**ATTACHMENT A: BUSINESS ASSOCIATE AGREEMENT**

Business Associate Agreement

THIS BUSINESS ASSOCIATE AGREEMENT (“BAA”) is entered into by and between Florida Healthy Kids Corporation, a Florida non-profit corporation, (“FHKC” or “Covered Entity”) and [VENDOR] (collectively referred to as the “Parties”).

## Section 1. HIPAA Compliance

FHKC and [VENDOR] agree to comply with the Health Insurance Portability and Accountability Act of 1996, Pub. L. No. 104-191, codified at 42 U.S.C. §1320d through d-9, as amended from time to time (“HIPAA”) and the Health Information Technology for Economic and Clinical Health Act (“HITECH”). [VENDOR] recognizes and agrees that it is directly obligated by law, Agreement No. AA393 with the Agency for Health Care Administration (which is incorporated by reference), and this BAA to comply with the provisions of HIPAA and HITECH applicable to [VENDOR] pursuant to its performance of Services.

## Section 2. Definitions for Use in this BAA

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

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

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

## Section 3. Obligations and Activities of [VENDOR] (Privacy Rule)

**3.1 Operation on Behalf of FHKC**

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

**3.2 Compliance with the Privacy Rule**

[VENDOR] agrees to fully comply with the requirements under the Standards for Privacy of Individually Identifiable Health Information at 45 CFR Part 160 and Part 164, Subparts A and E (“Privacy Rule”) applicable to "business associates," as that term is defined in the Privacy Rule, and not use or further disclose PHI other than as permitted or required by the Contract, this BAA, or as required by law.

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

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

**3.3 Privacy Safeguards and Policies**

[VENDOR] agrees to use appropriate safeguards to prevent Use or Disclosure of PHI other than as provided for by the Contract, this BAA, or any other agreement(s) or as required by law.

**3.4 Mitigation of Harmful Effect of Violations**

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

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

**3.5.1 Privacy Breach**

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

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

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

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

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

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

**3.5.3 Recording of Designated Disclosures of PHI**

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

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

[VENDOR] agrees to make any amendments to PHI maintained by [VENDOR] in a Designated Record Set as agreed to by FHKC pursuant to 45 CFR § 164.526 or take other measures as necessary to satisfy FHKC’s obligations under 45 CFR § 164.526.

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

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

**3.5.6 FHKC Inspection**

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

## Section 4. Obligations and Activities of [VENDOR] (Security Rule)

**4.1 Compliance with Security Rule**

[VENDOR] shall ensure compliance with the HIPAA Security Standards for the Protection of EPHI, 45 C.F.R. Part 160 and Part 164, Subparts A and C (the “Security Rule”), with respect to EPHI covered by the Contract and this BAA.  Further, at least once every three (3) years, [VENDOR] shall conduct a risk analysis of the potential risks and vulnerabilities to the confidentiality, integrity, and availability of EPHI.

**4.2 Security Safeguards and Policies**

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

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

**4.3 Security Provisions in Business Associate Contracts**

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

**4.4 Reporting Security Incidents and Breaches to FHKC**

[VENDOR] shall track all Security Incidents and shall periodically report such Security Incidents in summary fashion as may be requested by FHKC, but not less than annually within sixty (60) days of each anniversary of this BAA. The [VENDOR] shall reasonably use its own vulnerability assessment of damage potential and monitoring to define levels of Security Incidents and responses for [VENDOR]’s operations.

Notwithstanding this obligation, both parties agree that this section constitutes notice by [VENDOR] to FHKC of the ongoing existence and occurrence or attempts of Unsuccessful Security Incidents for which no additional notice shall be required. “Unsuccessful Security Incidents” means, without limitation: pings and other broadcast attacks on its firewall; port scans; attempts to log on to a system or enter a data with an invalid password or username; denial-of-service attacks that do not result in a server being taken off-line; malware (e.g. worms, viruses) that is detected and neutralized by Adobe’s anti-virus and other defensive software; and any combination of the foregoing, so long as no such incident results in unauthorized access, use or disclosure of PHI.

The [VENDOR] shall promptly and, with every commercially reasonably effort, within 24 hours of discovery, notify FHKC’s Privacy Officer of any Security Incident, including any Breach of Security under section 501.171, Florida Statutes, in a preliminary report, with a full report of the incident within five (5) Business Days of the time it became aware of the incident.

The [VENDOR] shall likewise notify FHKC in a preliminary report within two (2) Business Days of any unauthorized Access or acquisition, including but not limited to internal User Access to non-test records reported to [VENDOR]’s privacy manager, and any Use, Disclosure, modification, or destruction of PHI by an employee or otherwise authorized User of its system of which it becomes aware with a full report of the incident within five (5) Business Days from the time it became aware of the incident.

[VENDOR] shall identify in writing key contact persons for administration, Data processing, marketing, information systems and audit reporting within thirty (30) days of the execution of this BAA. [VENDOR] shall notify FHKC of any reduction of in-house staff during the term of this BAA, in writing, within ten (10) Business Days.

When reporting any Security Incident or Breach, [VENDOR] shall use the “Notification to FHKC of Security Incident or Breach of Protected Health Information” form attached hereto.

**4.5 Unsecured Protected Health Information**

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

On behalf of FHKC, [VENDOR] shall notify such Individuals without unreasonable delay, and in no case later than sixty (60) days after discovery of the Breach. The Notice required under HIPAA shall be made as follows:

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

Further, [VENDOR] must provide Notice to the media when required under 45 CFR 164.406 and to HHS pursuant to 45 CFR 164.408.

[VENDOR] also agrees to comply with any similar state laws, such as section 501.171, Florida Statutes, that govern breaches.

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

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

**4.6 Additional Consumer Protections**

For purposes of this paragraph, the terms and definitions set forth in section 501.171, Florida Statutes, govern over any other conflicting definitions specified in this BAA. [VENDOR] understands that FHKC or its customers may be a Covered Entity (as may be [VENDOR]) under the terms of section 501.171. The reporting requirements set forth in Section 4.4 of this BAA apply to any Breach of Security. In the event of a Breach of Security, the [VENDOR] shall indemnify and hold FHKC harmless for expenses and/or damages related to the Breach of Security. Such obligation shall include, but is not limited to, the mailed notification to a governmental agency and any individual in Florida whose Personal Information is reasonably believed to have been Accessed as a result of the Breach of Security. In the event that the [VENDOR] discovers circumstances requiring notification of more than one thousand (1,000) persons at one time, [VENDOR] shall also notify, without unreasonable delay, all consumer reporting agencies that compile and maintain files on consumers on a nationwide [VENDOR]sis, as in the Fair Credit Reporting Act, 15 U.S.C. § 1681a(p), of the timing, distribution and content of the Notices. Substitute Notice, as specified in section 501.171(4)(f), Florida Statutes, shall not be permitted except as approved in writing in advance by FHKC. The Parties agree that PHI includes Data elements in addition to those included described as Personal Information under section 501.171 and agree that [VENDOR]’s responsibilities under this paragraph shall include all PHI or EPHI. [VENDOR] agrees to pay all costs of any associated mitigation as a result of a Breach of Security, including the provision of, at a minimum, one (1) year of credit monitoring and identity theft protection for such affected individuals. FHKC, in its sole discretion, shall determine if the Breach of Security is significant enough to warrant such measures and the length of time such mitigation measures shall be offered to the affected individuals.

## Section 5. Electronic Transaction and Code Sets

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

## Section 6. Permitted Uses and Disclosures by [VENDOR] – General Use and Disclosure Provisions

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

[VENDOR] shall conduct all activities in compliance with 45 CFR 164 Subpart C to ensure data security, including, but not limited to encryption of all information that is confidential under Florida or federal law, while in transmission and while resident on portable electronic media storage devices. Encryption is required and shall be consistent with Federal Information Processing Standards, and /or the National Institute of Standards and Technology publications regarding cryptographic standards.

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

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

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

**6.2 No Offshoring**

Except as may be expressly authorized in the Contract between FHKC and [VENDOR], [VENDOR] and any of its subcontractors and agents are prohibited from (a) performing any services under the Contract or this BAA outside of the continental U.S.; (b) sending, transmitting, or maintaining PHI or Individually Identifiable Health Information outside of the continental U.S.; or (c) allowing PHI or Individually Identifiable Health Information to be Accessed from or maintained outside the continental U.S.

## Section 7. Permitted Uses and Disclosures by [VENDOR] – Specific Use and Disclosure Provisions

**7.1 Proper Management and Administration of [VENDOR]**

[VENDOR] may use PHI for the proper management and administration of [VENDOR] or to carry out [VENDOR]’s responsibilities under the Contract and/or this BAA.

**7.2 Third-Party Disclosure Confidentiality**

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

**7.3 Data Aggregation Services**

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

## Section 8. Provisions for FHKC to Inform [VENDOR] of Privacy Practices and Restrictions

**8.1 Notice of Privacy Practices**

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

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

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

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

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

## Section 9. Term and Termination

**9.1 Term**

The Term of this BAA shall be effective concurrent with the Contract, and shall terminate upon completion of the Contract or as set forth in 9.2. [VENDOR]’s duties under this BAA cease once all of the PHI provided by FHKC to [VENDOR], or created or received by [VENDOR] on behalf of FHKC, is destroyed or returned to FHKC; however, if it is not feasible to return or destroy PHI, protections of this BAA shall be extended to such information until the information is destroyed.

**9.2 Termination for Cause and Convenience**

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

FHKC has the right to terminate this BAA for convenience upon 60 days’ notice to [VENDOR]. Notwithstanding the aforementioned, [VENDOR] shall not be relieved of liability to FHKC for damages sustained by virtue of any breach of this BAA by [VENDOR].

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

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

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

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

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

## Section 10. Miscellaneous

**10.1 Breach of Agreement**

[VENDOR]'s failure to perform the obligations in this BAA shall be a breach of this BAA and/or the Contract and will entitle FHKC to recover any damages it incurs arising from a failure to perform the obligations in this BAA, including any actual out-of-pocket expenses incurred by FHKC to investigate and remediate the violation, reimbursement for any assessments against FHKC by AHCA due to [VENDOR]’s failure, and/or to pursue injunctive relief.

**10.2 Severability**

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

**10.3 Cooperation**

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

**10.4 Regulatory Reference**

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

**10.5 Modification and Amendment**

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

**10.6 Survival**

The respective rights and obligations of [VENDOR] under “Term and Termination” of this BAA shall survive the termination of this BAA and the Contract.

**10.7 Interpretation**

Any ambiguity in this BAA or the Contract shall be resolved so as to permit FHKC to comply with HIPAA. Further, regarding any conflict between this BAA or the Contract, the stricter standard shall apply.

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

The Parties to this BAA or the Contract do not intend to create any rights in any third parties. The Parties agree that they are independent contractors and not agents of each other, except nothing herein affects whether [VENDOR] is an “agent” for purposes of compliance with 42 CFR § 1001.952(d).

**10.9 State Law**

[VENDOR] acknowledges and agrees that it has implemented and will maintain appropriate privacy and security measures to protect personal information consistent with state laws and regulations to the extent those state laws and regulations are applicable to the PHI. The confidentiality obligations hereunder are independent of and do not limit or otherwise affect the Parties’ other confidentiality obligations under this BAA.

**10.10 Governing Law**

To the extent not preempted by federal law, this [VENDOR]A shall be governed and construed in accordance with the State of Florida without regard to conflicts of law provisions that would require application of the law of another state.

**10.11 Assignment, Binding Nature, and Benefits**

This BAA binds and benefits the Parties, their respective successors, and their permitted assigns. [VENDOR] may not assign or subcontract rights or obligations under this BAA without the express written consent of FHKC. FHKC may assign its rights and obligations under this BAA under this BAA to any successor or affiliated entity.

**10.12 Counterparts**

This BAA may be executed in multiple counterparts, which shall constitute a single BAA, and by facsimile or PDF signatures, which shall be treated as originals.

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**SIGNATURE PAGE TO FOLLOW**

IN WITNESS WHEREOF, the Parties have caused this BUSINESS ASSOCIATE AGREEMENT, to be executed by their undersigned officials as duly authorized.

|  |  |
| --- | --- |
| **FOR**  **Florida Healthy Kids Corporation:**  Signed: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_  Name: Ryan West  Title: Chief Executive Officer  Date: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ | **FOR**  **[Vendor]:**  Signed:\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_  Name: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_  Title: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_  Date: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ |