



AGREEMENT BETWEEN BROWARD COUNTY AND [REDACTED] FOR SUPPLEMENTAL INSURANCE PRODUCTS (RFP # GEN2124165P1)

This Agreement (“Agreement”) is made and entered by and between Broward County, a political subdivision of the State of Florida (“County”), and [REDACTED], a [REDACTED] corporation authorized to transact business in the State of Florida (“Provider”) (collectively referred to as the “Parties” and individually as a “Party”).

RECITALS

A. Broward County seeks to contract with an insurance provider that can offer supplemental insurance products to County employees and their covered dependents on a voluntary basis in a first-class, cost-effective manner.

B. Provider was selected through a competitive solicitation and procurement process to provide such supplemental insurance products.

Now, therefore, for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties agree as follows:

ARTICLE 1. DEFINITIONS

1.1. **Applicable Law** means all applicable laws, codes, advisory circulars, rules, regulations, or ordinances of any federal, state, county, municipal, or other governmental entity, as may be amended.

1.2. **Board** means the Board of County Commissioners of Broward County, Florida.

1.3. **Code** means the Broward County Code of Ordinances.

1.4. **Contract Administrator** means the Director of the Broward County Human Resources Division, the Assistant Director of the Broward County Human Resources Division, or such other person designated by same in writing.

1.5. **Eligible Employee** means part-time or full-time employees, retirees, or COBRA participants of County, which County designates as being eligible to participate in the Supplemental Insurance Products.

1.6. **Implementation Period** means the period of time between the Effective Date and December 31, 2023, during which time Provider shall conduct all testing and implementation of new or existing systems or programming to perform the Services.

1.7. **Participant** means an Eligible Employee, or his or her spouse, qualified domestic partner, or covered dependents who participates or enrolls in one or more of the Supplemental Insurance Products.

1.8. **Portability** means the ability of a Participant to elect to continue receiving the same Supplemental Insurance Products benefits under the same terms and conditions at the time of termination or retirement from County employment or after this Agreement's termination. Portability coverage may include any eligible family members who were covered under the policy at the time of termination. Portability coverage will be effective on the day after insurance under the applicable policy terminates.

1.9. **Purchasing Director** means County's Director of Purchasing.

1.10. **Run-out Claims** means claims that are incurred but not reported prior to the termination of the Agreement or termination of a Participant. The run-out period shall end ninety (90) days after the expiration or termination of this Agreement.

1.11. **Services** means the provision and administration of Supplemental Insurance Products selected by Participants and other services specified in Exhibit A ("Scope of Services").

1.12. **Subcontractor** means an entity or individual providing services to County through Provider for all or any portion of the work under this Agreement. The term "Subcontractor" shall include all subconsultants.

1.13. **Supplemental Insurance Products** means fully insured, voluntary, after-tax employee-paid insurance plans as described in Exhibit B.

ARTICLE 2. EXHIBITS

The following exhibits are attached hereto and incorporated into this Agreement:

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| Exhibit A | Scope of Services |
| Exhibit B | Supplemental Insurance Products Descriptions |
| Exhibit C | Premium Rates |
| Exhibit D | Performance Measures |
| Exhibit E | Minimum Insurance Coverages |
| Exhibit F | Enterprise Technology Services Security Requirements |
| Exhibit G | Service Level Agreement |

ARTICLE 3. SCOPE OF SERVICES

3.1. Scope of Services. Provider shall offer and provide the Supplemental Insurance Products described in Exhibit B to Participants in the manner set forth in Exhibit A. The Scope of Services is a description of Provider's obligations and responsibilities and is deemed to include preliminary considerations and prerequisites, and tasks that are such an inseparable part of the plans described that exclusion would render performance by Provider impractical, illogical, or unconscionable.

3.2. Provider's bid submittal, RFP # GEN2124165P1, shall be relied upon and incorporated herein as additional terms and conditions that Provider agrees to for the Term unless otherwise noted in this Agreement or the incorporated and attached Exhibits.

ARTICLE 4. TERM

4.1. Term. The term of this Agreement shall commence upon full execution by the Parties ("Effective Date") and shall end at 11:59 p.m. on December 31, 2025 ("Initial Term"), unless sooner terminated. The Initial Term, all Renewal Terms defined in Section 4.2, and the additional extension described in Section 4.2 are collectively referred to as the "Term."

4.2. Extensions. This Agreement may be renewed for up to two (2) additional renewal terms (each renewal period is individually a "Renewal Term" and collectively "Renewal Terms"). County's Purchasing Director is authorized to exercise renewal options if the same terms and conditions in effect during the immediately preceding term are accepted by Provider (as provided below). If this Agreement is renewed, the first Renewal Term shall commence on January 1, 2026, and shall run through December 31, 2027 (the "First Renewal Term"). The second renewal term shall commence on January 1, 2028, and shall run through December 31, 2028 (the "Second Renewal Term"). Provider shall give County notice at least two hundred seventy (270) days prior to the expiration of the then-existing term that Provider either accepts renewal on the same terms and conditions in effect during the then-existing term, or that Provider requests a change to any term including, but not limited to, an increase in fees for the Renewal Term. If Provider fails to timely provide such notice, Provider shall be conclusively deemed to have accepted renewal on the same terms and conditions in effect during the then-existing term. Notwithstanding the foregoing, County shall have the right, by and through its Purchasing Director, and at his or her sole discretion, to unilaterally extend the then-current term of this Agreement on a month-to-month basis for up to a maximum of six (6) months ("Extension Term"). The Purchasing Director may exercise this extension option by written notice stating the duration of the Extension Term, which notice shall be provided to Provider at least thirty (30) days prior to the end of the then-current term. Any Extension Term shall be on the same terms and conditions as existed at the time such option was exercised.

4.3. Fiscal Year. The continuation of this Agreement beyond the end of any County fiscal year is subject to both the appropriation and the availability of funds in accordance with Chapter 129, Florida Statutes.

4.4. Time of the Essence. Time is of the essence in performing the duties, obligations, and responsibilities required by this Agreement.

ARTICLE 5. PREMIUM RATES

5.1. Premium Rates. The maximum premium rates to be charged by Provider, unless modified pursuant to Section 5.3, are set forth in Exhibit C ("Premium Rates"). Premium rates shall be pooled across all employer groups in the State of Florida and shall not change unless the rates for the pool of business changes, in which case the new rates for County and Participants shall

be the same as for the pool of business as approved by the Florida Office of Insurance Regulation (FLOIR). Provider shall provide written notice to County of any proposed premium increases at least seventy-five (75) days before the intended effective date of the increase and shall provide written notice to Participants at least forty-five (45) days before the intended effective date of the increase. Changes to the premium rates shall be effectuated in accordance with Section 12.19.

5.2. Implementation Period. Any Services, including but not limited to equipment purchases, programming, testing, or system upgrades performed by Provider during the Implementation Period shall be at no cost to County or any Participant.

5.3. Modifications to Premium Rates. County recognizes that changes to federal and state laws may mandate coverage changes that result in adjustments to the Premium Rates. Therefore, if an adjustment to the Premium Rates is required due to changes in federal or state law, and such adjusted Premium Rates are endorsed by the Department of Financial Services for the State of Florida, County and Provider shall amend this Agreement to reflect any agreed adjustment to Premium Rates. County reserves the right to terminate this Agreement for convenience if the Parties are unable to agree on an adjustment to the Premium Rates.

5.4. Payment Methods. County shall deduct Participants' biweekly premium on an after-tax tax basis and remit an Automated Clearing House (ACH) wire transfer (direct deposit) of premiums to Provider bi-weekly. Such deductions shall be made for twenty-six (26) biweekly pay periods and no additional deduction shall be made for years in which there are twenty-seven (27) biweekly pay periods. In addition, County shall submit a premium deduction file to Provider at approximately the same time. County shall deduct premiums from Participants on a leave of absence, except those Participants that are on a leave of absence without pay.

ARTICLE 6. PERFORMANCE MEASURES

6.1. Performance Measures. Provider shall meet the performance measures set forth in Exhibit D ("Performance Measures") in performing Services under this Agreement. Provider shall submit performance reports to County within forty-five (45) days after the conclusion of the applicable measurement period set forth in Exhibit D.

6.2. Extension Request. Provider may request an extension of any Performance Measure deadline stated in Exhibit D. Such request shall be submitted in writing to the Contract Administrator no less than five (5) business days before the deadline, unless the need for an extension could not reasonably be foreseen by Provider or the Contract Administrator determines that the need for an extension happened for a reason beyond Provider's control. If the need for an extension could not be reasonably foreseen by Provider, Provider shall submit a request for an extension as soon as reasonably possible, but in no event later than five (5) business days after occurrence of the event giving rise to the extension request. If the Contract Administrator determines that the request for an extension is based upon extenuating circumstances or other causes beyond Provider's control, approval of the request shall not be unreasonably withheld by County. Provider's written request must identify the section of

Exhibit D to which the request applies and the reasons why the deadline could not be met. An extension request approved by County can be for such additional time period as County deems appropriate. County will give notice to Provider of its decision on an extension request within three (3) business days after receipt of Provider's written extension request.

6.3. Retention Invoices. If, after receipt and review of all quarterly and annual performance reports provided by Provider as required by Section 6.1 and described in Exhibit D, County, through its Contract Administrator, finds that Provider has failed at any time to meet one or more Performance Measures, County will submit a written invoice to Provider detailing the alleged Performance Measure failure(s); the applicable date(s) of such failure(s); and the total amount of deductions attributable to such failure(s) due County in accordance with Exhibit D. Unless Provider files an appeal in strict accordance with the requirements of Section 6.4, Provider must pay County the amount set forth in the invoice within twenty (20) days after the date of County's invoice. If no such appeal is filed and Provider fails to timely pay the invoice, County may set off and deduct the invoice amount from County's next premium payment. This section shall survive the expiration or earlier termination of this Agreement.

6.4. Appeal. Provider may appeal County's written invoice for Provider's failure to meet Performance Measures within ten (10) days after the date of the invoice. The appeal must be in writing to the Purchasing Director and must state the reasons why the deductions should be reduced or not assessed. If the appeal is not resolved by mutual agreement, the Purchasing Director shall promptly issue a decision in writing after consulting with the Office of the County Attorney, stating the reasons for the action taken. If the Purchasing Director finds that Provider failed to meet the identified Performance Measure(s), County shall deduct the amount set forth in the invoice from County's next premium payment. This section shall survive the expiration or earlier termination of this Agreement.

ARTICLE 7. REPRESENTATIONS AND WARRANTIES

7.1. Representation of Authority. Provider represents and warrants that this Agreement constitutes the legal, valid, binding, and enforceable obligation of Provider, and that neither the execution nor performance of this Agreement constitutes a breach of any agreement that Provider has with any third party or violates Applicable Law. Provider further represents and warrants that execution of this Agreement is within Provider's legal powers, and each individual executing this Agreement on behalf of Provider is duly authorized by all necessary and appropriate action to do so on behalf of Provider and does so with full legal authority.

7.2. Licensure and Authorization. Provider warrants and guarantees that it is properly licensed and authorized to do business in Broward County as required by the laws of the State of Florida, and the administrative rules and regulations of the Florida Department of Financial Services.

7.3. Solicitation Representations. Provider represents and warrants that all statements and representations made in Provider's proposal, bid, or other supporting documents submitted to County in connection with the solicitation, negotiation, or award of this Agreement, including

during the procurement or evaluation process, were true and correct when made and are true and correct as of the date Provider executes this Agreement, unless otherwise expressly disclosed in writing by Provider.

7.4. Contingency Fee. Provider represents that it has not paid or agreed to pay any person or entity, other than a bona fide employee working solely for Provider, any fee, commission, percentage, gift, or other consideration contingent upon or resulting from the award or making of this Agreement.

7.5. Truth-In-Negotiation Representation. Provider's compensation under this Agreement is based upon its representations to County, and Provider certifies that the wage rates, factual unit costs, and other information supplied to substantiate Provider's compensation, including without limitation those made by Provider during the negotiation of this Agreement, are accurate, complete, and current as of the date Provider executes this Agreement. Provider's compensation may be reduced by County, in its sole discretion, to correct any inaccurate, incomplete, or noncurrent information provided to County as the basis for Provider's compensation in this Agreement.

7.6. Public Entity Crime Act. Provider represents that it is familiar with the requirements and prohibitions under the Public Entity Crime Act, Section 287.133, Florida Statutes, and represents that its entry into this Agreement will not violate that Act. Provider further represents that there has been no determination that it committed a "public entity crime" as defined by Section 287.133, Florida Statutes, and that it has not been formally charged with committing an act defined as a "public entity crime" regardless of the amount of money involved or whether Provider has been placed on the convicted vendor list.

7.7. Discriminatory Vendor and Scrutinized Companies Lists; Countries of Concern. Provider represents that it has not been placed on the "discriminatory vendor list" as provided in Section 287.134, Florida Statutes, and that it is not a "scrutinized company" pursuant to Sections 215.473 or 215.4725, Florida Statutes. Provider represents and certifies that it is not, and for the duration of the Term will not be, ineligible to contract with County on any of the grounds stated in Section 287.135, Florida Statutes. Provider represents that it is, and for the duration of the Term will remain, in compliance with Section 286.101, Florida Statutes.

7.8. Claims Against Provider. Provider represents and warrants that there is no action or proceeding, at law or in equity, before any court, mediator, arbitrator, governmental or other board or official, pending or, to the knowledge of Provider, threatened against or affecting Provider, the outcome of which may (a) affect the validity or enforceability of this Agreement, (b) materially and adversely affect the authority or ability of Provider to perform its obligations under this Agreement, or (c) have a material and adverse effect on the consolidated financial condition or results of operations of Provider or on the ability of Provider to conduct its business as presently conducted or as proposed or contemplated to be conducted.

7.9. Verification of Employment Eligibility. Provider represents that Provider and each Subcontractor have registered with and use the E-Verify system maintained by the United States

Department of Homeland Security to verify the work authorization status of all newly hired employees in compliance with the requirements of Section 448.095, Florida Statutes, and that entry into this Agreement will not violate that statute. If Provider violates this section, County may immediately terminate this Agreement for cause and Provider shall be liable for all costs incurred by County due to the termination.

7.10. Warranty of Performance. Provider represents and warrants that it possesses the knowledge, skill, experience, and financial capability required to perform and provide all Services, and that each person and entity that will provide Services is duly qualified to perform such services by all appropriate governmental authorities, where required, and is sufficiently experienced and skilled in the area(s) for which such person or entity will render such Services. Provider represents and warrants that the Services shall be performed in a skillful and respectful manner, and that the quality of all such services shall equal or exceed prevailing industry standards for the provision of such services.

7.11. Prohibited Telecommunications Equipment. Provider represents and certifies that it and its Subcontractors do not use any equipment, system, or service that uses covered telecommunications equipment or services as a substantial or essential component of any system, or as critical technology as part of any system, as such terms are used in 48 CFR §§ 52.204-24 through 52.204-26. Provider represents and certifies that Provider and its Subcontractors shall not provide or use such covered telecommunications equipment, system, or services during the Term.

7.12. Criminal History Screening Practices. If this Agreement is subject to the requirements of Section 26-125(d) of the Code, Provider represents and certifies that Provider will comply with Section 26-125(d) of the Code for the duration of the Term.

7.13. Domestic Partnership Requirement. Unless this Agreement is exempt from the provisions of the Broward County Domestic Partnership Act, Section 16½-157 of the Code (“Act”), Provider certifies and represents that it shall at all times comply with the provisions of the Act. The contract language referenced in the Act is deemed incorporated in this Agreement as though fully set forth in this section.

7.14. Notice of Judgment or Final Order. Provider must give notice to County of any judgment or final order rendered by the Florida Department of Financial Services, the Florida Office of Insurance Regulations, any federal or other state agency, or any court of law, that any of the specific insurance plans or programs provided pursuant to this Agreement are inconsistent or fail to comply with any applicable federal or state law requirement or regulation. Provider must also give County notice of any corrective action plan imposed as a result of such judgment or final order by any state or federal agency, including without limitation by the Florida Department of Financial Services or the Florida Office of Insurance Regulations, concerning any insurance plan or program Provider provides under this Agreement. The notice required by this section must be provided within thirty (30) days after the judgment or final order is rendered or the corrective action plan is imposed, whichever the case may be, in accordance with Section 12.9 of this Agreement.

7.15. Breach of Representations. Provider acknowledges that County is materially relying on the representations, warranties, and certifications of Provider stated in this article, and County shall be entitled to exercise any or all of the following remedies if any such representation, warranty, or certification is untrue: (a) recovery of damages incurred; (b) termination of this Agreement without any further liability to Provider; (c) set off from any amounts due Provider the full amount of any damage incurred; and (d) debarment of Provider.

ARTICLE 8. INDEMNIFICATION

Provider shall indemnify, hold harmless, and defend County and all of County's current, past, and future officers, agents, and employees (collectively, "Indemnified Party") from and against any and all causes of action, demands, claims, losses, liabilities, and expenditures of any kind, including attorneys' fees, court costs, and expenses, including through the conclusion of any appellate proceedings, raised or asserted by any person or entity not a party to this Agreement, and caused or alleged to be caused, in whole or in part, by any breach of this Agreement by Provider, or any intentional, reckless, or negligent act or omission of Provider, its officers, employees, or agents, arising from, relating to, or in connection with this Agreement (collectively, a "Claim"). If any Claim is brought against an Indemnified Party, Provider shall, upon written notice from County, defend each Indemnified Party with counsel satisfactory to County or, at County's option, pay for an attorney selected by the County Attorney to defend the Indemnified Party. The obligations of this section shall survive the expiration or earlier termination of this Agreement. If considered necessary by the Contract Administrator and the County Attorney, any sums due Provider under this Agreement may be retained by County until all Claims subject to this indemnification obligation have been settled or otherwise resolved. Any amount withheld shall not be subject to payment of interest by County.

ARTICLE 9. INSURANCE

9.1. Throughout the Term, Provider shall, at its sole expense, maintain the minimum insurance coverages stated in Exhibit E in accordance with the terms and conditions of this article. Provider shall maintain insurance coverage against claims relating to any act or omission by Provider, its agents, representatives, employees, or Subcontractors in connection with this Agreement. County reserves the right at any time to review and adjust the limits and types of coverage required under this article.

9.2. Provider shall ensure that "Broward County" is listed and endorsed as an additional insured as stated in Exhibit E on all policies required under this article.

9.3. On or before the Effective Date or at least fifteen (15) days prior to commencement of Services, as may be requested by County, Provider shall provide County with a copy of all Certificates of Insurance or other documentation sufficient to demonstrate the insurance coverage required in this article. If and to the extent requested by County, Provider shall provide complete, certified copies of all required insurance policies and all required endorsements within thirty (30) days after County's request.

9.4. Provider shall ensure that all insurance coverages required by this article shall remain in full force and effect without any lapse in coverage throughout the Term and until all performance required by Provider has been completed, as determined by Contract Administrator. Provider or its insurer shall provide notice to County of any cancellation or modification of any required policy at least thirty (30) days prior to the effective date of cancellation or modification, and at least ten (10) days prior to the effective date of any cancellation due to nonpayment, and shall concurrently provide County with a copy of its updated Certificates of Insurance evidencing continuation of the required coverage(s).

9.5. All required insurance policies must be placed with insurers or surplus line carriers authorized to conduct business in the State of Florida with an A.M. Best rating of A- or better and a financial size category class VII or greater, unless otherwise approved by County's Risk Management Division in writing.

9.6. If Provider maintains broader coverage or higher limits than the insurance requirements stated in Exhibit E, County shall be entitled to any such broader coverages and higher limits. All required insurance coverages shall provide primary coverage and not require contribution from any County insurance, self-insurance, or otherwise, which shall be in excess of and shall not contribute to the required insurance provided by Provider.

9.7. Provider shall declare in writing any self-insured retentions or deductibles over the limit(s) prescribed in Exhibit E and submit to County for approval at least fifteen (15) days prior to the Effective Date or commencement of Services. Provider shall be solely responsible for and shall pay any deductible or self-insured retention applicable to any claim against County. County may, at any time, require Provider to purchase coverage with a lower retention or provide proof of ability to pay losses and related investigations, claim administration, and defense expenses within the retention. Provider agrees that any deductible or self-insured retention may be satisfied by either the named insured or County, if so elected by County, and Provider agrees to obtain same in endorsements to the required policies.

9.8. Unless prohibited by the applicable policy, Provider waives any right to subrogation that any of Provider's insurers may acquire against County, and agrees to obtain same in an endorsement of Provider's insurance policies.

9.9. Provider shall require that each Subcontractor maintains insurance coverage that adequately covers the Services provided by that Subcontractor on substantially the same insurance terms and conditions required of Provider under this article. Provider shall ensure that all such Subcontractors comply with these requirements and that "Broward County" is named as an additional insured under the Subcontractors' applicable insurance policies. Provider shall not permit any Subcontractor to provide Services unless and until all applicable requirements of this article are satisfied.

9.10. If Provider or any Subcontractor fails to maintain the insurance required by this Agreement, County may pay any costs of premiums necessary to maintain the required coverage and deduct such costs from any payment otherwise due to Provider. If requested by County,

Provider shall provide, within one (1) business day, evidence of each Subcontractor's compliance with this article.

9.11. If any of the policies required under this article provide claims-made coverage: (1) any retroactive date must be prior to the Effective Date; (2) the required coverage must be maintained after termination or expiration of the Agreement for at least the duration stated in Exhibit E, and (3) if coverage is canceled or nonrenewed and is not replaced with another claims-made policy form with a retroactive date prior to the Effective Date, Provider must obtain and maintain "extended reporting" coverage that applies after termination or expiration of the Agreement for at least the duration stated in Exhibit E.

ARTICLE 10. TERMINATION

10.1. Termination for Cause. This Agreement may be terminated for cause by the aggrieved Party if the Party in breach has not corrected the breach within ten (10) days after receipt of written notice from the aggrieved Party identifying the breach. This Agreement may be terminated for cause by County for reasons including, but not limited to, any of the following:

10.1.1. Provider's failure to suitably or continuously perform the Services in a manner calculated to meet or accomplish the objectives in this Agreement, or repeated submission (whether negligent or intentional) for payment of false or incorrect bills or invoices; or

10.1.2. By the Contract Administrator or the Director of Office of Economic and Small Business Development ("OESBD") for any fraud, misrepresentation, or material misstatement by Provider in the award or performance of this Agreement or that otherwise violates any applicable requirement of Section 1-81, Broward County Code of Ordinances.

Unless otherwise stated in this Agreement, if this Agreement was approved by Board action, termination for cause by County must be by action of the Board or the County Administrator; in any other instance, termination for cause may be by the County Administrator, the County representative expressly authorized under this Agreement, or the County representative (including any successor) who executed the Agreement on behalf of County. If County erroneously, improperly, or unjustifiably terminates this Agreement for cause, such termination shall be deemed a termination for convenience pursuant to Section 10.2 effective thirty (30) days after such notice was provided and Provider shall be eligible for the compensation provided in Section 10.2 as its sole remedy.

10.2. Termination for Convenience; Other Termination. This Agreement may also be terminated for convenience by the Board with at least thirty (30) days advance written notice to Provider. Provider acknowledges that it has received good, valuable, and sufficient consideration for County's right to terminate this Agreement for convenience including in the form of County's obligation to provide advance notice to Provider of such termination in accordance with this section. This Agreement may also be terminated by the County Administrator upon such notice

as the County Administrator deems appropriate under the circumstances if the County Administrator determines that termination is necessary to protect the public health, safety, or welfare. If this Agreement is terminated by County pursuant to this section, Provider shall be paid for any Services properly performed through the termination date specified in the written notice of termination, subject to any right of County to retain any sums otherwise due and payable, and County shall have no further obligation to pay Provider for Services under this Agreement.

10.3. Notice of termination shall be provided in accordance with the “Notices” section of this Agreement except that notice of termination by the County Administrator to protect the public health, safety, or welfare may be oral notice that shall be promptly confirmed in writing.

10.4. If this Agreement is terminated for convenience by County, Provider shall be paid for any Services properly performed or premium payments due under this Agreement through the termination date specified in the written notice of termination, subject to any right of County to retain any sums otherwise due and payable.

10.5. Participants may elect to continue enrollment in the Supplemental Insurance Products from Provider after the Term of this Agreement through direct bill by Provider at the same group premium rate in effect at the time of termination pursuant to Portability. Future premium increases will be pooled across all employer groups within the State of Florida and will not change unless the rates for the pool of business changes. Upon expiration or termination of this Agreement, Provider shall continue to process Run-Out Claims. County agrees that Provider will have no obligation to process claims beyond ninety (90) days after this Agreement’s expiration or termination. The obligations of this section survive the expiration or earlier termination of this Agreement.

10.6. In addition to any right of termination stated in this Agreement, County shall be entitled to seek any and all available contractual or other remedies available at law or in equity.

ARTICLE 11. EQUAL EMPLOYMENT OPPORTUNITY

11.1. No Party may discriminate on the basis of race, color, sex, religion, national origin, disability, age, marital status, political affiliation, sexual orientation, pregnancy, or gender identity and expression in the performance of this Agreement. Provider shall include the foregoing or similar language in its contracts with any Subcontractors, except that any project assisted by the U.S. Department of Transportation funds shall comply with the nondiscrimination requirements in 49 C.F.R. Parts 23 and 26.

11.2. By January 1 of each year, Provider must submit, and cause each of its Subcontractors to submit, an Ownership Disclosure Form (or such other form or information designated by County), available at <https://www.broward.org/econdev/Pages/forms.aspx>, identifying the ownership of the entity and indicating whether the entity is majority-owned by persons fitting specified classifications.

ARTICLE 12. MISCELLANEOUS

12.1. Contract Administrator Authority. The Contract Administrator is authorized to coordinate and communicate with Provider to manage and supervise the performance of this Agreement. Provider acknowledges that the Contract Administrator has no authority to make changes that would increase, decrease, or otherwise materially modify the Scope of Services except as expressly set forth in this Agreement or, to the extent applicable, in the Broward County Procurement Code. Unless expressly stated otherwise in this Agreement or otherwise set forth in the Broward County Administrative Code, the Contract Administrator may exercise ministerial authority in connection with the day-to-day management of this Agreement. The Contract Administrator may approve in writing minor modifications to the Scope of Services that do not increase the total cost to County or waive any rights of County.

12.2. Rights in Documents and Work. Any and all reports, photographs, surveys, documents, materials, data, or other work created by Provider in connection with performing Services, whether finished or unfinished (“Documents and Work”), shall be owned by County, and Provider hereby transfers to County all right, title, and interest, including any copyright or other intellectual property rights, in or to the Documents and Work. Upon expiration or termination of this Agreement, the Documents and Work shall become the property of County and shall be delivered by Provider to the Contract Administrator within seven (7) days after expiration or termination. Any compensation due to Provider may be withheld until all Documents and Work are received as provided in this Agreement. Provider shall ensure that the requirements of this section are included in all agreements with all Subcontractor(s).

12.3. Public Records. Notwithstanding anything else in this Agreement, any action taken by County in compliance with, or in a good faith attempt to comply with, the requirements of Chapter 119, Florida Statutes, shall not constitute a breach of this Agreement. If Provider is acting on behalf of County as stated in Section 119.0701, Florida Statutes, Provider shall:

12.3.1. Keep and maintain public records required by County to perform the Services;

12.3.2. Upon request from County, provide County with a copy of the requested records or allow the records to be inspected or copied within a reasonable time and at a cost that does not exceed that provided in Chapter 119, Florida Statutes, or as otherwise provided by Applicable Law;

12.3.3. Ensure that public records that are exempt or confidential and exempt from public record requirements are not disclosed except as authorized by Applicable Law for the duration of this Agreement and after completion or termination of this Agreement if the records are not transferred to County; and

12.3.4. Upon expiration of the Term or termination of this Agreement, transfer to County, at no cost, all public records in possession of Provider or keep and maintain public records required by County to perform the Services. If Provider transfers the records to County, Provider shall destroy any duplicate public records that are exempt or confidential and

exempt. If Provider keeps and maintains the public records, Provider shall meet all requirements of Applicable Law for retaining public records. All records stored electronically must be provided to County upon request in a format that is compatible with the information technology systems of County.

If Provider receives a request for public records regarding this Agreement or the Services, Provider must immediately notify the Contract Administrator in writing and provide all requested records to County to enable County to timely respond to the public records request. County will respond to all such public records requests.

Provider must separately submit and conspicuously label as “RESTRICTED MATERIAL – DO NOT PRODUCE” any material (a) that Provider contends constitutes or contains its trade secrets under Chapter 688, Florida Statutes, or (b) for which Provider asserts a right to withhold from public disclosure as confidential or otherwise exempt from production under Florida public records laws (including Chapter 119, Florida Statutes) (collectively “Restricted Material”). In addition, Provider must, simultaneous with the submission of any Restricted Material, provide a sworn affidavit from a person with personal knowledge attesting that the Restricted Material constitutes trade secrets or is otherwise exempt or confidential under Florida public records laws, including citing the applicable Florida statute and specifying the factual basis for each such claim. Upon request by County, Provider must promptly identify the specific applicable statutory section that protects any particular document. If a third party submits a request to County for records designated by Provider as Restricted Material, County shall refrain from disclosing such material unless otherwise ordered by a court of competent jurisdiction, authorized in writing by Provider, or the claimed exemption is waived. Any failure by Provider to strictly comply with the requirements of this section shall constitute Provider’s waiver of County’s obligation to treat the records as Restricted Material. Provider must indemnify and defend County and its employees and agents from any and all claims, causes of action, losses, fines, penalties, damages, judgments and liabilities of any kind, including attorneys’ fees, litigation expenses, and court costs, relating to the nondisclosure of Restricted Material in response to a third-party request.

IF PROVIDER HAS QUESTIONS REGARDING THE APPLICATION OF CHAPTER 119, FLORIDA STATUTES, TO PROVIDER’S DUTY TO PROVIDE PUBLIC RECORDS RELATING TO THIS AGREEMENT, CONTACT THE CUSTODIAN OF PUBLIC RECORDS AT (954) 357-7600, BENEFITSRECORDS@BROWARD.ORG, 115 S. ANDREWS AVE., SUITE 514, FORT LAUDERDALE, FLORIDA 33301.

12.4. Audit Rights and Retention of Records. County shall have the right to audit the books, records, and accounts of Provider and its Subcontractors that are related to this Agreement. Provider and its Subcontractors shall keep such books, records, and accounts as may be necessary to record complete and correct entries related to this Agreement and performance under this Agreement. All such books, records, and accounts shall be kept in written form, or in a form capable of conversion into written form within a reasonable time, and upon request to do so, Provider and all Subcontractors shall make same available in written form at no cost to County. Provider shall provide County with reasonable access to Provider’s facilities, and County shall be

allowed to interview all current or former employees to discuss matters pertinent to the performance of this Agreement.

Provider and its Subcontractors shall preserve and make available, at reasonable times within Broward County, Florida, for examination and audit, all financial records, supporting documents, statistical records, and any other documents pertinent to this Agreement for at least three (3) years after expiration or termination of this Agreement or until resolution of any audit findings, whichever is longer. This article shall survive any dispute or litigation between the Parties, and Provider expressly acknowledges and agrees to be bound by this article throughout the course of any dispute or litigation with County. Any audit or inspection pursuant to this section may be performed by any County representative (including any outside representative engaged by County). Provider hereby grants County the right to conduct such audit or review at Provider's place of business, if deemed appropriate by County, with seventy-two (72) hours' advance notice. Provider shall make all such records and documents available electronically in common file formats or via remote access if, and to the extent, requested by County.

If an audit or inspection in accordance with this section uncovers fraud of any nature, in addition to making adjustments to make the Participant whole, as determined by County in its sole discretion, Provider shall pay the reasonable cost of County's audit. Any adjustments or payments due as a result of such audit or inspection shall be made within thirty (30) days after presentation of County's findings to Provider.

Provider shall ensure that the requirements of this section are included in all agreements with all Subcontractor(s).

12.5. Independent Contractor. Provider is an independent contractor of County, and nothing in this Agreement shall constitute or create a partnership, joint venture, or any other relationship between the Parties. In providing Services, neither Provider nor its agents shall act as officers, employees, or agents of County. Provider shall not have the right to bind County to any obligation not expressly undertaken by County under this Agreement.

12.6. Regulatory Capacity. Notwithstanding the fact that County is a political subdivision with certain regulatory authority, County's performance under this Agreement is as a Party to this Agreement and not in its regulatory capacity. If County exercises its regulatory authority, the exercise of such authority and the enforcement of Applicable Law shall have occurred pursuant to County's regulatory authority as a governmental body separate and apart from this Agreement, and shall not be attributable in any manner to County as a Party to this Agreement.

12.7. Sovereign Immunity. Except to the extent sovereign immunity may be deemed to be waived by entering into this Agreement, nothing herein is intended to serve as a waiver of sovereign immunity by County nor shall anything included herein be construed as consent by County to be sued by third parties in any matter arising out of this Agreement.

12.8. Third-Party Beneficiaries. Neither Provider nor County intends to directly or substantially benefit a third party by this Agreement. Therefore, the Parties acknowledge that there are no

third-party beneficiaries to this Agreement and that no third party shall be entitled to assert a right or claim against either of them based upon this Agreement.

12.9. Notices and Payment Address. Unless otherwise stated herein, for a notice to a Party to be effective under this Agreement, notice must be sent via U.S. first-class mail, hand delivery, or commercial overnight delivery, each with a contemporaneous copy via e-mail, to the addresses listed below and shall be effective upon mailing or hand delivery (provided the contemporaneous email is also sent). Payments shall be made to the noticed address for Provider, unless an alternate address for payments is provided in writing to the Contract Administrator. Addresses may be changed by the applicable Party giving notice of such change in accordance with this section.

FOR COUNTY:

Broward County Human Resources Division
Attn: Human Resources Director
Governmental Center, Room 508
115 South Andrews Avenue
Fort Lauderdale, Florida 33301
Email address: BenefitsRecords@Broward.org

FOR PROVIDER:

[REDACTED]
[REDACTED]
[REDACTED]

Email address: [REDACTED]

12.10. Assignment. All Subcontractors must be expressly identified in this Agreement or otherwise approved in advance and in writing by County's Contract Administrator. Except for approved subcontracting, neither this Agreement nor any right or interest in it may be assigned, transferred, subcontracted, or encumbered by Provider without the prior written consent of County. Any assignment, transfer, encumbrance, or subcontract in violation of this section will be void and ineffective, constitute a breach of this Agreement, and permit County to immediately terminate this Agreement, in addition to any other remedies available to County at law or in equity. County reserves the right to condition its approval of any assignment, transfer, encumbrance, or subcontract upon further due diligence and an additional fee paid to County to reasonably compensate it for the performance of any such due diligence.

12.11. Conflicts. Neither Provider nor its employees shall have or hold any continuing or frequently recurring employment or contractual relationship that is substantially antagonistic or incompatible with Provider's loyal and conscientious exercise of judgment and care related to its performance under this Agreement. During the Term, none of Provider's officers or employees shall serve as an expert witness against County in any legal or administrative proceeding in which he, she, or Provider is not a party, unless compelled by court process. Further, such persons shall not give sworn testimony or issue a report or writing as an expression of such person's expert

opinion that is adverse or prejudicial to the interests of County in connection with any such pending or threatened legal or administrative proceeding unless compelled by court process. The limitations of this section shall not preclude Provider or any persons in any way from representing themselves, including giving expert testimony in support of such representation, in any action or in any administrative or legal proceeding. If Provider is permitted pursuant to this Agreement to utilize Subcontractors to perform any Services required by this Agreement, Provider shall require such Subcontractors, by written contract, to comply with the provisions of this section to the same extent as Provider.

12.12. Materiality and Waiver of Breach. Each requirement, duty, and obligation set forth in this Agreement was bargained for at arm's-length and is agreed to by the Parties. Each requirement, duty, and obligation set forth in this Agreement is substantial and important to the formation of this Agreement, and each is, therefore, a material term. County's failure to enforce any provision of this Agreement shall not be deemed a waiver of such provision or modification of this Agreement. A waiver of any breach shall not be deemed a waiver of any subsequent breach and shall not be construed to be a modification of the terms of this Agreement. To be effective, any waiver must be in writing signed by an authorized signatory of the Party granting the waiver.

12.13. Compliance with Laws. Provider and the Services must comply with all Applicable Law, including, without limitation, the Americans with Disabilities Act, 42 U.S.C. § 12101, Section 504 of the Rehabilitation Act of 1973, and the requirements of any applicable grant agreements.

12.14. Severability. If any part of this Agreement is found to be unenforceable by any court of competent jurisdiction, that part shall be deemed severed from this Agreement and the balance of this Agreement shall remain in full force and effect.

12.15. Joint Preparation. This Agreement has been jointly prepared by the Parties, and shall not be construed more strictly against either Party.

12.16. Interpretation. The titles and headings contained in this Agreement are for reference purposes only and shall not in any way affect the meaning or interpretation of this Agreement. All personal pronouns used in this Agreement shall include any other gender, and the singular shall include the plural, and vice versa, unless the context otherwise requires. Terms such as "herein" refer to this Agreement as a whole and not to any particular sentence, paragraph, or section where they appear, unless the context otherwise requires. Whenever reference is made to a section or article of this Agreement, such reference is to the section or article as a whole, including all subsections thereof, unless the reference is made to a particular subsection or subparagraph of such section or article. Any reference to "days" means calendar days, unless otherwise expressly stated. Any reference to approval by County shall require approval in writing, unless otherwise expressly stated.

12.17. Priority of Provisions. If there is a conflict or inconsistency between any term, statement, requirement, or provision of any document or exhibit attached to, referenced by, or incorporated in this Agreement and any provision within an article or section of this Agreement, the article or section shall prevail and be given effect.

12.18. Law, Jurisdiction, Venue, Waiver of Jury Trial. This Agreement shall be interpreted and construed in accordance with and governed by the laws of the State of Florida. The exclusive venue for any lawsuit arising from, related to, or in connection with this Agreement shall be in the state courts of the Seventeenth Judicial Circuit in and for Broward County, Florida. If any claim arising from, related to, or in connection with this Agreement must be litigated in federal court, the exclusive venue for any such lawsuit shall be in the United States District Court or United States Bankruptcy Court for the Southern District of Florida. **EACH PARTY HEREBY EXPRESSLY WAIVES ANY RIGHTS IT MAY HAVE TO A TRIAL BY JURY OF ANY CIVIL LITIGATION RELATED TO THIS AGREEMENT.**

12.19. Amendments. Unless expressly authorized herein, no modification, amendment, or alteration of any portion of this Agreement is effective unless contained in a written document executed with the same or similar formality as this Agreement and by duly authorized representatives of County and Provider.

12.20. Modifications to Plans. Provider shall not modify the terms of any Supplemental Insurance Products covered under this Agreement without at least sixty (60) days' prior written notice to, and consent of, County.

12.21. Prior Agreements. This Agreement represents the final and complete understanding of the Parties regarding the subject matter of this Agreement and supersedes all prior and contemporaneous negotiations and discussions regarding same. All commitments, agreements, and understandings of the Parties concerning the subject matter of this Agreement are contained herein.

12.22. HIPAA Compliance. County has access to protected health information ("PHI") that is subject to the requirements of 45 C.F.R. Parts 160, 162, and 164 and related regulations. If Provider is considered by County to be a covered entity or business associate or is required to comply with the Health Insurance Portability and Accountability Act of 1996 ("HIPAA") or the Health Information Technology for Economic and Clinical Health Act ("HITECH"), Provider shall fully protect individually identifiable health information as required by HIPAA or HITECH and, if requested by County, shall execute a Business Associate Agreement in the form set forth at www.broward.org/Purchasing/Pages/StandardTerms.aspx. The County Administrator is authorized to execute a Business Associate Agreement on behalf of County. Where required, Provider shall handle and secure such PHI in compliance with HIPAA, HITECH, and related regulations and, if required by HIPAA, HITECH, or other Applicable Law, include in its "Notice of Privacy Practices" notice of Provider's and County's uses of client's PHI. The requirement to comply with this provision, HIPAA, and HITECH shall survive the expiration or earlier termination of this Agreement. Provider shall ensure that the requirements of this section are included in all agreements with Subcontractors.

12.23. Payable Interest

12.23.1. Payment of Interest. Unless prohibited by Applicable Law, County shall not be liable for interest to Provider for any reason, whether as prejudgment interest or for

any other purpose, and Provider waives, rejects, disclaims, and surrenders any and all entitlement to interest in connection with a dispute or claim arising from, related to, or in connection with this Agreement.

12.23.2. Rate of Interest. If the preceding subsection is inapplicable or is determined to be invalid or unenforceable by a court of competent jurisdiction, the annual rate of interest payable by County under this Agreement, whether as prejudgment interest or for any other purpose, shall be, to the full extent permissible under Applicable Law, one quarter of one percent (0.25%) simple interest (uncompounded).

12.24. Incorporation by Reference. Any and all Recital clauses stated above are true and correct and are incorporated in this Agreement by reference. The attached Exhibits are incorporated into and made a part of this Agreement.

12.25. Counterparts and Multiple Originals. This Agreement may be executed in multiple originals, and may be executed in counterparts, whether signed physically or electronically, each of which shall be deemed to be an original, but all of which, taken together, shall constitute one and the same agreement.

12.26. Use of County Name or Logo. Provider shall not use County's name or logo in any marketing or publicity materials without prior written consent from the Contract Administrator.

12.27. Drug-Free Workplace. To the extent required under Section 21.23(f), Broward County Administrative Code, or Section 287.087, Florida Statutes, Provider certifies that it has and will maintain a drug-free workplace program throughout the Term.

12.28. Living Wage Requirement. If Provider is a "covered employer" within the meaning of the Broward County Living Wage Ordinance, Sections 26-100 through 26-105 of the Code, Provider shall fully comply with the requirements of such ordinance and shall pay to all of its employees providing "covered services," as defined in the ordinance, a living wage as defined therein. Provider shall ensure all Subcontractors that qualify as "covered employers" fully comply with the requirements of such ordinance.

12.29. Polystyrene Food Service Articles. Provider shall not sell or provide for use on County property expanded polystyrene products or food service articles (e.g., Styrofoam), unencapsulated expanded polystyrene products, or single-use plastic straws or stirrers, as set forth in more detail in Section 27.173, Broward County Administrative Code.

12.30. Additional Security Requirements. Provider shall comply with the ETS Security Requirements attached hereto as Exhibit F.

IN WITNESS WHEREOF, the Parties hereto have made and executed this Agreement: BROWARD COUNTY, through its BOARD OF COUNTY COMMISSIONERS, signing by and through its Mayor or Vice-Mayor authorized to execute same by Board action on the ____ day of _____, 20__, and Provider, signing by and through its _____ duly authorized to execute same.

COUNTY

ATTEST:

BROWARD COUNTY, by and through its Board of County Commissioners

Broward County Administrator, as ex officio Clerk of the Broward County Board of County Commissioners

By: _____
Mayor

____ day of _____, 20__

Approved as to form by
Andrew J. Meyers
Broward County Attorney
115 South Andrews Avenue, Suite 423
Fort Lauderdale, Florida 33301
Telephone: (954) 357-7600

By: _____
Sandy Steed (Date)
Assistant County Attorney

By: _____
Danielle W. French (Date)
Deputy County Attorney

SS
Supplemental Insurance Products Agreement
02/13/23

AGREEMENT BETWEEN BROWARD COUNTY AND [REDACTED] FOR
SUPPLEMENTAL INSURANCE PRODUCTS (RFP # GEN2124165P1)

PROVIDER

Provider's Name

By: _____
Authorized Signer

Print Name and Title

_____ day of _____, 20__

EXHIBIT A
Scope of Services

[To be incorporated]

EXHIBIT B
Supplemental Insurance Products Descriptions

[To be incorporated]

EXHIBIT C
Premium Payments

[To be incorporated]

EXHIBIT D
Performance Measures

[To be incorporated]

EXHIBIT E
Minimum Insurance Coverages

[To be incorporated]

EXHIBIT F
Enterprise Technology Services Security Requirements

| | |
|---------------------|--|
| Solicitation Title: | Supplemental Insurance Products (RFP # GEN2124165P1) |
|---------------------|--|

Definitions.

“County Confidential Information” means any County Data that includes employee information, financial information, or personally identifiable information for individuals or entities interacting with County (including, without limitation, social security numbers, birth dates, banking and financial information, and other information deemed exempt or confidential under state or federal law or applicable regulatory body).

“Contractor” means the Provider providing the goods or services pursuant to the Agreement.

“County Data” means the data and information (including text, pictures, sound, graphics, video and other data) relating to County or its employees or agents, or made available or provided by County or its agents to Contractor, for or in the performance of this Agreement, including all derivative data and results derived therefrom, whether or not derived through the use of the Contractor’s services, whether or not electronically retained, and regardless of the retention media.

“Equipment” means the hardware being provided by Contractor under the Agreement.

“Software” means software provided or licensed by Contractor pursuant to the Agreement.

All other capitalized terms not expressly defined within this exhibit shall retain the meaning ascribed to such terms in the Agreement (and if not so defined, then the plain language meaning appropriate to the context in which it is used).

Security and Access. If Contractor will have access to any aspect of County’s network via an Active Directory account, onsite access, remote access, or otherwise, Contractor must:

- (a) comply at all times with all applicable County access and security standards, policies, and procedures related to County’s network, as well as any other or additional restrictions or standards for which County provides written notice to Contractor;
- (b) provide any and all information that County may reasonably request in order to determine appropriate security and network access restrictions and verify Contractor’s compliance with County security standards;
- (c) provide privacy and information security training to its employees with access to County’s network upon hire and at least once annually; and
- (d) notify County of any terminations or separations of Contractor’s employees who had access to County’s network.

In addition, for any remote access to County’s network, Contractor must:

- (a) utilize secure, strictly-controlled industry standards for encryption (e.g., Virtual Private Networks) and passphrases and safeguard County Data that resides in or transits through Contractor’s internal network from unauthorized access and disclosure;

- (b) ensure the remote host device used for access is not connected to any other network, including an unencrypted third party public WiFi network, while connected to County's network, with the exception of networks that are under Contractor's complete control or under the complete control of a person or entity authorized in advance by County in writing;
- (c) enforce automatic disconnect of sessions for remote access technologies after a specific period of inactivity with regard to connectivity into County infrastructure;
- (d) utilize equipment that contains antivirus protection software, an updated operating system, firmware, and third party-application patches, and that is configured for least privileged access;
- (e) utilize, at a minimum, industry standard security measures, as determined in County's sole discretion, to safeguard County Data that resides in or transits through Contractor's internal network from unauthorized access and disclosure; and
- (f) activate remote access from Contractor and its approved subcontractors into the County network only to the extent necessary to perform services under this Agreement, deactivating such access immediately after use.

If at any point in time County, in the sole discretion of its Chief Information Officer (CIO), determines that Contractor's access to any aspect of County's network presents an unacceptable security risk, or if Contractor exceeds the scope of access required to perform the required services under the Agreement, County may immediately suspend or terminate Contractor's access and, if the risk is not promptly resolved to the reasonable satisfaction of the County's CIO, may terminate this Agreement or any applicable Work Authorization upon ten (10) business days' notice (including, without limitation, without restoring any access to County network to Contractor).

Data and Privacy. To the extent applicable to the services being provided by Contractor under the Agreement, Contractor shall comply with all applicable data and privacy laws and regulations, including without limitation Florida Statutes Section 501.171, and shall ensure that County Data processed, transmitted, or stored by Contractor or in Contractor's system is not accessed, transmitted or stored outside the United States. Contractor shall not sell, market, publicize, distribute, or otherwise make available to any third party any personal identification information (as defined by Florida Statutes Section 501.171, Section 817.568, or Section 817.5685, as amended) that Contractor may receive or otherwise have access to in connection with this Agreement, unless expressly authorized in advance by County. If applicable and requested by County, Contractor shall ensure that all hard drives or other storage devices and media that contained County Data have been wiped in accordance with the then-current best industry practices, including without limitation DOD 5220.22-M, and that an appropriate data wipe certification is provided to the satisfaction of the Contract Administrator.

Managed or Professional Services. To the extent applicable to the services being provided by Contractor under the Agreement, Contractor shall immediately notify County of any terminations or separations of Contractor's employees who performed services under the Agreement and who had access to County Confidential Information or the County network. If any unauthorized party is successful in accessing any information technology component related to Contractor (including but not limited to servers or fail-over servers) where County Data or files exist or are housed,

Contractor shall notify County within twenty-four (24) hours after becoming aware of such breach, unless an extension is granted by County's CIO. Contractor shall provide County with a detailed incident report within five (5) days after becoming aware of the breach, including remedial measures instituted and any law enforcement involvement. Contractor shall fully cooperate with County on incident response, forensics, and investigations into Contractor's infrastructure as it relates to any County Data or County applications. Contractor shall not release County Data or copies of County Data without the advance written consent of County. If Contractor will be transmitting County Data, Contractor agrees that it will only transmit or exchange County Data via a secure method, including HTTPS, SFTP, or another method approved by County's CIO. Contractor shall ensure adequate background checks have been performed on any personnel having access to County Confidential Information. To the extent permitted by such checks, Contractor shall not knowingly allow convicted felons or other persons deemed by Contractor to be a security risk to access County Data. Contractor shall ensure the use of any open source or third-party software or hardware does not undermine the security posture of the Contractor or County.

System and Organization Controls (SOC) Report. If requested by County, Contractor must provide County with a copy of a current unqualified System and Organization Controls (SOC) 2 Type II Report for Contractor and for any third party that provides the applicable services comprising the system, inclusive of all five Trust Service Principles (Security, Availability, Processing Integrity, Confidentiality, and Privacy), or a sworn declaration certifying Contractor has obtained the referenced SOC 2 Type II Report and listing all complementary user entity controls (CEUCs) identified therein, prior to commencement of the Agreement and on an annual basis during the Agreement, unless this requirement is waived in writing by the County's CIO or designee.

Software Installed in County's Network. To the extent Contractor provides any Software to be installed in County's network, Contractor must:

- (a) advise County of all versions of any third-party software (e.g., Java, Adobe Reader/Flash, Silverlight) to be installed and support updates for critical vulnerabilities discovered in applicable third-party or open source software;
- (b) ensure that the Software is developed based on industry standards and best practices, including following secure programming techniques and incorporating security throughout the Software-development life cycle;
- (c) develop and maintain the Software to operate on County-supported and approved operating systems and firmware versions;
- (d) mitigate critical or high risk vulnerabilities (as defined by Common Vulnerability and Exposures (CVE) scoring system) to the Software or Contractor platform within 30 days after patch release, notifying County of proposed mitigation steps to be taken and timeline for resolution if Contractor is unable to apply a patch to remedy the vulnerability;
- (e) ensure the Software provides for role-based access controls and runs with least privilege access, enables auditing by default for any privileged access or changes, and supports electronic delivery of digitally signed upgrades from Contractor's or the third-party licensor's website;
- (f) ensure the Software is not within three (3) years from its end of life date and provide County with end-of-life-schedules for all applicable Software;

- (g) support encryption using at a minimum Advanced Encryption Standard 256-bit encryption keys (“AES-256”) or current industry security standards, whichever is higher, for confidential data at rest and use transport layer security (TLS) 1.2 or current industry standards, whichever is higher, for data in motion; and
- (h) upon request by County, provide an attestation letter identifying date of the most recent security vulnerability testing performed and any vulnerabilities identified and mitigated (must be dated within six (6) months after any major release).

Equipment Leased or Purchased from Contractor. To the extent Contractor is the Original Equipment Manufacturer (OEM) or an authorized reseller for the OEM for any Equipment provided under this Agreement, Contractor must:

- (a) ensure that physical security features to prevent tampering are included in any Equipment provided to County and ensure, at a minimum, industry-standard security measures are followed during the manufacture of the Equipment;
- (b) ensure any Equipment provided does not contain any embedded remote-control features unless approved in writing by County’s Contract Administrator, and disclose any default accounts or backdoors that exist for access to County’s network;
- (c) shall supply a patch, firmware update, or workaround approved in writing by County’s Contract Administrator within thirty (30) days after identification of a new critical or high security vulnerability and notify County of proposed mitigation steps taken;
- (d) develop and maintain Equipment to interface with County-supported and approved operating systems and firmware versions;
- (e) upon request by County, make available any required certifications as may be applicable per compliance and regulatory requirements (e.g., Common Criteria, Federal Information Processing Standard 140);
- (f) ensure the Equipment is not within three (3) years from its end of life date at the time of delivery and provide County with end-of-life-schedules for all applicable Equipment;
- (g) (for OEMs only) support electronic delivery of digitally signed upgrades of any applicable Equipment firmware from Contractor’s or the original Equipment manufacturer’s website; and
- (i) (for OEMs only) upon request by County, provide an attestation letter identifying date of the most recent security vulnerability testing performed and any vulnerabilities identified and mitigated (must be dated within six (6) months after any major release).

Payment Card Industry (PCI) Compliance. If and to the extent at any point during the Agreement the Software accepts, transmits, or stores any credit cardholder data or is reasonably determined by County to potentially impact the security of County’s cardholder data environment (“CDE”), Contractor must:

- (a) comply with the most recent version of VISA Cardholder Information Security Program (“CISP”) Payment Application Best Practices and Audit Procedures including Security Standards Council’s Payment Card Industry (“PCI”) Data Security Standard (“DSS”), including the functions relating to storing, processing, and transmitting of the cardholder data;
- (b) maintain PCI DSS validation throughout the Agreement;

- (c) prior to commencement of the Agreement (or at such time the Software will process cardholder data), prior to Final Acceptance (if applicable), after any significant change to the CDE, and annually, provide to County: (i) a copy of Contractor's Annual PCI DSS Attestation of Compliance ("AOC"); and (ii) a written acknowledgement of responsibility for the security of cardholder data Contractor possesses or otherwise stores, processes, or transmits and for any service Contractor provides that could impact the security of County's CDE (if Contractor subcontracts or in any way outsources the credit card processing, or provides an API that redirects or transmits cardholder to a payment gateway, Contractor is responsible for maintaining PCI compliance for the API and providing the AOC for the subcontractor or payment gateway to County);
- (d) maintain and provide to County a PCI DSS responsibility matrix that outlines the exact PCI DSS controls that are the responsibility of either party and the PCI DSS controls that are the shared responsibility of Contractor and County;
- (e) follow Open Web Application Security Project (OWASP) for secure coding and transmission of payment card data only to the extent Contractor provides a payment application;
- (f) immediately notify County if Contractor learns or suspects that Contractor, its Software, or its platform is no longer PCI DSS compliant and provide County the steps being taken to remediate the noncompliant status no later than seven (7) calendar days after Contractor learns or suspects it is no longer PCI DSS compliant;
- (g) activate remote access from Contractor and its approved subcontractors into County's network only to the extent necessary to perform services under this Agreement, deactivating such access immediately after use; and
- (h) maintain all inbound and outbound connections to County's CDE using Transport Layer Security (TLS) 1.2 or current industry standard (whichever is higher).

Health Information Portability and Accountability Act. If County determines in its reasonable business judgment that Contractor is a covered entity or business associate or otherwise required to comply with the Health Insurance Portability and Accountability Act of 1996 ("HIPAA") or the Health Information Technology for Economic and Clinical Health Act ("HITECH"), Contractor shall fully protect all protected health information ("PHI") that is subject to the requirements of 45 C.F.R. §§ 160, 162, and 164 and related statutory and regulatory provisions, as required by HIPAA and HITECH.

Business Associate Agreement. If requested by County, Contractor shall execute County's form Business Associate Agreement (located at [https://www.broward.org/purchasing/documents/9.Standard Business Associate Agreement Form.pdf](https://www.broward.org/purchasing/documents/9.Standard%20Business%20Associate%20Agreement%20Form.pdf)). Contractor shall handle and secure such PHI in compliance with HIPAA, HITECH, and its related regulations and, if required by HIPAA, HITECH, or other laws, shall include in its "Notice of Privacy Practices" notice of Contractor's and County's uses of a client's PHI. The requirement to comply with this provision, HIPAA, and HITECH shall survive the expiration or termination of the Agreement.

Application Development Services. To the extent applicable to the services being provided by Contractor under the Agreement, Contractor shall develop, implement, and comply with

industry-standard secure coding best practices as outlined by the County's Service Provider Application Secure Coding Standard. In addition, if application development services are performed by Contractor augmented staff on behalf of County, staff must strictly follow and adhere to the County's established application development policies, process, procedures, practices and standards. Upon request by County, Contractor shall provide an attestation letter to certify that security testing as specified above was performed along with security scan test results and tests performed. Any exceptions must be documented with the delivery of the attestation letter for acceptance by the County.

EXHIBIT G

Service Level Agreement

For purposes of this exhibit, Provider is referred to as “Contractor.”

In connection with all Services provided to County under the applicable contract (the “Agreement”), Contractor shall, at no additional cost to County, meet or exceed the requirements set forth in this Service Level Agreement (“SLA”) for the duration of the Agreement. The standards set forth herein are intended to reflect the current industry best practices for the Contractor Platform provided by Contractor under this Agreement. If and to the extent industry best practices evolve to impose higher standards than set forth herein, this SLA shall be deemed to impose the new, higher standards upon Contractor. Contractor shall promptly notify County in writing of any material change to its compliance with these standards. Any approval required by County under this SLA may be issued in writing by the Contract Administrator or the Broward County Chief Information Officer (“CIO”).

Sections 1-5 of this SLA apply to all aspects of the Contractor Platform. In addition, Sections 6 and 7 of this SLA apply to any Software as a Service (“SaaS”) or web hosting services provided to County under the Contractor Platform.

1. Definitions

1.1. “Contractor Platform” means any and all SaaS or web hosting to be provided by Contractor under the Agreement, including any system or other solution that stores, hosts, or transmits County Data. Contractor shall maintain the same standards set forth herein for its data centers and facilities that store or host County Data.

1.2. “County Data” means the data and information (including text, pictures, sound, graphics, video and other medium) relating to County or its employees or agents, or made available or provided by County or its agents to Contractor, for or in the performance of this Agreement, including all derivative data and results derived therefrom, whether or not derived through the use of the Contractor’s services, whether or not electronically retained, and regardless of the retention media.

1.3. Any other capitalized terms not defined herein refer to those terms as defined in the Agreement, if so defined; if not defined in the Agreement, any other capitalized terms shall have their plain language meaning as used in the applicable context.

2. Security

2.1. General

2.1.1. Contractor will ensure that County can authenticate all access by username/password or two-factor authentication. Upon request, Contractor shall restrict access to County Data to a specific source static IP address.

2.1.2. Contractor shall ensure that separation of duties and least privilege access are enforced for privileged or administrative access to County Data and the Contractor Platform.

2.1.3. Contractor's procedures for the following must be documented and made available upon request by County, including:

- 2.1.3.1. Evaluating security alerts and vulnerabilities;
- 2.1.3.2. Installing security patches and service packs;
- 2.1.3.3. Intrusion detection, incident response, and incident escalation/investigation;
- 2.1.3.4. Access and authorization procedures and resetting access controls (e.g., password policy);
- 2.1.3.5. Risk analysis and assessment procedures;
- 2.1.3.6. User access and termination procedures;
- 2.1.3.7. Security log review;
- 2.1.3.8. Physical facility access controls; and
- 2.1.3.9. Change control procedures.

2.1.4. Contractor shall ensure that its service providers, subcontractors, and any third parties, including any data hosting providers, performing any services related to this Agreement shall comply with all terms and conditions specified in this SLA unless County, in writing, excuses specific compliance with any such term or condition. Contractor shall provide County with a list of any such service providers, subcontractors or other third parties on an annual basis, upon County's request, and promptly upon a material change in the composition of such entities.

2.1.5. If new or unanticipated threats or hazards to the Contractor Platform are discovered by either County or Contractor, or if existing safeguards have ceased to function properly, the discovering party shall immediately bring the situation to the attention of the other party.

2.1.6. When technically feasible, for all software used, furnished, or supported under the Agreement, Contractor shall review such software to find and remediate security vulnerabilities during initial implementation and upon any significant modifications and updates to same.

2.1.7. Contractor must mitigate critical or high-risk vulnerabilities (as defined by Common Vulnerability and Exposures scoring system) to the Contractor Platform within 30 days after patch release. If Contractor is unable to apply a patch to remedy the vulnerability, Contractor must promptly notify County of proposed mitigation steps to be taken and develop and implement an appropriate timeline for resolution.

2.2. Controls

2.2.1. Prior to the Effective Date of the Agreement, and at least once annually and upon request for the duration of this Agreement, Contractor shall provide County with a copy of a current unqualified System and Organization Controls (SOC) 2 Type II, Report for Contractor's Organization or application, as well as any third party that provide hosting, SaaS, or data storage services for the Contractor Platform, inclusive of all five Trust Service Principles (Security, Availability, Processing Integrity, Confidentiality, and Privacy), unless the County's Chief Information Officer in his or her sole discretion approves other documentation of appropriate security controls implemented by Contractor. If the audit opinion in the SOC 2, Type II report is qualified in any way, Contractor shall provide sufficient documentation to demonstrate remediation of the issue(s) to the satisfaction of the County's Chief Information Officer.

2.2.2. Contractor shall maintain industry best practices for data privacy, security, and recovery measures, including, but not limited to, disaster recovery programs, physical facilities security, server firewalls, virus scanning software, current security patches, user authentication, and intrusion detection and prevention. Upon request by County, Contractor shall provide documentation of such procedures and practices to County.

2.2.3. Contractor shall utilize industry standard security measures to safeguard against unauthorized access to the Contractor Platform.

2.2.4. Contractor shall utilize antivirus protection software, updated and currently supported operating systems, firmware, third party and open source application patches, and firewalls to protect against unauthorized access to the Contractor Platform.

2.2.5. Contractor shall conduct penetration testing internally and externally at least annually and after any significant infrastructure or application upgrade or modification to the Contractor Platform.

2.3. Network Architecture/Security

2.3.1. Contractor shall protect any Internet interfaces or web services provided under this Agreement using a security certificate from a certification authority ("CA") that meets or exceeds the CA/Browser Forum's latest Secure Sockets Layer ("SSL") baseline requirements and network and certificate systems security requirements.

2.3.2. Contractor will support encryption using at a minimum Advanced Encryption Standard 256-bit encryption keys ("AES-256") or current industry security standards, whichever is higher, for the connection between any user or County network to the Contractor Platform.

2.4. Physical Architecture/Security

2.4.1. Contractor shall ensure the facilities that house the network infrastructure for the Contractor Platform are physically secure against threats such as unauthorized access and natural and environmental hazards, and entry controls are in place to limit and monitor physical access to the Contractor Platform.

2.4.2. Contractor shall ensure adequate background checks are routinely performed on any personnel with access to County Data. Contractor shall not knowingly allow convicted felons or other persons deemed by Contractor to be a security risk to access County Data. Contractor shall provide privacy and information security training to its employees upon hire and at least once annually.

2.5. Incident Response

2.5.1. If any unauthorized party is successful in accessing any information technology component related to the Contractor Platform, including but not limited to servers or fail-over servers where County Data exists or is stored, Contractor shall report to County within twenty-four (24) hours after Contractor becoming aware of such breach. Contractor shall provide County with a detailed incident report within five (5) days after the breach, unless a longer time period is approved in writing by the CIO, including remedial measures instituted and any law enforcement involvement. Contractor shall fully cooperate with County on incident response, forensics, and investigations that involve the Contractor's infrastructure relating to any County Data or County applications. Contractor shall not release County Data without the advance written consent of County.

2.5.2. Prior to the Effective Date of this Agreement, Contractor shall provide County with the names and contact information for a security point of contact and a backup security point of contact to assist County with security incidents.

2.5.3. Upon request by County, Contractor shall deliver to County in electronic form the website application activity such as logs of visits and user logins and logoffs by or on behalf of County on the Contractor Platform.

2.5.4. In the event the Contractor Platform has been compromised, Contractor shall promptly notify the County of the security breach. County may, at its sole discretion, terminate all access to the Contractor Platform.

2.6. County Data

2.6.1. Contractor shall maintain controls that ensure logical separation of County Data from non-County data. Contractor agrees to provide at a minimum Advanced Encryption Standard 256-bit encryption ("AES-256") or current industry security standards (or whichever is higher) for all County Data that includes any social security numbers, bank account numbers, username with passwords or security questions, cardholder data, or

any other protected data such as Protected Health Information (“PHI”) and Personally Identifiable Information (“PII”), and any other data as may be directed by County, and on all copies of such data stored, transmitted, or processed, at no additional charge to County, and shall classify such data internally at its highest confidentiality level. Contractor shall also ensure that the encryption key(s) are not stored with the encrypted data and are secured by a Hardware Security Module (“HSM”). Contractor shall immediately notify County of any compromise of any encryption key. Contractor shall provide a copy of County’s encryption key(s) at County’s request. Contractor shall prohibit the use of unencrypted protocols such as FTP and Telnet for the data identified in this paragraph.

2.6.2. Upon termination or expiration of this Agreement or end of serviceable life of any media used in connection with this Agreement, and upon written notification from County that the applicable County Data is currently maintained by County or otherwise securely stored, Contractor shall, at County’s option, (a) securely destroy all media (including media used for backups) containing any County Data on all decommissioned hard drives or storage media to National Institute of Standards and Technology (“NIST”) standards and provide to County a signed certificate of destruction within ten (10) business days, or (b) return to County all County Data and provide a signed certification within two (2) business days thereafter documenting that no County Data is retained by Contractor in any format or media.

2.6.3. County Data is the property solely of County and may not be reproduced or used by Contractor with the prior written consent of County. Contractor and its Subcontractors will not publish, transmit, release, sell, or disclose any County Data to any third party without County’s prior written consent.

2.6.4. County shall have the right to use the Products and Services to provide public access to County Data as County deems appropriate or as otherwise required by law.

2.6.5. In the event of any impermissible disclosure, loss, or destruction of County Data caused in whole or in part by any action or omission of Contractor, Contractor must immediately notify County and take all reasonable and necessary steps to mitigate any potential harm, further disclosure, loss, and destruction.

2.6.6. County shall have sole control over County Data unless otherwise expressly stated in the Agreement and required for Contractor to provide the Services required under the Agreement.

2.6.7. Contractor shall not supplement, modify, or alter any deliverable previously accepted by County or any County Data (other than modifications strictly necessary to upload the County Data to the Contactor Platform) without County’s prior written consent.

3. Compliance

3.1. Contractor shall cooperate and provide any information requested by County relating to compliance and regulatory requirements, and will, upon request:

3.1.1. Provide a letter attesting that the Contractor performed vulnerability scans of authenticated and unauthenticated operating systems/networks, web applications, database applications, and the Contractor Platform;

3.1.2. Permit County or its contractors to conduct automated and manual scans and penetration (“Pen”) tests at mutually agreed upon times;

3.1.3. Provide Contractor’s architecture documents, information security policies and procedures (redacted, if necessary), and general network security controls documentation such as firewalls, Intrusion Detection System (“IDS”); and

3.1.4. Permit County to conduct a physical inspection of Contractor’s facilities but only to the extent such inspection is related to the security of and access to County Data or the Contractor Platform.

3.2. Contractor shall provide County with the ability to generate account reports consisting of the account holder’s name and application access rights.

3.3. Contractor shall provide County with the ability to generate account management reports showing new users, access rights changes, and account termination with the associated time stamp information.

3.4. Contractor shall provide County with the ability to generate time-stamped user and administrator access (login/logout) and a list of activities performed by administrators, privileged users, or third-party contractors while using the System.

3.5. Upon request by County, Contractor shall promptly provide County with access to time-stamped data transfer logs (including the account, a description of the data transferred and its size, and the user and account names for forensic purposes), time-stamped application and platform environment change control logs, and time-stamped data backup logs indicating the backup type (e.g., full, incremental, etc.).

3.6. Upon County’s request, Contractor shall make available to the County proof of Contractor’s compliance with all applicable federal, state, and local laws, codes, ordinances, rules, and regulations in performing under this Agreement, including but not limited to: HIPAA compliance; Contractor’s latest compliance reports (e.g., PCI Compliance report, SSAE 16 report, International Organization for Standardization 27001 (ISO 27001) certification); and any other proof of compliance as may be required from time to time.

4. Infrastructure Management

Contractor shall ensure that an unlimited number of transactions may be processed to the County production database. Subject to County approval, Contractor may recommend that non-routine reports and queries be limited to certain timeframes, quantities or other specifications if Contractor determines that such reports and queries cause degradation to response times affecting performance levels established in this SLA. Contractor shall routinely apply upgrades, new releases, and enhancements to the Contractor Platform as they become available and shall ensure that these changes will not adversely affect the Contractor Platform or County Data. A development and test system, which shall mirror the production system, shall be made available for use by County for testing or training purposes, including without limitation, for County's testing of application upgrades and fixes prior to installation in the production environment. County may control data that is populated on the demonstration and training system by requesting that Contractor perform any or all of the following: periodically refresh data from production; perform an ad-hoc refresh of data from production; not refresh data from production until further notice from County; or refresh data on an ad hoc basis with training data supplied by County.

5. Transition/Disentanglement

5.1. Contractor will complete the transition of any terminated Services or Support and Maintenance to County and any replacement provider(s) that County designates (collectively, the "Transferee"), without causing any unnecessary interruption of, or adverse impact on, the Services, County Data, or the ongoing business operation of County ("Disentanglement"). Contractor will work in good faith (including, upon request, with the Transferee) at no additional cost to County to develop an orderly Disentanglement plan that documents the tasks required to accomplish an orderly transition with minimal business interruption or expense for County. Upon request by County, Contractor shall cooperate, take any necessary additional action, and perform such additional tasks that County may reasonably request to ensure timely and orderly Disentanglement, which shall be provided at the rate(s) specified in the Agreement or, if no applicable rate is specified, at a reasonable additional fee upon written approval by County. Specifically, and without limiting the foregoing, Contractor shall:

5.1.1. Promptly provide the Transferee with all nonproprietary information needed to perform the Disentanglement, including, without limitation, data conversions, interface specifications, data about related professional services, and complete documentation of all relevant software and equipment configurations;

5.1.2. Promptly and orderly conclude all work in progress or provide documentation of work in progress to Transferee, as County may direct;

5.1.3. Not, without County's prior written consent, transfer, reassign, or otherwise redeploy any of Contractor's personnel during the Disentanglement period to the extent such action would impede performance of Contractor's obligations under the Agreement;

5.1.4. If applicable, with reasonable prior written notice to County, remove its assets and equipment from County facilities;

5.1.5. If County requests, and to the extent permitted under the applicable agreements, assign to the Transferee (or use its best efforts to obtain consent to such assignment where required) all contracts including third-party licenses and maintenance and support agreements, used by Contractor exclusively in connection with the Services or Support and Maintenance. Contractor shall perform all of its obligations under such contracts at all times prior to the date of assignment, and Contractor shall reimburse County for any losses resulting from any failure to perform any such obligations;

5.1.6. Deliver to Transferee all current, nonproprietary documentation and data related to County-owned assets and infrastructure. After confirming in writing with County that the applicable County Data is received intact or otherwise securely stored by County, Contractor shall securely erase all County Data, including on any hard drives and backup media, in accordance with NIST standards. Upon written consent from County, Contractor may retain one copy of documentation to the extent required for Contractor's archival purposes or warranty support; and

5.1.7. To the extent requested by County, provide County a list with current valuation based on net book value of any Contractor-owned tangible assets required to make the Contractor Platform available to County. County shall have the right to acquire any or all such assets for net book value. If County elects to acquire such assets for the net book value, Contractor shall use best efforts to ensure that any and all related warranties will transfer along with those assets.

6. Network Architecture/Security

6.1. Network Architecture

6.1.1. The Contractor Platform shall be protected behind a layer of firewalls.

6.1.2. At County's request, Contractor shall submit a network architecture diagram of County's stored and transmitted data, including the location of the data center and details of connectivity for all third parties who have access to County Data. Any network security changes implemented by Contractor must not compromise the security of County Data. Contractor shall ensure that all database servers are protected behind a second set of internal firewalls.

6.1.3. Contractor shall restrict inbound and outbound traffic to County's network to "deny all, permit by exception" configuration.

6.1.4. Contractor's wireless networks connected to the Contractor Platform shall at a minimum, be configured for Wi-Fi Protected Access 2 (WPA2)-Enterprise using Advanced Encryption Standard (AES) and Protected Extensible Authentication Protocol (PEAP), or

current industry security standards (whichever is higher) to secure and protect County data.

6.2. Physical Architecture/Security. Contractor shall connect its hosting site for the Contractor Platform through at least two (2) independent Internet Service Contractors (“ISPs”) with different Internet points of presence.

6.3. Disaster Recovery

6.3.1. Contractor shall maintain a disaster recovery plan for the Contractor Platform with mirrored sites geographically separated by at least 250 miles, with a Recovery Time Objective (“RTO”) of a maximum of eight (8) hours and a Recovery Point Objective (“RPO”) of a maximum of four (4) hours from the incident.

6.3.2. Contractor shall conduct a disaster recovery test of the hosted or SaaS system that is utilized by or comprises the Contractor Platform on at least an annual basis, and shall notify County at least ten (10) days in advance of each such test. In addition, Contractor shall conduct a disaster recovery test specific to County, including testing County Data and the Contractor Platform, in coordination with County at least once per year; the timing and duration of the County-specific test is subject to the approval of County.

6.4. County Data. Contractor shall make any County Data available to County upon request within one (1) business day and in any format reasonably requested by County, including, without limitation, Extensible Markup Language (“XML”) and Structured Query Language (“SQL”), or in another format as may be mutually agreed by County and Contractor.

7. Service Availability

7.1. System Availability

7.1.1. Contractor guarantees that the Network Uptime (as defined herein) will be 99.99% of Prime Time (defined as County business days from 7 a.m. – 7 p.m. Eastern Time) and 98.00% of non-Prime Time for each calendar month during the term of the Agreement, excluding Scheduled Maintenance as defined herein (collectively, the “Network Uptime Guarantee”). Network Uptime is the time that the Contractor Platform and System are functioning optimally and fully operational, and requires proper functioning of all network infrastructure, including routers, switches, and cabling, affecting a user’s ability to reliably transmit or receive data; Network Downtime is the remainder of time that is not included in Network Uptime, and is measured from the time the trouble ticket is opened to the time the Contractor Platform and System are fully restored. As long as the System is available over the Internet to at least two other comparable non-County customers (i.e., the System is functioning properly and there are no technical issues with Contractor or the Contractor Platform), any inability on the part of County to access the System as a result of a general Internet outage will not be counted toward Network Downtime. System unavailability for the purpose of building redundancy

or other recovery systems that is approved by County in advance shall not be charged as downtime in computing the Network Downtime. Contractor Platform or System unavailability due to Contractor's equipment failure constitutes Network Downtime.

7.1.2. Contractor will refund to County five percent (5%) of the monthly fees (or monthly pro rata equivalent, if recurring fees under the Agreement are charged other than monthly) under the Agreement for each thirty (30) minutes of Network Downtime in excess of that permitted under the Network Uptime Guarantee (up to 100% of County's monthly or pro rata fee), measured on a calendar month basis. Such refunds will be paid within ten (10) days after the applicable monthly report or, at County's option, may be credited against amounts due under any unpaid invoice or future invoice. If the Agreement provides for other credit or compensation due to County for an event that also constitutes Network Downtime, the greater of the two amounts shall apply.

7.1.3. Normal availability of the Contractor Platform and System shall be twenty-four (24) hours per day, seven (7) days per week. Planned downtime (i.e., taking the System offline such that it is not accessible to County) ("Scheduled Maintenance") shall occur during non-Prime Time and with at least five (5) business days' advance written notice to County. Contractor may conduct Scheduled Maintenance at other times without advance notice only with written consent from County, which consent will not be unreasonably withheld. During non-Prime Time, Contractor may perform routine maintenance operations that do not require the Contractor Platform or System to be taken offline but may have immaterial effects on performance and response time without any notice to County. Such immaterial degradation in performance and response time shall not be deemed Network Downtime. All changes that are expected to take more than four (4) hours to implement or are likely to impact user workflow require County's prior written approval, which will not be unreasonably withheld.

7.1.4. By the tenth day of each calendar month, Contractor shall provide County a report detailing Contractor's performance under this SLA for the prior calendar month. To the extent the performance fails to meet the Network Uptime Guarantee, the report shall calculate: the total number of minutes of uptime for each of Prime Time and non-Prime Time; the total number of minutes for each of Prime Time and non-Prime Time minus any applicable Scheduled Maintenance, respectively; and the percentage of uptime versus total time minus Scheduled Maintenance for each (e.g., monthly minutes of non-Prime Time network uptime / (Total minutes of non-Prime Time – Minutes of Scheduled Maintenance) = __%).

7.2. Infrastructure Management

7.2.1. During Prime Time, Contractor shall ensure packet loss of less than one percent (1%) and less than sixty (60) milliseconds domestic latency within the Contractor Platform. Contractor shall maintain sufficient bandwidth to the Contractor Platform and ensure the server processing time (or CPU processing capacity) to provide millisecond response times from the server. County and Contractor recognize that end user response times are

dependent on intermittent ISP network connectivity, and in the case of County's users, dependent on County's internal network health.

7.2.2. To the extent the Contractor Platform provides or supports public access to users in Broward County or through the County's web pages, the Contractor Platform shall support up to 500,000 site hits per calendar day and capture the number of site hits by page for performance to standards reporting.

7.2.3. Contractor will retain all County-related database records regardless of number or size.

7.2.4. To the extent the Contractor Platform includes an ad-hoc reporting tool or standard reports, Contractor agrees to provide unlimited access to such functionality to County. Contractor agrees to support an unlimited number of queries and reports against County Data. County agrees that Contractor may put reasonable size limits on queries and reports to maintain System performance, provided such limits do not materially impact County's regular business operations.

7.2.5. Contractor shall conduct full, encrypted backups (including System and user data) weekly and shall conduct incremental, encrypted backups daily. Encrypted backups will be written to a backup device with sufficient capacity to handle the data. Contractor shall maintain a complete current set of encrypted backups for County's System, including County Data, at a remote, off-site "hardened" facility from which data can be retrieved within one (1) business day at any point in time. Full System restoration performed as a recovery procedure after a natural disaster is included as part of the required performance by Contractor under this Agreement. Upon County's request, Contractor shall also provide restoration of individual file(s).

7.3. Performance Monitoring and Hosting Capacity Increases

7.3.1. If requested by County, Contractor shall provide standard reporting metrics of the Contractor Platform to County on a monthly basis which shall include: traffic patterns by user and by time; server load, including central processing unit load, virtual memory, disk and input/output channel utilization; transmission control protocol load for each server allocated in part or in full to County System; and system errors in the System, database, operating system, and each server allocated in part or in full to the System.

7.3.2. In the event County anticipates an increase in transaction volume or seeks to expand capacity beyond the limitations, if any, provided under the Agreement, Contractor will provide timeline and cost estimates to upgrade existing servers or deploy additional servers dedicated to County's System within fifteen (15) calendar days after written notice by County.