not limited to items such as whether full name, social security number, date of birth, home address, account number, diagnosis, disability code, or other types of information were involved);
* Any steps Individuals should take to protect themselves from potential harm resulting from the breach;
* A brief description of what BA and FHKC are doing to investigate the breach, to mitigate the harm to Individuals, and to protect against further breaches; and
* Contact procedures for Individuals to ask questions or learn additional information, which shall include a toll-free telephone number, an email address, website or postal address.
* BA must use a method of notification that meets the requirements of 45 CFR 164.404(d).
* BA must provide notice to the media when required under 45 CFR 164.406, and to HHS pursuant to 45 CFR 164.408.

BA agrees to pay all costs of notification and any associated mitigation as a result of a Breach, including the provision of, at a minimum, two years of credit monitoring and identity theft protection for such affected Individuals. FHKC, in its sole discretion, shall determine if the Breach is significant enough to warrant such measures and the length of time such mitigation measures shall be offered to the affected Individuals.

 In the event of the unpermitted Access, acquisition, Use, or Disclosure of Unsecured PHI, BA shall pay for and maintain a prompt mechanism on the existing toll-free telephone line, email link, and fully functioning web page to respond to any Enrollee’s or Applicant’s concerns about security, Breach, unauthorized Access, acquisition, Use, or Disclosure, or any credible allegations or suspicions of the above.

**4.6  Additional Consumer Protections**

For purposes of this paragraph, the terms and definitions set forth in section 501.171, Florida Statutes, govern over any other conflicting definitions specified in this Agreement. BA understands that FHKC or its customers may be a Covered Entity (as may be BA) under the terms of section 501.171, and that in the event of a Breach of Security, the BA shall indemnify and hold FHKC harmless for expenses and/or damages related to the Breach of Security. Such obligation shall include, but is not limited to, the mailed notification to a governmental agency and any individual in Florida whose Personal Information is reasonably believed to have been Accessed as a result of the Breach of Security. In the event that the BA discovers circumstances requiring notification of more than one thousand (1,000) persons at one time, BA shall also notify, without unreasonable delay, all consumer reporting agencies that compile and maintain files on consumers on a nationwide basis, as in the Fair Credit Reporting Act, 15 U.S.C. § 1681a(p), of the timing, distribution and content of the notices. Substitute notice, as specified in section 501.171(4)(f), Florida Statutes, shall not be permitted except as approved in writing in advance by FHKC. The parties agree that PHI includes data elements in addition to those included described as Personal Information under section 501.171 and agree that BA’s responsibilities under this paragraph shall include all PHI or EPHI. BA agrees to pay all costs of any associated mitigation as a result of a Breach of Security, including the provision of, at a minimum, one (1) year of credit monitoring and identity theft protection for such affected individuals. FHKC, in its sole discretion, shall determine if the Breach of Security is significant enough to warrant such measures and the length of time such mitigation measures shall be offered to the affected individuals.

**Section 5: Electronic Transaction and Code Sets**

To the extent that the services performed by BA pursuant to the Agreement involve transactions that are subject to the HIPAA Standards for Electronic Transactions and Code Sets, 45 C.F.R. Parts 160 and 162, with respect to EPHI covered by the Contract and this Agreement, BA shall conduct such transactions in conformance with such regulations as amended from time to time. Without limiting the generality of the foregoing, BA also agrees that it will, in accordance with 45 C.F.R. § 162.923(c), comply with all applicable requirements of 45 C.F.R. Part 162, and require any agent or Subcontractor to comply with all applicable requirements of 45 C.F.R. Part 162.

**Section 6: Permitted Uses and Disclosures by BA – General Use and Disclosure Provisions**

**Use of PHI for Operations on Behalf of FHKC**

Except as otherwise limited by this Agreement, BA may Use or Disclose PHI to perform functions, activities, or services for, or on behalf of, FHKC as specified in the Contract and this Agreement, provided that such Use or Disclosure would not violate HIPAA if done by FHKC or other policies and procedures of FHKC.  BA may Use or Disclose PHI as required by law.

Except as otherwise provided in the Contract or this Agreement, BA is prohibited from further using or disclosing any information received from FHKC, or from any other business associate of FHKC for any commercial purposes of the BA, including, by way of example, “data mining.”

BA shall only request, use and disclose the minimum amount of PHI necessary to accomplish the purposes of the request, use or disclosure.

**Section 7: Permitted Uses and Disclosures by BA – Specific Use and Disclosure Provisions**

**7.1  Proper Management and Administration of BA**

BA may use PHI for the proper management and administration of BA or to carry out the legal responsibilities of BA.

**7.2  Third Party Disclosure Confidentiality**

Except as otherwise limited in the Contract or this Agreement, BA may disclose PHI for the proper management and administration of the BA or to carry out the legal responsibilities of BA, provided that disclosures are required by law or, if permitted by law, this Agreement, the Contract, and any Ancillary Agreements, provided that, if BA discloses any PHI to a third party for such a purpose, BA shall enter into a written agreement with such third party requiring the third party to: (a) maintain the confidentiality, integrity, and availability of PHI and not to use or further disclose such information except as required by law or for the purpose for which it was disclosed, and (b) notify BA of any instances in which it becomes aware in which the confidentiality, integrity, and/or availability of the PHI is breached in a preliminary report within two (2) business days with a full report of the incident not less than five (5) business days  from the time it became aware of the incident.

**7.3  Data Aggregation Services**

Except as otherwise limited in this Agreement, BA may use PHI to provide Data Aggregation Services to FHKC as permitted by 42 CFR § 164.504I(2)(i)(B).

**Section 8: Provisions for FHKC to Inform BA of Privacy Practices and Restrictions**

**8.1  Notice of Privacy Practices**

FHKC shall provide BA with the Notice of Privacy Practices produced by FHKC or provided to FHKC as a result of FHKC’s obligations with other organizations in accordance with 45 CFR § 164.520, as well as any changes to such Notice.

**8.2  Notice of Changes in Individual’s Access or PHI**

FHKC shall provide BA with any changes in, or revocation of, permission by an Individual to use or disclose PHI, if such changes affect BA’s permitted or required uses.

**8.3  Notice of Restriction in Individual’s Access or PHI**

FHKC shall notify BA of any restriction to the use or disclosure of PHI that FHKC has agreed to in accordance with 45 CFR § 164.522, to the extent that such restriction may affect BA's use of PHI.

**Section 9: Term and Termination**

**9.1  Term**

The Term of this Agreement shall be effective concurrent with the Contract, and shall terminate when all of the PHI provided by FHKC to BA, or created or received by BA on behalf of FHKC, is destroyed or returned to FHKC, or, if it is not feasible to return or destroy PHI, protections are extended to such information in accordance with the termination provisions in this section.

**9.2  Termination for Cause**

FHKC has the right to immediately terminate this Agreement in the event BA fails to comply with or violates a material provision of this Agreement or any provision of the Privacy and Security Rules. Notwithstanding the aforementioned, BA shall not be relieved of liability to FHKC for damages sustained by virtue of any breach of this Agreement by BA.

**9.3  Effect of Termination; Return of Protected Health Information**

Upon termination of this Agreement for any reason, except as provided in subsections below, BA shall, at its own expense, either return and/or destroy all PHI and other Individually Identifiable Health Information received from FHKC or created or received by BA on behalf of FHKC. This provision applies to all Individually Identifiable Health Information regardless of form, including but not limited to electronic or paper format. This provision shall also apply to PHI and other Individually Identifiable Health Information in the possession of Subcontractors or agents of BA.

The BA shall consult with FHKC as necessary to assure an appropriate means of return and/or destruction of PHI and Individually Identifiable Health Information and shall notify FHKC in writing when such destruction is complete. If PHI or Individually Identifiable Health Information is to be returned, the parties shall document when all information has been received by FHKC.

The BA shall notify FHKC whether it intends to return and/or destroy the PHI or Individually Identifiable Health Information with such additional detail as requested. In the event BA determines that returning or destroying the PHI or Individually Identifiable Health Information received by or created for FHKC at the end or other termination of this Agreement is not feasible, BA shall provide to FHKC notification of the conditions that make return or destruction not feasible, and BA shall:

* Retain only that PHI or Individually Identifiable Health Information which is necessary for BA to continue its proper management and administration or to carry out its legal responsibilities;
* Return to FHKC (or, if agreed to by FHKC, destroy) the remaining PHI or Individually Identifiable Health Information that the BA still maintains in any form;
* Continue to use appropriate safeguards and comply with the Security Rule with respect to EPHI to prevent Access, acquisition, Use or Disclosure of the PHI, other than as provided for in this section, for as long as BA retains the PHI;
* Not use or disclose the PHI or Individually Identifiable Health Information retained by BA other than for the purposes for which such information was retained and subject to the same conditions set out under “Permitted Uses and Disclosures by BA – Specific Use and Disclosure Provisions” which applied prior to termination; and
* Return to FHKC (or, if agreed to by FHKC, destroy) the PHI or Individually Identifiable Health Information retained by BA when it is no longer needed by BA for its proper management and administration or to carry out its legal responsibilities.

**Section 10: Miscellaneous**

**10.1  Event of Default**

BA's failure to perform the obligations in this Agreement shall be an Event of Default under the Contract, subject to cure upon written notice from FHKC as provided in Section 7.5 of the Contract, and will entitle FHKC to recover any other damages it incurs arising from a failure to perform the obligations in this Agreement, including any actual out-of-pocket expenses incurred by FHKC to investigate and remediate the violation, reimbursement for any assessments against FHKC by AHCA due to Vendor’s failure, and/or to pursue injunctive relief. FHKC’s claim for damages shall be limited by Section 10.17 of the Contract.

**10.2  Severability**

If any of the provisions of this Agreement shall be held by a court of competent jurisdiction to be no longer required by HIPAA, the parties shall exercise their best efforts to determine whether such provisions shall be retained, replaced, or otherwise modified.

**10.3  Cooperation**

The parties agree to cooperate and to comply with procedures mutually agreed upon to facilitate compliance with HIPAA, including procedures designed to mitigate the harmful effects of any improper Access, acquisition, Use, or Disclosure of PHI.

**10.4  Regulatory Reference**

Any reference in this Agreement to a section in the HIPAA regulations means those provisions currently in effect or as may be amended in the future.

**10.5  Modification and Amendment**

This Agreement may be modified only by express written amendment executed by all Parties hereto. The parties agree to take such action to amend this Agreement from time to time as is necessary for FHKC to comply with the requirements of HIPAA and applicable state law.

**10.6  Survival**

The respective rights and obligations of BA under “Term and Termination” of this Agreement shall survive the termination of this Agreement and the Contract.

**10.7  Interpretation**

Any ambiguity in this Agreement or the Contract shall be resolved so as to permit FHKC to comply with HIPAA.

**10.8  No Third Party Rights/Independent Contractors**

The Parties to this Agreement do not intend to create any rights in any third parties.  The Parties agree that they are independent contractors and not agents of each other, except nothing herein affects whether BA is an “agent” for purposes of compliance with 42 CFR § 1001.952(d).

**10.9  State Law**

BA acknowledges and agrees that it has implemented and will maintain appropriate privacy and security measures to protect personal information consistent with state laws and regulations to the extent those state laws and regulations are applicable to the PHI.  The confidentiality obligations hereunder are independent of and do not limit or otherwise affect the Parties’ other confidentiality obligations under this Agreement.

**10.10  Governing Law**

To the extent not preempted by federal law, this Agreement shall be governed and construed in accordance with the state laws governing the Contract, without regard to conflicts of law provisions that would require application of the law of another state.

**10.11  Assignment, Binding Nature, and Benefits**

This Agreement binds and benefits the parties, their respective successors, and their permitted assigns.  BA may not assign or subcontract rights or obligations under this Agreement without the express written consent of FHKC.  FHKC may assign its rights and obligations under this Agreement under this Agreement to any successor or affiliated entity.

**10.12 Counterparts**

This Agreement may be executed in multiple counterparts, which shall constitute a single agreement, and by facsimile or pdf signatures, which shall be treated as originals.

**REMAINDER OF THIS PAGE LEFT INTENTIONALLY BLANK**

**TWO SIGNATURE PAGES FOLLOW**

IN WITNESS WHEREOF, the Parties have caused this BUSINESS ASSOCIATE AGREEMENT, to be executed by their undersigned officials as duly authorized.

FOR

ENTITY:  \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

NAME: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

TITLE:  \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

DATE SIGNED:  \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

STATE OF \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

COUNTY OF \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

The foregoing instrument was acknowledged before me before this day of 20\_\_\_, by , as on behalf of the . He/She is personally known to me or has produced as identification.

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Signature

Notary Public – State of Florida

Print, Type or Stamp Name of Notary Public

My Commission Expires

FOR

**FLORIDA HEALTHY KIDS CORPORATION**:

NAME:  \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

TITLE: Chief Executive Officer

DATE SIGNED: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

STATE OF FLORIDA

COUNTY OF LEON

The foregoing instrument was acknowledged before me before this \_\_\_\_\_\_ day of \_\_\_\_\_\_, 20\_\_\_, by\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, as Chief Executive Officer, on behalf of the Florida Healthy Kids Corporation. He/she is personally known to me or has produced \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ as identification.

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Signature

Notary Public – State of Florida

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Print, Type or Stamp Name of Notary Public

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

My Commission Expires

**NOTIFICATION TO FHKC OF BREACH OF UNSECURED PROTECTED HEALTH INFORMATION**

|  |  |  |
| --- | --- | --- |
| Contract Information | | |
| Contract Number | | Contract Title |
|  | |  |
| Contract Contact Information | | |
| Contact Person for This Incident: |  | |
| Contact Person’s Title: |  | |
| Contact’s Address |  | |
| Contact’s Email: |  | |
| Contact’s Telephone No: |  | |

Business Associate hereby notifies FHKC that there has been a Breach of Unsecured Protected Health Information that Business Associate has used or has had access to under the terms of the Business Associate Agreement, as described in detail below:

|  |  |  |  |  |
| --- | --- | --- | --- | --- |
| Breach Detail | | | | |
| Date of Breach | | Date of Discovery of Breach | | |
|  | |  | | |
| Information about the Breach | | | | |
| Type of Breach:  Lost or stolen laptop, computer, flash drive, disk, etc.  Stolen password or credentials  Unauthorized Access by an employee or contractor  Unauthorized Access by an outsider  Other (describe) | | | | |
| Detailed Description of the Breach | | | | |
|  | | | | |
| Types of Unsecured Protected Health Information involved in the breach (such as Full Name, SSN, Date of Birth, Address, Account Number, Disability Code, etc.) | | | | |
| Personal Information:  Name  Address  Date of birth  Social Security number  Driver’s license or identification card number  Financial insurance information (credit card number, bank account number, etc.)  Health insurance information (insurance carrier, insurance card number, etc.)  Other Personal or Health Information (describe): | | | Health Information:  Basic information (age, sex, height, etc.)  Disease or medical conditions  Medications  Treatments or procedures  Immunizations  Allergies  Information about children  Test results  Hereditary conditions  Mental health information  Information about diet, exercise, weight, etc.)  Correspondence between patient, or medical power of attorney  Organ donor authorization | |
| What steps are being taken to investigate the breach, mitigate losses, and protect against any further breaches? | | | | |
|  | | | | |
| List any law enforcement agencies you’ve contacted about the breach | | | | |
|  | | | | |
| Number of Individuals Impacted | | If over 500, do individuals live in multiple states? | | |
|  | | Yes | | No |
| Breach Notification | | | | |
| Have you made the breach public? | | If YES, when did you make it public | | |
| Yes | No |  | | |
| Have you notified the people whose information was breached?  YES. We notified them on:  Attach a copy of the letter to this form. Don’t include any personally identifiable information, other than your own contact information.  NO. Our investigation isn’t complete. | | | | |
| Comments | | | | |
|  | | | | |

 Submitted By: Date of Submission:

 \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Appendix H Conflict of Interest Disclosure Form

Respondent: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

The following are relationships, business and personal, that may create a conflict of interest that Vendor is hereby disclosing (add rows as necessary):

|  |  |  |  |
| --- | --- | --- | --- |
| **Type of Relationship**  **(Business, Personal)** | **Name of Entity or Individual** | **Status of Entity or Individual (Current Contractor, Board Member, Enrollee, etc.)** | **Term of Relationship** |
|  |  |  |  |
|  |  |  |  |
|  |  |  |  |
|  |  |  |  |
|  |  |  |  |

To the best of my knowledge, no conflicts of interest exist between Vendor and any individual or entity identified in the FHKC Leadership, Staff, and Entity List attached to this form.

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Signature of Individual Authorized to Represent Respondent Date

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Printed Name Title

Appendix I General Contract Conditions

1. Definitions.
2. Purchase Orders.
3. Product Version.
4. Price Changes Applicable only to Term Contracts.
5. Packaging.
6. Inspection at Vendor’s Site.
7. Safety Standards.
8. Americans with Disabilities Act.
9. Literature.
10. Transportation and Delivery.
11. Installation.
12. Risk of Loss.
13. Governmental Restrictions.
14. Lobbying and Integrity.
15. Suspension of Work.
16. Changes.
17. Purchase Order Duration.
18. Advertising.
19. Assignment.
20. Employees, Subcontractors, and Agents.
21. Security and Confidentiality.
22. Warranty of Authority.
23. Warranty of Ability to Perform.
24. Modification of Terms.
25. Cooperative Purchasing.
26. Waiver.
27. Execution in Counterparts.
28. Severability.
29. Contract Overlap.
30. Definitions. The definitions contained in the Contract shall apply to this Appendix I. The following additional terms are also defined:
31. “Product” means any deliverable under the Contract.
32. “Purchase Order” means the form or format FHKC uses to make a purchase under the Contract (e.g., a formal written purchase order, electronic purchase order, procurement card, contract or other authorized means).
33. Purchase Orders. In contracts where commodities or services as those terms are defined under chapter 287, Florida Statutes, are ordered by FHKC via Purchase Order, Vendor shall not deliver or furnish products until a FHKC transmits a Purchase Order. All Purchase Orders shall bear the Contract or solicitation number, shall be placed by FHKC directly with the Vendor, and shall be deemed to incorporate by reference the Contract and solicitation terms and conditions. Any discrepancy between the Contract terms and the terms stated on the Vendor’s order form, confirmation, or acknowledgement shall be resolved in favor of terms most favorable to FHKC.
34. Product Version.Purchase Orders shall be deemed to reference a manufacturer’s most recently released model or version of the product at the time of the order, unless FHKC specifically requests in writing an earlier model or version and Vendor is willing to provide such model or version.
35. Price Changes Applicable only to Term Contracts. If this is a term contract for commodities or services as those terms defined under chapter 287, Florida Statutes, the following provisions apply.
36. Quantity Discounts. Vendors are urged to offer additional discounts for one-time delivery of large single orders. FHKC should seek to negotiate additional price concessions on quantity purchases of any products offered under the Contract.
37. Best Pricing Offer. During the Contract term, if FHKC becomes aware of better pricing offered by Vendor for substantially the same or a smaller quantity of a product outside the Contract, but upon the same or similar terms of the Contract, then at the discretion of FHKC the price under the Contract shall be immediately reduced to the lower price.
38. Sales Promotions. In addition to decreasing prices for the balance of the Contract term due to a change in market conditions, Vendor may conduct sales promotions involving price reductions for a specified lesser period. Vendor shall submit to the Contract manager documentation identifying the proposed (1) starting and ending dates of the promotion, (2) products involved, and (3) promotional prices compared to then-authorized prices. Promotional prices shall be available to FHKC. Upon approval, Vendor shall provide conspicuous notice of the promotion.
39. Trade-In. FHKC may trade-in equipment when making purchases from the Contract. A trade-in shall be negotiated between FHKC and Vendor. FHKC is obligated to actively seek current fair market value when trading equipment, and to keep accurate records of the process.
40. Equitable Adjustment. FHKC may, in its sole discretion, make an equitable adjustment in the Contract terms or pricing if pricing or availability of supply is affected by extreme and unforeseen volatility in the marketplace, that is, by circumstances that satisfy all the following criteria: (1) the volatility is due to causes wholly beyond Vendor’s control, (2) the volatility affects the marketplace or industry, not just the particular Contract source of supply, (3) the effect on pricing or availability of supply is substantial, and (4) the volatility so affects Vendor that continued performance of the Contract would result in a substantial loss.
41. Packaging. Tangible product shall be securely and properly packed for shipment, storage, and stocking in appropriate, clearly labeled, shipping containers and according to accepted commercial practice, without extra charge for packing materials, cases, or other types of containers. All containers and packaging shall become and remain FHKC’s property.
42. Inspection at Vendor’s Site.FHKC reserves the right to inspect, at any reasonable time with prior notice, the equipment or product or plant or other facilities of Vendor to assess conformity with Contract requirements and to determine whether they are adequate and suitable for proper and effective Contract performance.
43. Safety Standards. All manufactured items and fabricated assemblies subject to operation under pressure, operation by connection to an electric source, or operation involving connection to a manufactured, natural, or LP gas source shall be constructed and approved in a manner acceptable to the appropriate State inspector. Acceptability customarily requires, at a minimum, identification marking of the appropriate safety standard organization, where such approvals of listings have been established for the type of device offered and furnished, for example: the American Society of Mechanical Engineers for pressure vessels; the Underwriters Laboratories and/or National Electrical Manufacturers’ Association for electrically operated assemblies; and the American Gas Association for gas-operated assemblies. In addition, all items furnished shall meet all applicable requirements of the Occupational Safety and Health Act and state and federal requirements relating to clean air and water pollution.
44. Americans with Disabilities Act. Vendor should identify any products that may be used or adapted for use by visually, hearing, or other physically impaired individuals.
45. Literature. Upon request, Vendor shall furnish literature reasonably related to the product offered, for example, user manuals, price schedules, catalogs, descriptive brochures, etc.
46. Transportation and Delivery. Prices shall include all charges for packing, handling, freight, distribution, and inside delivery. Transportation of goods shall be FOB Destination to any point within thirty (30) Calendar Days after FHKC places an Order. Vendor, within five (5) Calendar Days after receiving a purchase order, shall notify FHKC of any potential delivery delays. Evidence of inability or intentional delays shall be cause for Contract cancellation and Vendor suspension.
47. Installation. Where installation is required, Vendor shall be responsible for placing and installing the product in the required locations at no additional charge, unless otherwise designated on the Contract or purchase order. Vendor’s authorized product and price list shall clearly and separately identify any additional installation charges. All materials used in the installation shall be of good quality and shall be free of defects that would diminish the appearance of the product or render it structurally or operationally unsound. Installation includes the furnishing of any equipment, rigging, and materials required to install or replace the product in the proper location. Vendor shall protect the site from damage and shall repair damages or injury caused during installation by Vendor or its employees or agents. If any alteration, dismantling, excavation, etc., is required to achieve installation, Vendor shall promptly restore the structure or site to its original condition. Vendor shall perform installation work so as to cause the least inconvenience and interference with FHKC and with proper consideration of others on site. Upon completion of the installation, the location and surrounding area of work shall be left clean and in a neat and unobstructed condition, with everything in satisfactory repair and order.
48. Risk of Loss. Until acceptance, risk of loss or damage shall remain with Vendor. Vendor shall be responsible for filing, processing, and collecting all damage claims. To assist Vendor with damage claims, FHKC shall: record any evidence of visible damage on all copies of the delivering carrier’s Bill of Lading; report damages to the carrier and Vendor; and provide Vendor with a copy of the carrier’s Bill of Lading and damage inspection report. When FHKC rejects a product, Vendor shall remove it from the premises within ten (10) Calendar Days after notification or rejection. Upon rejection notification, the risk of loss of rejected or non-conforming product shall remain with Vendor. Rejected product not removed by Vendor within ten (10) Calendar Days shall be deemed abandoned by the Vendor, and FHKC shall have the right to dispose of it as its own property. Vendor shall reimburse FHKC for costs and expenses incurred in storing or effecting removal or disposition of rejected product.
49. Governmental Restrictions.If the Vendor believes that any governmental restrictions have been imposed that require alteration of the material, quality, workmanship or performance of the products offered under the Contract, the Vendor shall immediately notify FHKC in writing, indicating the specific restriction. FHKC reserves the right and the complete discretion to accept any such alteration or to cancel the Contract at no further expense to FHKC.
50. Lobbying and Integrity. Vendor shall not directly or indirectly (1) offer, confer, or agree to confer any pecuniary benefit on anyone as consideration for any FHKC or State officer or employee’s decision, opinion, recommendation, vote, other exercise of discretion, or violation of a known legal duty, or (2) offer, give, or agree to give to anyone any gratuity for the benefit of, or at the direction or request of, any FHKC or State officer or employee. For purposes of clause (2), “gratuity” means any payment of more than nominal monetary value in the form of cash, travel, entertainment, gifts, meals, lodging, loans, subscriptions, advances, deposits of money, services, employment, or contracts of any kind. Upon request of FHKC or authorized State official, Vendor shall provide any type of information FHKC deems relevant to Vendor’s integrity or responsibility. Such information may include, but is not limited to, Vendor’s business or financial records, documents, or files of any type or form that refer to or relate to the Contract. Vendor agrees to reimburse FHKC and/or the State for the reasonable costs of investigation incurred by FHKC and/or authorized State official for investigations of Vendor’s compliance with the terms of this Contract that results in the suspension or debarment of Vendor. Such costs shall include, but shall not be limited to, salaries of investigators, including overtime; travel and lodging expenses; and expert witness and documentary fees. Vendor shall not be responsible for any costs of investigations that do not result in Vendor’s suspension or debarment.
51. Suspension of Work. FHKC may in its sole discretion suspend any or all activities under the Contract or Purchase Order, at any time, when in the best interests of FHKC to do so. FHKC shall provide Vendor written Notice outlining the particulars of suspension. Examples of the reason for suspension include, but are not limited to, budgetary constraints, declaration of emergency, or other such circumstances. After receiving a suspension Notice, Vendor shall comply with the Notice and shall not accept any Purchase Orders. Within ninety (90) Calendar Days, or any longer period agreed to by Vendor, FHKC shall either (1) issue a Notice authorizing resumption of work, at which time activity shall resume, or (2) terminate the Contract or Purchase Order. Suspension of work shall not entitle Vendor to any additional compensation.
52. Changes. FHKC may unilaterally require, by written order, changes altering, adding to, or deducting from the Contract specifications, provided that such changes are within the general scope of the Contract. FHKC may make an equitable adjustment in the Contract price or delivery date if the change affects the cost or time of performance. Such equitable adjustments require the written consent of Vendor, which shall not be unreasonably withheld. If unusual quantity requirements arise, FHKC may solicit separate bids to satisfy them.
53. **Purchase Order Duration.** Purchase Orders for a one-time delivery of commodities or performance of contractual services, as those terms are defined under chapter 287, Florida Statutes, shall be valid through the performance by Vendor, and all terms and conditions of the Contract shall apply to the single delivery/performance, and shall survive termination or expiration of the Contract.

Vendor is required to accept Purchase Orders specifying delivery schedules exceeding the contracted schedule even when such extended delivery will occur after expiration of the Contract. For example, if the Contract calls for delivery thirty (30) Calendar Days after receipt of order (ARO), and an order specifies delivery will occur both in excess of thirty (30) Calendar Days ARO and after expiration of the Contract, Vendor shall accept the order. However, if Vendor expressly and in writing notifies FHKC within ten (10) Calendar Days of receipt of the Purchase Order that Vendor will not accept the extended delivery terms beyond the expiration of the Contract, then the Purchase Order will either be amended in writing by FHKC within ten (10) Calendar Days of receipt of Vendor’s notice to reflect the Contract delivery schedule, or it shall be considered withdrawn.

Timely Purchase Orders shall be valid through their specified term and performance by Vendor, and all terms and conditions of the Contract shall apply to the recurring delivery/performance as provided herein, and shall survive termination or expiration of the Contract.

1. Advertising. Subject to Chapter 119, Florida Statutes, Vendor shall not publicly disseminate any information concerning the Contract without prior written approval from FHKC, including, but not limited to mentioning the Contract in a press release or other promotional material, identifying FHKC or the State as a reference, or otherwise linking Vendor’s name and either a description of the Contract or the name of the State or FHKC in any material published, either in print or electronically, to any entity that is not a Party to Contract, except potential or actual authorized distributors, dealers, resellers, or service representative.
2. Assignment. Vendor shall not sell, assign or transfer any of its rights, duties or obligations under the Contract, or under any Purchase Order issued pursuant to the Contract, without the prior written consent of FHKC. In the event of any assignment, Vendor remains secondarily liable for performance of the contract, unless FHKC expressly waives such secondary liability. FHKC may assign the Contract with prior written notice to Vendor of its intent to do so.
3. Employees, Subcontractors, and Agents.All Vendor employees, Subcontractors, or agents performing work under the Contract shall be properly trained technicians who meet or exceed any specified training qualifications. Upon request, Vendor shall furnish a copy of technical certification or other proof of qualification. All employees, Subcontractors, or agents performing work under the Contract must comply with all security and administrative requirements of FHKC and shall comply with all controlling laws and regulations relevant to the Services they are providing under the Contract. FHKC may conduct, and Vendor shall cooperate in, a security background check or otherwise assess any employee, Subcontractor, or agent furnished by the Vendor. FHKC may refuse access to, or require replacement of, any personnel for cause, including, but not limited to, technical or training qualifications, quality of work, change in security status, or non-compliance with FHKC’s security or other requirements. Such approval shall not relieve Vendor of its obligation to perform all work in compliance with the Contract. FHKC may reject and bar from any facility for cause any of Vendor’s employees, Subcontractors, or agents.
4. Security and Confidentiality. Vendor shall comply fully with all security procedures of the United States, State of Florida, and FHKC in performance of the Contract. Vendor shall not divulge to third parties any confidential information of FHKC’s that is obtained by Vendor or its agents, distributors, resellers, Subcontractors, officers, or employees in the course of performing Contract work. Such information includes, but is not limited to, security procedures, business operations information, or commercial proprietary information in the possession of FHKC. Vendor shall not be required to keep confidential that information or material that is publicly available through no fault of the Vendor, information or material that Vendor developed independently without relying on FHKC’s confidential information, or information or material that is otherwise obtainable under State law as a public record. To ensure confidentiality, Vendor shall take appropriate steps as to its personnel, agents, and Subcontractors. The warranties of this paragraph shall survive termination or expiration of the Contract.
5. Warranty of Authority. Each person signing the Contract warrants that he or she is duly authorized to do so and to bind the respective Party to the Contract.
6. Warranty of Ability to Perform. Vendor warrants that, to the best of its knowledge, there is no pending or threatened action, proceeding, or investigation, or any other legal or financial condition, that would in any way prohibit, restrain, or diminish Vendor’s ability to satisfy its Contract obligations. Vendor warrants that neither it nor any affiliate is currently on the convicted vendor list maintained pursuant to section 287.133, Florida Statutes, or on any similar list maintained by any other state or the federal government. Vendor shall immediately notify FHKC in writing if its ability to perform is compromised in any manner during the Contract Term.
7. Modification of Terms. The Contract contains all the terms and conditions agreed upon by the Parties, which terms and conditions shall govern all transactions between FHKC and Vendor. The Contract may only be modified or amended as set forth in Section 2.3 of the Contract. No oral agreements or representations shall be valid or binding upon FHKC or Vendor. No alteration or modification of the Contract terms, including substitution of product, shall be valid or binding against FHKC. Vendor may not unilaterally modify the terms of the Contract by affixing additional terms to product upon delivery (e.g., attachment or inclusion of standard preprinted forms, product literature, “shrink wrap” terms accompanying or affixed to a product, whether written or electronic) or by incorporating such terms onto Vendor’s order or fiscal forms or other documents forwarded by the Vendor for payment. FHKC's acceptance of product or processing of documentation on forms furnished by the Vendor for approval or payment shall not constitute acceptance of the proposed modification to terms and conditions.
8. Cooperative Purchasing. Pursuant to their own governing laws, and subject to the agreement of Vendor, other entities may be permitted to make purchases at the terms and conditions contained herein. Non-FHKC purchases are independent of the agreement between FHKC and Vendor, and FHKC shall not be a party to any transaction between the Vendor and any other purchaser.

State agencies wishing to make purchases from this agreement are required to follow the provisions of section 287.042(16)(a), Florida Statutes. This statute requires the Department of Management Services to determine that the requestor's use of the Contract is cost-effective and in the best interest of the State.

This section is applicable to the extent allowable under Florida law.

1. Waiver. The delay or failure by FHKC to exercise or enforce any of its rights under this Contract shall not constitute or be deemed a waiver of FHKC’s right thereafter to enforce those rights, nor shall any single or partial exercise of any such right preclude any other or further exercise thereof or the exercise of any other right.
2. Execution in Counterparts. The Contract may be executed in counterparts, each of which shall be an original and all of which shall constitute one and the same instrument.
3. Severability. If a court deems any provision of the Contract void or unenforceable, that provision shall be enforced only to the extent that it is not in violation of law or is not otherwise unenforceable and all other provisions shall remain in full force and effect.
4. **Contract Overlap.** By entering into the Contract, Vendor authorizes FHKC to eliminate duplication between the Contract and any other agreements in the manner FHKC deems to be in its best interest.