

STATE OF FLORIDA
AGENCY FOR HEALTH CARE ADMINISTRATION
GRANT AGREEMENT

THIS AGREEMENT is entered into between the State of Florida, AGENCY FOR HEALTH CARE ADMINISTRATION, hereinafter referred to as the "Agency", whose address is 2727 Mahan Drive, Tallahassee, Florida 32308, and [COMPANY NAME], hereinafter referred to as the "Recipient", whose address is [Address, City, State, Zip Code], to provide [Service Description].

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SAMPLE

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I. THE RECIPIENT HEREBY AGREES:

A. General Provisions

1. To comply with the criteria and final date, as specified herein, by which such criteria must be met for completion of this Agreement. The Recipient shall not be eligible for reimbursement for work performed prior to the execution date of this Agreement.
2. To provide services according to the terms and conditions set forth in this Agreement, **Attachment I**, Scope of Services, and all other attachments named herein which are attached hereto and incorporated by reference (collectively referred to herein as this "Agreement").
3. To perform as an independent Recipient and not as an agent, representative or employee of the Agency.
4. To recognize that the State of Florida, by virtue of its sovereignty, is not required to pay any taxes on the services or goods purchased under the terms of this Agreement.

B. Florida Department of State

To be registered with the Florida Department of State as an entity authorized to transact business in the State of Florida by the effective date of this Agreement.

C. Prohibition of Gratuities

To certify that no elected official or employee of the State of Florida has or shall benefit financially or materially from this Agreement in violation of the provisions of Chapter 112, F.S. This Agreement may be terminated if it is determined that gratuities of any kind were either offered or received by any of the aforementioned parties.

D. Audits and Records

1. To maintain books, records, and documents (including electronic storage media) pertinent to performance under this Agreement in accordance with generally accepted accounting procedures and practices which sufficiently and properly reflect all revenues and expenditures of funds provided by the Agency under this Agreement.
2. In addition to the requirements of the preceding paragraph, the Recipient shall comply with the applicable provisions contained in Attachment II, Special Audit Requirements, attached hereto and incorporated herein by reference.

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3. To assure that these records shall be subject at all reasonable times to inspection, review, or audit by State personnel and other personnel duly authorized by the Agency, as well as by Federal personnel.
4. To maintain and file with the Agency such progress, fiscal and inventory reports as specified in **Attachment I**, Scope of Services, and other reports as the Agency may require within the period of this Agreement. In addition, access to relevant computer data and applications which generated such reports should be made available upon request.
5. To comply with public record laws as outlined in Section 119.0701, F.S.
6. To provide a financial and compliance audit to the Agency as specified in **Attachment II**, Special Audit Requirements and to ensure that all related party transactions are disclosed to the Agency Agreement Manager.
7. To include these aforementioned audit and record keeping requirements in all approved sub-agreements and assignments.

E. Inspection of Records and Work Performed

1. The Agency and its authorized representatives shall, at all reasonable times, have the right to enter the successful Recipient's premises, or other places where duties under this Agreement are performed. All inspections and evaluations shall be performed in such a manner as not to unduly delay work. Persons duly authorized by the Agency and Federal auditors, pursuant to 45 CFR, Part 74 and/or 45 CFR, Part 92, shall have full access to and the right to examine any of said records and documents.
2. The Recipient shall retain all financial records, medical records, supporting documents, statistical records, and any other documents (including electronic storage media) pertinent to performance under this Agreement for a period of ten (10) years after termination of this Agreement, or if an audit has been initiated and audit findings have not been resolved at the end of ten (10) years, the records shall be retained until resolution of the audit findings.
3. Refusal by the Recipient to allow access to all records, documents, papers, letters, other materials or on-site activities related to this Agreement performance shall constitute a breach of this Agreement.
4. The right of the Agency and its authorized representatives to perform inspections shall continue for as long as the Recipient is required to maintain records.
5. The Recipient shall be responsible for all storage fees associated with all records maintained under this Agreement. The Recipient is also responsible for the destruction of all records that meet the retention schedule noted above.

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6. Failure to retain all records as required may result in cancellation of this Agreement. The Agency shall give the Recipient advance notice of cancellation pursuant to this provision and shall pay the Recipient only those amounts that are earned prior to the date of cancellation in accordance with the terms and conditions of this Agreement. Performance by the Agency of any of its obligations under this Agreement shall be subject to the successful Recipient's compliance with this provision.
7. In accordance with Section 20.055, F.S., the Recipient and its subcontractors shall cooperate with the Office of the Inspector General in any investigation, audit, inspection, review or hearing; and shall grant access to any records, data or other information the Office of the Inspector General deems necessary to carry out its official duties.
8. The rights of access in this Section must not be limited to the required retention period but shall last as long as the records are retained.

F. Accounting

1. To maintain an accounting system and employ accounting procedures and practices that conform to generally accepted accounting principles and standards or other comprehensive basis of accounting principles as acceptable to the Agency. For costs associated with specific agreements under which the Agency must account to the Federal government for actual costs incurred, the costs and charges for that agreement will be determined in accordance with generally accepted accounting principles.
2. To submit annual financial audits (or parent organization's annual financial audits with organizational chart) to the Agency within thirty (30) calendar days of receipt.

G. Public Records Requests

1. To comply with Section 119.0701, F.S., if applicable, and all other applicable parts of the Florida Public Records Act.
2. To keep and maintain public records that ordinarily and necessarily would be required in order to perform services under this Agreement.
3. To provide the public with access to public records on the same terms and conditions that the Agency would provide the records and at a cost that does not exceed the cost provided in Section 119.07, F.S., or as otherwise provided by law.
4. To upon request from the appropriate Agency custodian of public records, provide the 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

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does not exceed the cost in Section 119.07, F.S., or as otherwise provided by law.

5. To 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 this Agreement term and following completion of this Agreement if the Recipient does not transfer the records to the Agency.
6. To not collect an individual's social security number unless the Recipient has stated in writing the purpose for its collection. The Recipient collecting an individual's social security number shall provide a copy of the written statement to the Agency and otherwise comply with applicable portions of Section 119.071(5), F.S.
7. To meet all requirements for retaining public records and transfer, at no cost, to the Agency all public records in possession of the Recipient upon termination of this Agreement and destroy any duplicate public records that are exempt or confidential and exempt from public records disclosure requirements. All records stored electronically must be provided to the Agency in a format that is compatible with the information technology systems of the Agency.
8. If the Recipient does not comply with a public records request, the Agency shall enforce provisions in accordance with this Agreement.
9. **IF THE RECIPIENT HAS QUESTIONS REGARDING THE APPLICATION OF CHAPTER 119, FLORIDA STATUTES, TO THE RECIPIENT'S DUTY TO PROVIDE PUBLIC RECORDS RELATING TO THIS AGREEMENT, CONTACT THE AGENCY CUSTODIAN OF PUBLIC RECORDS FOR THIS AGREEMENT. THE AGENCY CUSTODIAN OF PUBLIC RECORDS FOR THIS AGREEMENT IS THE AGREEMENT MANAGER.**

H. Communications

1. Notwithstanding any term or condition of this Agreement to the contrary, the Recipient bears sole responsibility for ensuring that its performance of this Agreement fully complies with all State and Federal law governing the monitoring, interception, recording, use or disclosure of wire, oral or electronic communications, including but not limited to the Florida Security of Communications Act, Section 934.01, et seq., F.S.; and the Electronic Communications Privacy Act, 18 U.S.C. Section 2510 et seq. (hereafter, collectively, "Communication Privacy Laws").

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2. Prior to intercepting, recording or monitoring any communications which are subject to Communication Privacy Laws, the Recipient must:
 - a. Submit a plan which specifies in detail the manner in which the Recipient will ensure that such actions are in full compliance with Communication Privacy Laws (the "Privacy Compliance Plan"); and
 - b. Obtain written approval, signed and notarized by the Agency Agreement Manager, approving the Privacy Compliance Plan.
3. No modifications to an approved Privacy Compliance Plan may be implemented by the Recipient unless an amended Privacy Compliance Plan is submitted to the Agency, and written approval of the amended Privacy Compliance Plan is signed and notarized by the Agency Agreement Manager. Agency approval of the Recipient's Privacy Compliance Plan in no way constitutes a representation by the Agency that the Privacy Compliance Plan is in full compliance with applicable Communication Privacy Laws, or otherwise shifts or diminishes the Recipient's sole burden to ensure full compliance with applicable Communication Privacy Laws in all aspects of the Recipient's performance of this Agreement. Violation of this term may result in sanctions to include termination of this Agreement and/or liquidated damages.
4. The Recipient agrees that it is the custodian of any and all recordings for purposes of the Public Records Act, Chapter 119, F.S., and is solely responsible for responding to any public records requests for recordings. This responsibility includes gathering, redaction, duplication and provision of the recordings as well as defense of any actions for enforcement brought pursuant to Section 119.11, F.S.

I. Background Screening

1. To ensure that all Recipient employees including managing employees that have direct access to personally identifiable information (PII), protected health information (PHI), or financial information have a County, State, and Federal criminal background screening comparable to a Level 2 background screening as described in Section 435.04, F.S., completed with results prior to employment.
2. Per Section 435.04(1)(a), F.S., Level 2 screening standards include, but need not be limited to, fingerprinting for statewide criminal history records checks through the Department of Law Enforcement, and national criminal history records checks through the Federal Bureau of Investigation, and may include local criminal records checks through local law enforcement agencies. If the Recipient is not authorized under the law to conduct a Level 2 background screening, then completion of a Level 1 background screening as defined in Section 435.03, F.S., is acceptable.

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3. If the Recipient employee or managing employee was employed prior to the execution of this Agreement, the Recipient shall ensure that the County, State, and Federal criminal background screening comparable to a Level 2 background screening is completed with results prior to the employee accessing any PII, PHI, or financial information.
4. Any Recipient employee or managing employee with background results that are unacceptable to the State as described in Section 435.04, F.S., or related to the criminal use of PII as described in Section 817, F.S., or has been subject to criminal penalties for the misuse of PHI under 42 U.S.C. 1320d-5, or has been subject to criminal penalties for the offenses described in Section 812.0195, F.S., Section 815, F.S., Section 815.04, F.S., or Section 815.06, F.S., shall be denied employment or be immediately dismissed from performing services under this Agreement by the Recipient unless an exemption is granted.
5. Direct access is defined as having, or expected to have, duties that involve access to PII, PHI, or financial information by any means including, but not limited to, network shared drives, email, telephone, mail, computer systems, and electronic or printed reports.
6. To ensure that all Recipient employees including managing employees that have direct access to any PII, PHI or financial information have a County, State, and Federal criminal background screening comparable to a Level 2 background screening completed with results every five (5) years.
7. To develop and submit policies and procedures related to this criminal background screening requirement to the Agency for review and approval within thirty (30) calendar days of this Agreement execution. The Recipient's policies and procedures shall include a procedure to grant an exemption from disqualification for disqualifying offenses revealed by the background screening, as described in Section 435.07, F.S.
8. To keep a record of all background screening records to be available for Agency review upon request.
9. Failure to comply with background screening requirements shall subject the Recipient to liquidated damages as described **Attachment I**, Scope of Services.

J. Monitoring

1. To provide reports as specified in **Attachment I**, Scope of Services. These reports will be used for monitoring progress or performance of the contractual services as specified in **Attachment I**, Scope of Services.
2. To permit persons duly authorized by the Agency to inspect any records, papers, documents, facilities, goods and services of the Recipient which are relevant to this Agreement.

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3. To ensure that each of its employees or subcontractors who perform activities related to the services associated with this Agreement will report to the Agency any health care facility that is the subject of these services that may have violated the law. To report concerns pertaining to a health care facility, the Recipient, employee or subcontractor may contact the Agency Complaint Hotline by calling 1-888-419-3456 or by completing the online complaint form found at <https://apps.ahca.myflorida.com/hcfc>.
4. To ensure that each of its employees or subcontractors who performs activities related to the services associated with this Agreement, will report to the Agency areas of concern relative to the operation of any entity covered by this Agreement. To report concerns, the Recipient, employee or subcontractor may contact the Agency Complaint Hotline by calling 1-877-254-1055 or by completing the online complaint form found at https://apps.ahca.myflorida.com/smmc_cirts/.
5. Reports which represent individuals receiving services are at risk for, or have suffered serious harm, impairment, or death shall be reported to the Agency immediately and no later than twenty four (24) clock hours after the observation is made. Reports that reflect noncompliance that does not rise to the level of concern noted above shall be reported to the Agency within ten (10) calendar days of the observation.

K. Indemnification

The Recipient agrees to indemnify, defend, and hold harmless the Agency, as provided in this Clause.

1. Scope. The Duty to Indemnify and the Duty to Defend, as described herein (collectively known as the “Duty to Indemnify and Defend”), extend to any completed, actual, pending or threatened action, suit, claim or proceeding, whether civil, criminal, administrative or investigative (including any action by or in the right of the Recipient), and whether formal or informal, in which the Agency is, was or becomes involved and which in any way arises from, relates to or concerns the Recipient’s acts or omissions related to this Agreement (inclusive of all attachments, etc.) (collectively “Proceeding”).
 - a. Duty to Indemnify. The Recipient agrees to hold harmless and indemnify the Agency to the full extent permitted by law against any and all liability, claims, actions, suits, judgments, damages and costs of whatsoever name and description, including attorneys’ fees, arising from or relating to any Proceeding.
 - b. Duty to Defend. With respect to any Proceeding, the Recipient agrees to fully defend the Agency and shall timely reimburse all of the Agency’s legal fees and costs; provided, however, that the amount of such payment for attorneys’ fees and costs is reasonable pursuant to rule 4–1.5, Rules Regulating The Florida Bar. The

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Agency retains the exclusive right to select, retain and direct its defense through defense counsel funded by the Recipient pursuant to the Duty to Indemnify and Defend the Agency.

2. Expense Advance. The presumptive right to indemnification of damages shall include the right to have the Recipient pay the Agency's expenses in any Proceeding as such expenses are incurred and in advance of the final disposition of such Proceeding.
3. Enforcement Action. In the event that any claim for indemnity, whether an Expense Advance or otherwise, is made hereunder and is not paid in full within sixty (60) calendar days after written notice of such claim is delivered to the Recipient, the Agency may, but need not, at any time thereafter, bring suit against the Recipient to recover the unpaid amount of the claim (hereinafter "Enforcement Action"). In the event the Agency brings an Enforcement Action, the Recipient shall pay all of the Agency's attorneys' fees and expenses incurred in bringing and pursuing the Enforcement Action.
4. Contribution. In any Proceeding in which the Recipient is held to be jointly liable with the Agency for payment of any claim of any kind (whether for damages, attorneys' fees, costs or otherwise), if the Duty to Indemnify provision is for any reason deemed to be inapplicable, the Recipient shall contribute toward satisfaction of the claim whatever portion is or would be payable by the Agency in addition to that portion which is or would be payable by the Recipient, including payment of damages, attorneys' fees and costs, without recourse against the Agency. No provision of this part or of any other section of this Agreement (inclusive of all attachments, etc.), whether read separately or in conjunction with any other provision, shall be construed to: (i) waive the State or the Agency's immunity to suit or limitations on liability; (ii) obligate the State or the Agency to indemnify the Recipient for the Recipient's own negligence or otherwise assume any liability for the Recipient's own negligence; or (iii) create any rights enforceable by third parties, as third party beneficiaries or otherwise, in law or in equity.

L. Insurance

1. To the extent required by law, the Recipient shall be self-insured against, or shall secure and maintain during the life of this Agreement, Worker's Compensation Insurance for all its employees connected with the work of this Agreement and, in case any work is subcontracted, the Recipient shall require the subcontractor similarly to provide Worker's Compensation Insurance for all of the latter's employees unless such employees engaged in work under this Agreement are covered by the Recipient's self-insurance program. Such self-insurance or insurance coverage shall comply with the Florida Worker's Compensation law. In the event hazardous work is being performed by the Recipient under this Agreement and any class of employees performing the hazardous work is not protected under Worker's

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Compensation statutes, the Recipient shall provide, and cause each subcontractor to provide, adequate insurance satisfactory to the Agency, for the protection of its employees not otherwise protected.

2. The Recipient shall secure and maintain Commercial General Liability insurance including bodily injury, property damage, personal and advertising injury and products and completed operations. This insurance will provide coverage for all claims that may arise from the services and/or operations completed under this Agreement, whether such services and/or operations are by the Recipient or anyone directly, or indirectly employed by it. Such insurance shall include a Hold Harmless Agreement in favor of the State of Florida and also include the State of Florida as an Additional Named Insured for the entire length of this Agreement and hold the State of Florida harmless from subrogation. The Recipient shall set the limits of liability necessary to provide reasonable financial protections to the Recipient and the State of Florida under this Agreement.
3. All insurance policies shall be with insurers licensed or eligible to transact business in the State of Florida. The Recipient's current insurance policy(ies) shall contain a provision that the insurance will not be canceled for any reason except after thirty (30) calendar days written notice. The Recipient shall provide thirty (30) calendar days written notice of cancellation to the Agency's Agreement Manager.
4. The Recipient shall submit insurance certificates evidencing such insurance coverage prior to execution of this Agreement.

M. Assignments and Subcontracts

To neither assign the responsibility of this Agreement to another party nor subcontract for any of the work contemplated under this Agreement without prior written approval of the Agency. No such approval by the Agency of any assignment or subcontract shall be deemed in any event or in any manner to provide for the incurrence of any obligation of the Agency in addition to the total dollar amount agreed upon in this Agreement. All such assignments or subcontracts shall be subject to the conditions of this Agreement and to any conditions of approval that the Agency shall deem necessary.

N. Subcontracting

1. To not subcontract, assign, or transfer any work identified under this Agreement, without prior written consent of the Agency.
2. To not subcontract with any provider that would be in conflict of interest to the Recipient during the term of this Agreement in accordance with applicable Federal and/or State laws.
3. Changes to approved subcontracts and/or subcontractors require approval in writing by the Agency's Agreement Manager prior to the effective date of

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any subcontract.

4. The Agency encourages Recipients to partner with subcontractors who can provide best value and the best in class solutions. However, the Recipient is responsible for all work performed under this Agreement. No subcontract that the Recipient enters into with respect to performance under this Agreement shall in any way relieve the Recipient of any responsibility for performance of its duties. The Recipient shall assure that all tasks related to the subcontract are performed in accordance with the terms of this Agreement. If the Agency determines, at any time, that a subcontract is not in compliance with an Agreement requirement, the Recipient shall promptly revise the subcontract to bring it into compliance. In addition, the Recipient may be subject to sanctions and/or liquidated damages pursuant to this Agreement and Section 409.912(6), F.S. (related to sanctions).
5. All payments to subcontractors will be made by the Recipient.
6. To be responsible for monitoring the subcontractor's performance. The results of the monitoring shall be provided to the Agency's Agreement Manager, fourteen (14) business days after the end of each month or as specified by the Agency. If the subcontractor's performance does not meet the Agency's performance standard according to the Agency's monitoring report or the Recipient's monitoring report, an improvement plan must be submitted to the Recipient and the Agency within fourteen (14) business days of the deficient report.
7. The State supports and encourages supplier diversity and the participation of small and minority business enterprises in State contracting, both as Recipients and subcontractors. The Agency supports diversity in its Procurement Program and requests that all subcontracting opportunities afforded by this Agreement enthusiastically embrace diversity. The award of subcontracts should reflect the full diversity of the citizens of the State of Florida. Recipients can contact the Office of Supplier Diversity at (850) 487-0915 or online at <http://osd.dms.state.fl.us/> for information on minority recipients who may be considered for subcontracting opportunities.
8. A minority owned business is defined as any business enterprise owned and operated by the following ethnic groups: African American (Certified Minority Code H or Non-Certified Minority Code N); Hispanic American (Certified Minority Code I or Non-Certified Minority Code O); Asian American (Certified Minority Code J or Non-Certified Minority Code P); Native American (Certified Minority Code K or Non-Certified Minority Code Q); or American Woman (Certified Minority Code M or Non-Certified Minority Code R).

O. Return of Funds

To return to the Agency any overpayments due to unearned funds or funds disallowed pursuant to the terms of this Agreement that were disbursed to the

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Recipient by the Agency. The Recipient shall return any overpayment to the Agency within forty (40) calendar days after either discovery by the Recipient, its independent auditor, or notification by the Agency, of the overpayment.

P. Procurement of Products or Materials with Recycled Content

It is expressly understood and agreed that any products which are required to carry out this Agreement shall be procured in accordance with the provisions of Section 403.7065, F.S.

Q. Civil Rights Requirements/Recipient Assurance

The Recipient assures that it will comply with:

1. Title VI of the Civil Rights Act of 1964, as amended, 42 United States Code (U.S.C.) 2000d et seq., which prohibits discrimination on the basis of race, color, or national origin.
2. Section 504 of the Rehabilitation Act of 1973, as amended, 29 U.S.C. 794, which prohibits discrimination on the basis of handicap.
3. Title IX of the Education Amendments of 1972, as amended, 20 U.S.C. 1681 et seq., which prohibits discrimination on the basis of sex.
4. The Age Discrimination Act of 1975, as amended, 42 U.S.C. 6101 et seq., which prohibits discrimination on the basis of age.
5. Section 654 of the Omnibus Budget Reconciliation Act of 1981, as amended, 42 U.S.C. 9849, which prohibits discrimination on the basis of race, creed, color, national origin, sex, handicap, political affiliation or beliefs.
6. The Americans with Disabilities Act of 1990, Public Law (P.L.) 101-336, which prohibits discrimination on the basis of disability and requires reasonable accommodation for persons with disabilities.
7. Chapter 409, F.S.
8. Rule 62-730.160, F.A.C. pertaining to standards applicable to generators of hazardous waste.
9. All applicable standards, orders or regulations issued pursuant to the Clean Air Act, 42 United States Code (U.S.C.) 7401 et seq.
10. The Medicare-Medicaid Fraud and Abuse Act of 1978.
11. Other Federal omnibus budget reconciliation acts.
12. The Balanced Budget Act of 1997.

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13. All regulations, guidelines, and standards as are now or may be lawfully adopted under the above statutes.

The Recipient agrees that compliance with this assurance constitutes a condition of continued receipt of or benefit from funds provided through this Agreement, and that it is binding upon the Recipient, its successors, transferees, and assignees for the period during which services are provided. The Recipient further assures that all contractors, subcontractors, subgrantees, or others with whom it arranges to provide services or benefits to participants or employees in connection with any of its programs and activities are not discriminating against those participants or employees in violation of the above statutes, regulations, guidelines, and standards.

R. Equal Employment Opportunity (EEO) Compliance

To not discriminate in its employment practices with respect to race, color, religion, age, sex, marital status, political affiliation, national origin, or handicap.

S. Patents, Royalties, Copyrights, Right To Data and Sponsorship Statement

1. The Recipient, without exception, shall indemnify and hold harmless the Agency and its employees from liability of any nature or kind, including cost and expenses for or on account of any copyrighted, patented, or unattended invention, process, or article manufactured or supplied by the Recipient. The Recipient has no liability when such claim is solely and exclusively due to the combination, operation or use of any article supplied hereunder with equipment or data not supplied by the Recipient or is based solely and exclusively upon the Agency's alteration of the article.
2. The Agency will provide prompt written notification of a claim of copyright or patent infringement and shall afford the Recipient full opportunity to defend the action and control the defense. Further, if such a claim is made or is pending, the Recipient may, at its option and expense procure for the Agency the right to continue the use of, replace or modify the article to render it non-infringing (if none of the alternatives is reasonably available, the Agency agrees to return the article on request to the Recipient and receive reimbursement, if any, as may be determined by a court of competent jurisdiction).
3. If the Recipient brings to the performance of this Agreement a pre-existing patent, patent-pending and/or copyright, the Recipient shall retain all rights and entitlements to that pre-existing patent, patent-pending and/or copyright, unless this Agreement provides otherwise.
4. If the Recipient uses any design, device, or materials covered by letter, patent, or copyright, it is mutually agreed and understood without exception that the proposed prices shall include all royalties or cost arising from the use of such design, device, or materials in any way involved in the work.

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Prior to the initiation of services under this Agreement, the Recipient shall disclose, in writing, all intellectual properties relevant to the performance of this Agreement which the Recipient knows, or should know, could give rise to a patent or copyright. The Recipient shall retain all rights and entitlements to any pre-existing intellectual property which is so disclosed. Failure to disclose will indicate that no such property exists. The Agency will then have the right to all patents and copyrights which arise as a result of performance under this Agreement as provided in this section.

5. If any discovery or invention arises or is developed in the course of, or as a result of, work or services performed under this Agreement, or in any way connected herewith, the Recipient shall refer the discovery or invention to the Agency for a determination whether patent protection will be sought in the name of the State of Florida. Any and all patent rights accruing under or in connection with the performance of this Agreement are hereby reserved to the State of Florida. All materials to which the Agency is to have patent rights or copyrights shall be marked and dated by the Recipient in such a manner as to preserve and protect the legal rights of the Agency.
6. Recipients must seek prior approval from the Agency before distributing any form of advertisement/sponsorship materials regarding this Agreement to the public. The Recipient shall submit for review and approval to the Agency any written materials, including web-based materials and web site content, through funds from this Agreement at least thirty (30) calendar days, prior to the targeted dissemination date.
7. Where activities supported by this Agreement produce original writing, sound recordings, pictorial reproductions, drawings or other graphic representation and works of any similar nature, the Agency has the right to use, duplicate and disclose such materials in whole or in part, in any manner, for any purpose whatsoever and to have others acting on behalf of the Agency to do so. If the materials so developed are subject to copyright, trademark, or patent, legal title and every right, interest, claim, or demand of any kind in and to any patent, trademark or copyright, or application for the same, shall vest in the State of Florida, Department of State for the exclusive use and benefit of the State. Pursuant to Section 286.021, F.S., no person, firm, corporation, including parties to this Agreement shall be entitled to use the copyright, patent, or trademark without the prior written consent of the Florida Department of State.
8. The Agency will have unlimited rights to use, disclose, or duplicate, for any purpose whatsoever, all information and data developed, derived, documented, or furnished by the Recipient.
9. Pursuant to Section 286.25, F.S., all non-governmental Recipients must assure that all notices, information pamphlets, press releases, advertisements, descriptions of the sponsorship of the program, research reports, and similar public notices prepared and released by the Recipient shall include the statement: **“Sponsored by [COMPANY NAME] and the**

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State of Florida, Agency for Health Care Administration.” If the sponsorship reference is in written material, the words, “State of Florida, Agency for Health Care Administration” shall appear in the same size letters or type as the name of the organization.

10. All rights and title to works for hire under this Agreement, whether patentable or copyrightable or not, shall belong to the Agency and shall be subject to the terms and conditions of this Agreement.
11. The computer programs, materials and other information furnished by the Agency to the Recipient hereunder shall be and remain the sole and exclusive property of the Agency, free from any claim or right of retention by or on behalf of the Recipient. The services and products listed in this Agreement shall become the property of the Agency upon the successful applicant’s performance and delivery thereof. The Recipient hereby acknowledges that said computer programs, materials and other information provided by the Agency to the Recipient hereunder, together with the products delivered and services performed by the Recipient hereunder, shall be and remain confidential and proprietary in nature to the extent provided by Chapter 119, F.S., and that the Recipient shall not disclose, publish or use same for any purpose other than the purposes provided in this Agreement; however, upon the Recipient first demonstrating to the Agency’s satisfaction that such information, in part or in whole, (1) was already known to the Recipient prior to its receipt from the Agency; (2) became known to the Recipient from a source other than the Agency; or (3) has been disclosed by the Agency to third parties without restriction, the Recipient shall be free to use and disclose same without restriction. Upon completion of the Recipient’s performance or otherwise cancellation or termination of this Agreement, the Recipient shall surrender and deliver to the Agency, freely and voluntarily, all of the above-described information remaining in the Recipient’s possession.
12. The Recipient warrants that all materials produced hereunder will be of original development by the Recipient and will be specifically developed for the fulfillment of this Agreement and will not knowingly infringe upon or violate any patent, copyright, trade secret or other property right of any third party, and the Recipient shall indemnify and hold the Agency harmless from and against any loss, cost, liability or expense arising out of any breach or claimed breach of this warranty.
13. The terms and conditions specified in this section shall also apply to any sub-agreement made under this Agreement. The Recipient shall be responsible for informing the subrecipient of the provisions of this section and obtaining disclosures.

T. Final Invoice

The Recipient must submit the final invoice for payment to the Agency no more than sixty (60) calendar days after this Agreement ends or is terminated. If the

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Recipient fails to do so, all right to payment is forfeited and the Agency will not honor any requests submitted after the aforesaid time period. Any payment due under the terms of this Agreement may be withheld until all reports due from the Recipient and necessary adjustments thereto have been approved by the Agency.

U. Use of Funds for Lobbying Prohibited

To comply with the provisions of Section 216.347, F.S., which prohibits the expenditure of Agreement funds for the purpose of lobbying the Legislature, the judicial branch or a State agency.

V. Health Insurance Portability and Accountability Act

1. To comply with the Department of Health and Human Services Privacy Regulations in the CFR, Title 45, Sections 160 and 164, regarding disclosure of protected health information as specified in **Attachment III**, Business Associate Agreement.
2. The Recipient must ensure it meets all Federal regulations regarding required standard electronic transactions and standards for privacy and individually identifiable health information as identified in the Health Insurance Portability and Accountability Act (HIPAA) of 1996 and the Health Information Technology for Economic and Clinical Health Act (HITECH) of 2009 and associated regulations.
3. The Recipient shall conduct all activities in compliance with 45 CFR 164 Subpart C to ensure data security, including, but not limited to encryption of all information that is confidential under Florida or Federal law, while in transmission and while resident on portable electronic media storage devices. Encryption is required and shall be consistent with Federal Information Processing Standards (FIPS), and/or the National Institute of Standards and Technology (NIST) publications regarding cryptographic standards.

W. Confidentiality of Information

1. The Recipient shall not use or disclose any confidential information, including social security numbers that may be supplied under this Agreement pursuant to law, and also including the identity or identifying information concerning a Medicaid recipient or services under this Agreement for any purpose not in conformity with State and Federal laws, except upon written consent of the recipient, or his/her guardian.
2. All personally identifiable information, including Medicaid information, obtained by the Recipient shall be treated as privileged and confidential information and shall be used only as authorized for purposes directly related to the administration of this Agreement. The Recipient must have a process that specifies that patient-specific information remains

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confidential, is used solely for the purposes of data analysis or other Recipient responsibilities under this Agreement, and is exchanged only for the purpose of conducting a review or other duties outlined in this Agreement.

3. Any patient-specific information received by the Recipient can be shared only with those agencies that have legal authority to receive such information and cannot be otherwise transmitted for any purpose other than those for which the Recipient is retained by the Agency. The Recipient must have in place written confidentiality policies and procedures to ensure confidentiality and to comply with all Federal and State laws (including the HIPAA and HITECH Acts) governing confidentiality, including electronic treatment records, facsimile mail, and electronic mail).
4. The Recipient's subcontracts must explicitly state expectations about the confidentiality of information, and the subcontractor is held to the same confidentiality requirements as the Recipient. If provider-specific data are released to the public, the Recipient shall have policies and procedures for exercising due care in compiling and releasing such data that address statutory protections of quality assurance and confidentiality while assuring that open records requirements of Chapter 119, F.S., are met.
5. The Recipient and its subcontractors shall comply with the requirements of Section 501.171, F.S. and shall, in addition to the reporting requirements therein, report to the Agency any breach of personal information.
6. Any releases of information to the media, the public, or other entities require prior approval from the Agency.

X. Employment

The Recipient shall comply with Section 274A of the Immigration and Nationality Act. The Agency will consider the employment by any contractor of unauthorized aliens a violation of this Act. If the Recipient knowingly employs unauthorized aliens, such violation shall be cause for unilateral cancellation of this Agreement. The Recipient shall be responsible for including this provision in all subcontracts with private organizations issued as a result of this Agreement.

Y. Work Authorization Program

The Immigration Reform and Control Act of 1986 prohibits employers from knowingly hiring illegal workers. The Recipient shall only employ individuals who may legally work in the United States (U.S.) – either U.S. citizens or foreign citizens who are authorized to work in the U.S. The Recipient shall use the U.S. Department of Homeland Security's E-Verify Employment Eligibility Verification system, <https://e-verify.uscis.gov/emp>, to verify the employment eligibility of all new employees hired by the Recipient during the term of this Agreement and shall

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also include a requirement in its subcontracts that the subcontractor utilize the E-Verify system to verify the employment eligibility of all new employees hired by the subcontractor performing work or providing services pursuant to this Agreement.

Z. Equipment and Vehicles

1. Reimbursement for the purchase of any vehicles and/or equipment is subject to specific approval from the Agency. The Agency is not responsible for reimbursement of any equipment and/or vehicle purchases made without prior approval of the Agency under the terms and conditions of this Agreement and **Attachment I**, Scope of Service, **Exhibit II**, Budget.
2. The Recipient affirms its commitment to using any equipment and/or vehicle purchased through this Agreement solely for the purposes of this Agreement and in accordance with **Attachment I**, Scope of Services, throughout the duration of this Agreement.
3. The Recipient is responsible for implementation of adequate maintenance procedures to keep the vehicle and/or equipment in good operating condition. Unless otherwise specified, standard maintenance schedules and procedures provided by the manufacturer(s) are to be followed.
4. The Recipient is responsible for any loss, damage, or theft of, and any loss, damage, or injury caused by the use of the vehicle and/or equipment purchased through this Agreement and held in the Recipient's possession for use in this Agreement with the Agency.

AA. Reporting of Violations

Any determination by the Recipient that any aspect of health care practice by any provider that might have short-term or long-term detrimental consequences to the health of the recipients shall be reported in writing to the Agency within twenty-four (24) hours of identification. The Recipient shall also immediately report:

1. All instances of suspected physical or mental abuse of either adults or children, to the Agency Agreement Manager and to the Department of Children and Families (DCF) hotline at 1-800-962-2873; and
2. All instances of suspected provider and/or recipient fraud to the Agency Agreement Manager and, if applicable, the Medicaid Program Integrity Unit at https://apps.ahca.myflorida.com/InspectorGeneral/fraud_complaintform.aspx or 1-866-966-7226.

BB. Order of Precedence

In the event of conflicts among documents that are part of this Agreement, resolution shall be made as follows:

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1. Federally Funded Agreements

Services provided and federally funded under this Agreement shall be provided in accordance with the terms of this Agreement and the Recipient's Centers for Medicare and Medicaid Services (CMS) approved application. The order of precedence shall be as follows: (a) this Agreement, including all attachments and any subsequent amendments; and (b) the Recipient's CMS approved application.

2. State Funded Projects

Services provided and State funded under this Agreement shall be provided in accordance with the terms of this Agreement; its associated Request for Application (RFA), including all addenda and the Recipient's response including information provided through negotiations. In the event of any conflict between any provision of this Agreement or its associated RFA, including all addenda, the order of precedence shall be as follows: (a) this Agreement, including all its attachments and any subsequent amendments; (b) the associated RFA, including all addenda; and (c) the Recipient's response to the RFA including information provided through negotiations.

CC. Performance of Services

The Recipient shall ensure all services provided under this Agreement will be performed within the borders of the United States and its territories and protectorates. State-owned Data will be processed and stored in data centers that are located only in the forty eight (48) contiguous United States.

DD. Venue

1. In the event of any legal challenges to this Agreement, the Recipient agrees and will consent that hearings and depositions for any administrative or other litigation related to this Agreement shall be held in Leon County, Florida. The Agency, in its sole discretion, may waive this venue for depositions.
2. The Recipient (and its successors, including but not limited to its parent(s), affiliates, subsidiaries, subcontractors, assigns, heirs, administrators, representatives and trustees) acknowledges that this Agreement (including but not limited to exhibits, attachments, or amendments) is not a rule nor subject to rulemaking under Chapter 120 (or its successor) of the F.S. and is not subject to challenge as a rule or non-rule policy under any provision of Chapter 120, F.S.
3. This Agreement shall be delivered in the State of Florida and shall be construed in accordance with the laws of Florida. Wherever possible, each provision of this Agreement shall be interpreted in such a manner as to be

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effective and valid under applicable law, but if any provision shall be found ineffective, then to the extent of such prohibition or invalidity, that provision shall be severed without invalidating the remainder of such provision or the remaining provisions of this Agreement.

4. The exclusive venue and jurisdiction for any action in law or in equity to adjudicate rights or obligations arising pursuant to or out of this Agreement for which there is no administrative remedy shall be the Second Judicial Circuit Court in and for Leon County, Florida, or, on appeal, the First District Court of Appeal (and, if applicable, the Florida Supreme Court). Any administrative hearings hereon or in connection herewith shall be held in Leon County, Florida.

EE. Federal/State Laws and Regulations

1. If this Agreement contains Federal Funds, the Recipient shall comply with the provisions of Federal law and regulations including, but not limited to Chapter 2 of the Code of Federal Regulations (CFR) and any other final or interim rules, and other applicable regulations.
2. No Federal Funds received in connection with this Agreement may be used by the Recipient, or agent acting for the Recipient, or subrecipient to influence legislation or appropriations pending before the Congress or any State legislature. If this Agreement contains Federal funding in excess of **\$100,000.00**, the Recipient must, prior to Agreement execution, complete **Attachment V**, Certification Regarding Lobbying. If a Disclosure of Lobbying Activities Form, Standard form is required, it may be obtained from the Agency's Agreement Manager. All disclosure forms as required by the Certification Regarding Lobbying form must be completed and returned to the Agency's Agreement Manager, prior to payment under this Agreement.
3. Pursuant to 2 CFR, Part 376, the Recipient must, upon Agreement execution, complete **Attachment IV**, Certification Regarding Debarment, Suspension, Ineligibility, and Voluntary Exclusion Agreements/Subcontracts.
4. If this Agreement contains State assistance, the Recipient shall comply with the provisions set forth in Section 215.971, F.S., to provide quantifiable units of deliverables, including reports, findings, and drafts, in writing and/or in an electronic format agreeable to both Parties, as specified in **Attachment I**, Scope of Services, to be received and accepted by the Agreement Manager prior to payment.
5. The Recipient shall comply with the provisions of Sections 11.062 and 216.347, F.S., which prohibit the expenditure of agreement funds for the purpose of lobbying the Legislature, judicial branch, or a State agency.
6. The Recipient shall submit bills for any travel expenses in accordance with

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Section 112.061, F.S. The Agency may establish rates lower than the maximum provided in Section 112.061, F.S.

7. The Recipient shall comply with all applicable Federal and State laws and regulations.

II. THE AGENCY HEREBY AGREES:

A. Agreement Amount

To pay for agreement services according to the conditions of **Attachment I**, Scope of Services, in an amount not to exceed \$, subject to the availability of funds. The State of Florida's performance and obligation to pay under this Agreement is contingent upon an annual appropriation by the Legislature.

B. Agreement Term

This Agreement shall begin upon execution by both Parties or [Intended Start Date], (whichever is later) and end on [Intended End Date], inclusive.

This Agreement may be renewed for a period that may not exceed three (3) years or the term of the original Agreement, whichever period is longer. Renewal of the Agreement shall be in writing and subject to the same terms and conditions set forth in the initial agreement. A renewal Agreement may not include any compensation for costs associated with the renewal. Renewals are contingent upon satisfactory performance evaluations by the Agency, are subject to the availability of funds, and optional to the Agency.

For Agreements approved through State Legislature and appropriated from the State's General Revenue funds, the availability for Agreement renewal is contingent upon the determination of the Legislature to appropriate and approve these funds for the next fiscal year. The Agency oversees the award, administration and distribution of current funds and is not responsible for determining the amount or availability of future funds.

If funds are appropriated to the Agency for Agreement renewal, the Agency's decision whether to approve or deny renewal will be based upon performance evaluation of the program(s) of the Recipient.

C. Agreement Payment

Section 215.422, F.S., provides that agencies have five (5) business days to inspect and approve goods and services, unless bid specifications, Agreement or Purchase Order specifies otherwise. With the exception of payments to health care providers for hospital, medical, or other health care services, if payment is not available within forty (40) calendar days, measured from the latter of the date the invoice is received or the goods or services are received, inspected and approved, a separate interest penalty set by the Comptroller pursuant to Section 55.03, F.S., will be due and payable in addition to the invoice amount. To obtain the applicable

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interest rate, please contact the Agency's Fiscal Section at (850) 412-3901, or utilize the Department of Financial Services website at www.myfloridacfo.com/aadir/interest.htm. Payments to health care providers for hospital, medical or other health care services, shall be made not more than thirty-five (35) calendar days from the date eligibility for payment is determined, and the daily interest rate is .0003333%. Invoices returned to a Recipient due to preparation errors will result in a payment delay. Invoice payment requirements do not start until a properly completed invoice is provided to the Agency. A Vendor Ombudsman, whose duties include acting as an advocate for Recipients who may be experiencing problems in obtaining timely payment(s) from a State agency, may be contacted at (850) 413-5516 or by calling the State Comptroller's Hotline, 1-800-848-3792.

III. THE RECIPIENT AND AGENCY HEREBY MUTUALLY AGREE:

A. Termination

1. Termination at Will

This Agreement may be terminated by the Agency upon no less than thirty (30) calendar days written notice, without cause, unless a lesser time is mutually agreed upon by both Parties. Said notice shall be delivered by certified mail, return receipt requested, or in person with proof of delivery.

2. Termination Due To Lack of Funds

In the event funds to finance this Agreement become unavailable, the Agency may terminate this Agreement upon no less than twenty four (24) clock hours' written notice to the Recipient. Said notice shall be delivered by certified mail, return receipt requested, or in person with proof of delivery. The Agency will be the final authority as to the availability of funds. The Recipient shall be compensated for all acceptable work performed up to the time notice of termination is received.

3. Termination for Breach

- a.** Unless the Recipient's breach is waived by the Agency in writing, the Agency may, by written notice to the Recipient, terminate this Agreement upon no less than twenty four (24) clock hours' written notice. Said notice shall be delivered by certified mail, return receipt requested, or in person with proof of delivery. If applicable, the Agency may employ the default provisions in Rule 60A-1.006(3), F.A.C.
- b.** Waiver of breach of any provisions of this Agreement shall not be deemed to be a waiver of any other breach and shall not be construed to be a modification of the terms of this Agreement. The provisions herein do not limit the Agency's right to remedies at law or to damages.

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B. Agreement Managers

1. The Agency's Agreement Manager's contact information is as follows:

Name
Agency for Health Care Administration
2727 Mahan Drive MS ###
Tallahassee, Florida 32308
(850) 412-XXXX
Email Address

2. The Recipient's Agreement Manager's contact information is as follows:

Name
Company Name
Street Address
City, State Zip Code
Telephone Number
Email Address

3. All matters shall be directed to the Agreement Managers for appropriate action or disposition. A change in Agreement Manager by either Party shall be reduced to writing through an amendment to this Agreement by the Agency.

C. Renegotiation or Modification

1. Modifications of provisions of this Agreement shall only be valid when they have been reduced to writing and duly signed during the term of this Agreement. The Parties agree to renegotiate this Agreement if Federal and/or State revisions of any applicable laws, or regulations make changes in this Agreement necessary.
2. The rate of payment and the total dollar amount may be adjusted retroactively to reflect price level increases and changes in the rate of payment when these have been established through the appropriations process and subsequently identified in the Agency's operating budget.
3. The Recipient represents and warrants that the prices and terms for its services under this Agreement are no less favorable to the Agency than those for similar services under any existing contract with any other party. The Recipient further agrees that, within ninety (90) calendar days of the Recipient entering into a contract or contract amendment or offering to any other party services similar to those under this Agreement under prices or terms more favorable than those provided in this Agreement, the Recipient will report such prices and terms to the Agency, which prices or terms shall be effective as an amendment to this Agreement upon the Agency's written acceptance thereof. Should the Agency discover such other prices or

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terms, the same shall be effective as an amendment to this Agreement retroactively to the earlier of the effective date of this Agreement (for other contracts in effect as of that date) or the date they were first contracted or offered to the other party (for subsequent contracts, amendments or offers) and any payment in excess of such pricing shall be deemed overpayments. The Recipient shall submit an affidavit no later than July 31st of each year during the term of this Agreement attesting that the Recipient is in compliance with this provision, as required by Section 216.0113, F.S.

D. All Terms and Conditions

This Agreement and its attachments as referenced herein contain all the terms and conditions agreed upon by the Parties.

This Agreement 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. Each Party has the right to consult with counsel and has either consulted with counsel or knowingly and freely entered into this Agreement without exercising its right to counsel.

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SAMPLE

**STATE OF FLORIDA
AGENCY FOR HEALTH CARE ADMINISTRATION
GRANT AGREEMENT**

IN WITNESS THEREOF, the Parties hereto have caused this **#### (##)** page Agreement, which includes any referenced attachments, to be executed by their undersigned officials as duly authorized. This Agreement is not valid until signed and dated by both Parties.

[COMPANY NAME]

**STATE OF FLORIDA, AGENCY FOR
HEALTH CARE ADMINISTRATION**

**SIGNED
BY:** _____

**SIGNED
BY:** _____

NAME: _____

NAME: _____

TITLE: _____

TITLE: _____

DATE: _____

DATE: _____

FEDERAL ID NUMBER (or SS Number for an individual):

RECIPIENT FISCAL YEAR ENDING DATE: {---Fiscal Year Ending Date---}

List of Attachments included as part of this Agreement:

Specify Type	Number	Description
Attachment	I	Scope of Services (## Pages)
Attachment	II	Special Audit Requirements (8 Pages)
Attachment	III	Business Associate Agreement (4 Pages)
Attachment	IV	Certification regarding Debarment, Suspension, Ineligibility, and Voluntary exclusion Agreements/Subcontracts (1 Page)
Attachment	V	Certification Regarding Lobbying Certification for Contracts, Grants, Loans and Cooperative Agreements (1 Page)
Attachment	VI	Agency Approved Modifications and Additions to the Agency Grant Funded Agreement (1 Page)
Attachment	VII	IRS Form 990 and Executive Compensation Reporting Requirements (1 Page)

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**ATTACHMENT I
SCOPE OF SERVICES**

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**ATTACHMENT I
SCOPE OF SERVICES**

A. Service(s) to be Provided

1. Background

(initiative history, statistics, including statutory authority, if applicable)

2. Overview/Purpose

(brief summary of services to be provided and intended outcomes)

B. Manner of Service(s) Provision

1. Services Provided by the Agency

(Services the Agency will provide)

2. Services Provided by the Recipient

(Define what tasks the Recipient shall perform)

3. Deliverables

Deliverables are included as **Exhibit 1**, Deliverable Schedule, to this Attachment.

4. Reporting

(define frequency, format, and content)

5. Monitoring

(Define criteria for evaluating the successful completion of each deliverable and how the Agency will monitor to ensure other agreement requirements are met; Monthly Status Report Questionnaire available upon request)

C. Method of Payment

1. Cost Reimbursement

This is a cost reimbursement Agreement. The Agency shall pay the Recipient, in arrears, upon the completion and acceptance of deliverables in accordance with the deliverable schedule specified in **Exhibit 1**, Deliverable Schedule.

2. Invoicing

The Agency will reimburse for allowable expenditures incurred pursuant to the terms of this Agreement for a total dollar amount not to exceed the awarded amount subject to the availability of funds.

Payment will be made upon the receipt, review, and approval of deliverables and properly completed invoices. Invoices shall be received within **fifteen (15)** calendar days following the end of the month for which reimbursement is being requested. Invoices must be supported with appropriate documentation and reports.

The Recipient shall submit invoices and all supporting documents on the Recipient's letterhead to the Agency's designated Agreement Manager no later than the **fifteenth (15th)** calendar day of the month following the reporting month. The invoice shall include at a minimum:

**ATTACHMENT I
SCOPE OF SERVICES**

- a. Documentation detailing deliverables completed and/or services rendered covered by the invoice;
- b. The time period in which deliverables were completed and/or services were rendered;
- c. The Recipient's unique identifying invoice number;
- d. Invoice date;
- e. The Recipient's payment remittance address;
- f. The Agency's Grant Agreement number (GFA###);
- g. The Recipient's Federal employer Identification (FEID) Number;
- h. Copies of all receipts and invoices from suppliers showing proof of purchase. Items related to this project must be clearly noted and identifiable on the receipt or invoice;
- i. A detailed listing of the items the Recipient is seeking reimbursement for, in accordance with **Exhibit 2**, Budget, and using the Reimbursement Request included as **Exhibit 3** and provided by the Agency's Grant Manager;
- j. As applicable, **Exhibit 4**, State Travel & Travel Reimbursement Form, shall be included; and
- k. Other supporting documentation as requested by the Agency.
- l. Payments will be authorized only for services that are in accordance with the terms and conditions of this Agreement.
- m. Invoices shall not be approved for payment by the Agency until reports and deliverables from the Recipient are received as specified in this Agreement.

3. Late Invoicing

Unless written approval is obtained from the Agency, and at the discretion of the Agency, correct invoices with documentation received forty six (46) to sixty (60) calendar days after the Agency's acceptance of the deliverable(s) will be paid at ninety percent (90%) of the amount of the invoice. Correct invoices with documentation received sixty one (61) to ninety (90) calendar days after the Agency's acceptance of the deliverable(s) will be paid at seventy five percent (75%) of the invoice. Invoices received ninety one (91) calendar days or more after the Agency's acceptance of the deliverable(s) will **not** be paid.

If the Recipient is unable to meet the invoice submission deadlines specified in this Agreement, the Recipient shall notify the Agency in writing prior to the deadline explaining the circumstances and requesting an extension to the deadline.

**ATTACHMENT I
SCOPE OF SERVICES**

D. Performance Standards and Liquidated Damages

1. The Recipient shall comply with all requirements and performance standards set forth in this Agreement.
2. The Agency's Agreement Manager will monitor the Recipient's performance in accordance with the monitoring requirements of the Agreement and may determine the level of sanction based upon an evaluation of the severity of the deficiency. Failure by the Recipient to meet the established minimum performance standards may result in the Agency, in its sole discretion, finding the Recipient to be out of compliance, and all remedies provided in this Agreement and under law, shall become available to the Agency.
3. If it is determined that the Recipient used grant funds to render services to patients that are not uninsured or underinsured or who's insurer does not cover these services, the Agency reserves the right to recoup funds from the Recipient.
4. If the Agency finds the Recipient is in violation of the provisions of this Agreement, the Agency, at its discretion, may impose liquidated damages. Liquidated damages may be applied to all required components of this Agreement.
5. The Agency may impose liquidated damages as identified in this Agreement when the Recipient has failed to meet a deadline or provide a deliverable as specified in this Agreement.
6. The Agency may impose up to a one percent (1%) reduction of the total, monthly invoice amount for each incident in which the Recipient has failed to perform as specified in this Agreement, not to exceed five percent (5%) per month.
7. The Agency may impose upon the Recipient liquidated damages of **\$500.00** to **\$5,000.00**, per incident, per occurrence, depending upon the severity, if the Recipient inappropriately releases protected health information (PHI). The Agency will impose upon the Recipient liquidated damages of **\$500.00** to **\$5,000.00**, per incident, per occurrence, depending upon the severity, if the Recipient violates provisions of the Health Insurance Portability and Accountability (HIPAA)/Health Information Technology for Economic and Clinical Health (HITECH) Act. In addition, Federal penalties may apply in accordance with the HIPAA Act of 1996.
8. The Agency, at its discretion, reserves the right to impose liquidated damages upon the Recipient for failure to comply with the performance standards requirements set forth in **Table 1**, Performance Standards and Liquidated Damages, below.

**ATTACHMENT I
SCOPE OF SERVICES**

TABLE 1 PERFORMANCE STANDARDS AND LIQUIDATED DAMAGES	
Performance Standard Requirement	Liquidated Damages to be Imposed
Records	
The Recipient shall comply with public records laws, in accordance with Section 119.0701, F.S.	\$5,000.00 for each incident in which the Recipient does not comply with a public records request.
Background Screening	
Failure to complete initial and renewal background screenings within required timeframes.	\$250.00 per occurrence.
Failure to submit policies and procedures within thirty (30) calendar days of this Agreement execution.	\$250.00 per calendar day beyond the due date.

9. Corrective Action Plan (CAP)

- a. If the Agency determines that the Recipient is out of compliance with any of the provisions of this Agreement, the Agency may require the Recipient to submit a Corrective Action Plan (CAP) within a specified timeframe. The CAP will provide an opportunity for the Recipient to resolve deficiencies without the Agency invoking more serious remedies, up to and including Agreement termination.
- b. In the event the Agency identifies a violation of this Agreement, or other non-compliance with this Agreement, the Agency will notify the Recipient of the occurrence in writing. The Agency will provide the Recipient with a timeframe for corrections to be made.
- c. The Recipient will respond by providing a CAP to the Agency within the timeframe specified by the Agency.
- d. The Recipient will implement the CAP only after Agency approval.
- e. The Agency may require changes or a complete rewrite of the CAP and provide a specific deadline.
- f. If the Recipient does not meet the standards established in the CAP within the agreed upon timeframe, the Recipient will be in violation of the provisions of this Agreement and will be subject to liquidated damages.
- g. Except where otherwise specified, liquidated damages of \$100.00 per day may be imposed on the Recipient for each calendar day that the approved CAP is not implemented to the satisfaction of the Agency.
- h. The Agency may impose liquidated damages as identified above, when the Recipient has failed to meet the performance requirements of this Agreement. If the Agency finds the Recipient is in violation of the provisions of this Agreement, the Agency, at its discretion, may impose liquidated damages. Liquidated damages may be applied to all required components of this Agreement. The

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Agency reserves the right to determine the level of sanction based upon its evaluation of the severity of the problem, error or violation. The Agency will not accept a CAP for the Recipient's failure to meet the performance requirements listed in this paragraph.

E. System Functionality

1. The Recipient shall have the capacity (hardware, software, and personnel) sufficient to access and generate all data and reports needed for this Agreement.
2. The Recipient shall comply with HIPAA and the HITECH Act.
3. The Recipient shall have protocols and internal procedures for ensuring system security and the confidentiality of recipient identifiable data.

F. Smartphone Applications

If the Recipient uses smartphone applications (apps) to allow providers direct access to Agency-approved documents and/or content, the Recipient shall comply with the following. The Recipient shall receive written approval from the Agency Division of Information Technology before implementation of a smartphone application:

1. The smartphone application shall disclaim that the application being used is not private and that no PHI or personally identifiable information (PII) should be published on this application by the Recipient or provider; and
2. The Recipient shall ensure that software applications obtained, purchased, leased, or developed are based on secure coding guidelines; for example:
 - a. OWASP [Open Web Application Security Project] Secure Coding Principles – http://www.owasp.org/index.php/Secure_Coding_Principles;
 - b. CERT Security Coding - <http://www.cert.org/secure-coding/>; and
 - c. Top10SecuritycodingPractices – <https://www.securecoding.cert.org/confluence/display/seccode/Top+10+Secure+Coding+Practices>

G. Social Networking

All social networking applications, tools or media interactions and communications must be approved in writing by the Agency, prior to use. Any vendor using social networking applications is responsible and accountable for the safeguarding of PHI and all HIPAA Privacy Rule related information must be maintained and monitored.

In addition to all other review and monitoring aspects of the Contract resulting from this solicitation, the Agency, at its discretion, reserves the right to monitor or review the Vendor's monitoring of all social networking activity without notice.

The Vendor shall not conduct business relating to the Contract resulting from this solicitation, that involves the exchange of personally identifying, confidential or sensitive information on the Vendor's social network application. The Vendor shall not post information, photos, links/URLs

**ATTACHMENT I
SCOPE OF SERVICES**

or other items online that would reflect negatively on any individual(s), its enrollees, the Agency or the State.

Any violations of this shall subject the Vendor to administrative action by the Agency as determined by the Agency.

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SAMPLE

**ATTACHMENT I
EXHIBIT A**

DELIVERABLE SCHEDULE

TERM: Execution to Month Day, Year				
Deliverable		Supporting Documentation	Due Dates	Amount
1.				Reimbursement not to exceed \$####, in accordance with Exhibit 2 , Budget.
2.				
3.				

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**ATTACHMENT I
EXHIBIT B**

BUDGET

For the purpose of this Agreement the rates per hour listed in the following budget are the average reimbursement rates per hour. A payroll report (or equivalent) showing actual gross and employer paid benefits for FICA and retirement is required for each staff position, if applicable. The Agency will reimburse the Recipient according to the following budget for the actual costs paid by the Recipient.

Term: Execution to Month Day, Year			
Expense Category			Amount
A. Personnel			
Name	Salary	FTE	
A. Subtotal Personnel			\$
B. Fringe Benefits (FICA @ 7.65% & Retirement @ 3%)			
B. Subtotal Fringe Benefits(see below for details)			\$
C. Travel			
Local travel @.445/mile			
Subtotal local travel			\$
Additional Travel (County/State/Out of State)			
Subtotal Additional Travel			
C. Subtotal Travel			\$
D. Equipment			
D. Subtotal Equipment (see below for details)			\$
E. Supplies			
E. Subtotal Supplies (see below for details)			\$
F. GRAND TOTAL			\$

Budget Details/Narrative

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AUDIT REQUIREMENTS FOR AWARDS OF STATE AND FEDERAL FINANCIAL ASSISTANCE

The administration of resources awarded by the Agency for Health Care Administration (hereinafter "AHCA") to the Recipient may be subject to audits and/or monitoring by the AHCA, as described in this document. (Note: This document was developed using language recommended by the Florida Department of Financial Services (DFS-A2-CL as Rev. 11/18) and includes additional information requested by the AHCA.)

MONITORING

1. In addition to reviews of audits conducted in accordance with 2 CFR 200, Subpart F - Audit Requirements, and section 215.97, Florida Statutes (F.S.), as revised (see AUDITS below), monitoring procedures may include, but not be limited to, on-site visits by the AHCA staff, limited scope audits as defined by 2 CFR §200.425, or other procedures. By entering into this agreement, the Recipient agrees to comply and cooperate with any monitoring procedures or processes deemed appropriate by the AHCA. In the event the AHCA determines that a limited scope audit of the Recipient is appropriate, the Recipient agrees to comply with any additional instructions provided by the AHCA staff to the Recipient regarding such audit. The Recipient further agrees to comply and cooperate with any inspections, reviews, investigations, or audits deemed necessary by the Chief Financial Officer (CFO) or Auditor General.
2. The Recipient must complete **EXHIBIT 2**, Audit Compliance Certification, of this attachment and submit to the AHCA's Office of Inspector General at IGSingleaudit@ahca.myflorida.com and the AHCA Agreement Manager within sixty (60) calendar days following the end of the Recipient's fiscal year.

Copies of **EXHIBIT 2** shall be submitted by or on behalf of the Recipient directly to each of the following:

- a. Send one (1) electronic copy to the Office of Inspector General at IGSingleaudit@ahca.myflorida.com; and
- b. Send one (1) electronic copy to the AHCA Agreement Manager at: **[Insert AHCA Agreement Manager's Email Address Here]** *Note: It is the Recipient's responsibility to send the report to the current AHCA Agreement Manager. As all agreements are subject to amendment/modification, Recipients are responsible for forwarding this information to the Agreement Manager named in the Agreement at time of completion of the form. Refer to the current version of the Agreement to confirm the Agreement Manager's contact information prior to submission.*

AUDITS

Part I: Federally Funded

This part is applicable if the Recipient is a state or local government or a nonprofit organization as defined in 2 CFR §200.1.

1. A Recipient that expends \$750,000 or more in federal awards in its fiscal year must have a single or program-specific audit conducted in accordance with the provisions of 2 CFR 200, Subpart F - Audit Requirements. **EXHIBIT 1** to this form lists the federal resources awarded through the AHCA by this agreement. In determining the federal awards expended in its fiscal year, the Recipient shall consider all sources of federal awards, including federal resources received from the AHCA. The determination of amounts of federal awards expended should be in accordance with the guidelines established in 2 CFR §§200.502-503. An audit of the Recipient conducted by the Auditor General in accordance with the provisions of 2 CFR §200.514 will meet the requirements of this Part.

AUDIT REQUIREMENTS FOR AWARDS OF
STATE AND FEDERAL FINANCIAL ASSISTANCE

2. For the audit requirements addressed in Part I, paragraph 1, the Recipient shall fulfill the requirements relative to auditee responsibilities as provided in 2 CFR §§200.508-512.
3. A Recipient that expends less than \$750,000 in federal awards in its fiscal year is not required to have an audit conducted in accordance with the provisions of 2 CFR 200, Subpart F - Audit Requirements. If the Recipient expends less than \$750,000 in federal awards in its fiscal year and elects to have an audit conducted in accordance with the provisions of 2 CFR 200, Subpart F - Audit Requirements, the cost of the audit must be paid from non-federal resources (i.e., the cost of such an audit must be paid from Recipient resources obtained from other than federal entities).
4. The Recipient may access information regarding the Catalog of Federal Domestic Assistance (CFDA) via the internet at [SAM.gov | Assistance Listings](https://sam.gov). *Note: The content of the CFDA is now available through the Assistance Listings section of the new site – SAM.gov. The acronym “CFDA” as used in this form is hereby understood to refer to the Assistance Listings found at SAM.gov.*

Part II: State Funded

This part is applicable if the Recipient is a nonstate entity as defined in section 215.97(2), F.S.

1. In the event that the Recipient expends a total amount of state financial assistance equal to or in excess of \$750,000 in any fiscal year of such Recipient (for fiscal years ending June 30, 2017, and thereafter), the Recipient must have a state single or project-specific audit for such fiscal year in accordance with section 215.97, F.S.; applicable rules of the Department of Financial Services; and Chapters 10.550 (local governmental entities) and 10.650 (nonprofit and for-profit organizations), Rules of the Auditor General. **EXHIBIT 1** to this form lists the state financial assistance awarded through the AHCA by this agreement. In determining the state financial assistance expended in its fiscal year, the Recipient shall consider all sources of state financial assistance, including state financial assistance received from the AHCA, other state agencies, and other nonstate entities. State financial assistance does not include federal direct or pass-through awards and resources received by a nonstate entity for federal program matching requirements.
2. For the audit requirements addressed in Part II, paragraph 1, the Recipient shall ensure that the audit complies with the requirements of section 215.97(8), F.S. This includes submission of a financial reporting package as defined by section 215.97(2), F.S., and Chapters 10.550 (local governmental entities) and 10.650 (nonprofit and for-profit organizations), Rules of the Auditor General.
3. If the Recipient expends less than \$750,000 in state financial assistance in its fiscal year (for fiscal years ending June 30, 2017, and thereafter), an audit conducted in accordance with the provisions of section 215.97, F.S., is not required. If the Recipient expends less than \$750,000 in state financial assistance in its fiscal year and elects to have an audit conducted in accordance with the provisions of section 215.97, F.S., the cost of the audit must be paid from the nonstate entity’s resources (i.e., the cost of such an audit must be paid from the Recipient’s resources obtained from other than state entities).
4. For information regarding the Florida Catalog of State Financial Assistance (CSFA), a Recipient should access the Florida Single Audit Act website located at <https://apps.fldfs.com/fsaa/>.

Part III: Other Audit Requirements

Refer to Executed Agreement sections pertaining to Federal Regulations, State Laws and Rules, and Audit and Records.

Part IV: Report Submission

1. Copies of reporting packages for audits conducted in accordance with 2 CFR 200, Subpart F - Audit Requirements, and required by Part I of this form shall be submitted, when required by 2 CFR

AUDIT REQUIREMENTS FOR AWARDS OF
STATE AND FEDERAL FINANCIAL ASSISTANCE

§200.512, by or on behalf of the Recipient directly to the Federal Audit Clearinghouse (FAC) as provided in 2 CFR §200.36 and §200.512.

The FAC's website provides a data entry system and required forms for submitting the single audit reporting package. Updates to the location of the FAC and data entry system may be found at the OMB website.

2. Copies of financial reporting packages required by Part II of this form shall be submitted by or on behalf of the Recipient directly to each of the following:

- a. The AHCA at each of the following addresses:

- 1) Send one (1) electronic copy and management letter, if issued, to the Office of Inspector General at IGSingleaudit@ahca.myflorida.com; and
- 2) Send one (1) electronic copy and management letter, if issued, to the AHCA Agreement Manager at: [Insert AHCA Agreement Manager's Email Address Here] Note: *It is the Recipient's responsibility to send the report to the current AHCA Agreement Manager. As all agreements are subject to amendment/modification, Recipients are responsible for forwarding this information to the Agreement Manager named in the Agreement at time of completion of the report. Refer to the current version of the Agreement to confirm the Agreement Manager's contact information prior to submission.*

- b. The Auditor General's Office at the following address:

Auditor General
Local Government Audits/342
Claude Pepper Building, Room 401
111 West Madison Street
Tallahassee, Florida 32399-1450

The Auditor General's website (<https://flauditor.gov/>) provides instructions for filing an electronic copy of a financial reporting package.

3. Copies of reports or the management letter required by Part III of this form shall be submitted by or on behalf of the Recipient directly to:

- a. The AHCA at each of the following addresses:

- 1) Send one (1) electronic copy and management letter, if issued, to the Office of Inspector General at IGSingleaudit@ahca.myflorida.com; and
- 2) Send one (1) electronic copy and management letter, if issued, to the AHCA Agreement Manager at: [Insert AHCA Agreement Manager's Email Address Here] Note: *It is the Recipient's responsibility to send the report to the current AHCA Agreement Manager. As all agreements are subject to amendment/modification, Recipients are responsible for forwarding this information to the Agreement Manager named in the Agreement at time of completion of the report. Refer to the current version of the Agreement to confirm the Agreement Manager's contact information prior to submission.*

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AUDIT REQUIREMENTS FOR AWARDS OF
STATE AND FEDERAL FINANCIAL ASSISTANCE

- b. The Auditor General's Office at the following address:

Auditor General
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Claude Pepper Building, Room 401
111 West Madison Street
Tallahassee, Florida 32399-1450

The Auditor General's website (<https://flauditor.gov/>) provides instructions for filing an electronic copy of a financial reporting package.

4. Any reports, management letters, or other information required to be submitted to the AHCA pursuant to this agreement shall be submitted timely in accordance with 2 CFR §200.512, section 215.97, F.S., and Chapters 10.550 (local governmental entities) and 10.650 (nonprofit and for-profit organizations), Rules of the Auditor General, as applicable.
5. Recipients, when submitting financial reporting packages to the AHCA for audits done in accordance with 2 CFR 200, Subpart F - Audit Requirements, or Chapters 10.550 (local governmental entities) and 10.650 (nonprofit and for-profit organizations), Rules of the Auditor General, should indicate the date that the reporting package was delivered to the Recipient in correspondence accompanying the reporting package.

Part V: Record Retention

The Recipient shall retain sufficient records demonstrating its compliance with the terms of the award(s) and this agreement for a period of ten fiscal years (10) from the date the audit report is issued, and shall allow the AHCA, or its designee, the CFO, or Auditor General access to such records upon request. The Recipient shall ensure that audit working papers are made available to the AHCA, or its designee, the CFO, or Auditor General upon request for a period of ten (10) years from the date the audit report is issued, unless extended in writing by the AHCA.

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**AUDIT REQUIREMENTS FOR AWARDS OF
STATE AND FEDERAL FINANCIAL ASSISTANCE**

EXHIBIT 1

Federal Funds Awarded to the Recipient Pursuant to this Agreement Consist of the Following:

NOTE: If the resources awarded to the Recipient represent more than one Federal program, provide the same information shown below for each Federal program and show total Federal resources awarded.

Federal Program Number	Federal Agency	Assistance Listing Number	Assistance Listing Title	Funding Amount	State Appropriation Category
				\$	
				\$	
				\$	

Compliance Requirements Applicable to the Federal Resources Awarded Pursuant to this Agreement are as Follows:

The Recipient shall comply with the program requirements described in the Office of Management and Budget (OMB) 2 CFR 200, Subpart F, Appendix XI - Compliance Supplement.

State Funds Awarded to the Recipient Pursuant to this Agreement Consist of the Following Matching Funds for Federal Programs:

NOTE: If the resources awarded to the Recipient for matching represent more than one Federal program, provide the same information shown below for each Federal program and show total State resources awarded for matching.

Federal Program Number	Federal Agency	Assistance Listing Number	Assistance Listing Title	Funding Amount	State Appropriation Category
				\$	
				\$	
				\$	

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AUDIT REQUIREMENTS FOR AWARDS OF
STATE AND FEDERAL FINANCIAL ASSISTANCE

State Funds Awarded to the Recipient Pursuant to this Agreement Consist of the Following Funds Subject to Section 215.97, F.S.:
NOTE: If the resources awarded to the Recipient represent more than one State project, provide the same information shown below for each State project and show total state financial assistance awarded that is subject to Section 215.97, Florida Statutes.

State Program Number	Funding Source	State Fiscal Year	CSFA Number	CSFA Title	Funding Amount	State Appropriation Category
					\$	
					\$	
					\$	

Total Award:	\$
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Compliance Requirements Applicable to State Resources Awarded Pursuant to this Agreement are as Follows:

The Recipient shall comply with the program requirements described in the Catalog of State Financial Assistance (CSFA) located at: <https://apps.fldfs.com/fsaa/catalog.aspx> and the State Projects Compliance Supplement located at: <https://apps.fldfs.com/fsaa/compliance.aspx>.

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**AUDIT REQUIREMENTS FOR AWARDS OF
STATE AND FEDERAL FINANCIAL ASSISTANCE**

**EXHIBIT 2
AUDIT COMPLIANCE CERTIFICATION**

(To be completed and submitted within sixty (60) calendar days following the end of the Recipient's fiscal year end date.)

Recipient Information

Recipient Name:

FEID#: Recipient Fiscal Year End Date:

Contact Information for Authorized Representative

Name:

Email Address: Telephone Number:

1. Did the Recipient expend federal awards, during its fiscal year that it received under any agreement (e.g., agreement, grant, memorandum of agreement, memorandum of understanding, etc.) between Recipient and the Agency for Health Care Administration (Agency)? Yes No

If the above answer is yes, also answer the following before proceeding to item 2:

Did Recipient expend **\$750,000.00** or more in federal awards (from the Agency and all other sources of federal awards combined) during its fiscal year? Yes No

If yes, Recipient certifies that it will timely comply with all applicable single or project-specific audit requirements of 2 Code of Federal Regulations (CFR) 200, Subpart F, as revised.

2. Did the Recipient expend state financial assistance, during its fiscal year, that it received under any agreement (e.g., agreement, grant, memorandum of agreement, memorandum of understanding, etc.) between Recipient and the Agency for Health Care Administration (Agency)? Yes No

If the above answer is yes, also answer the following before proceeding to item 3:

Did the Recipient expend **\$750,000.00** or more of state financial assistance (from the Agency and all other sources of state financial assistance combined) during its fiscal year?
Yes No

If yes, Recipient certifies that it will timely comply with all applicable state single or project-specific audit requirements of Section 215.97, Florida Statutes (F.S.), and the applicable rules of the Florida Department of Financial Services and the Auditor General.

3. By signing below, I certify, on behalf of the Recipient, that the above representations for items 1 and 2 are true and correct.

Signature of Authorized Representative
Date

Printed Name of Authorized Representative
Title

**ATTACHMENT III
BUSINESS ASSOCIATE AGREEMENT**

The parties to this Attachment agree that the following provisions constitute a business associate agreement for purposes of complying with the requirements of the Health Insurance Portability and Accountability Act of 1996 (HIPAA). This Attachment is applicable if the Vendor is a business associate within the meaning of the Privacy and Security Regulations, 45 C.F.R. 160 and 164.

The Vendor certifies and agrees as to abide by the following:

1. Definitions. Unless specifically stated in this Attachment, the definition of the terms contained herein shall have the same meaning and effect as defined in 45 C.F.R. 160 and 164.
 - a. Protected Health Information. For purposes of this Attachment, protected health information shall have the same meaning and effect as defined in 45 C.F.R. 160 and 164, limited to the information created, received, maintained or transmitted by the Vendor from, or on behalf of, the Agency.
 - b. Electronic Protected Health Information (e-PHI). For purposes of this Attachment, electronic protected health information shall have the same meaning and effect as defined in 45 C.F.R. 160 and 164 (The Security Rule), limited to the electronic information created, received, maintained or transmitted by the Vendor from, or on behalf of, the Agency.
 - c. Security Incident. For purposes of this Attachment, security incident means the attempted or successful unauthorized access, use, disclosure, modification, or destruction of information or interference with system operations in an information system and includes any event resulting in computer systems, networks, or data being viewed, manipulated, damaged, destroyed or made inaccessible by an unauthorized activity.
 - d. Confidentiality. For the purposes of this Attachment, confidentiality refers to when electronic protected health information is not made available or disclosed to unauthorized persons or processes.
 - e. Integrity. For the purposes of this Attachment, integrity means that electronic protected health information has not been altered or destroyed in an unauthorized manner.
 - f. Availability. For the purposes of this Attachment, availability refers to electronic health information remaining accessible and usable upon demand by an authorized person.
2. Applicability of HITECH and HIPAA Privacy Rule and Security Rule Provisions. As provided by federal law, Title XIII of the American Recovery and Reinvestment Act of 2009 (ARRA), also known as the Health Information Technology Economic and Clinical Health (HITECH) Act, requires a Business Associate (Vendor) that contracts with the Agency, a HIPAA covered entity, to comply with the provisions of the HIPAA Privacy and Security Rules (45 C.F.R. 160 and 164) and comply with 45 C.F.R. 162 as applicable.
3. Use and Disclosure of Protected Health Information. The Vendor shall comply with the provisions of 45 CFR 164.504(e)(2)(ii). The Vendor shall not use or disclose protected

**ATTACHMENT III
BUSINESS ASSOCIATE AGREEMENT**

health information other than as permitted by this Contract or by federal and state law. The sale of protected health information or any components thereof is prohibited except as provided in 45 CFR 164.502(a)(5). The Vendor will use appropriate safeguards to prevent the use or disclosure of protected health information for any purpose not in conformity with this Contract and federal and state law. The Vendor will implement administrative, physical, and technical safeguards that reasonably and appropriately protect the confidentiality, integrity, and availability of electronic protected health information the Vendor creates, receives, maintains, or transmits on behalf of the Agency.

4. Use and Disclosure of Information for Management, Administration, and Legal Responsibilities. The Vendor is permitted to use and disclose protected health information received from the Agency for the proper management and administration of the Vendor or to carry out the legal responsibilities of the Vendor, in accordance with 45 C.F.R. 164.504(e)(4). Such disclosure is only permissible where required by law, or where the Vendor obtains reasonable assurances from the person to whom the protected health information is disclosed that: (1) the protected health information will be held confidentially, (2) the protected health information will be used or further disclosed only as required by law or for the purposes for which it was disclosed to the person, and (3) the person notifies the Vendor of any instance of which it is aware in which the confidentiality of the protected health information has been breached.
5. Disclosure to Third Parties. The Vendor will not divulge, disclose, or communicate protected health information to any third party for any purpose not in conformity with this Contract without prior written approval from the Agency. The Vendor shall ensure that any agent, including a subcontractor, to whom it provides protected health information received from, or created or received by the Vendor on behalf of the Agency, agrees to the same terms, conditions, and restrictions that apply to the Vendor with respect to protected health information. The Vendor's subcontracts shall fully comply with the requirements of 45 CFR 164.314(a)(2)(iii).
6. Access to Information. The Vendor shall make protected health information available in accordance with federal and state law, including providing a right of access to persons who are the subjects of the protected health information in accordance with 45 C.F.R. 164.524.
7. Amendment and Incorporation of Amendments. The Vendor shall make protected health information available for amendment and to incorporate any amendments to the protected health information in accordance with 45 C.F.R. 164.526.
8. Accounting for Disclosures. The Vendor shall make protected health information available as required to provide an accounting of disclosures in accordance with 45 C.F.R. 164.528. The Vendor shall document all disclosures of protected health information as needed for the Agency to respond to a request for an accounting of disclosures in accordance with 45 C.F.R. 164.528.
9. Privacy Protection. The Vendor shall permit an individual to request a restriction on the use and disclosure of protected health information about the individual to carry out treatment, payment, or health care operations; and disclosures permitted under 164.510(b) in accordance with 45 C.F.R. 164.522. The Vendor shall permit an individual

**ATTACHMENT III
BUSINESS ASSOCIATE AGREEMENT**

to request to receive communications of protected health information from the Vendor by alternative means or at alternative locations in accordance with 45 C.F.R. 164.522.

10. Access to Books and Records. The Vendor shall make its internal practices, books, and records relating to the use and disclosure of protected health information received from, or created or received by the Vendor on behalf of the Agency, available to the Secretary of the Department of Health and Human Services ("HHS") or the Secretary's designee for purposes of determining compliance with the HHS Privacy Regulations.
11. Reporting. The Vendor shall make a good faith effort to identify any use or disclosure, or loss of confidentiality, integrity, or availability, of protected health information, ore-PHI, not provided for in this Contract.
 - a. To Agency. The Vendor will report to the Agency in the manner and format obtained from the Contract Manager or Agency contact, within ten (10) business days of discovery, any use or disclosure, or loss of confidentiality, integrity, or availability, of protected health information, ore-PHI, not provided for in this Contract of which the Vendor is aware. The Vendor will report to the Agency in the manner and format obtained from the Contract Manager or Agency contact, within twenty-four (24) hours of discovery, any security incident of which the Vendor is aware. A violation of this paragraph shall be a material violation of this Contract. Such notice shall include the identification of each individual whose unsecured protected health information has been or is reasonably believed by the Vendor to have been, accessed, acquired, used, or disclosed during such breach.
 - b. To Individuals. In the case of a breach of protected health information discovered by the Vendor, the Vendor shall first notify the Agency of the pertinent details of the breach and upon prior review by the Agency shall notify each individual whose unsecured protected health information has been or is reasonably believed by the Vendor to have been, accessed, acquired, used or disclosed as a result of such breach. Such notification shall be in writing by first-class mail to the individual (or the next of kin if the individual is deceased) at the last known address of the individual or next of kin, respectively, or, if specified as a preference by the individual, by electronic mail. Where there is insufficient, or out-of-date contact information (including a phone number, email address, or any other form of appropriate communication) that precludes written (or, if specifically requested, electronic) notification to the individual, a substitute form of notice shall be provided, including, in the case that there are 10 or more individuals for which there is insufficient or out-of-date contact information, a conspicuous posting for a period of at least 90 days on the Web site of the covered entity involved or notice in major print or broadcast media, including major media in the geographic areas where the individuals affected by the breach likely reside. In any case deemed by the Vendor to require urgency because of possible imminent misuse of unsecured protected health information, the Vendor may also provide information to individuals by telephone or other means, as appropriate.
 - c. To Media. In the case of a breach of protected health information discovered by the Vendor where the unsecured protected health information of more than 500 persons is reasonably believed to have been, accessed, acquired, used, or disclosed, after prior review by the Agency, the Vendor shall provide notice to

**ATTACHMENT III
BUSINESS ASSOCIATE AGREEMENT**

prominent media outlets serving the State, relevant portion of the State, or jurisdiction involved.

- d. To Secretary of Health and Human Services (HHS). The Vendor shall cooperate with the Agency to provide notice to the Secretary of HHS of unsecured protected health information that has been acquired or disclosed in a breach.
- i. Vendors Who Are Covered Entities. In the event of a breach by the Vendor, or a contractor or subcontractor of the Vendor, and the Vendor is a HIPAA covered entity, the Vendor, not the Agency, shall be considered the covered entity for purposes of notification to the Secretary of HHS pursuant to 45 CFR 164.408. The Vendor shall be responsible for filing the notification to the Secretary of HHS and will identify itself as the covered entity in the notice. If the breach was with respect to 500 or more individuals, at least 5 business days prior to filing notice with the Secretary of HHS the Vendor shall provide a copy of the notice and breach risk assessment to the Agency for review. Upon prior review by the Agency of the notice and breach risk assessment, the Vendor shall file the notice with the Secretary of HHS within the notification timeframe imposed by 45 C.F.R. 164.408(b) and contemporaneously submit a copy of said notification to the Agency. If the breach was with respect to less than 500 individuals, the Vendor shall notify the Secretary of HHS within the notification timeframe imposed by 45 C.F.R. 164.408(c) and shall contemporaneously submit a copy of said notification to the Agency.
- e. Content of Notices. All notices required under this Attachment shall include the content set forth in 42 U.S.C. 17932(f) and 45 C.F.R. 164 Subpart D, except that references therein to a "covered entity" shall be read as references to the Vendor.
- f. Financial Responsibility. The Vendor shall be responsible for all costs related to the notices required under this Attachment.
- g. Other Reporting. The Vendor shall comply with any other applicable reporting requirements in conformity with federal and state laws. If notifications are made under any such laws, copies of said notifications shall be provided contemporaneously to the Agency.
12. Mitigation. Vendor shall mitigate, to the extent practicable, any harmful effect that is known to the Vendor of a use or disclosure of protected health information in violation of this Attachment.
13. Termination. Upon the Agency's discovery of a material breach of this Attachment, the Agency shall have the right to assess liquidated damages as specified elsewhere in the contract to which this Attachment is included, and/or to terminate this Contract.
14. Effect of Termination. At the termination of this Contract, the Vendor shall return all protected health information that the Vendor still maintains in any form, including any copies or hybrid or merged databases made by the Vendor; or with prior written approval of the Agency, the protected health information may be destroyed by the Vendor after its use. If the protected health information is destroyed pursuant to the Agency's prior written

**ATTACHMENT III
BUSINESS ASSOCIATE AGREEMENT**

approval, the Vendor must provide a written confirmation of such destruction to the Agency. If return or destruction of the protected health information is determined not feasible by the Agency, the Vendor agrees to protect the protected health information and treat it as strictly confidential.

The Vendor has caused this Attachment to be signed and delivered by its duly authorized representative, as of the date set forth below.

VENDOR NAME

SIGNED

BY: **DATE:** _____

NAME: _____ **TITLE:** _____

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SAMPLE

**ATTACHMENT IV
CERTIFICATION REGARDING
DEBARMENT, SUSPENSION, INELIGIBILITY AND VOLUNTARY EXCLUSION
CONTRACTS/SUBCONTRACTS**

This certification is required by the regulations implementing Executive Order 12549, Debarment and Suspension, signed February 18, 1986. The guidelines were published in the May 29, 1987, Federal Register (52 Fed. Reg., pages 20360-20369).

INSTRUCTIONS

1. Each Vendor whose contract/subcontract equals or exceeds \$25,000 in federal monies must sign this certification prior to execution of each contract/subcontract. Additionally, Vendors who audit federal programs must also sign, regardless of the contract amount. The Agency for Health Care Administration cannot contract with these types of Vendors if they are debarred or suspended by the federal government.
2. This certification is a material representation of fact upon which reliance is placed when this contract/subcontract is entered into. If it is later determined that the signer knowingly rendered an erroneous certification, the Federal Government may pursue available remedies, including suspension and/or debarment.
3. The Vendor shall provide immediate written notice to the contract manager at any time the Vendor learns that its certification was erroneous when submitted or has become erroneous by reason of changed circumstances.
4. The terms "debarred," "suspended," "ineligible," "person," "principal," and "voluntarily excluded," as used in this certification, have the meanings set out in the Definitions and Coverage sections of rules implementing Executive Order 12549. You may contact the contract manager for assistance in obtaining a copy of those regulations.
5. The Vendor agrees by submitting this certification that, it shall not knowingly enter into any subcontract with a person who is debarred, suspended, declared ineligible, or voluntarily excluded from participation in this contract/subcontract unless authorized by the Federal Government.
6. The Vendor further agrees by submitting this certification that it will require each subcontractor of this contract/subcontract, whose payment will equal or exceed \$25,000 in federal monies, to submit a signed copy of this certification.
7. The Agency for Health Care Administration may rely upon a certification of a Vendor that it is not debarred, suspended, ineligible, or voluntarily excluded from contracting/subcontracting unless it knows that the certification is erroneous.
8. This signed certification must be kept in the contract manager's contract file. Subcontractor's certifications must be kept at the contractor's business location.

CERTIFICATION

- (1) The prospective Vendor certifies, by signing this certification, that neither he nor his principals is presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this contract/subcontract by any federal department or agency.
- (2) Where the prospective Vendor is unable to certify to any of the statements in this certification, such prospective Vendor shall attach an explanation to this certification.

Signature

Date

Name and Title of Authorized Signer

**ATTACHMENT V
CERTIFICATION REGARDING LOBBYING
CERTIFICATION FOR CONTRACTS, GRANTS, LOANS AND COOPERATIVE AGREEMENTS**

The undersigned certifies, to the best of his or her knowledge and belief, that:

- (1) No federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of any agency, a member of congress, an officer or employee of congress, or an employee of a member of congress in connection with the awarding of any federal contract, the making of any federal grant, the making of any federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any federal contract, grant, loan, or cooperative agreement.
- (2) If any funds other than federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a member of congress, an officer or employee of congress, or an employee of a member of congress in connection with this federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.
- (3) The undersigned shall require that the language of this certification be included in the award documents for all sub-awards at all tiers (including subcontracts, sub-grants, and contracts under grants, loans, and cooperative agreements) and that all sub-recipients shall certify and disclose accordingly.

This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by section 1352, Title 31, U.S. Code. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

Signature

Date

Name of Authorized Individual

Application or Contract Number

Name and Address of Organization

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ATTACHMENT VI
AGENCY APPROVED MODIFICATIONS AND ADDITIONS
TO THE AGENCY GRANT FUNDED AGREEMENT

The following amendments are made to the Agency Grant Funded Agreement:

1. **Section I.**, THE RECIPIENT HEREBY AGREES, **Sub-Section FF.**, Executive Order 20-44 Reporting Requirements, is hereby added to this Agreement and reads as follows:

Attachment **VII**, IRS Form 990 and Total Executive Compensation Reporting Requirements, is hereby incorporated into this Agreement. The Recipient shall comply with all requirements of this Attachment.

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SAMPLE

**ATTACHMENT VII
IRS FORM 990 AND EXECUTIVE COMPENSATION
REPORTING REQUIREMENTS**

In accordance with Executive Order 20-44, which requires executive agencies to submit a list of entities named in statute with which a State agency must form a sole-source, public-private agreement, or an entity that, through contract or other agreement with the State, annually receives fifty percent (50%) or more of their budget from the State or from a combination of State and Federal funds; any Recipient that meets one or both of the criteria listed must submit to the Agency an annual report, including the most recent IRS Form 990, detailing the total compensation for each member of the Recipient's executive leadership teams.

Total compensation shall include salary, bonuses, cashed-in leave, cash equivalents, severance pay, retirement benefits, deferred compensation, real-property gifts, and any other payout. In addition, Recipient must inform the Agency of any changes in total executive compensation between the annual reports within sixty (60) days of any change taking effect. All compensation reports must indicate what percentage of compensation comes directly from the State and/or Federal allocations to the Recipient.

The annual report must be submitted to the Agency's Contract Manager and emailed to CATS.Help@ahca.myflorida.com within one hundred and eighty (180) calendar days after the end of the Recipient's tax year. This requirement shall survive the Agreement end date until the final annual report is submitted to the Agency, and the Agency has provided written acceptance of the final annual report. If the Recipient fails to submit the annual report, the Agency will impose liquidated damages, as specified below in Table 1, Performance Standard and Liquidated Damage.

TABLE 1 PERFORMANCE STANDARD AND LIQUIDATED DAMAGE	
Performance Standard Requirement	Liquidated Damages to be Imposed
The Recipient shall submit an annual report that meets the requirements of this Attachment VII of the Agreement.	\$100.00 per day for each day past the due date until the annual report is submitted to the Agency.

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**ATTACHMENT VIII
IRS FORM 990 AND EXECUTIVE COMPENSATION
REPORTING REQUIREMENTS**

In accordance with Executive Order 20-44, which requires executive agencies to submit a list of entities named in statute with which a State agency must form a sole-source, public-private agreement, or an entity that, through contract or other agreement with the State, annually receives fifty percent (50%) or more of their budget from the State or from a combination of State and Federal funds; any Recipient that meets one or both of the criteria listed must submit to the Agency an annual report, including the most recent IRS Form 990, detailing the total compensation for each member of the Recipient's executive leadership teams.

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TABLE 1 PERFORMANCE STANDARD AND LIQUIDATED DAMAGE	
Performance Standard Requirement	Liquidated Damages to be Imposed
The Recipient shall submit an annual report that meets the requirements of this Attachment VII of the Agreement.	\$100.00 per day for each day past the due date until the annual report is submitted to the Agency.

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