

FINANCIAL CONTRACT FOR LOCAL FUNDS
Fiscal Year 2009-2010
BETWEEN
FLORIDA HEALTHY KIDS CORPORATION
AND
LEON COUNTY, FLORIDA

This Contract is entered into between Florida Healthy Kids Corporation (FHKC), a Florida not-for-profit corporation under Chapter 617, F.S. and **Leon County, a political subdivision of the State of Florida, hereinafter "County"**.

Section 1 Definitions

- 1-1 "Applicant" means a parent or guardian of a child or a child whose disability of nonage has been removed under Chapter 743, who applies for determination of eligibility for health benefits coverage under ss. 409.810-409.820 F.S.
- 1-2 "Enrollee" means an individual who meets FHKC standards of eligibility and has been enrolled in the Program.
- 1-3 "Florida Statutes" (F.S.) means the Florida Statutes as amended from time to time by the Florida Legislature during the term of this Contract.
- 1-4 "Local Match" means funds provided pursuant to the policy developed and implemented by FHKC as directed by law for the provision of local matching funds from each participating county for the continuation of enrollment of Non-Title XXI Eligible Enrollees in the FHKC program.
- 1-5 "Program" means the program administered by FHKC as created by and governed under section 624.91, F.S. and related state and federal laws.
- 1-6 "State Children's Health Insurance Program (SCHIP)" or "Title XXI" shall mean the program created by the federal Balanced Budget Act of 1997 as Title XXI of the Social Security Act.

Section 2 Effective Dates; Term

- 2-1 This Contract shall be effective upon execution by both parties ("the Effective Date"). The term of this Contract shall commence July 1, 2009 or the date of execution, whichever occurs later ("the Commencement Date").
- 2-2 Prior to the execution of this Contract, FHKC has provided services relying upon COUNTY's assurances that this Contract would be executed and payment would be forthcoming within the first quarter of COUNTY's 2009-2010 fiscal year. Therefore, COUNTY further agrees, due to FHKC's good faith provision of services in accordance with Section 3 despite delays in the execution of this Contract, to remit the total amount due through the end of the month in which this Contract is executed within thirty (30) calendar days of the execution of this Contract.

Section 3 Local Match

- 3-1 COUNTY agrees, as an inducement to FHKC to continue a FHKC program for non-Title XXI eligible Enrollees in Leon County, to provide a Local Match of (\$7,514) for the period of July 1, 2009 through June 30, 2010. The parties agree that this amount is the maximum that will be due from COUNTY to FHKC under this Contract and that the actual amount owed by COUNTY will be determined on a month by month basis under the terms of Section 4 of this Contract.
- 3-2 COUNTY agrees to remit payment for the total amount due within thirty (30) calendar days of receipt of each invoice from FHKC.
- 3-3 The Performance of the COUNTY of any of its obligations under this Contract shall be subject to and contingent upon the availability of funds budgeted by the COUNTY or otherwise lawfully expendable for the purposes of this Contract for the current and any future periods.

Section 4 Enrollment

- 4-1 FHKC agrees to provide comprehensive health insurance coverage to each Non-Title XXI Eligible Enrollee who has met all eligibility standards for enrollment established by FHKC.
- 4-2 FHKC agrees to invoice COUNTY on a monthly basis for the actual costs of enrollment less any family contribution for each non-Title XXI eligible Enrollee under this Contract in Leon County. This amount shall not exceed (\$7,514) per month which is 1/12 (one-twelfth) of the entire fiscal year Local Match agreed to by COUNTY under Section 3.

Invoices will be sent to:

Name: Attn: Tongela Davis, Human Service Analyst
Address: 918 Railroad Avenue, Leon County, Florida 32310
Email/phone DavisT@leoncountyfl.gov 850-606-1912

The invoices shall contain at a minimum the following information:

- Monthly expenditures reports showing the total enrollment of non-Title XXI eligible children in Leon County for each month, by health plan and the costs of that coverage, and the costs after application of any family premium payments.
- Monthly expenditures reports showing the total enrollment of non-Title XXI eligible children in Leon County for each month, by dental plan and the costs of that coverage, and the net costs after application of the family premium payments.
- The administrative costs incurred on behalf of these Enrollees, which is \$8.43 per member per month for the period commencing July 1, 2009 and ending June 30, 2010.

Section 5 Records Retention and Accessibility

- 5-1 COUNTY shall have the records used or produced in the course of the performance of this Contract available at all reasonable times for inspection, review, audit or copying to FHKC, any vendor contracted with FHKC or any state or federal regulatory agency as authorized by law or FHKC. Access to such records will be during normal business hours and will be either through on-site review of records or through the mail. These records shall be retained for a period of at least five (5) years following the term of this Contract, except if an audit is in progress or audit findings are yet unresolved, in which case records shall be kept until all tasks are completed.
- 5-2 COUNTY agrees to cooperate in any evaluative efforts conducted by FHKC or an authorized subcontractor of FHKC both during and for a period of at least five (5) years following the term of this Contract. These efforts may include a post-Contract audit.

It is expressly understood that evidence of COUNTY's refusal to substantially comply with this provision or such failure by COUNTY's subcontractors, assignees or affiliates performing under this Contract shall constitute a material breach and renders this Contract subject to unilateral cancellation by FHKC.

Section 6 General Terms and Conditions

- 6-1 Amendment: This Contract may be amended by mutual written consent of the parties at any time. This Contract shall automatically be amended to the extent necessary from time to time to comply with state or federal laws or regulations upon notice by FHKC to COUNTY to that effect.
- 6-2 Assignment: This Contract and the monies that may become due under it may not be assigned by COUNTY without the prior written consent of FHKC. Any purported assignment without such consent shall be deemed null and void.
- 6-3 Attachments: Attachment A is incorporated into this Contract by reference.
- 6-4 Attorney Fees: In the event of any legal action, dispute, litigation or other proceeding with relation to this Contract, the prevailing Party shall be entitled to its attorney fees and costs incurred, whether or not suit is filed, and if filed, at both trial and appellate levels. Legal actions are defined to include administrative proceedings.
- 6-5 Confidentiality: COUNTY shall treat all information, particularly personal or identifying information relating to Applicants or Enrollees that is obtained through its performance under this Contract, as confidential information to the extent confidential treatment is provided under state and federal laws including sections 624.91 and 409.821, F.S. regarding confidentiality of information held by FHKC and the Florida KidCare Program. COUNTY shall not use any information obtained in any manner except as necessary for the proper discharge of its obligations and to secure its rights under this Contract and as required under law, including but not limited to Chapter 119, Florida Statutes. Such information shall not be divulged without written consent of FHKC, the Applicant or the Enrollee. This provision does not prohibit the disclosure of

information in summary, statistical or other form which does not identify particular individuals.

COUNTY and FHKC mutually agree to maintain the integrity of all proprietary information to the extent provided under the law. Neither party will disclose or allow others to disclose proprietary information as determined by law by any means to any person without prior written approval of the other party. All proprietary information will be so designated. This requirement does not extend to routine reports and membership disclosure necessary for efficient management of the Program.

Each Party understands it is subject to the Florida Public Records Act, Section 119.07, F.S. and therefore all such information may be considered a public record and open to inspection. Thus, unless otherwise confidential or exempted by law, both Parties shall allow public access to all documents, papers, letters, electronic correspondence or other material subject to the provisions of Chapter 119, F.S. and made or received by COUNTY in conjunction with this Contract.

6-6 Conflicts of Interest; Non-Solicitation: COUNTY confirms that to the best of its knowledge, the responsibilities and duties assumed pursuant to this Contract are not in conflict with any other interest to which the COUNTY is obligated or from which COUNTY benefits. Further, COUNTY agrees to inform FHKC immediately after becoming aware of any conflicts of interest which it may have with the interests of FHKC, as set forth in this Contract and which may occur in the future.

COUNTY recognizes and acknowledges that as a result of this Contract COUNTY will come into contact with employees of FHKC and that these employees have received considerable training by FHKC. COUNTY agrees not to solicit, recruit or hire any individual who is employed by FHKC during the term of this Contract. This prohibition shall be in effect for both the term of this Contract and twelve (12) months immediately following its termination.

6-7 Entire Understanding: This Contract with all Attachments incorporated by reference embodies the entire understanding of the parties relating to the subject matter of this Contract, and supersedes all other agreements, negotiations, understanding, or representations, verbal or written, between the parties relative to the subject matter hereof.

6-8 Force Majeure: Neither party shall be responsible for delays or failure in performance of its obligations under this Contract resulting from acts beyond the control of the party. Such acts shall include, but are not limited to, blackouts, riots, acts of war, terrorism, epidemics, government regulations on statutory amendments adopted following the date of execution of this Contract, fire communication line failure, computer hardware failure, computer executive software failure, power failure or shortage, fuel shortages, hurricanes or other natural disasters.

6-9 Governing Law; Venue: This Contract shall be governed by applicable state and federal laws and regulations as such may be amended during the term of the Contract, whether or not expressly included or referenced in this Contract.

COUNTY agrees to comply with the following provisions as such may from time to time be amended during the term of this Contract:

- A. Title VI of the Civil Rights Act of 1964, as amended, 42 U.S.C. 2000d et seq., which prohibits discrimination on the basis of race, color or national origin.
- B. Section 504 of the Rehabilitation Act of 1973, as amended, 29 U.S.C. 794, which prohibits discrimination on the basis of handicap.
- C. Title XI of the Education Amendments of 1972, as amended 29, U.S.C. 601 et seq., which prohibits discrimination on the basis of sex.
- D. The Age Discrimination Act of 1975, as amended, 42 U.S.C. 6101 et seq., which prohibits discrimination on the basis of age.
- E. Section 654 of the Omnibus Budget Reconciliation Act of 1981, as amended, 42 U.S.C. 9848, which prohibits discrimination on the basis of race, creed, color, national origin, sex, handicap, political affiliation or beliefs.
- F. The American Disabilities Act of 1990, P.L. 101-336, which prohibits discrimination on the basis of disability and requires accommodation for persons with disabilities.
- G. Section 274A (e) of the Immigration and Nationalization Act, FHKC shall consider the employment by any contractor of unauthorized aliens a violation of this Act.
- H. OMB Circular A-110 (Appendix A-4) which identifies procurement procedures which conform to applicable federal law and regulations with regard to debarment, suspension, ineligibility, and involuntary exclusion of contracts and subcontracts and as contained in Attachment A of this Contract. Covered transactions include procurement contracts for services equal to or in excess of one hundred thousand dollars (\$100,000.00) and all non-procurement transactions.
- I. Title XXI of the federal Social Security Act.
- J. All applicable state and federal laws and regulations governing FHKC.
- K. All regulations, guidelines and standards as are now or may be lawfully adopted under the above statutes.

COUNTY agrees that compliance with this assurance constitutes a condition of continued receipt of or benefit from funds provided through this Contract and such compliance is binding upon COUNTY, its successors, transferees and assignees for the period during which services are provided. COUNTY further agrees that all contractors, subcontractors, subgrantees or others with whom it arranges to provide goods, services or benefits in connection with any of its programs and activities are not discriminating against either those whom they employ nor those to whom they provide goods, services or benefits in violation of the above statutes, regulations, guidelines and standards.

It is expressly understood that evidence of COUNTY's refusal or failure to substantially comply with this section or such failure by COUNTY's subcontractors or anyone with whom COUNTY affiliates in performing under this Contract shall constitute a material breach and renders this Contract subject to unilateral cancellation by FHKC.

Any legal action with respect to the provisions of this Contract shall be brought in federal or state court in Leon County, Florida.

6-10 Notice and Contact: All notices required under this section shall be in writing and may be delivered by certified mail with return receipt requested, by facsimile with proof of receipt, by electronic mail with proof of receipt or in person with proof of delivery.

Notice required or permitted under this Contract shall be directed as follows:

For FHKC:

Jennifer Kiser Lloyd

Florida Healthy Kids Corporation

Post Office Box 980

Tallahassee, FL 32302

lloydj@healthykids.org

or

Florida Healthy Kids Corporation

661 East Jefferson Street, 2nd Floor

Tallahassee, FL 32301

For COUNTY:

Name: Attn: Tongela Davis, Human Service Analyst

Address: 918 Railroad Avenue, Leon County, Florida 32310

Email/phone DavisT@leoncountyfl.gov

Phone: 850-606-1912

In the event that different contact persons are designated by either party after execution of this Contract, notice of the name and address of the new contact will be sent to the other party and be attached to the originals of this Contract.

6-11 Severability: If any of the provisions of this Contract are held to be inoperative by a court of competent jurisdiction, such a provision shall be severed from the remaining provisions of the Contract which shall remain in full force and effect.

6-12 Survival: The provisions of the following sections: Records Retention and Accessibility; Attorney Fees; Confidentiality; Conflicts of Interest; Non-Solicitation and Governing Law; Venue shall survive any termination of this Contract.

6-13 Termination of Contract

A. Termination for Lack of Funding: This Contract is subject to the continuation and approval of funding to FHKC from state, federal and other sources. Furthermore, consistent with the provisions of Section 3-3 herein, the performance of the COUNTY of any of its obligations under this Agreement shall be subject to and contingent upon the availability of funds lawfully expendable for the purposes of this Agreement for the current and any future periods provided for within the contract specifications. Both Parties shall have the absolute right, in their own sole discretion, to terminate this Contract if funding for the purposes hereof are changed or funding is terminated. The Terminating Party shall send the other Party notice of termination and include a termination date of not less than thirty (30) calendar days from the date of the notice.

B. Termination for Lack of Payment: Subject to the provisions of Section 6-13 A, If COUNTY fails to make timely payments under this Contract in the time and manner prescribed, FHKC may terminate this Contract on not less than thirty (30) calendar days notice. At its discretion, FHKC may

allow COUNTY to cure any performance deficiencies prior to final termination.

- C. Termination for Material Breach: In the event COUNTY materially breaches this Contract, FHKC shall give COUNTY notice of such breach and COUNTY shall have thirty (30) calendar days from receipt of this notice to cure the breach. In the event cure is not made within thirty (30) calendar days, then unless waived by FHKC in writing, FHKC may terminate this Contract upon no less than twenty-four (24) hours notice to COUNTY.

Waiver of breach of any provision of this Contract shall not be deemed to be a waiver of any other breach and shall not be construed to be a modification of the terms of this Contract.

- D. Termination upon Revision of Applicable Law: FHKC and COUNTY agree if federal or state revisions of any applicable laws or regulations restrict FHKC's ability to comply with the Contract, make such compliance impracticable, frustrate the purpose of the Contract or place the Contract in conflict with FHKC's ability to adhere to its statutory purpose, FHKC may unilaterally terminate this Contract. FHKC shall send COUNTY notice of termination and include a termination date of not less than thirty (30) calendar days from the date of notice.

[TWO SIGNATURE PAGES FOLLOWS]

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

This Contract is effective upon the date of the last signature ("Effective Date).

**FOR
COUNTY:**

LEON COUNTY, FLORIDA

ATTESTED BY:

CLERK OF THE COURT FOR
LEON COUNTY, FLORIDA

By: _____

Parwez Alam, County Administrator
Board of County Commissioners

By: _____
Bob Inzer, Clerk of the Court

Date: _____

APPROVED AS TO FORM:
COUNTY ATTORNEY'S OFFICE
FOR LEON COUNTY, FLORIDA

By: _____
Herbert W. A. Thiele, Esq.
County Attorney

**FOR
FLORIDA HEALTHY KIDS CORPORATION:**

NAME: Richard Robleto
TITLE: Executive Director
DATE SIGNED:

The foregoing instrument was acknowledged me before this _____ day of June, 2009, by Richard Robleto, as Executive Director on behalf of the Florida Healthy Kids Corporation. He is personally known to me or has produced _____ as identification.

Signature
Notary Public – State of Florida

Print, Type or Stamp Name of Notary Public

My Commission Expires

WITNESS #1 SIGNATURE

WITNESS #1 PRINT NAME

WITNESS #2 SIGNATURE

WITNESS #2 PRINT NAME

Reviewed by:

Date: ____/____/2009
Signature of: Jennifer K. Lloyd, Director of External Affairs

Date: ____/____/2009
Signature of General Counsel
Printed Name: _____
Florida Bar Number: _____

**ATTACHMENT A
REGARDING HEALTH INSURANCE PORTABILITY AND ACCOUNTABILITY
ACT OF 1996 COMPLIANCE:
BUSINESS ASSOCIATION (BA) AGREEMENT**

THIS BA AGREEMENT (Attachment A), is entered into and made between Florida Healthy Kids Corporation, a Florida non-profit corporation, (FHKC) (the "Covered Entity") and Leon County (the "BA") and is incorporated in the Services Contract (Contract) between FHKC and Leon County.

1. HIPAA Compliance. FHKC and BA agree to comply with the Health Insurance Portability and Accountability Act of 1996, Pub. L. No. 104-191, as amended from time to time ("HIPAA"). Pursuant to HIPAA, FHKC meets the definition of a covered entity and BA meets the definition as a business associate. As a covered entity, FHKC must obtain and document satisfactory assurances from business associates, such as BA, that BA shall appropriately safeguard the individually identifiable health information which is personal health information ("PHI") and/or electronic protected health information ("EPHI") though a written contract or other written agreement such as this Attachment.
2. Definitions For Use in This Attachment. Terms used, but not otherwise defined, in this Attachment and the Contract shall have the same meaning as those terms in 45 C.F.R. Parts 160, 162 and 164.
3. Privacy Obligations and Activities of BA. BA shall ensure compliance with the HIPAA Standards for Privacy of Individually Identifiable Health Information, 45 C.F.R. Part 160 and Part 164 (the "Privacy Rule"). Without limiting the generality of the foregoing, BA agrees that it will, in accordance with HIPAA, comply with the following:
 - a. BA agrees to not use or disclose personal health information PHI other than as permitted or required by this Attachment, the Contract or as Required by Law.
 - b. BA agrees to use appropriate safeguards to prevent use or disclosure of PHI other than as provided for by this Attachment and the Contract.
 - c. BA shall implement administrative, physical, and technical safeguards that reasonably and appropriately protect the confidentiality, integrity, and availability of EPHI that it creates, receives, maintains or transmits on behalf of the Covered Entity.
 - d. BA agrees to mitigate, to the extent practicable, any harmful effect that is known to BA of a use or disclosure of PHI by BA in violation of the requirements of this Attachment, the Contract and HIPAA.
 - e. BA agrees to report to Covered Entity any use or disclosure of PHI not provided for by this Attachment and the Contract of which it becomes aware, within twenty (20) business days.
 - f. BA shall promptly report to Covered Entity any "security incident" of which it becomes aware; as such term is defined in the HIPAA Security Rule. At the request of Covered Entity, BA shall identify: the date of the security incident, the scope of the security incident, the BA's response to the security incident and the identification of the party responsible for causing the security incident, if known.

- g. BA agrees to ensure that any agent, including a subcontractor, to whom it provides PHI and/or EPHI received from, or created or received by BA on behalf of Covered Entity, agrees to the same restrictions and conditions that apply through this Attachment and the Contract to BA with respect to such information.
 - h. BA agrees to provide access, at the written request of Covered Entity, within ten (10) business days of the written request (five (5) additional business days are permitted if written request provided by the U.S. Postal Service ("USPS")), to PHI in a Designated Record Set ("DRS"), to Covered Entity or, as directed by Covered Entity, to an Individual in order to meet the requirements under 45 CFR §164.524. In the event any Individual requests access to PHI directly from BA, BA shall forward written notice of such request, to Covered Entity within ten business (10) days (five (5) additional business days are permitted if written notice provided by U.S.P.S.). Any denials of access to the PHI requested shall be the responsibility of Covered Entity.
 - i. BA agrees to make any amendment(s) to PHI in a DRS that the Covered Entity directs or agrees to pursuant to 45 CFR §164.526 at the written request of Covered Entity or an Individual, within twenty (20) business days of the written request (five (5) additional business days are permitted if written request provided by U.S.P.S.).
 - j. BA agrees to make internal practices, books, and records, including policies and procedures and PHI, relating to the use and disclosure of PHI received from, or created or received by BA on behalf of, Covered Entity available to the Covered Entity and to the Secretary, within fifteen (15) business days notice of the Secretary's request (five (5) additional business days permitted if notice provided by U.S.P.S.) or in the time and manner designated by the Secretary, for purposes of the Secretary determining Covered Entity's HIPAA compliance.
 - k. BA agrees to document such disclosures of PHI and information related to such disclosures as would be required for Covered Entity to respond to a request by an Individual for an accounting of disclosures of PHI in accordance with 45 CFR §164.528.
 - l. BA agrees to provide to Covered Entity, or an Individual at the request of the Covered Entity, within fifteen (15) business days (five (5) additional business days are permitted if written notice provided by U.S.P.S.) of written notice by Covered Entity to BA that Covered Entity has received a request for an accounting of PHI disclosures regarding an Individual during the six (6) years prior to the date on which the accounting was requested, information collected in accordance with Section 2.i. of this Attachment, to permit Covered Entity to respond to a request by an Individual for an accounting of disclosures, pursuant to 45 CFR §164.528.
4. Security. BA shall ensure compliance with the HIPAA Security Standards for the Protection of Electronic Protected Health Information ("EPHI"), 45 C.F.R. Part 160 and Part 164, Subparts A and C (the "Security Rule"), with respect to Electronic Protected Health Information covered by this Contract effective on the compliance date for initial implementation of the security standards set for in 45 C.F.R. §164.318. Without limiting the generality of the foregoing, BA agrees that it will, in accordance with HIPAA:
- a. Implement administrative, physical, and technical safeguards that

- reasonably and appropriately protect the confidentiality, integrity, and availability of the Electronic Protected Health Information that it creates, receives, maintains, or transmits on behalf of Covered Entity as required by 45 C.F.R. Part 164, Subpart C.
- b. Ensure that any agent, including a subcontractor, to whom it provides such information, agrees to implement reasonable and appropriate safeguards to protect it;
 - c. Report to the Covered Entity any security incident of which it becomes aware;
 - d. Ensure the confidentiality, integrity, and availability of all Electronic Protected Health it creates, receives, maintains, or transmits;
 - e. Protect against any reasonably anticipate threats or hazards to the security or integrity of such information;
 - f. Protect against any reasonably anticipated uses or disclosures of such information that are not permitted or required under HIPAA; and
 - g. Ensure compliance with 45 C.F.R. Part 164, Subpart C (Security Standards for the Protection of Electronic Protected health Information) by its workforce.
5. Electronic Transaction And Code Sets. BA shall comply with the HIPAA Standards For Electronic Transactions and Code Sets, 45 C.F.R. Parts 160 and 162, with respect to Electronic Protected Health Information covered by this Agreement. Without limiting the generality of the foregoing, BA agrees that it will, in accordance with 45 C.F.R. § 162.923(c):
- a. Comply with all applicable requirements of 45 C.F.R. Part 162; and
 - b. Require any agent or subcontractor to comply with all applicable requirements of 45 C.F.R. Part 162.
6. Permitted Uses and Disclosures by BA - General Use and Disclosure Provisions. Except as otherwise limited in this Attachment, BA may use or disclose PHI to perform functions, activities, or services for, or on behalf of, Covered Entity as specified in the Contract, provided that such use or disclosure would not violate HIPAA if done by Covered Entity or the minimum necessary policies and procedures of Covered Entity.
7. Permitted Uses and Disclosures by BA - Specific Use and Disclosure Provisions.
- a. Except as otherwise limited in this Attachment and the Contract, BA may use PHI for the proper management and administration of BA or to carry out BA's legal responsibilities.
 - b. Except as otherwise limited in this Attachment and the Contract, BA may disclose PHI for the BA's proper management and administration, provided that disclosures are Required By Law, or BA obtains reasonable assurances from the person to whom the information is disclosed that the information will remain confidential and used or further disclosed only as Required By Law or for the purpose for which it was disclosed to the person, and the person notifies BA of any instances of which it is aware in which the confidentiality of the information has been breached.
 - c. Except as otherwise limited in this Attachment and the Contract, BA may use PHI to provide Data Aggregation services to Covered Entity as permitted by 42 C.F.R. §164.504(e)(2)(i)(B).
 - d. BA may use PHI to report violations of law to appropriate Federal and

State authorities, consistent with 42 C.F.R. §164.502(j)(1).

8. Provisions for Covered Entity to Inform BA of Privacy Practices and Restrictions.
 - a. Covered Entity shall notify BA of any limitation(s) in its notice of privacy practices of Covered Entity in accordance with 45 CFR §164.520, to the extent that such limitation may affect BA's use or disclosure of PHI.
 - b. Covered Entity shall notify BA of any changes in, or revocation of, permission by *Individual* to use or disclose PHI, to the extent that such changes may affect BA's use or disclosure PHI.
 - c. Covered Entity shall notify BA of any restriction to the use or disclosure of PHI that Covered Entity has agreed to in accordance with 45 CFR §164.522, to the extent that such restriction may affect BA's use or disclosure of PHI.

9. Term and Termination.
 - a. Term. The Term of this Attachment shall be effective concurrent with the Contract, and shall terminate when all of the PHI provided by Covered Entity to BA, or created or received by BA on behalf of Covered Entity, is destroyed or returned to Covered Entity, or, if it is infeasible to return or destroy PHI, protections are extended to such information, in accordance with the termination provisions in this Section.
 - b. Termination for Cause. Upon Covered Entity's knowledge of a material breach by BA, Covered Entity shall either:
 - i. Provide an opportunity for BA to cure the breach or end the violation and terminate this Attachment and/or the Contract if BA does not cure the breach or end the violation within thirty (30) calendar days (five (5) additional calendar days are permitted if written notice provided by U.S.P.S.) of Covered Entity's notice to BA of the Covered Entity knowledge of the BA's material breach; or
 - ii. Immediately terminate this Attachment and the Contract if BA has breached a material term of this Attachment and/or the Contract and cure is not possible; as determined at the sole discretion of Covered Entity; or
 - iii. If neither termination nor cure is feasible, Covered Entity shall report the violation to the Secretary.
 - c. Effect of Termination.
 - i. Except as provided in paragraph (ii) of this Section, upon termination of this Attachment and the Contract, for any reason, BA shall return or destroy all PHI received from Covered Entity, or created or received by BA on behalf of Covered Entity. This provision shall apply to PHI that is in the possession of any subcontractors or agents of BA, and BA has the duty to insure that any of its subcontractors or agents comply with these termination provisions. Neither BA, nor any of its subcontractors or agents, shall retain any copies of PHI upon termination of this Attachment and the Contract.
 - ii. In the event that BA determines that returning or destroying the PHI is infeasible, BA shall provide to Covered Entity written notification of the conditions that make return or destruction infeasible thirty (30) calendar days (five (5) additional calendar

days are permitted if written notice provided by U.S.P.S.) prior to the termination of the Contract or within thirty (30) calendar days (five (5) additional calendar days are permitted if written notice provided by U.S.P.S.) of BA's notice of Covered Entity's knowledge of a material breach of this Attachment and/or the Contract. Upon mutual agreement of the parties that return or destruction of PHI is infeasible; BA shall extend the protections of this Attachment and the Contract to such PHI and limit further uses and disclosures of such PHI to those purposes that make the return or destruction infeasible, for so long as BA maintains such PHI.

10. Miscellaneous.

- a. Regulatory References. A reference in this Attachment and the Contract to a section in HIPAA means the section as in effect or as amended.
- b. Amendment. The Parties agree to take such action as is necessary to amend this Attachment and the Contract, from time to time, as is necessary for Covered Entity to comply with the requirements of HIPAA.
- c. Survival. The respective rights and obligations of BA under Section 9.c., "Effect of Termination," of this Attachment shall survive the termination of this Attachment and the Contract.
- d. Interpretation. Any ambiguity in this Attachment and the Contract shall be resolved to permit Covered Entity to comply with HIPAA.

(TWO SIGNATURE PAGES FOLLOWS)

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

This BA AGREEMENT is effective upon the date of the last signature ("the Effective Date").

**FOR
COUNTY:**

LEON COUNTY, FLORIDA

ATTESTED BY:

CLERK OF THE COURT FOR
LEON COUNTY, FLORIDA

By: _____

Parvez Alam, County Administrator
Board of County Commissioners

By: _____
Bob Inzer, Clerk of the Court

Date: _____

APPROVED AS TO FORM:
COUNTY ATTORNEY'S OFFICE
FOR LEON COUNTY, FLORIDA

By: _____
Herbert W. A. Thiele, Esq.
County Attorney

FOR
FLORIDA HEALTHY KIDS CORPORATION:

NAME: Richard Robleto
TITLE: Executive Director
DATE SIGNED:

The foregoing instrument was acknowledged me before this _____ day of June, 2009, by Richard Robleto, as Executive Director on behalf of the Florida Healthy Kids Corporation. He is personally known to me or has produced _____ as identification.

Signature
Notary Public – State of Florida

Print, Type or Stamp Name of Notary Public

My Commission Expires

WITNESS #1 SIGNATURE

WITNESS #1 PRINT NAME

WITNESS #2 SIGNATURE

WITNESS #2 PRINT NAME