

## Vendor Services Agreement

**This Vendor Agreement** (hereinafter referred to as the "Agreement") is entered into this \_\_\_\_\_ day of \_\_\_\_\_ between the Early Learning Coalition of Broward County, Inc. ("Coalition") whose address is 1475 West Cypress Creek Boulevard Suite 301, Fort Lauderdale, FL 33309 and \_\_\_\_\_, ("Vendor") whose address is \_\_\_\_\_, \_\_\_\_\_ (collectively, known as the "Parties")

**WHEREAS**, the Vendor has certain expertise, education, certifications, training, licenses and/or experience in the area of \_\_\_\_\_ and;

**WHEREAS**, the Coalition is in need of \_\_\_\_\_ in order to assist and support the operation and/or administration of the Coalition and;

**WHEREAS**, the Coalition seeks to retain the services of the Vendor as an independent Vendor to provide \_\_\_\_\_ based on the Vendor's expertise, education, certifications, training, licenses and/or experience and;

**WHEREAS**, the Vendor has agreed to provide, perform and/or deliver certain work and/or services to the Coalition in relation to the \_\_\_\_\_ in furtherance of the mission and goals of the Coalition in accordance with the terms and conditions of this Agreement.

**NOW THEREFORE**, in consideration of the premises and the mutual covenants contained herein, the Coalition and the Vendor mutually agree as follows:

1. **TERM** This Agreement shall commence on \_\_\_\_\_ and shall terminate on \_\_\_\_\_ ("Term").
2. **SCOPE OF SERVICES** The Vendor agrees to perform, provide and/or deliver the work and/or services as set forth in **Exhibit A** of the Agreement (hereinafter referred to as "the Scope of Services") attached hereto and by reference made a part hereof. Any work and/or services performed, provided and/or delivered by the Vendor beyond the Scope of Services as stated herein, or as stated in any subsequent amendment to this Agreement without the prior approval of the Coalition shall not be compensable to the Vendor, and/or any other third party utilized by the Vendor to provide, perform and/or deliver the Scope of Services to the Coalition under this Agreement. Except as set forth in the Term, the time frames for the completion for the Scope of Services shall be as set forth in **Exhibit A** of this Agreement. A statement of the credentials of the Vendor shall be attached as **Exhibit B** to this Agreement and by reference made a part hereof. Except as provided for in this Agreement, in the event there is a conflict between the Scope of Services as set forth in **Exhibit A** and the Agreement (including any amendments), the Scope of Services shall prevail.

The Vendor agrees to comply with those applicable provisions, requirements, and laws as set forth in the document entitled "Vendor Service Agreement-Provision and Certifications" attached hereto as **Exhibit C** and by reference made a part hereof and provide any and all required information to the applicable agencies or governing authorities set forth therein. For purposes of **Exhibit C**, the term "Vendor" shall have the same meaning as

“Consultant” as set forth in **Exhibit C** and shall be applicable to the Vendor under this Agreement.

3. **COMPENSATION AND BILLING** The Coalition agrees to pay the Vendor in the amount and manner set forth in Section 3 of Exhibit A of this Agreement (“Vendor Fee”) for the Scope of Services during the Term hereof. In the event there is a conflict between **Section 3 of Exhibit A** and **Section 3** of this Agreement, **Section 3 of Exhibit A** shall control. All costs are represented in U.S. dollars. Unless otherwise specified in **Section 3 of Exhibit A** of this Agreement, the Vendor agrees that all invoicing and/or billing to the Coalition of the Scope of Services shall be done on a thirty (30) day cycle.

The Vendor shall be paid upon submission of properly certified invoice(s) to the Coalition after delivery and acceptance of commodities or contractual services is confirmed in writing by the Coalition. The certified invoice(s) submitted by the Vendor to the Coalition must sufficiently identify and detail the work and/or services performed and/or delivered in accordance with the Scope of Services in order for an audit to be done by the Coalition. The certified invoice submitted by the Vendor to the Coalition shall detail the following as appropriate, or as requested by the Coalition: (a) *date the work was performed*, (b) *the time expended to perform the work (i.e. minutes and hours)*, (c) *identification of the persons (including, but not limited to any third party subcontractors) who performed the work and/or services and* (d) *a detailed explanation of the substance of the work and/or services performed and/or delivered by the Vendor*. The certified invoice(s) shall also contain the Contract Number assigned to the Agreement by the Coalition.

In the event the Vendor or the Vendor’s auditors discover that an overpayment has been made by the Coalition, the Vendor shall repay said overpayment with thirty (30) days without prior notification to the Coalition. In the event the Coalition or the Coalition’s auditors discover that an overpayment has been made to the Vendor by the Coalition, the Coalition shall notify the Vendor in writing of such finding as well as the amount that was paid in contravention to the terms and conditions of the Agreement.

The Coalition will have a reasonable time period to inspect and approve the commodities or contractual services as set forth in the Scope of Services for this Agreement prior to any payment to the Vendor by the Coalition for the Scope of Services in order to ensure compliance with contract specifications. Any work or services not performed or delivered in accordance with the contract specifications of the Agreement may be rejected and returned at the Vendor’s expense. The Coalition does not waive its right to inquire or dispute any charges or work associated with the Scope of Services rendered by the Vendor prior to issuance of payment to the Vendor by the Coalition if the Coalition feels that said charges or work is not reasonable; excessive in nature; not allowable pursuant to applicable Florida or federal law, rule or policy; or outside of the Scope of Services as set forth in this Agreement. Any associated costs incurred by the Vendor in the rendering of its Scope of Services shall be sufficiently detailed in the invoices submitted to the Coalition by the Vendor. Notwithstanding the following, any costs incurred without prior approval of the Coalition shall not be payable to the Vendor. Any unauthorized employees, agents or subcontractors utilized by the Vendor to perform and/or deliver the work as set forth in **Exhibit A** of this Agreement without first obtaining prior written approval from the Coalition will not be compensated by the Coalition.

The Vendor Fee shall be the entire compensation for the Scope of Services rendered by the Vendor hereunder, except that Vendor may be reimbursed for reasonable expenses incurred by the Vendor if the Coalition approves such expenses in writing in advance of said expenses being incurred by the Vendor. The Vendor acknowledges and agrees that it shall be solely and exclusively the Vendor's obligation and responsibility to report to the appropriate governmental agencies or other reporting authorities pursuant to Florida and federal law all compensation received by the Vendor hereunder (including but not limited to all taxes, fees, or other impositions). The Vendor shall indemnify and hold harmless the Coalition for and against any and all claims, damages, losses, or obligations asserted or imposed against the Coalition and any applicable governmental agency responsible for the oversight and/or monitoring of the Coalition by any third party in connection with the payment or recovery of such sums as stated herein as a result of the Scope of Services and/or the Agreement between the Coalition and the Vendor. Notwithstanding the foregoing, in no event shall any party have any lien rights against the Coalition based on this Agreement nor has the Coalition agreed by entering into this Agreement to be subject to any liens of any third party as a result of its contractual relationship with the Vendor under this Agreement.

Any obligation to pay the Vendor under this Agreement is contingent upon an annual appropriation by the Legislature or other funding constraints that are not inconsistent with the terms of this Agreement and the Coalition shall be the final authority as to the availability of funds. In addition, any obligation to pay the Vendor as set forth hereunder is contingent on the Vendor not being in default as set forth under **Section 20 (Termination and Default)** of this Agreement. In the event federal, state, and/or local funds upon which this Agreement is dependent are withdrawn or redirected, the Coalition may terminate this Agreement in the manner set forth in **Section 20 (Termination and Default)** and the Coalition shall have no further liability to the Vendor beyond that already incurred under the Agreement prior to the termination date. In the event the Coalition terminates the Agreement for a lack of funding, the Coalition shall pay the Vendor as follows:

- a) The Coalition shall reimburse the Vendor for all documented, verifiable, and approved costs reasonably incurred prior to the termination or winding down of the Agreement.
- b) If funds for this Agreement are not allowable or not available as set forth in this **Section 3** of the Agreement, such lack of funding will not constitute a default pursuant to **Section 20 (Termination and Default)** of this Agreement. The Coalition agrees to notify the Vendor at the earliest possible time if funds are not appropriated or available as stated herein. The cost of services paid under any other contract or from any other source is not eligible for reimbursement under this Agreement.

The Vendor shall also comply, as applicable or as required by the Coalition, with the financial, reporting, notice, spending, audit, and corrective action requirements and restrictions as set forth in Section 215.971, Florida Statutes, and the State of Florida Reference Guide for State Expenditures as it pertains to the use of federal and Florida funds provided to the Vendor under this Agreement. If there is conflict between Section 215.971, Florida Statutes and the State of Florida Reference Guide for State Expenditures, and this Agreement, Section 215.971, Florida Statutes, and the State of Florida Reference Guide for State Expenditures shall control. In no event shall any funds

under this Agreement be used for lobbying costs or purposes pursuant to applicable federal and Florida law, which includes but is not limited to Section 11.062(1) and 216.347, Florida Statutes as well as 45 Code of Federal Regulation ("C.F.R.") Part 93. The Vendor may not expend funds appropriated for the School Readiness program for the purchase or improvement of real property; the purchase, construction or improvement of any building or facility; or the purchase of buses in violation of Section 1002.89 Florida Statutes.

4. **REPORTS TO THE COALITION** The Vendor agrees to timely furnish and/or assist the Coalition in preparation of progress reports, time sheets, logs and/or summaries of the Vendor's work as it pertains to the Scope of Services set forth in **Exhibit A** of this Agreement at such times, in such form, and with such frequency as the Coalition may reasonably request. For purposes of this section, *filing of reports* shall also mean the inputting or uploading of data to websites, internet portals, system software, other electronic or virtual means. The Vendor shall cooperate in good faith in response to any reasonable requests from the Coalition to discuss, review, inspect or audit the Vendor's performance and compliance under this Agreement.
5. **CONTACT PERSON FOR THE PARTIES** The following individual(s) as set forth in the notice section of this Agreement shall be the contact person(s) for the Parties unless otherwise specified in **Exhibit A** of this Agreement.
6. **REPRESENTATION AND WARRANTY** The Vendor warrants and represents to the Coalition that the Vendor, and if applicable, its employees, its subcontractors, and its agents, have sufficient expertise, education, personnel, resources, and experience to perform the Scope of Services stated within the Agreement. The Vendor further warrants and represents that the Vendor, and if applicable, its employees, its subcontractors, and its agents are appropriately licensed or certified in accordance with applicable federal, state, county and municipal law and industry standards, whichever is applicable to the Scope of Services, to provide, perform and/or deliver the Scope of Services as set forth in **Exhibit A** of this Agreement. The Parties affixing their signatures to this Agreement warrant and affirm that each of signatory has absolute legal authority to enter into this Agreement and bind the respective Parties to the terms and conditions herein. The Vendor also represents and warrants that the Vendor, and if applicable, its employees, its subcontractors, and its agents, have undergone, obtained, and/or completed the required or industry recognized training, seminars, or other applicable prerequisites to deliver and/or perform the Scope of Services set forth in **Exhibit A** of this Agreement. The Vendor further warrants and represents to the Coalition that the Vendor, and if applicable, its employees, subcontractors, and/or its agents, whether employed, retained or contracted by the Vendor, have undergone appropriate and legally sufficient background checks by the Vendor or a contracted third party of the Vendor and that said persons do not pose a risk to the health, safety and welfare to the employees, program participants, vendors, interns or volunteers of the Coalition. The Vendor further warrants and represents that, to the best of its knowledge, there is no pending or threatened action, proceeding, litigation, claim or investigation, or any other legal or financial condition, that would in any way prohibit, restrain, or diminish the Vendor's ability to perform or deliver the Scope of Services under the Agreement. The Vendor further warrants and represents that the Vendor has not been placed (whether currently or in the past) nor has been informed or

threatened by any entity that it will be placed in the future on a federal, state, or local vendor disqualification list.

The Vendor acknowledges that it is required to disclose any contracts or conflicts of interest, whether perceived or actual, the Vendor may have with the Coalition's *Contractor* as the term is defined in **Section 1 of Exhibit A** of this Agreement. If the Vendor has contract with a Contractor that would not expire prior to the Term of this Agreement and said Contractor is currently in a contract with the Coalition, the Vendor shall disclose the following regarding the contract:

- 1) The specific work being delivered or performed by the Vendor for the Contractor.
- 2) Whether or not the contract with the Vendor is being paid for, whether directly or indirectly, with funds provided to the Vendor by the Coalition.

Based on the aforementioned disclosure of its contractual relationship with another Contractor of the Coalition, the Coalition will decide whether or not to enter into a contract or purchase order with Vendor if there is a conflict and may notify the Vendor of the same.

The Vendor further warrants and represents that neither Vendor, nor, if applicable, its employees, board of directors, shareholders, and/or officers, have a contractual and/or familial (whether by blood, marriage, or adoption) relationship with an employee, officer, or member of the board of directors for the Coalition. In the event the Vendor, whether through itself or through its employees, board of directors, shareholders, and/or officers, does have a contractual, business and/or familial (whether by blood, marriage or adoption) relationship with an employee, officer, board member for the Coalition, Vendor shall disclose in writing said relationship in sufficient detail to the Coalition prior to the execution of this Agreement or performance/delivery of services, whichever is earlier, in order for the Coalition to determine the existence of an unallowable conflict of interest. If the Coalition desires to enter into in a contract or purchase order with the Vendor and the Vendor is a Board member, employee, or the family member of a Board member or employee of the Coalition, the Vendor and Coalition shall comply with Section 1002.84(20), Florida Statutes prior to entering into the Agreement.

The Vendor further agrees to provide and/or deliver the Scope of Services in a manner that provides the least amount of interference and/or disruption to the daily operations of the Coalition and/or its contracted providers, contractors, and other vendors.

The Vendor acknowledges and agrees that the Coalition's reliance on the aforementioned representations and warranties as set forth herein is material and substantive in nature, is grounds for a default and/or termination under **Section 20 (Termination and Default)** of this Agreement and this **Section 6 (Representation And Warranty)** shall survive the expiration or termination of this Agreement, whichever is earlier.

7. **KEY OPERATIONAL CHANGES, BENEFITS, SUPERVISION AND PERSONNEL** The Coalition shall not have any obligation hereunder to provide the Vendor, and if applicable, its employees, agents, and/or dependents with medical, health, pension, or any other related employee benefits. Personnel supplied by the Vendor to provide the Scope of Services to the Coalition under this Agreement, if applicable, will be deemed the Vendor's

employees, representatives, or agents and will not for any purpose be considered employees, representatives, or agents of the Coalition. The Vendor assumes full responsibility for the actions of such personnel while performing or delivering the Scope of Services pursuant to this Agreement, and except as set forth in this Agreement, shall be solely responsible for their supervision, daily direction/control, provision of employment benefits (if any), and payment of salary (including all required withholding of taxes).

The Vendor further represents that if any changes are made to Vendor's key personnel that the Vendor will provide written notice to the Coalition no later than five (5) days subsequent to said change and said notification shall identify the replacement staff. *Key personnel* shall mean the executive director, the chief executive officer, the chief financial officer, the chief operations officer, the chief program officer, chief information technology officer, the managing partner, project manager and/or the main person(s) providing the Scope of Services as set forth in **Exhibit A** of this Agreement to the Coalition. Personnel changes may include, but are not limited to resignation, termination, extended (whether approved or unapproved) leaves of absence of three (3) weeks or longer. Vendor shall also notify the Coalition with five (5) days of any changes in address, phone number or email address. In the event the Vendor utilizes personnel to perform the Scope of Services set forth in **Exhibit A** of this Agreement, the Vendor shall ensure that each person's eligibility to work for the Vendor has been verified utilizing the U.S. Department's E-Verify System for new hires. If the Vendor does not utilize the U.S. Department's E-Verify System for its new hires, the Vendor shall have ninety (90) days from the Effective Date of this Agreement to enroll and participate in the U.S. Department's E-Verify System. Failure to utilize the U.S. Department's E-Verify System for its personnel as it concerns new hires shall be considered a material breach of this Agreement.

The Vendor further acknowledges and agrees that the Vendor, and if applicable, its employees, representatives, or agents will be required to undergo a Level II background screening or rescreening prior to the performance and delivery of the Scope of Services in accordance with Section 943.0542 and Chapter 435, Florida Statutes if the Scope of Services requires the Vendor to have access to childcare location or have access to Confidential Information as defined in **Section 9 (Confidential And Proprietary Information; Disclosure; Records)** of this Agreement concerning a child or a child's family, or access to Proprietary Information as defined in **Section 9 (Confidential And Proprietary Information; Disclosure; Records)** of this Agreement. In the event a background screening or rescreening of the Vendor or if applicable, its employees is required by the Coalition and said screening reveals information that either would place the Coalition or the Vendor in violation of applicable law or raises legitimate concerns for the Coalition, the Vendor and its employees, representatives, or agents will not be allowed to perform the Scope of Services set forth in **Exhibit A** of this Agreement until such time the Vendor and/or its employees, representatives, or agents receives the prior written consent of the Coalition or is in compliance with applicable laws, which includes but is not limited to Section 943.0542 and Chapter 435, Florida Statutes as set forth herein, if applicable.

This **Section 7 (Benefits, Supervision and Personnel)** of the Agreement shall also be applicable to any subcontractors secured by the Vendor subject to the written prior approval of the Coalition.

8. **NON-EXCLUSIVITY** The Coalition expressly reserves the right, at any time or for any reason whatsoever, to retain other consultants, vendors, or independent contractors in addition to the Vendor to perform the work and/or services that are similar or identical in nature to the Scope of Services being performed and/or delivered by the Vendor.
9. **CONFIDENTIAL AND PROPRIETARY INFORMATION; DISCLOSURE; RECORDS** The Vendor acknowledges that in the course of performing, providing and/or delivering the Scope of Services, the Vendor may originate, develop, receive or otherwise become aware of certain confidential and/or proprietary information concerning the Coalition, its operations, its applicable governing agencies, its vendors, its contractors and/or the recipients of its services, and that all such information, whether oral or written, that is obtained, communicated, uncovered, maintained, compiled, and/or delivered, whether intentionally or unintentionally, to the Vendor, or of which the Vendor may otherwise become aware is, shall be, and will continue to remain the confidential information of the Coalition ("Confidential Information"). The Vendor will not use, disseminate, alter, destroy, or disclose any information concerning a recipient of the Scope of Services under this Agreement and/or a recipient of services of the Coalition for any purpose not in conformity with applicable state and federal statute(s) and/or regulations. The definition of "Confidential Information" shall also include the following:

\*"Personal Information" as the term is defined Section 501.171(1)(g)(1), Florida Statutes ("Personal Records")

\*"Student Records" as the term is defined in Sections 1002.221, and 1002.97, Florida Statutes, and the Federal Education Rights and Privacy Act ("FERPA") as well said act's implementing regulations as set forth under 34 CFR Part 99.

\*"Protected Health Information" (as the term is defined in 45 C.F.R. § 164.501) or "Individual Identifiable Health Information" (as the term is defined in 42 U.S.C. § 1320d), as well as any "health care" or "medical" information or records as those terms are defined and set forth under Health Insurance Portability and Accountability Act of 1996, as codified at 42 U.S.C. § 1320d ("HIPAA") and any current and future regulations promulgated thereunder, including, without limitation, the federal privacy regulations contained in 45 C.F.R. Parts 160 and 164 ("Federal Privacy Regulations"), the federal security standards contained in 45 C.F.R. Part 142 ("Federal Security Regulations"), and the federal standards for electronic transactions contained in 45 C.F.R. Parts 160 and 162, all (collectively referred to herein as "HIPAA Requirements").

The Vendor further acknowledges that, in the course of performing the Scope of Services, it may have access to certain documents, data or other information that relates or concerns, whether directly or indirectly, the Coalition, its agents, or its representatives, in the form of statistical, business or technical research, development, trade secrets, drawings, business models, manuals, presentations, notebooks, notes, processes, formulae, specifications, programs, software packages, technical know-how, methods, procedures of operation, business or confidential plans or other information ("Proprietary Information").

The Vendor shall comply with all applicable federal and Florida confidentiality and disclosure statutes and codes as well as comply with those certain requirements concerning Confidentiality Information and Proprietary Information as set forth in this Agreement and in the most current funding/governing agreement between Florida Department of Education Division of Early Learning (“DEL”) and the Coalition (“Grant Agreement”). In addition, the Vendor agrees to enter into nondisclosure agreements or forms as requested by the Coalition.

The Vendor agrees to hold such Confidential Information and Proprietary Information in strict confidence and to not to disclose, use, deliver, alter, destroy, or disseminate, such Confidential Information and Proprietary Information to others, or to use said Confidential Information and Proprietary Information in any way, commercially or otherwise, except in performance of the Scope of Services, at any time without the prior written consent of the Coalition. The Vendor further agrees to take all appropriate and necessary steps, actions, and protocols, which includes, but is not limited to the encryption and securing of its computer software, hardware, flash drives, servers and other devices, databases or cloud services in order to properly secure any and all Confidential Information and Proprietary Information that is in the possession and/or that is accessible to the Vendor. The Vendor agrees and acknowledges that any Confidential Information and/or Proprietary Information whether received by the Coalition or a contracted third party for the Coalition that is required to be stored by the Vendor on its internal systems/devices or the internal systems/devices of a contracted third party of the Vendor shall utilize encryption software. The Vendor agrees and acknowledges that any Confidential Information or Proprietary Information whether received by the Coalition or a contracted third party for the Coalition that is required to be stored by the Vendor on its internal systems/devices or the internal systems/devices of a contracted third party of the Vendor shall utilize encryption software.

If Vendor is an entity, Vendor will restrict access to any Confidential Information and/or Proprietary Information to those employees or subcontractors that must be utilized by Vendor to fulfill the terms and conditions set forth under this Agreement. If Vendor is a person, Vendor shall restrict its access and use in accordance with the Scope of Services for this Agreement. Vendor shall implement all proper and reasonable security procedures and protections in accordance with federal and Florida law to assure that the Confidential Information and/or Proprietary Information is not revealed to the public or any unauthorized persons or entity. Vendor shall not permit Confidential Information and/or Proprietary Information to be revealed to persons or entities other than authorized employees and subcontractors of the Vendor, if applicable and Coalition without prior written consent of the Coalition. Additionally, except as stated herein, Vendor shall not release, distribute, transfer, or share to any third party any aggregate data or any derivative thereof concerning or related to Confidential Information and/or Proprietary Information without the prior written consent of the Coalition. No other access, sharing, distribution or other transfer of Confidential Information and/or Proprietary Information and data is allowed under this Agreement without the expressed written consent of the Coalition. In the event the Coalition consents to the Vendor’s disclosure of the Confidential Information and/or Proprietary Information in accordance with applicable federal and Florida law to a third party, Vendor shall only disclose those portions of the Confidential Information and/or Proprietary Information to those persons or entities that have been approved in writing to receive said records by the Coalition unless otherwise specified by the Coalition.



The Vendor shall notify the Coalition in writing of any security breaches in terms of confidential, exempt, or proprietary information within twenty-four (24) hours of said discovery of said breach. For purposes of this Agreement, *Breach* shall mean any unauthorized access, use, transfer, distribution, disclosure, modification or destruction of any information or records by a third party and/or an unauthorized employee, agent or contracted person or entity for the Vendor. The Vendor shall identify the breach in writing as follows: *a) nature of the breach; b) the information disclosed or breached; c) the unauthorized party who made the breach and/or who received the unauthorized disclosure of said information; d) the actions or steps taken by the Vendor to eliminate or mitigate the damage as a result of said breach; and e) what corrective actions the Vendor has taken to ensure that said breach does not occur in the future.* The Vendor shall provide any additional information as reasonably requested by the Coalition, which may include full written report regarding said breach. If said breach concerns the personal information, data or records of a person, the Vendor agrees to comply with the requirements of Section 501.171, Florida Statutes. The Vendor will also be solely responsible for the costs and expense of curing and defense of any breach on behalf of the Coalition if said breach is due to the acts or omissions of the Vendor or the Vendor's contracted third party. Failure to safeguard and mitigate the damages of a breach of information as set forth herein shall constitute a default pursuant to **Section 20 (Termination and Default)** under this Agreement. Failure by the Vendor to comply with this section may make the Vendor liable to criminal and civil penalties as set forth under Chapter 815 ("Florida Computer Related Crimes Act") and Sections 443.1715, 501.171(9) and 119.10, Florida Statutes as well as any other applicable federal or Florida laws, rules, and regulations.

The Vendor shall immediately notify the Coalition, but in no event more than one (1) day after receipt of a request, whether verbal or in writing, of any non-media public records requests directed to the Vendor regarding the Agreement or the services delivered under the Agreement. The Vendor shall forward the public records request in writing to the Coalition in order for the Coalition to review and handle the request as well as to determine their exempt or Confidential nature as it pertains to public disclosure. If the Coalition determines that all or part of the requested records must be disclosed to the public and said records are in the possession of the Vendor, the Coalition may direct the Vendor to disclose those non-exempt, non-Confidential/non-Proprietary records to the party requesting said records and the Vendor shall disclose said records pursuant to such direction from the Coalition. If the Vendor believes that the records to be disclosed are or contain Proprietary or Confidential Information and are either the exclusive property of the Vendor or another third party, the Vendor shall identify as well as provide an adequate explanation or description regarding the exempt, confidential or proprietary nature of records or information to the Coalition prior to the disclosure and release of said records so that the Coalition, if it is in agreement with Vendor, may provide sufficient justification for the withholding of the disclosure of the records to the requestor. The Coalition may direct the Vendor to redact records containing Confidential or Proprietary Information. In the event Vendor believes it must disclose the Confidential or Proprietary Information to comply with applicable law and such disclosure is being made to comply with a court order or a federal/state agency directive, Vendor will notify the Coalition in writing prior to said disclosure so that the Coalition may review and challenge such disclosure in a court of competent jurisdiction or by agency appellate proceeding.

The Vendor shall also maintain records obtained or created pursuant to this Agreement in accordance with the applicable federal and state statutory records retention requirements, which include, but are not limited to Section 119.0701(2)(b) and Chapter 1002, Florida Statutes, if the Coalition has decided to not retain said records. The Vendor will cooperate to facilitate transfer, duplication and/or destruction of any records or documents upon the request of the Coalition at no cost, charge, or expense to the Coalition. The Vendor will also cooperate with the Coalition to facilitate the disclosure, transfer, destruction and/or distribution of records, information, and data as set forth herein and as requested by the Coalition to those persons or entities that are entitled pursuant to federal or Florida law to said disclosure and distribution at no costs, charge, or expense to the Coalition. The Vendor further agrees that at the expiration or termination of this Agreement, whichever is earlier, to return any and all Confidential Information and Proprietary Information to the Coalition, whether said Confidential Information and Proprietary Information is written, printed, copied, reproduced, downloaded, encrypted or in any other form whatsoever in the form or format requested by the Coalition at no additional cost, fee, or charge to the Coalition. The Vendor further agrees to not make or pursue any claim, suit, proceeding or action against the Coalition or its governing agency or authority as it concerns any claim or right of ownership, authorship or interest in the records, files, documents, data, or other information owned by the Coalition or its governing agency.

The obligations and conditions of the Vendor as it pertains to the disclosure, protection, maintenance, storage, access, use, delivery, destruction, alteration, dissemination, and return of the Confidential Information and Property Information as stated herein shall be binding on the Vendor, its employees, its agents, its successors in interest, its parent entity, its partners, its subcontractors and/or any other party utilized by the Vendor to perform the Scope of Services under the Agreement. Any violation as stated herein shall be considered a default under this Agreement and the Coalition and/or any applicable government entity shall have the right to pursue any actions or remedies to secure said Confidential Information and Proprietary Information from disclosure and use by the Vendor or any third party.

This **Section 9 (Confidentiality and Proprietary Information; Disclosure; Records)** shall also apply to any subcontractors or agents utilized to perform the Scope of Services as set forth in **Exhibit A** of this Agreement and shall survive the expiration or termination of this Agreement, whichever is earlier.

**10. COPYRIGHTS AND PATENTS** The Coalition and/or its applicable governing agencies shall be deemed to be the absolute and unqualified owner of the data, research, work, methods, formulas, or other work product, whether in hardcopy or electronic form, produced, altered or refined as a result of the Scope of Services, and as a result, the Vendor hereby assigns to the Coalition and/or its applicable governing agencies all rights, title and interests in and to any and all data, research, work, methods, formulas, or other work product, whether in hardcopy or electronic form, furnished to the Coalition that is related to or arising from the Scope of Services including, but not limited to, any developments, additions, or enhancements to the Coalition's Proprietary Information provided by the Vendor while retained or engaged by the Coalition. The Coalition and/or its governing agencies shall have the right to obtain, on its own or any third party name, any and all copyrights, patents trademarks or other appropriate trade secret-related protections for such work product and any renewals thereof. The Vendor agrees to

execute and deliver to the Coalition and/or its applicable governing agencies or authorities any document that in the sole opinion of the Coalition may be necessary or appropriate in order to enable the Coalition and/or its applicable governing agencies or authorities to obtain such copyrights, patents, trademarks or other appropriate trade secret-related protections for such work product and any renewals thereof as stated herein. As it pertains to **Section 10 (Copyrights and Patents)** of this Agreement, the Vendor irrevocably appoints the Coalition and/or its applicable governing agencies or authorities as the Vendor's true and lawful attorney-in-fact to execute, verify, acknowledge and deliver any and all instruments and documents which in the sole opinion of the Coalition may be necessary or desirable in order to enable the Coalition and/or its applicable governing agencies to perfect and protect ownership in and to such work product resulting from the Scope of Services.

Pursuant to 45 Code of Federal Regulation ("C.F.R.") 75.322, the U.S Department of Health and Human Services, Administration of Children and Families reserves a royalty-free, nonexclusive and irrevocable license to reproduce, publish, or otherwise use, and to authorize to use, for federal government purposes: (a) the copyright for work developed under the Agreement and b) the right of copyrights to which the Coalition or the Vendor purchases ownership with grant support. Pursuant to Section 286.021, Florida Statutes, and subject to the claims of the U.S. Department of Health and Human Services, any and all copyrights accruing under and in connection with this Agreement funded by the Coalition are hereby reserved to the state of Florida. Anything by whatsoever designation to be known, that is produced by or developed in connection with this Agreement utilizing federal and state funds shall become the exclusive property of the State of Florida and maybe copyrighted, patented, or otherwise restricted as provided by Florida or federal law. Neither Vendor nor if applicable, its employees shall have any proprietary interest in the product or work. The Vendor acknowledges and agrees that the federal government and/or the state of Florida may have rights in any experimental, developmental or research work resulting in an invention of a product, method, approach, or formula pursuant to 37 C.F.R part 401.

This **Section 10 (Copyrights and Patents)** of this Agreement shall not be applicable to any pre-existing copyrights, trademarks, patents, trade secrets, software, designs, methods, systems or other works of authorship utilized by the Vendor as part of the Scope of Services so long as such copyrights, trademarks, patents, trade secrets, software, designs, methods, systems or other work of authorship of the Vendor has been properly registered, certified and/or licensed with any applicable federal and state agencies or authority, which would include, but is not limited to *the United States Patent and Trademark Office* prior to the commencement of the Scope of Services or the mutual execution of this Agreement by the Parties, whichever is earlier. In the event that software, designs, methods, systems or other works of authorship was developed or is being developed by the Vendor as part, or the result of a previous contract or agreement between the Vendor and Coalition, said waiver of any rights of ownership or interest by the Coalition in said software, designs, methods, systems or other works of authorship by the Vendor shall not be applicable under this Agreement and said right of ownership or interest as set forth herein shall be done and/or found in favor of the Coalition and DEL. Any claim of ownership of any other pre-existing copyrights, trademarks, patents or trade secret-related works or products by the Vendor shall be explicitly stated in documentation utilized to perform or delivery the Scope of Services as set forth in **Exhibit A** of this

Agreement and a written notice shall be provided to the Coalition prior to the commencement of the Scope of Services or execution of a contract, whichever is earlier. Failure by the Contractor to provide such written notice prior to the commencement of the Scope of Services shall result in the Contractor's waiver of any claim of ownership or right in any pre-existing copyrights, trademarks, patents, trade secrets, software, designs, methods, systems, or other works of authorship utilized by the Contractor as part of the Scope of Services.

The Coalition may demand and the Vendor shall provide documented proof of any registered, certified and/or licensed pre-existing copyrights, trademarks, patents or trade secret-related works or products *which includes, but is not limited to, documentation that has been filed with and approved by the appropriate federal governmental authority responsible for conferring said right of ownership and/or authorship*, which would include, but is not limited to *the United States Patent and Trademark Office*, from the Vendor confirming that the Vendor has obtained a generally recognized legal right and/or authority to claim copyright, trademark, patent or trade secret protection for the technology, method, formula, design, writings or other work prior to the commencement of the Scope of Services under this Agreement. The Vendor agrees to deliver the aforesaid documented proof of ownership, interest or authorship to the Coalition as set forth herein upon request by the Coalition. Failure to provide such documentation as provided herein prior to the commencement of the Scope of Services under this Agreement will result in the Vendor's waiver of its proprietary rights or interest under applicable federal and Florida statutes and codes as well as under the terms and conditions of this Agreement.

Except as stated herein, the Coalition shall have full and complete ownership of all technology, designs, portals, gateways, files, links, applications, programs and other related of software or information technology systems, interfaces and designs developed, enhanced, or created pursuant to this Agreement which include, but is not limited to the following: a) written source code b) the source code file or files c) the executable code file or files d) the data dictionary e) the data flow diagram f) the work flow diagram g) the entity relationship diagram and h) all other documentation needed to enable the Coalition and DEL to support, recreate, revise, repair or otherwise make use of the software, programs, applications, design, gateway, links, portals and/or systems. The Vendor also agrees to immediately assign to the Coalition and DEL, any and all copyrights subsiding therein if needed for the consideration set forth in this Agreement and with no additional compensation.

Except as stated herein, the services and/or work being performed by the Vendor under this Agreement shall be considered a "work for hire" and said "work for hire" shall have the same meaning as set forth in 17 United States Code ("U.S.C"), Section 101. Any and all copyrights subsisting in such "work for hire" under this Agreement shall be owned exclusively by the Coalition and DEL pursuant to Section 1006.39, Florida Statutes on behalf of the state of Florida. The ownership interest will continue after the expiration or termination of the Agreement. The Vendor agrees that neither its employees or agents will not assert any ownership of work product produced pursuant to this Agreement and will obtain the necessary releases from said employees or agents. The Vendor further agrees to not convey any rights in the work product as set forth in this section to any third party.

The Vendor acknowledges and agrees that any Coalition and DEL related data, records, reports, documents or other information ("Electronic Files") that have been or may be stored, transferred and/or maintained in the future in any files, electronic system, external storage medium, or server (including but not limited to any internet or cloud-based system) that is owned, utilized, controlled, shared, supported by the Vendor, or that the responsibility for such storage or maintenance of the Electronic Files has been subcontracted to a third party by the Vendor, shall at all times, whether during or subsequent to the Agreement, be the sole and exclusive property of the Coalition. The Vendor shall promptly release and return or cause the release and return through any third party subcontractor, the Electronic Files, or any portion thereof, in their unaltered form, as requested by the Coalition, at no additional cost, fee, rate or charge, to the Coalition, upon the receipt of a written request by the Coalition to the Vendor. In no event shall the return of the Electronic Files or any portion thereof exceed more than five (5) calendar days following a Coalition request for the Electronic Files. The Electronic Files shall be released and returned in a form or format that is compatible with the Coalition systems and easily accessible by the Coalition. The Vendor shall promptly provide to the Coalition any passwords, usernames or other security protocols required to access or download the Electronic Files or any portion thereof, at all times during and subsequent to the Term of this Agreement. Vendor shall not delete, alter, or reformat the Electronic Files without the prior written consent of the Coalition.

The Vendor warrants and represents that the work delivered to the Coalition as a part and/or the result of the Scope of Services will not infringe on the copyright of a third party. The warranty and representation as set forth herein is applicable to each work of authorship in which a copyright subsists. As to software or "information technology", as the term is defined in Section 282.0041(20), Florida Statutes, in which copyright subsists, the Vendor represents and warrants that it has acquired the right by conveyance or license to any third party software or information technology which was used to delivery or perform the Scope of Services. As to each image and sound recording incorporated into the Scope of Services, the Vendor represents and warrants has acquired the necessary rights, releases and waivers from the persons or entities whose image or sound included, or from the holder of the copyrights subsisting in the literary, musical, dramatic, pantomime, choreographic, pictorial, graphic, sculptural, motion pictures, audiovisual work, or sound recording from which the included image or sound recording was taken.

This **Section 10 (Copyrights and Patents)** shall also apply to any subcontractors or agents utilized by the Vendor to perform the Scope of Services as set forth in **Exhibit A** of this Agreement and shall survive the expiration or termination of this Agreement, whichever is earlier. Failure to comply with the requirements of this **Section 10 (Copyrights and Patents)** of this Agreement shall constitute a default pursuant to **Section 20 (Termination and Default)** under this Agreement.

- 11. ENDORSEMENTS, PUBLIC ANNOUNCEMENTS AND PRESS RELEASES** The Vendor acknowledges and agrees that neither the Coalition nor its applicable governing agencies shall be under any obligation to provide any endorsement of the Vendor's Scope of Services, or any work product resulting, related to or arising from the Scope of Services to any third party. Vendor shall not use the Coalition's name, materials (including but not limited to likeness and/or names of recipients of the Coalition), or trademark in any manner, expressly or implied, which might tend to convey the impression that the Coalition

has endorsed or approved the Vendor's Scope of Services, or the work product resulting, related to, or arising from the Scope of Services, without the prior written consent of the Coalition. Due to the potential confidential and proprietary nature of the materials and information to be used, accessed, or provided to the Vendor under this Agreement, the Vendor agrees to not provide any information to a media representative or any other external party regarding the Agreement or services delivered under the Agreement without the prior written approval of the Coalition. This requirement is to ensure that confidential, proprietary, or exempt information of clients or other matters are either not disclosed or properly redacted prior to allowing access and/or distribution to the public. The Vendor shall immediately notify the Coalition of any requests from any media outlet or representative regarding the Agreement or services delivered under this Agreement. The Vendor is prohibited from using the Coalition's stakeholder or client information in any brochures, press releases or other promotions without first obtaining the written consent of the Coalition. The Vendor further acknowledges and agrees that Vendor does not have the right to use the Coalition's name, materials (including but not limited to likeness and/or names of recipients of services of the Coalition), and/or logo for any purpose whatsoever without written consent of the Coalition.

- 12. INDEPENDENT CONTRACTOR** The Vendor is an independent contractor and neither the Vendor, nor, if applicable, its employees, its agents and/or its subcontractors shall be deemed to be affiliated with, an agent of and/or employed by the Coalition. In addition, the Vendor is solely responsible for the payment of any local, state, and federal income, social security and unemployment taxes for Vendor for purposes of any applicable tax laws and associated filings. The Vendor hereby confirms to the Coalition that the Coalition will not be required to furnish or provide any training to the Vendor to enable the Vendor to perform, deliver and/or provide the Scope of Services required hereunder. The Vendor, its staff, its agents and/or its subcontractors shall perform the Scope of Services as stated herein and the Coalition shall not be required to hire, supervise, or pay any assistants or other persons to assist and/or support the Vendor's performance of the Scope of Services under this Agreement. Except to the extent that the Scope of Services must be performed utilizing the Coalition's computers, servers, electronic network (i.e. internet, webpage, etc.) or software, the Vendor shall supply all materials used or needed in providing the Scope of Services. Except as provided in this Agreement, the Vendor shall be obligated to complete the Scope of Services once the work and/or services is initiated and/or payment is received, whichever is earlier.

In the event the Scope of Services as set forth in **Exhibit A** of this Agreement requires use or access to Coalition equipment and resources (i.e. copy machines, phones, fax machines, jump drives, mobile devices, computers, virtual portals, websites, etc.), the Vendor shall use such resources in compliance with the Coalition's policies and procedures and in accordance with applicable federal and/or Florida law and such use shall be strictly contained to the Scope of Services. If there is a change in ownership of the Vendor, the Vendor must notify the Coalition no later than twenty-four (24) hours of learning of the potential change in ownership and describe the circumstances of such change and indicate when the change is likely to occur.

The Vendor further agrees to perform and deliver the Scope of Services as set forth in the Agreement in compliance with said applicable Florida and/or federal statutes, rules, regulations, rules, guidance, or policy.

**13. LIABILITY AND INDEMNIFICATION** To the extent permitted by applicable Florida and/or federal law, the Vendor shall be liable as well as indemnify, defend, release and hold harmless the Coalition and all of its officers, agents, members, directors and employees from all claims, suits, judgments, or damages, including attorneys' fees (including all levels of appeal) and court costs and expenses, related to or arising out of any actions, negligence and/or omissions of the Vendor, or if applicable, its agents, officers, subcontractors, members, directors, or employees during the performance or delivery of the Scope of Services and/or operation of this Agreement (including any subsequent modifications thereof), whether direct or indirect, and whether to any person or tangible or intangible property, including, without limitation, any and all claims, demands, or causes of action of any nature whatsoever resulting from injuries or damages sustained by any person or property. In the event the Vendor's information technology systems, software, hardware, codes and/or applications (hereinafter collectively referred to as "System") utilizes a third party to store and/or maintain the Confidential Information and/or Proprietary Information (as those terms are defined in **Section 9 (Confidentiality and Proprietary Information; Disclosure; Records)** of this Agreement), the Vendor shall further be liable as well as indemnify, defend, release and hold harmless the Coalition and all of its officers, agents, members, directors and employees from all claims, suits, judgments, , or damages, including attorneys' fees (including all levels of appeal) and court costs and expenses, related to or arising out of any actions, negligence and/or omissions of the third party as it concerns the storage, maintenance, access , destruction, alteration, and retrieval of the Coalition's Confidential Information and/or Proprietary Information.

To the extent considered necessary by the Coalition, any sums due to the Vendor under this Agreement may be retained by the Coalition until all of the Coalition's claims for indemnification pursuant to this Agreement have been settled or otherwise resolved and any amount withheld shall not be subject to payment of interest by the Coalition. Nothing herein shall be construed to waive any sovereign immunity that may be applicable to the Coalition or Vendor pursuant to Florida and/or federal law. In the event the Vendor utilizes subcontractor(s) to perform or deliver the Scope of Services and the subcontractor does not meet the definition set forth in Section 768.28(2), Florida Statutes, the Vendor shall be responsible for ensuring that the subcontractors utilized by the Vendor comply with the liability and indemnity requirements as set forth herein. This **Section 13 (Liability and Indemnification)** shall survive the expiration or earlier termination of this Agreement.

**14. INSOLVENCY OF VENDOR** This Agreement shall terminate and the Coalition's obligations hereunder (including the obligation to pay Vendor compensation hereunder) shall cease upon the occurrence of: (i) the appointment of a receiver, liquidator, or trustee for the Vendor by decree of competent authority in connection with any adjudication or determination by such authority that the Vendor is bankrupt or insolvent; (ii) the filing by the Vendor of a petition in voluntary bankruptcy, the making of an assignment for the benefit of its creditors, or the entering into a final disposition with its creditors; or (iii) any formal action of the board of directors of the Vendor, or an agency or other entity having legal authority to terminate the Vendor's existence or otherwise to wind up the Vendor's affairs. In the event of the Vendor is subject to any of the foregoing as stated herein, the Vendor is required to provide a written notification to the Coalition within three (3) days of said action to inform the Coalition of its organizational and operational status. If the Coalition learns of the existence of legal or financial conditions during the Term of the

Agreement, whether disclosed by the Vendor or independently discovered by the Coalition that causes the Coalition concern that the Vendor's ability to perform the Agreement is jeopardized, then upon written demand by the Coalition, the Vendor shall provide the Coalition in writing all reasonable assurances to demonstrate that the Vendor will perform the Agreement in accordance with its terms and conditions and the Vendor has not and will not engage in conduct in performing the services for the Coalition which is similar in nature to the conduct that is the subject of the legal or financial condition causing such concern.

- 15. INSURANCE** The Vendor shall maintain, at its sole cost and expense, comprehensive general and professional liability insurance in addition to any other insurance as the Coalition may reasonably require in order to provide adequate financial protection for the Coalition. Each policy shall state that it is not subject to cancellation, modification, or reduction in coverage without 30 days' written notice to the Coalition prior to the effective date of cancellation, modification, or reduction in coverage. The Vendor shall provide proof of said insurance to the Coalition in the form of standard ACORD form certificates of insurance and the insurance policies shall be from insurers that are qualified and do business in the state of Florida. The Vendor shall also provide written notification to Coalition if said policies of insurance are cancelled or are subsequently changed if said policies do not comply with the requirements of insurance coverage for Coalition. The Vendor shall continuously maintain, without interruption or a lapse in coverage, each of the above insurance policies throughout the Term of this Agreement and any extensions or renewals thereof. In the event the Vendor utilizes subcontractors to perform the Scope of Services, the Vendor shall require said subcontractors to maintain comprehensive general and professional liability insurance, in addition to any other insurance the Coalition may reasonably require stated hereunder. The Vendor agrees to add the Coalition as an additional insured under its applicable policies of insurance in accordance with delivery and/or performance of the Scope of Services set forth in **Exhibit A** of this Agreement.

Vendor shall be solely responsible for the payment and maintenance of worker's compensation insurance and coverage for itself and its employees, however, Vendor will not be required to add the Coalition as an additional insured to said worker's compensation policy. In the event the Vendor is an agency or subdivision of the state as defined in Section 768.28(2), Florida Statutes, and has instituted and/or participates in an adequately funded, legally compliant self-insurance program, this **Section 16** shall not be applicable to the Vendor; however, if the Vendor's utilizes subcontractor(s) to perform and/or deliver the Scope of Services and the subcontractor does not meet the definition set forth in Section 768.28(2), Florida Statutes, the Vendor shall be responsible for ensuring that the subcontractors utilized to perform and/or deliver the Scope of Services comply with the insurance requirements as set forth herein.

- 16. ASSIGNMENT AND SUBCONTRACTING** This Agreement shall not be assigned, subcontracted, delegated or otherwise transferred by the Vendor to any other third party without the written consent of the Coalition. Any transfer or assignment made without the consent of the other party to this Agreement shall be considered null and void as a matter of law and shall be considered a material breach under this Agreement. Assignment in this context shall also mean any merger into, with or acquiring of all or a part of the business or interest of another person or entity or the transfer in any one transaction or series of transactions of all or a substantial portion of the business, interest, or assets of



either party. The Vendor shall not assign or subcontract direct fiscal or administrative control or responsibility for the Agreement to another third party. The Vendor may contract with a third party for general accounting or human resource functions; however, the Vendor shall have immediate access to all records and documents at all times under said third party contract at no additional cost to the Coalition. In the event the Coalition agrees to, whether in whole or in part, to any subcontracting or assignment of this Agreement by the Vendor, the agreement between the Vendor and the third party utilized to perform and/or deliver the Scope of Services as set forth in **Exhibit A** of this Agreement pursuant to a third-party subcontractor or assignment agreement shall contain the same terms and conditions under this Agreement. Notwithstanding the foregoing, the Vendor shall retain responsibility for all work, services and expenses as set forth under the Scope of Services if the Coalition approves any work and/or services performed and/or delivered by a third-party subcontractor of the Vendor.

The Vendor further acknowledges and agrees that it shall be solely and exclusively the Vendor's obligation and responsibility to pay or compensate any subcontractors, sub-consultants or other parties utilized by the Subcontractor to deliver and/or perform the Scope of Services as set forth in **Exhibit A** of this Agreement and that neither the Coalition or DEL has nor will have any privity of contract under this Agreement with any subcontractors or sub-consultants utilized by the Vendor. The Vendor shall indemnify, defend and hold harmless the Coalition against any and all claims, suits, or proceedings, whether pending or in the future, for any payment, compensation, damages, losses or obligations asserted or imposed against the Coalition as it pertains any work and/or services delivered and/or performed by any subcontractors, sub-consultants or other parties utilized by the Vendor to deliver and/or perform the Scope of Services as set forth in **Exhibit A** of this Agreement.

This **Section 16 (Assignment and Subcontracting)** shall survive the expiration or termination of this Agreement, whichever is earlier.

- 17. SEVERABILITY** In the event that any one or more of the provisions of this Agreement shall be held to be invalid, the remaining provisions of the Agreement shall not in any way be affected or impaired thereby. All agreements and covenants herein are severable, and in the event any one of them shall be held to be invalid by any competent court, this Agreement shall be interpreted as if such invalid agreements or covenants were not contained herein.
- 18. NOTICE** Any notices, communications and waivers under this Agreement shall be in writing and shall be as delivered by the following methods: (i) hand delivery, (ii) by depositing such notice in the United States mail, certified or registered mail with return receipt requested, postage prepaid (iii) via overnight air courier service or (iv) electronically via email contact to the appropriate contact persons as set forth herein so long as the notice has also been sent via mail and postmarked on the same date as the email and forwarded to the Parties in same the manner stated hereunder unless otherwise agreed to in writing between the Parties subsequent to the date of this Agreement in the manner set forth in **Section 26 (Amendment)** of this Agreement . Unless otherwise provided in this Agreement, notice by registered or certified mail shall be deemed given on the date it is officially recorded as delivered by return receipt or equivalent, and in the absence of such record of delivery it shall be presumed to have been delivered on the seventh day

after it was deposited in the mail. It will be the Vendor's responsibility to update their address with the Coalition during the Term of this Agreement. Failure of the Coalition to notify the Vendor in writing of any condition, requirement or noncompliance under this Agreement shall not be a basis or grounds for a claim of default by the Vendor, defense against a default issued by the Coalition or noncompliance under this Agreement or any applicable law if the address of the Vendor is not current or correct as set forth in this Agreement. The addresses in each case shall be as follows:

**Vendor:** \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
Attn: \_\_\_\_\_

**Coalition:** Early Learning Coalition of Broward County, Inc.  
1475 West Cypress Creek Boulevard, Suite 301  
Fort Lauderdale, FL 33309  
Attn: Kasey Lafrance  
contracts@elcbroward.org

**19. APPLICABLE LAW AND VENUE** This Agreement shall be governed by and construed in accordance with the laws of the State of Florida. The Parties agree to abide by, comply with and govern themselves in accordance with all applicable federal and Florida laws, rules, and regulations, including, but not limited Sections 39.201 and 415.1034, Florida Statutes. The Parties further agree that the venue for any actions, claims, disputes, hearings, proceedings, or other matters associated, concerning, arising from or related to this Agreement shall be in Broward County, Florida. The Vendor acknowledges that this Agreement may be subject, in whole or in part, to the most current funding/governing agreement between DEL and the Coalition ("Grant Agreement") and that in the event the Grant Agreement is applicable, whether in whole or in part, to this Agreement, compliance as stated herein shall mean compliance with the Grant Agreement.

**20. TERMINATION AND DEFAULT** If any party commits a breach of this Agreement, such breach shall constitute a default under this Agreement and the non-breaching party may give the breaching party written notice describing such breach and stating that this Agreement will terminate unless such breach is cured within thirty (30) days of receipt of said written notice from the non-breaching party. In the event the breach is the type that must be cured immediately or within a time period less than thirty (30) days ("Expedited Period"), the Vendor shall cure said breach within said time period. A breach under this Agreement shall include, but not limited to the following: a) failure to perform, deliver and/or provide the Scope of Services (in part or in whole) as set forth in **Exhibit A** of this Agreement; b) failure to provide, if applicable, personnel, vendors, and/or agents with the necessary experience, expertise, certifications, licenses, trainings, seminars, and/or education to perform the Scope of Services as set forth in **Exhibit A** of this Agreement; c) failure to comply with applicable Florida and federal laws in the delivery and performance of the Scope of Services as set forth in **Exhibit A** of this Agreement; and d) improper, excessive, duplicative, or unauthorized billing of the Coalition by the Vendor for services and/or work associated or in connection with the Scope of Services as set forth in **Exhibit A** of this Agreement.

If such breach is not corrected within thirty (30) days or within the Expedited Period after notice has been given by the non-breaching party, whichever is applicable, (the aforementioned 30-day period and the Expedited period, collectively or individually referred to hereinafter as the "Cure Period"), this Agreement shall terminate at the end of the Cure Period. In the event that such breach concerns or relates to performance and/or delivery of the Scope of Services by the Vendor and such breach is incapable of being cured within the aforementioned Cure Period by the Vendor, the Coalition shall have option to extend the Cure Period for an additional thirty (30) days (hereinafter referred to as the "Extension Period") after the expiration of the Cure Period. If said breach is not cured during the Extension Period, then the Agreement shall terminate after the expiration of the Extension Period. Notwithstanding the foregoing, the Coalition will not be required to offer or enter into an Extension Period with the Vendor.

In event the Vendor commits a breach of this Agreement that (a) would affect the health, safety and welfare of the persons served by the Coalition; (b) would place the Coalition and DEL in violation of applicable law(s) and such violation would or could result, whether presently or in the future, in a sanction or penalty (financial, administrative, judicial, or otherwise) from a governing agency, court of competent jurisdiction, or other authority against the Coalition and DEL; or (c) the Coalition determines that the Coalition may not be entitled to, or restricted in receiving or qualifying for certain insurance coverage, sovereign immunity or other protections available to the Coalition based on the Vendor's acts or omissions d) said liability would extend beyond the sovereign immunity limits of Section 768.28, Florida Statute as the same maybe amended or altered, from time to time and/or (e) concerns a breach or violation of **Section 9 Confidentiality and Proprietary Information; Disclosure; Records**) or **Section 10 (Copyrights and Patents)** of this Agreement (hereinafter "(a)", "(b)" "(c)" "(d)" or "(e)" as stated in this paragraph being individually and collectively known as a "Material Breach"), the Coalition may unilaterally terminate this Agreement upon no less than twenty-four (24) hours written notice to the Vendor. A Material Breach would include, but not be limited to the failure to comply with the confidentiality and proprietary information requirements as set forth in this Agreement and pursuant to Florida and federal law. The Coalition may provide additional time for the Vendor to cure a Material Breach via an Extension Period; however, the option of entering a Cure Period or an Extension Period as it pertains to a Material Breach shall be at the sole discretion of the Coalition. In the event the Material Breach as stated herein is not cured within the Cure Period or the Extension Period, whichever is applicable, if the same is allowed by Coalition and the Coalition does not desire to terminate the Agreement, the Coalition may seek to cure the Material Breach at its own time and expense in order to resolve the issue and/or mitigate the damages. The Vendor shall be liable for any and all expenses associated with the Coalition's efforts to cure the Material Breach of the Agreement as stated herein. If the Material Breach cannot be cured during within the time frames stated herein or if the Material Breach is incapable of being cured by the Coalition, the Coalition may terminate this Agreement based on the Material Breach upon no less than twenty-four (24) hours written notice to the Vendor.

In the event this Agreement is terminated by the Vendor or the Coalition for any reason and the Scope of Services has not been fully and/or satisfactorily performed and/or completed by the Vendor in accordance with terms and conditions of this Agreement (including any subsequent amendments hereto), the Vendor acknowledges and agrees to

be liable for any and all damages sustained by the Coalition related to or arising from its acts, omissions and/or negligence as it pertains to the Vendor's failure to satisfactorily perform and/or complete the Scope of Services as set forth in the Agreement if said termination of the Agreement would result in the following: create an event or occurrence in which the Coalition would be in violation of a federal or Florida law, rule, regulation and/or policy; the Coalition being held liable for a claim, suit, action or damages from a third party related or arising from the Scope of Services or the Agreement; would result in a sanction, penalty, fine, or corrective action against the Coalition by a governing agency or authority; or the Vendor's non-completion and/or non-performance of the Scope of Services contributes or directly causes a recipient of the Coalition's services to be at imminent risk of harm. The Vendor shall discontinue all work and/or services under this Agreement as of the date of termination of the Agreement and shall return any and all property and materials belonging to the Coalition and/or its contracted vendors or providers in the possession of the Vendor to the Coalition in good condition upon the effective date of the termination of the Agreement. All data, files, documents, records and/or other materials and information created, or maintained by the Coalition, DEL and/or its authorized agents or vendors, whether electronic or hard copy, during the duration of the Agreement are the property of DEL and the Coalition and must be surrendered to the Coalition and DEL by the Vendor upon expiration, termination or cancellation of the Agreement at no cost or expense to the Coalition and DEL, whichever is applicable. This **Section 19 (Termination and Default)** of the Agreement shall survive the expiration or sooner termination of this Agreement.

In the event the federal, state, and/or local funds upon which this Agreement is dependent are withdrawn or redirected, the Coalition may terminate this Agreement upon no less than twenty-four (24) hours written notice to the Vendor

Notwithstanding the foregoing, either party may terminate this Agreement at any time for any reason for convenience during the Term by providing no less than thirty days (30) written notice to the other party. Notice of termination of this Agreement shall be in the manner as set forth in **Section 18 (Notice)** of this Agreement.

- 21. LIMITATION OF LIABILITY** If a court of competent jurisdiction or an arbitrator holds the Coalition liable for certain tortuous acts of its agents, officers, or employees, such liability shall be limited as provided in Section 768.28, Florida Statutes, and/or any other applicable Florida or federal statute. This provision shall not be construed as a waiver of any right or defense that the Coalition may possess under this Agreement or pursuant to applicable Florida and federal law. The Coalition specifically reserves all rights and remedies as against any and all claims that may be brought as a result of this Agreement.
- 22. CONFLICT WITH THE AGREEMENT** In the event this Agreement is currently in, or subsequently presents an unallowable conflict, whether in whole or in part, with the following: (a) any applicable federal or Florida Statutes, rules, codes and/or regulation (b) any applicable funding/governing agreement between the Coalition and the DEL including but not limited to the Grant Agreement, and/or (c) the policies and procedures of the Coalition, the aforementioned laws, policies and procedures, and agreements shall prevail.

- 23. ATTORNEY'S FEES AND COSTS** In connection with any litigation, mediation, arbitration, special proceeding or other proceeding related to and/or arising out of this Agreement, the Coalition and the Vendor agree that each party will be responsible for its own attorney's fees and costs prior to, during the pendency of and subsequent to the conclusion of the matter through and including any appeals and post-judgment proceedings. This section shall be subject to **Section 21 (Limitation of Liability) and 31 (Dispute Resolution)** of this Agreement and shall survive the expiration or termination of this Agreement, whichever is applicable.
- 24. ENTIRE AGREEMENT** All terms and conditions of this Agreement are fully set forth in this document and supersedes all prior agreements, representations, writings and understandings.
- 25. NONWAIVER** No failure or neglect of either party hereto in any instance to exercise any right, power or privilege hereunder or under law shall constitute a waiver of any other right, power or privilege or of the same right, power or privilege in any other instance. All waivers by either party hereto must be contained in a written instrument signed by the party to be charged in accordance with party's policy, procedures and/or bylaws.
- 26. AMENDMENT** No amendment, modification or addition to this Agreement shall be effective or binding on any party to this Agreement unless set forth in writing and mutually executed by the Parties. The Parties agree to negotiate changes to this Agreement if there are applicable revisions to federal or Florida laws and regulations.
- 27. TIME IS OF THE ESSENCE** The Vendor acknowledges that time is of the essence in all matters relating to fulfillment of its obligations under this Agreement.
- 28. NO THIRD PARTY BENEFICIARY** This Agreement is for the sole benefit of the Parties and nothing herein expressed or implied will provide or be construed to provide any legal or equitable rights hereunder to any other third party.
- 29. COUNTERPARTS** This Agreement may be executed in one or more counterparts, all of which shall be considered one and the same agreement and shall become effective when one or more counterparts shall have been signed by each of the Parties hereto and delivered to the other Parties hereto. Facsimiles or other electronically scanned and transmitted signatures shall be deemed originals for all purposes of this Agreement so long as said electronic signatures do not violate applicable law and/or the signature policy of the Coalition.
- 30. COOPERATION** In the event that the Coalition or the Vendor is the subject of an investigation by an agency or other governing authority in relation to the Scope of Services or if the Vendor, either by itself or through the persons utilized to perform the Scope of Services, is accused or charged with criminal activity against the Coalition, its employees, its residents, its recipients, its sub-recipients, its vendors, its program participants or its volunteers, Vendor agrees to cooperate with any investigation initiated or conducted by the Coalition and/or the appropriate agency/governing authority until its conclusion of the investigation or rendering of a final report, whichever is later. Cooperation shall include, but not be limited to the production of any requested documents (that would not fall under any applicable legal or statutory privilege or exemption) and the commitment to make available

any applicable witnesses to testify when requested by the aforementioned entities so long as such testimony would violate any applicable legal or statutory privilege. If Vendor raises or states an objection based on privilege or an exemption and said privilege or exemption is applicable to the Coalition, the Vendor shall seek consent from the Coalition prior to raising or stating said privilege or exemption. The Vendor also agrees to immediately report to the Coalition any and all suspected or known instances of fraud and criminal activity related to this Agreement within twenty-four (24) chronological hours of discovery by the Vendor. The Vendor also agrees to make available any documentation in order for DEL and the Coalition to comply with applicable federal statutes, laws, rules, policy, guidance and procedures as it relates to the funding of the Agreement.

**31. DISPUTE RESOLUTION** The Parties shall agree to communicate and conduct themselves in a reasonable manner to resolve any disputes between the Parties arising from or related to this Agreement. Except as stated herein, any controversies or disputes arising out of the terms and conditions of this Agreement that are not settled in accordance with this Agreement or by mutual agreement between the Parties which results in litigation between the Parties shall be settled in Florida in accordance with the rules of the American Arbitration Association pursuant to the Federal Arbitration Act, and the judgment upon award may be entered in any court having jurisdiction thereof. Notwithstanding the foregoing, any dispute regarding the interpretation, enforceability, or applicability of any statute and/or agency rule (federal or state) or any funding agreement that the Coalition has with a governmental entity or authority that concerns, references, governs, relates to or arises from this Agreement shall be delegated to the applicable Florida court or designated agency/authority of competent jurisdiction for final determination. For purposes of this section, "litigation" means the retention and/or appearance of an attorney to appear on behalf of the Vendor or the Coalition before an arbitrator, judge or other final authority regarding a dispute or controversy. This section shall survive the expiration or termination of this Agreement, whichever is applicable.

**32. FORCE MAJEURE** The Coalition and Vendor agree and acknowledge that neither party shall be liable to the other for any delay, disruption, non-compliance or failure to perform under the Agreement if such delay, disruption, non-compliance or failure to perform is neither the fault nor due to the negligence or intentional acts or omissions of the party, its employees or agents and said delay is due directly to acts of God (e.g., hurricanes, tornados), wars, acts of public enemies (including, but not limited to terrorist related activities), strikes, fires, floods or other similar cause wholly beyond the party's control, or for any of the foregoing that affects subcontractors or suppliers if no alternate source of supply is available. In the event of a delay from the foregoing causes, the party shall take all reasonable measures to mitigate any and all resulting delay, disruption, non-compliance related to the party's performance obligation under the Agreement. If the delay, disruption, or non-compliance is excusable under this paragraph, the delay, disruption, or non-compliance will not result in any additional charge or cost under the Agreement to either party.

In the case of any delay, disruption or non-performance that the Vendor believes is excusable under this paragraph, the Vendor shall notify the Coalition in writing of the delay, disruption or non-performance and/or the potential thereof within five (5) calendar days after the cause that creates or will create said delay, disruption or non-performance. Notwithstanding the foregoing, the Vendor shall use every reasonable effort to adequately

prepare for those matters that while considered “acts of God”, occur with enough frequency either during certain time periods or events that would make said acts of God reasonably foreseeable (e.g., hurricanes between the months of August to November). For purposes of this paragraph, “preparation” shall mean the creation and implementation of policies and procedures for those acts of Gods that occur during certain times of the year, or events such as emergency preparedness. Failure to have sufficient policies and procedures in place for those reasonably foreseeable acts of God or other matters as state above shall be determinative of whether or not the parties to the Agreement shall be able to exercise the remedies as set forth herein.

The act of providing written notice to the Coalition in accordance with this section is a condition precedent to the exercise of such remedy. The Coalition, in its sole discretion, will determine if the delay is excusable under this paragraph and will notify the Vendor of its decision in writing. The Agreement or, other than for an extension of time, shall assert no claim for damages, against the Coalition. In addition, the Vendor shall not be entitled to an increase in the Agreement price or payment of any kind from the Coalition for direct, indirect, consequential, impact, or other costs, expenses, or damages, including but not limited to costs of acceleration or inefficiency arising from any delay, disruption, interference, non-performance or hindrance from any cause whatsoever.

If the performance of the Vendor is suspended or delayed, in whole or in part, due to any of the causes described in this paragraph, after the causes have ceased to exist, the Vendor shall perform, in accordance with the terms and conditions of the Agreement, at no increased costs unless the Coalition, in its sole discretion, determines that the delay, disruption or non-performance will significantly impair the value of the Agreement to the Coalition, DEL, or the State of Florida, in which case, the Coalition may do any or all of the following: (1) accept the allocated performance or deliverables from the Agreement or, provided that the Vendor grants preferential treatment to the Coalition with respect to products or services subjected to allocation; (2) purchase from other sources (with recourse to and by the Vendor for the related costs and expenses) to replace all or part of the products or services that are the subject of the delay, disruption or non-performance, which purchases may be deducted from the Agreement quantity; or (3) terminate the Agreement.

**33. NOTIFICATION OF LEGAL ACTION AND INCIDENTS** The Vendor shall notify the Coalition of legal actions, current or potential, such as lawsuits, claims, actions or special proceedings taken against the Vendor related to or arising from the Scope of Services; any other action, claim or proceeding that may impact the Vendor’s ability to deliver the Scope of Services set forth in **Exhibit A**; or adversely impact the Coalition, DEL and/or the recipients of the Coalition’s programs. Coalition will be notified in writing within twenty-four (24) chronological hours of the Vendor becoming aware of such action or from the day of the legal filing of said action, whichever is earlier.

Vendor shall also immediately notify in writing and file any related reports or forms concerning any and all reportable incidents that occur during the Term while delivering or performing the Scope of Services as set forth in **Exhibit A** of this Agreement that relate to or arise from, whether directly or indirectly, from this Agreement or the Contract. For purposes of this Agreement, a “reportable incident” is as follows:

*“Any incidents, occurrences, situations, circumstances, or conditions that results*

*or could potentially result, whether directly or indirectly, whether in whole or in part, in the harm, injury, or death to a client, provider, employee, or member of the public. For purposes of this definition, "harm or injury" shall include, but not be limited to incidents that are of an abusive, criminal, illegal, threatening, humiliating, discriminatory, or financial nature, whether intentional or unintentional, whether physical or mental, whether through verbal, written, or image/photographic means that has caused, could cause or could create substantial or material risk or exposure Injury or harm whether now or in the future to a client, employee or member of the public, Harm and injury shall also include those incidents, occurrences, situation, circumstances or conditions of a financial, monetary or compensable nature.*

*Examples of harm and injury shall include, but not be limited to the following: any form of hitting or striking, corporal punishment, abusive language (written or verbal), ridicule (written or verbal), false or misleading statements (written or verbal); harsh, humiliating or threatening treatment; theft, fraud, assault, accident (automobile or premises); or any kind of abuse, neglect, abandonment or exploitation (physical, mental, financial or otherwise); or any misuse, misapplication, breach, security risks, damage, destruction, removal or theft as it concerns local state and/or federal funds, property, systems (i.e. software, computers, networks, financial or other systems) or resources (suspected or otherwise) as well as any funds, property, systems (i.e. software, computers, networks, financial or other systems) or resources (suspected or otherwise) owned or controlled by the Coalition or any governmental entity by any person or entity including any person who is employed, contracted or utilized by the Vendor."*

Failure to notify and report incidents as set forth herein shall be considered default and maybe basis for termination under this Agreement.

34. **AUDIT RIGHTS** Vendor shall maintain or cause to be maintained, whether through the Vendor, a fiscal agent or other third party, accurate and complete records as it pertains to this Agreement. Representatives of the Coalition, or its applicable governing agencies or authorities, which includes but is not limited to DEL, The Florida Department of Financial Services, the Auditor General of the State of Florida, Comptroller General of the United States, Inspector General of the state of Florida, the Florida Office of Program Policy Analysis and Government Accountability ("OPPAGA") as well as their duly authorized representatives shall have access, for purposes of examination and inspection, to any books, documents, papers and records of the Vendor as it concerns or relates to this Agreement. The Parties agree that said audit rights as set forth herein are specific to this Agreement and shall not extend into any other contract or agreement that the Vendor has with a third party unless the Vendor has subcontracted, transferred or assigned its rights and obligations under this Agreement, or has partnered, via another agreement or purchase order, with another entity to perform the terms and conditions as set forth in this Agreement. This **Section 34 (Audit Rights)** shall survive the expiration or termination of this Agreement, whichever is applicable.
35. **ENDORSEMENT AUTHORITY** The Parties' representatives affixing their signatures hereto warrant and affirm that each of signatory has absolute legal authority to enter in to this Agreement and bind the respective Parties to the terms and conditions herein.



**[This Section Intentionally Left Blank. Signature Page to Follow]**

**IN WITNESS WHEREOF**, the Parties hereto have made and executed this Agreement on the respective dates under each signature:

**Early Learning Coalition of Broward County, Inc:**

By: \_\_\_\_\_

Name: \_\_\_\_\_

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

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

Approved as to form:

\_\_\_\_\_  
ELC General Counsel

**Vendor:**

By: \_\_\_\_\_

Name: \_\_\_\_\_

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

TAX EIN#: \_\_\_\_\_

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

SIGNATURE PAGE FOR THE \_\_\_\_\_, 20\_\_ VENDOR AGREEMENT FOR  
SERVICES BETWEEN THE COALITION AND

---

**Exhibit A**

**1) DEFINITIONS:**

**2) DESCRIPTION OF THE WORK AND/OR SERVICES:**

**3) BILLING AND SCHEDULE:** *Detail description of billing by hour, session, project, etc.,..*

In the event there is a conflict between **Section 3** of **Exhibit A** of this Agreement and **Section 3 (Compensation and Billing)** of this Agreement in terms of the time of invoicing and payment, **Section 3 of Exhibit A** of this Agreement shall prevail. Except as stated herein, all other matters concerning compensation and billing hereunder shall be as set forth in Section 3 of this Agreement.

**4) SERVICES AND SITE LOCATIONS:** The Vendor will perform and/or deliver the following work and/or services at the following location(s):

**5) DATES, TIMES AND HOURS FOR SCOPE OF SERVICE:** The Scope of Services shall be performed and/or delivered during the dates and times as designated by the Coalition OR between the hours of 8:00 a.m. to 5 p.m., Monday through Friday unless otherwise agreed to in writing by the Parties. **(optional- if there are deadlines or time frames for performance on specific dates, state those dates here as well as the number of hours expected for each session or deadline date)**

**6) PERSONS PERFORMING THE SCOPE OF SERVICES:** The Parties have agreed that the person(s) who will be allowed on the Coalition's property or program sites and who are approved by the Coalition to perform and/or delivery the Scope of Services as set forth in **Exhibit A** are as follows:

Notwithstanding the foregoing, the Vendor is allowed during the Term to engage or hire additional persons to complete the Scope of Services at their own cost and expense so long as Vendor provides notification and approval from the Coalition prior to those persons entering the Coalition's property and/or program sites.

**7) REPORTING AND MONITORING:** Vendor will report directly to \_\_\_\_\_ for the Coalition and to any other party designated by \_\_\_\_\_ in connection with the performance of the duties under this Agreement and shall fulfill any other duties reasonably requested by the Coalition and agreed to by the Vendor. If required by the Coalition, the Vendor's log, time sheet, progress report, and/or other recording document shall contain, at the least, the following information:

- a) location of site where services were performed (Coalition, Central Administrative Agency, Provider, etc...)
- b) the date the services were performed
- c) the time that services were commenced
- d) the time that services were completed
- e) the name of the person performing the services
- f) the type of service performed
- g) contract name and number at the top or bottom of the page (optional)

Any questions, comments or concerns between the Parties regarding the Scope of Services should be addressed directly by the individuals referenced herein. The Vendor agrees and acknowledges that the Coalition shall have right to monitor the Scope of Services during the Term of this Agreement. Monitoring shall include, but not be limited to requesting written updates as well as posing direct inquiries to the Vendor regarding the Scope of Services.

**8) SECURITY:** Vendor agrees that any access to the Coalition's property or program sites (i.e. buildings, rooms, or other areas) that is provided to the Vendor shall only be utilized to perform and/or deliver the Scope of Services and that the Vendor shall not access, nor provide access to a third party, to any of the Coalition's program sites or property without the expressed written consent of the Coalition. Vendor agrees to safeguard and not distribute all keys, passcodes and/or access cards to enter or access the Coalition's property or program sites provided to the Vendor by Coalition. In the event any keys or access cards have been lost or stolen, or any passcodes have been stolen and/or provided, whether intentionally or unintentionally, to a third party, Vendor agrees to provide written notification to the Coalition as soon as possible in order for the Coalition to secure the Coalition's property or program sites. Vendor agrees to turn in any and all keys or access cards to the Coalition at the completion of its Scope of Services, termination of the Agreement, or expiration of the agreement, whichever is earlier.

**9) PROPERTY:** The Parties agree that the Coalition shall not be responsible for the security, maintenance and/or storage of Vendor's equipment, accessories, materials, documents, uniforms, or other property at the Coalition's property or program sites. Unless otherwise agreed to by the Parties, Vendor shall keep and maintain its equipment, documents, materials, accessories, uniforms or other property at a location other than the Coalition's property or program sites set forth in **Exhibit A**. In the event the Parties agree that Vendor may keep its equipment, accessories, materials, documents, uniforms or other property at any Coalition's property or program sites, the Coalition shall not be liable for any damage or destruction of said equipment, materials, documents, uniforms or other property of the Vendor. Any tangible or nonexpendable property purchased by the Vendor, in part or in whole, for the Scope of Services as set forth in **Exhibit A** using federal funds shall be used for the purposes of that federal program and will be accounted for in accordance with applicable federal and state statutes, rules and regulations. Vendor will comply with 45 C.F.R. 74.32 for real property, 45 C.F.R. 74.34 for equipment and 45 C.F.R. 74.35 for supplies. Vendor acknowledges that property purchases with funds as stated herein will revert in terms of title and ownership to the Coalition upon termination of the contract. Property will not be purchased using program funds without the prior written approval of the Coalition. Contingencies such as liens or other liabilities shall not be placed upon assets or services owned or paid for by the Coalition nor shall nonexpendable property owned, paid for or in the possession of the Coalition be used as collateral by the Vendor.

**10) IDENTIFICATION (OPTIONAL):** The Vendor agrees that the persons employed, contracted, or utilized by Vendor to perform and/or deliver the Scope of Services shall be properly identified at all times by either wearing name tags that identify the name of the person and the name of the Vendor, or wear uniforms that identify the name of the person and the name of the Vendor.

**11) HEALTH AND SAFETY: (OPTIONAL)** Vendor agrees that the Vendor as well as any persons hired, contracted, or utilized by Vendor to perform or deliver the Scope of Services will follow, where applicable, the Coalition's policies and procedures in the performance and/or delivery of the Scope of Services as it concerns health and safety issues. The Vendor agrees to exercise the upmost care and take all necessary precautions to ensure the health and safety of the program recipients, employees, vendors, and/or volunteers of the Coalition as well as the public at large in the delivery and/or performance of the Scope of Services. The Vendor shall also ensure that it has in place the appropriate post clean up protocols in order to eliminate and/or alleviate any hazardous conditions subsequent to the completion of its work at the Coalition's site locations. If there is a conflict between the Vendor's post clean up protocols and Coalition's policies and procedures/best practices, the Vendor shall utilize Coalition's policies and procedures/best practices unless said policies and procedures/best practices are in violation of applicable law in which case the Vendor shall use its post clean up protocols.

**12) CONTINUATION OF OPERATION PLAN (OPTIONAL)** The Vendor shall submit one Continuation of Operations Plan ("COOP") to the Coalition's contract manager upon execution of this Agreement. The COOP shall include the Vendor's plans to continue operations during unforeseen circumstances whether natural or man-made disasters, local emergencies, or other emergency situations requiring significant changes in operations. The plan shall include pre-disaster planning, including, but not limited to record protections, alternative accommodations for service delivery, supplies, and a recovery plan that would allow the Vendor to continue functioning as per this executed Agreement in the event of an actual disaster.

**[This Section Left Intentionally Blank]**

**Exhibit B**

***Vendor's Statement of Credentials***

SAMPLE

## **Exhibit C**

### ***Vendor Service Agreement Certifications and Assurances***

- A. Debarment, Suspension and Other Responsibility Matters Certification (2 CFR Part 376, 29 CFR Part 95 and 45 CFR Part 74)**
- B. Certification Regarding Lobbying (45 CFR Part 93)**
- C. Drug Free Workplace Certification (2 CFR Part 382)**
- D. Nondiscrimination & Equal Opportunity Assurance (29 CFR Part 37, 45 CFR Part 80, 45 CFR Part 84, 45 CFR Part 86 and 45 CFR 91)**
- E. Certification Regarding Public Entity Crimes (Sections 287.133, 287.134 and 287.135, Florida Statutes)**
- F. Conflicts of Interest**
- G. Access to Public Records (2 CFR § 200.336 and Chapter 119, Florida Statutes)**
- H. Reporting Fraud And Whistleblower Protection (45 CFR §75.113, 2 CFR §200.113 and Section 112.3187, Florida Statutes),**
- I. Certification of Compliance with Procurement of Recovered Materials Requirements (45 CFR 75.331)**  
**Certification of Compliance with Requirements of Clean Air Act and the Federal Water Pollution Control Act (45 CFR 2543.86)**

#### **A. CERTIFICATION REGARDING DEBARMENT, SUSPENSION, AND OTHER RESPONSIBILITY MATTERS.**

The undersigned Vendor attests and certifies that neither it nor any of its subcontractors, owners officers, partners, directors other principals, employees or independent contractors:

1. Are presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from securing federally funded contracts by a federal department or agency.
2. Are presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transactions by a federal department or agency.
3. Have within a three-year period preceding this Agreement been convicted or had a civil judgment rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (federal, state, or local) transaction or contract under a public transaction; violation of federal or state antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property;
4. Are presently indicted or otherwise criminally or civilly charged by a government entity (federal, state or local) with commission of any of the offenses enumerated in paragraph A.2. of this certification; and/or
5. Have within a three-year period preceding this application/proposal had one or more public transactions (federal, state, or local) terminated for cause of default.
6. The terms “debarred”, “debarment” “suspended” “ineligible” and “voluntarily excluded” shall have the same meaning as set forth in those applicable federal statutes and codes such as **2 CFR Part 376, 29 CFR Part 95 and 45 CFR Part 74** as well as any Executive Orders such as 12549.

Where the Vendor is unable to certify to any of the abovementioned statements in this **Section A of Exhibit C** of this Agreement, such Vendor shall attach an explanation to this Agreement. This certification is a material representation of fact that the Coalition has, is and will rely upon as part of this Agreement and any erroneous information shall be considered a breach and may result in termination of this Agreement hereunder.

## **B. CERTIFICATION REGARDING LOBBYING**

Certification for Contracts, Grants, Loans, and Cooperative Agreements. The undersigned Vendor certifies the following:

Pursuant to Section 216.347, Florida Statutes, no funds awarded under this Agreement can be used for the purpose of lobbying the Legislature, the judicial branch, or a State agency. The provisions of the aforementioned statute are supplemental to the provisions of Section 11.062, Florida Statutes, and any other law prohibiting the use of state funds for lobbying purposes, which include. But is not limited to 45 Code of Federal Regulation (“CFR”) §93 (New Restrictions on Lobbying). In accordance with 2 CFR §200.415, (Required Certifications), the Vendor hereby certifies that any federal funds or awards that received from the Coalition as a result of this Agreement will not be used for lobbying. If the Vendor has or will pay any funds *other than federal appropriated funds* to any person for influencing or attempting to influence an officer or employee of any agency, a member of Congress, an officer or employees of Congress, or employee of a member of Congress in connection with or relation to this Agreement, the Vendor shall complete and submit [Standard Form – LLL, Disclosure Form to Report Lobbying](#), according to its instructions.

The Vendor shall require that the award documents for all sub-awards at all tiers (including subcontracts, sub-grants and contracts under grants, loans and cooperative agreements) include this certification’s language and that all sub-recipients, subcontractors, agents, or vendors of the Vendor shall certify and disclose accordingly. This certification attached hereto as **Exhibit C** of this Agreement and a made a part hereof as is a material representation of fact upon which the Parties placed reliance when they made or entered into this Contract. Pursuant to 31 United States Code (“USC”) 1352, the Vendor is required to submit this certification as a prerequisite for making or entering into this Agreement. 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.

If this Agreement is in excess of \$100,000, the Vendor must, prior to this Agreement’s execution, complete the Certification Regarding Lobbying form as referenced in 45 C.F.R. §93.110 and Appendix A of 45 CFR 93. All disclosure forms as required by Appendix B of 45 CFR §93 must be obtained, completed and returned to the COALITION’S Contract Manager by the Vendor. *The Coalition will provide the Certification Regarding Lobbying form as referenced in 45 C.F.R. §93.110 and Appendix A of 45 CFR 93 to the Vendor if the Agreement is in excess of \$100,000.*

## **C. CERTIFICATION REGARDING DRUG-FREE WORKPLACE REQUIREMENTS.**

Pursuant to the Drug-Free Workplace Act of 1988, (41 USC 701 et. set) and its implementing regulations codified at 2 CFR Part 182 (Common Rule), the Vendor hereby attests and certifies that the Vendor will provide a drug-free workplace and shall comply with the applicable federal requirements for requirements for maintaining a drug-free workplace which include but not limited to require posting of notices, awareness programs, notification by employee to employer regarding any convictions for drug-related offenses and Vendor taking appropriate personnel actions. The Vendor acknowledges that a workplace could be a child care center, a family child care home, a training facility or the Coalition offices.

#### **D. EQUAL OPPORTUNITY & NONDISCRIMINATION**

The Vendor attests and certifies that it is in compliance with E.O. No. 11246, Equal Employment Opportunity (30 Federal Register (F.R.) 12319, 12935, 3 CFR, 1964-1965 comp. p. 339), September 24, 1965, as E.O. 11375, Amending Executive Order 11246 Relating to Equal Employment Opportunity, of October 13, 1967, amended, and as the Department of Labor regulations (41 CFR part 60) Office of Federal Compliance Programs, Equal Opportunity, Department of Labor supplements. See 45 CFR 75, Appendix II, *Contract Provisions for Non-Federal Entity Contracts Under Federal Awards*. See also 29 CFR Part 37, 45 CFR Part 80, 45 CFR Part 84, 45 CFR Part 86 and 45 CFR 91.

The Vendor further attest and certifies that the Vendor shall not discriminate against any employee employed in the performance of this Agreement, or against any applicant for employment because of race, creed, color, disability, national origin, sexual orientation, marital status, age, religion, or gender. The Vendor further attest and certifies that the Vendor shall provide a harassment-free workplace and give any allegations of harassment priority attention and action by management. The Vendor agrees to insert a similar provision in all subcontracts that shall meet the requirements of those applicable federal and state statutes as it pertains to discrimination and harassment in the workplace.

#### **E. CERTIFICATION REGARDING PUBLIC ENTITY CRIMES**

The Vendor hereby attests to and certifies the following:

##### **1. Convicted Vendor List**

The Vendor, as well as any of its subcontractors, vendors or sub-recipients receiving funds, whether directly or indirectly, from this Agreement is operating in compliance with Sections 287.133(3)(a) and (b), Florida Statutes and the Vendor and any subcontractors, vendors or sub-recipients are not disclosed on the [Florida Department of Management Services website](#). The Vendor understands and agrees that it must inform COALITION immediately upon any change of circumstances regarding this status and will complete the required certification disclosures as directed by the COALITION. Parties excluded from receiving federal contracts or financial and nonfinancial assistance and benefits may not receive federal or state funds. The Vendor further certifies that it is not on the Federal Excluded Parties List or the United States Department of Agriculture Food Program National Disqualified List. The Vendor shall maintain verification documentation as required state or federal law, whichever is applicable.

##### **2. Discriminatory Vendor List**



The Vendor as well as its employees, agents, parent or affiliate(s), is operating in compliance with Section 287.134(2)(a), Florida Statutes in that the Vendor has not been placed on the convicted vendor list or discriminatory vendor list which can be found on the [Florida Department of Management Services website](#). The Vendor agrees and acknowledges that the Vendor must inform the COALITION immediately upon any change of circumstances regarding this status and will complete the required certification disclosures as directed by the COALITION.

### **3. Scrutinized Company List**

The Vendor and any actively-contracted company is operating in compliance with Sections 287.135(3) and (5) in that the Vendor is not on the Scrutinized Companies with Activities in Sudan List or the Scrutinized Companies with Activities in the Iran Petroleum Energy Sector List created pursuant to Section [215.473](#), Florida Statutes, or that it does not have business operations in Cuba or Syria and is not is on the Scrutinized Companies that Boycott Israel List, created pursuant to Section 215.4725, Florida Statutes or participating in a boycott of Israel. The Vendor further acknowledges and agrees that the COALITION may immediately terminate this Contract for cause if the Vendor is found to have submitted a false certification or if the Vendor is placed on the Scrutinized Companies with Activities in Sudan List, the Scrutinized Companies with Activities in the Iran Petroleum Energy Sector List, or the Scrutinized Companies that Boycott Israel List, or is engaged in a boycott of Israel during the Term of this Contract. Further, all the Vendor acknowledges and agrees that the Agreement considered a material breach of this Agreement, and the Agreement shall be unilaterally terminated by the Coalition if the Vendor and any actively-contracted company for the Vendor is found to have been placed on the Scrutinized Companies that Boycott Israel List or is engaged in a boycott of Israel.

## **F. CONFLICT OF INTEREST**

The Vendor further attest and certifies that the execution of this Agreement does not violate the Coalition's Conflict of Interest Policy, the State of Florida Code of Ethics or any applicable federal or state law concerning conflicts of interests. The Vendor agrees to abide by and be governed by these conflict of interest policies and laws throughout the course of this Agreement and in connection with its obligations hereunder.

## **G. PUBLIC RECORDS**

All of the Vendor's records as it relates or concerns this Agreement classified as public records must be open and available for inspection by any person unless otherwise specified by law. It is the responsibility of the Vendor to maintain records in a location that is accessible to the public. The Vendor shall provide the public with access to public records on the same terms and conditions that the Coalition would provide the records and at a cost that does not exceed the cost provided in Chapter 119, Florida Statutes or as otherwise provided by law. Upon request of the Coalition, the Vendor shall provide the Coalition with a copy of the requested records or allow the records to be inspected or copied within a reasonable time at a cost that does not exceed the cost provided in this Chapter 119 or as otherwise provided by law. If the Coalition has a public records policy, the Vendor shall follow said policy.

If there is an unallowable conflict between applicable Florida Statutes and the Coalition's public records policy, applicable Florida Statutes shall control. Requests for records by the Coalition shall be made available to the Coalition at no additional cost or expense to the Coalition.

The Vendor shall ensure public records that are exempt or confidential and exempt from public records disclosure requirements are not disclosed except as authorized by law for the duration of the Term. Except as stated in this Agreement, the Vendor shall continue maintain and keep from disclosure all exempt or confidential records that have not been transferred to the Coalition following completion of the Agreement. In accordance with Section 1002.97, Florida Statutes the individual records of children enrolled in SR programs provided under Section 1002 Part VI, Florida Statutes, held by the Vendor or Coalition, are confidential and exempt from the provisions of Section 119.07(1), Florida Statutes and Section 24(a), Article I of the State Constitution. In accordance with Section 1002.72, Florida Statutes, the personally identifiable records of children enrolled in the VPK program provided under Section 1002.53, Florida Statutes and any personal information contained in those records, are confidential and exempt from Section 119.07(1), Florida Statutes, and Section 24(a), Article I of the State Constitution. The Vendor shall allow access to SR and VPK program records as specified in Sections 1002.72 and 1002.97, Florida Statutes, respectively.

IF THE VENDOR HAS QUESTIONS REGARDING THE APPLICATION OF CHAPTER 119, FLORIDA STATUTES, TO THE VENDOR'S DUTY TO PROVIDE PUBLIC RECORDS RELATING TO THIS AGREEMENT, CONTACT THE CUSTODIAN OF PUBLIC RECORDS AT THE PHONE NUMBER, EMAIL ADDRESS AND ADDRESS INDICATED IN **SECTION 18 (NOTICE)** OF THIS AGREEMENT.

## **H. REPORTING FRAUD AND WHISTLEBLOWER PROTECTION**

In accordance with 45 CFR §75.113 (also 2 CFR §200.113), *Mandatory disclosures*, the Vendor attests and certifies that the Vendor shall comply with and inform its employees of mandatory reporting requirements. Each employee of the Vendor and any agent, subcontractor, sub-recipient, contractor or vendor providing services in connection with this Agreement shall disclose to the Coalition and DEL'S Inspector General in a timely manner and in writing all violations involving fraud, bribery or gratuity violations potentially affecting this Agreement and/or the related federal/grant program(s). The Coalition is required to review and consider any publicly available information about the Vendor in the Federal Awardee Performance and Integrity Information System ("FAPIIS"). See <https://fapiis.gov>.

In accordance with Section 112.3187, Florida Statutes, the Vendor further attests and certifies that the Vendor shall not retaliate against an employee for reporting violations of law, rule or regulation that creates and presents a substantial and specific danger to the public's health, safety, or welfare. Furthermore, the Vendor attests and certifies that the Vendor shall not retaliate against any person who discloses information to an appropriate agency alleging improper use of governmental office, gross waste of funds, or any other abuse or gross neglect of duty on the part of any agency, public officer, or employee. The Vendor further attests and certifies that the Vendor shall inform its employees that they and other persons may file a complaint with the Coalition, the Office of the Chief Inspector General, the DEL'S Inspector General, and the Florida Commission on Human Relations or the Whistle-blower's Hotline number at 1-800-543-5353. Additional local Vendor policy and procedures also apply. The Vendor will also be subject to the Coalition's Whistleblower Policy and Procedures. In the event

there is an unallowable conflict between this provision and the Coalition's Whistleblower Policy and Procedure, the provision of this Agreement shall control. In the event there is an unallowable conflict between applicable federal and state law and the Agreement as it pertains to any applicable whistleblower issues arising under this Agreement, the applicable federal and state law shall control.

**I. PROCURMENT OF RECOVERED MATERIALS**

The Vendor certifies compliance with section 6002 of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act. The requirements of Section 6002 include procuring only items designated in guidelines of the Environmental Protection Agency (EPA) at 40 CFR part 247 that contain the highest percentage of recovered materials practicable, consistent with maintaining a satisfactory level of competition, where the purchase price of the item exceeds \$10,000 or the value of the quantity acquired during the preceding fiscal year exceeded \$10,000; procuring solid waste management services in a manner that maximizes energy and resource recovery; and establishing an affirmative procurement program for procurement of recovered materials identified in the EPA guidelines.

**J. CLEAN AIR ACT and FEDERAL WATER POLLUTION CONTROL ACT COMPLIANCE  
(Only Applies to Agreements in excess of \$150,000)**

The Vendor certifies compliance with all applicable standards, orders or regulations issued pursuant to the Clean Air Act (42 U.S.C. 7401–7671q) and the Federal Water Pollution Control Act as amended (33 U.S.C. 1251–1387). Violations must be reported to the Federal awarding agency and the Regional Office of the Environmental Protection Agency (EPA).

**[This Section Left Intentionally Blank]**

By signing below, the Vendor attests and certifies the representations outlined in this **Exhibit C** of the Agreement above are true and correct and further agrees and acknowledges that the Coalition has, is and will rely on these certifications and assurances as part of the award of this Agreement or contract to the Vendor and without said reliance of these certifications and assurances that the Coalition would not enter into this Agreement.

**Vendor**

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_  
TAX EIN#: \_\_\_\_\_  
Date: \_\_\_\_\_

SAMPLE

SIGNATURE PAGE FOR *EXHIBIT C* OF THE \_\_\_\_\_, 20\_\_ VENDOR  
AGREEMENT FOR \_\_\_\_\_ SERVICES BETWEEN THE  
COALITION AND \_\_\_\_\_