

Vendor Services Agreement

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

WHEREAS, the Vendor has certain expertise, education, certifications, training, licenses or experience in the area of _____ and;

WHEREAS, the Coalition is in need of _____ in order to assist and support the operation and administration of the Coalition and;

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

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

WITNESSETH

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

1. **TERM.** Vendor shall provide the services required herein and in accordance with **Exhibit A** for a period commencing on _____ and terminating on _____. Upon mutual Agreement the Parties may renew the Agreement, in whole or in part, for a period that may not exceed three (3) years or the initial term of the Agreement, whichever period is longer. The renewal must be in writing and signed by both Parties and subject to the availability of funds.
2. **SCOPE OF SERVICES.** The Vendor agrees to provide the services required herein and in accordance with the required work and services as set forth in **Exhibit A** of this Agreement (hereinafter referred to as "the Scope of Services") attached hereto and by reference made a part hereof. Any work or services performed, provided, or delivered by the Vendor beyond the Scope of Services as stated herein, or as stated in any subsequent amendment to this Agreement without the prior approval of the Coalition shall not be compensable to the Vendor or any other third party utilized by the Vendor under this Agreement. . A statement of the credentials of the Vendor shall be attached to this Agreement and by reference made a part hereof as **Exhibit B**. Except as provided for in this Agreement, in the event that a conflict exists between the terms of the Scope of Services as set forth in **Exhibit A** and this Agreement, the Scope of Services shall prevail.

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Vendor also agrees to comply with the provisions, requirements, laws, regulations, and requirements as forth in the “**Vendor Service Agreement Certifications and Assurances**” attached hereto as **Exhibit C**.

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

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

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

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

The Vendor Fee shall be the entire compensation for the Scope of Services rendered by the Vendor hereunder, except that Vendor may be reimbursed for reasonable expenses incurred by the Vendor only upon prior written approval of such expenses by the Coalition.

4. **REPRESENTATION AND WARRANTY** The Vendor warrants and represents to the Coalition that the Vendor, and if applicable, its employees, its subcontractors, and its agents, have sufficient expertise, education, personnel, resources, and experience to perform the Scope of Services stated within the Agreement. The Vendor further warrants and represents that the

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Vendor, and if applicable, its employees, its subcontractors, and its agents are appropriately licensed or certified in accordance with applicable federal, state, county and municipal law and industry standards, whichever is applicable to the Scope of Services, to provide, perform or deliver the Scope of Services as set forth in **Exhibit A**. The Vendor further warrants and represents that, to the best of its knowledge, there is no pending or threatened action, proceeding, litigation, claim or investigation, or any other legal or financial condition, that would in any way prohibit, restrain, or diminish the Vendor's ability to perform or deliver the Scope of Services under the Agreement.

The Vendor acknowledges and agrees that the Coalition's reliance on the aforementioned representations and warranties as set forth herein is material and substantive in nature, is grounds for a default or termination under this Agreement and this Section shall survive the expiration or termination of this Agreement, whichever is earlier.

5. **EMPLOYMENT ELIGIBILITY**. Vendor certifies that it is aware of and complies with the requirements of Section 448.095, Florida Statutes, as may be amended from time to time and briefly described herein below.

5.1. **Definitions for this Section.**

5.1.1. "Public agency" means any separate unit of government created or established pursuant to law, and any other public or private agency, person, partnership, corporation, or business entity acting on behalf of any public agency. The Coalition is considered a Public Agency for this purpose.

5.1.2. "Subcontractor" includes, but is not limited to, a sub-vendor, sub-consultant.

5.1.3. "Subcontractor" means a person or entity that provides labor, supplies, or services to or for a vendor, contractor, or another subcontractor in exchange for salary, wages, or other remuneration.

5.1.4. "E-Verify system" means an Internet-based system operated by the United States Department of Homeland Security that allows participating employers to electronically verify the employment eligibility of newly hired employees.

- 5.2. **Registration Requirement; Termination.** Pursuant to §448.095, Florida Statutes, effective January 1, 2021, Vendor, shall register with and use the E-verify system in order to verify the work authorization status of all newly hired employees. Contractor shall register for and utilize the U.S. Department of Homeland Security's E-Verify System to verify the employment eligibility of:

5.2.1. All persons employed by a Vendor to perform employment duties within Florida during the term of the contract; and

5.2.2. All persons (including subvendors/subconsultants/subcontractors) assigned by Vendor to perform work pursuant to the contract with the Coalition. The Vendor acknowledges and agrees that registration and use of the U.S. Department of Homeland Security's E-Verify System during the term of the contract is a condition of the contract with the Coalition; and

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5.2.3. The Vendor shall comply with the provisions of §448.095, Florida Statutes, "Employment Eligibility," as amended from time to time. This includes but is not limited to registration and utilization of the E-Verify System to verify the work authorization status of all newly hired employees. Vendor shall also require all subcontractors to provide an affidavit attesting that the subcontractor does not employ, contract with, or subcontract with, an unauthorized alien. The Vendor shall maintain a copy of such affidavit for the duration of the contract. Failure to comply will lead to termination of this Agreement, or if a subcontractor knowingly violates the statute, the subcontract must be terminated immediately. Any challenge to termination under this provision must be filed in the Circuit Court no later than twenty (20) calendar days after the date of termination. Termination of this Agreement under this Section is not a breach of contract and may not be considered as such. If this contract is terminated for a violation of the statute by the Contractor, the Vendor may not be awarded a public contract for a period of one (1) year after the date of termination.

5.3. This Section shall also be applicable to any subcontractors secured by the Vendor subject to the written prior approval of the Coalition.

6. **NON-EXCLUSIVITY**. The Coalition expressly reserves the right, at any time or for any reason whatsoever, to retain other consultants, vendors, or independent contractors in addition to the Vendor to perform the work or services that are similar or identical in nature to the Scope of Services being performed or delivered by the Vendor.
7. **NO LOBBYING**. In accordance with §§11.062 and 216.347, Florida Statutes, no funds from this Agreement may be used for lobbying the state Legislature, the judicial branch or any state Agency. Acceptance of these terms indicates the Vendor is aware of and currently complies with the described lobbying activity restrictions. The Vendor shall require all subcontracts include this certification language, which is a material representation of fact upon which the parties relied when they made or entered into this transaction.
8. **PAYMENT AUDIT**. Records of costs incurred under terms of the Agreement shall be maintained and made available to the Coalition upon request at all times during the period of the Agreement, and for a period of five years thereafter. Records of costs incurred shall include the Vendor's general accounting records, together with supporting documents and records of the Vendor and all subcontractors performing work, and all other records of the Vendor and subcontractors considered necessary by the Coalition for audit.
9. **AUDIT RIGHTS**. Pursuant to §20.055(5), Florida Statutes, the Vendor and any subcontractor(s) used by Vendor to provide the goods/services pursuant to the terms of this Agreement understand and will comply with their duty to cooperate in good faith with any reasonable requests from the Coalition or State officials to discuss, review, inspect or audit Vendor performance and compliance under this Agreement. Upon request, the Vendor shall grant access to all records pertaining to the Agreement to the Coalition, the Division of Early Learning (the "Division"), the Division's Inspector General and General Counsel, the Office of Program Policy and Government Accountability, and Florida's Chief Financial Officer. The

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Vendor shall provide any type of information deemed relevant to the Vendor's integrity or responsibility. Such information may include, but shall not be limited to, the Vendor's business or financial records, documents, or files of any type or form that refer to or relate to the Agreement. The Vendor shall retain such records for five (5) years after the expiration date of the Agreement, or the period required by the General Records Schedules maintained by the Florida Department of State whichever is longer. The Vendor agrees to reimburse the State for the reasonable costs of investigation incurred by the Inspector General or other authorized State official for investigations of the Vendor's compliance with the terms of this or any other agreement between the Vendor and the Coalition which result in the suspension or debarment of the Vendor. Such costs shall include, but shall not be limited to, salaries of investigators, including overtime, travel and lodging expenses, and expert witness and documentary fees.

10. **CONFIDENTIAL AND PROPRIETARY INFORMATION; DISCLOSURE; RECORDS.** The Vendor acknowledges that in the course of completing the Scope of Services, the Vendor may originate, develop, receive or otherwise become aware of certain confidential or proprietary information concerning the Coalition, its operations, its applicable governing agencies, its vendors, its contractors, or the recipients of its services. Vendor further agrees that all such information is, shall be, and will continue to remain the confidential information of the Coalition ("Confidential Information"). The Vendor shall not store, or allow to be stored, any Confidential Information on any portable storage media (e.g., laptops, thumb drives, hard drives) or peripheral device with the capacity to hold information without encryption software installed on the devices meeting the standards prescribed in [111 http://csrc.nist.gov/publications/nistpubs/800-111/SP800-111.pdf](http://csrc.nist.gov/publications/nistpubs/800-111/SP800-111.pdf). The Vendor will further not use, disseminate, alter, destroy, or disclose any Confidential Information concerning a recipient of the Scope of Services under this Agreement or a recipient of services of the Coalition for any purpose not in conformity with applicable state and federal statutes or regulations.

"Confidential Information" shall also include the following:

- "Personal Identifying Information" (PII) as the term is defined in §501.171(1)(g)(1), Florida Statutes, and 2 CFR 200.1 ("Protected Personally Identifiable Information")
- "Student Records" as the term is defined in §§1002.221, and 1002.97, Florida Statutes, and the Federal Education Rights and Privacy Act ("FERPA") as well said act's implementing regulations as set forth under 34 CFR Part 99.
- "Protected Health Information" (as the term is defined in 45 C.F.R. §164.501) or "Individual Identifiable Health Information" (as the term is defined in 42 U.S.C. § 1320d), as well as any "health care" or "medical" information or records as those terms are defined and set forth under Health Insurance Portability and Accountability Act of 1996, as codified at 42 U.S.C. §1320d ("HIPAA") and any current and future regulations promulgated thereunder, including, without limitation, the federal privacy regulations contained in 45 C.F.R. Parts 160 and 164 ("Federal Privacy Regulations"), the federal security standards contained in 45 C.F.R. Part 142 ("Federal Security Regulations"), and the federal standards for electronic transactions contained in 45 C.F.R. Parts 160 and 162, all (collectively referred to herein as "HIPAA Requirements").

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

The Vendor shall comply with all applicable federal and Florida confidentiality and disclosure laws and any requirements concerning Confidential or Proprietary Information and HIPAA requirements as required in this Agreement

A "Breach of Security" is an unauthorized access, use, transfer, distribution, disclosure, modification, or destruction of any information, record, or data containing Confidential or Proprietary Information by a third party or an unauthorized employee or agent of the Vendor. Good faith access of Confidential Information by an employee or agent of the Vendor does not constitute a breach of security, provided that the information is not used for a purpose unrelated to the business or subject to further unauthorized use.

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

The Vendor shall also maintain records obtained or created pursuant to this Agreement in accordance with the applicable federal and state statutory records retention requirements, which include, but are not limited to §119.0701(2)(b) and Chapter 1002, Florida Statutes, if the Coalition has decided to not retain said records. The Vendor will cooperate to facilitate transfer, duplication or destruction of any records or documents upon the request of the

Coalition at no cost, charge, or expense to the Coalition. The Vendor will also cooperate with the Coalition to facilitate the disclosure, transfer, destruction, or distribution of records, information, and data as set forth herein and as requested by the Coalition to those persons or entities that are entitled pursuant to federal or Florida law to said disclosure and distribution at no costs, charge, or expense to the Coalition. The Vendor further agrees that at the expiration or termination of this Agreement, whichever is earlier, to return any and all Confidential Information and Proprietary Information to the Coalition, whether said Confidential Information and Proprietary Information is written, printed, copied, reproduced, downloaded, encrypted or in any other form whatsoever in the form or format requested by the Coalition at no additional cost, fee, or charge to the Coalition. The Vendor further agrees to not make or pursue any claim, suit, proceeding or action against the Coalition or its governing or funding agency as it concerns any claim or right of ownership, authorship or interest in the records, files, documents, data, or other information owned by the Coalition or its governing or funding agency.

The obligations and conditions of the Vendor as it pertains to the disclosure, protection, maintenance, storage, access, use, delivery, destruction, alteration, dissemination, and return of the Confidential Information and Property Information as stated herein shall be binding on the Vendor, its employees, its agents, its successors in interest, its parent entity, its partners, its subcontractors, or any other party utilized by the Vendor to perform the Scope of Services under the Agreement. Any violation as stated herein shall be considered a default pursuant to **Section 20 (Termination and Default)** and the Coalition or any applicable government entity shall have the right to pursue any actions or remedies to secure said Confidential Information and Proprietary Information from disclosure and use by the Vendor or any third party.

This **Section 10 (Confidentiality and Proprietary Information; Disclosure; Records)** shall also apply to any subcontractors or agents utilized to perform the Scope of Services as set forth in **Exhibit A** of this Agreement and shall survive the expiration or termination of this Agreement, whichever is earlier.

11. **COPYRIGHTS AND PATENTS** The Parties agree that the Vendor retains all rights, title, and interest in and to all intellectual property and other proprietary information owned by the Vendor prior to entering into this Agreement which may be used to provide Services hereunder. However, Pursuant to 2 CFR Part 200 Appendix II, Item (F) and § 286.021, Florida Statutes, if a discovery or invention arises or is developed in connection with the use of federal or state funds in the performance of this Agreement, the Coalition will refer it to the Florida Division of Early Learning (“DEL”) and the Florida Department of State to determine whether patent protection will be sought in the name of the State of Florida. Any and all patent rights accruing in connection with the performance of the Agreement are hereby reserved to the State of Florida and the Vendor shall refer any such discovery to the Coalition. In addition, the Vendor is subject to applicable federal regulations governing or funding patents and inventions, including government-wide regulations issued by the Department of Commerce at 37 CFR Part 401, “Rights to Inventions Made by Nonprofit Organizations and Small Business Firms Under Government Awards, Contracts and Cooperative Agreements. This provision shall not be interpreted to impair or otherwise disturb any pre-existing intellectual property rights of the Vendor owned by the Vendor prior to entering into this Agreement. This provision shall not be interpreted to claim any right, title, or interest in the Vendor’s intellectual property so long as Vendor marks or otherwise identifies such rights or interests prior to entering into

this Agreement as provided herein below. The Parties will expressly identify in **Exhibit A** those services or portions of the services provided under this Agreement which shall be included or excluded from the application of this provision in whole or in part.

The Coalition or its applicable governing or funding agencies shall be deemed to be the absolute and unqualified owners of the data, research, work, methods, formulas, or other work product, whether in hardcopy or electronic form, produced, altered or refined as a result of the performance of the Scope of Services, and as a result, the Vendor hereby assigns to the Coalition or its applicable governing or funding agencies all rights, title and interests in and to any and all data, research, work, methods, formulas, or other work product, whether in hardcopy or electronic form, furnished to the Coalition that is related to or arising from the Scope of Services including, but not limited to, any developments, additions, or enhancements to the Coalition's Proprietary Information provided by the Vendor while retained or engaged by the Coalition. The Coalition or its governing or funding agencies shall have the right to obtain any and all copyrights, patents trademarks or other appropriate trade secret-related protections for such work product and any renewals thereof. The Vendor agrees to execute and deliver to the Coalition or its applicable governing or funding agencies or authorities any document that in the sole opinion of the Coalition may be necessary or appropriate in order to enable the Coalition or its applicable governing or funding agencies to obtain such intellectual property protections for such work product and any renewals thereof as stated herein. As it pertains to **Section 11 (Copyrights and Patents)** of this Agreement, the Vendor irrevocably appoints the Coalition or its applicable governing or funding agencies or authorities as the Vendor's true and lawful attorney-in-fact to execute, verify, acknowledge and deliver any and all instruments and documents which in the sole opinion of the Coalition may be necessary or desirable in order to enable the Coalition or its applicable governing or funding agencies to perfect and protect ownership in and to such work product resulting from the Scope of Services.

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

This **Section 11 (Copyrights and Patents)** of this Agreement shall not be applicable to any pre-existing copyrights, trademarks, patents, trade secrets, software, designs, methods, systems or other works of authorship utilized by the Vendor as part of the Scope of Services so long as such copyrights, trademarks, patents, trade secrets, software, designs, methods,

systems or other work of authorship of the Vendor has been properly registered, certified or licensed with any applicable federal and state agencies or authority, which would include, but is not limited to *the United States Patent and Trademark Office* prior to the commencement of the Scope of Services or the mutual execution of this Agreement by the Parties, whichever is earlier. In the event that software, designs, methods, systems or other works of authorship were developed or are being developed by the Vendor as part, or the result of a previous contract or agreement between the Vendor and Coalition, said waiver of any rights of ownership or interest by the Coalition in said software, designs, methods, systems or other works of authorship by the Vendor shall not be applicable under this Agreement and said right of ownership or interest as set forth herein shall be done or found in favor of the Coalition or DEL.

Any claim of ownership of any other pre-existing copyrights, trademarks, patents or trade secret-related works or products by the Vendor, as well as exclusions by Coalition, shall be explicitly stated in documentation utilized to perform or delivery the Scope of Services as set forth in **Exhibit A** of this Agreement and a written notice shall be provided to the Coalition prior to the commencement of the Scope of Services or execution of this Agreement, whichever is earlier. Failure of the Vendor to provide such written notice prior to the commencement of the Scope of Services shall result in the Vendor's waiver of any claim of ownership or right in any pre-existing copyrights, trademarks, patents, trade secrets, software, designs, methods, systems, or other works of authorship utilized by the Vendor as part of the Scope of Services.

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

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

This **Section 11 (Copyrights and Patents)** shall also apply to any subcontractors or agents utilized by the Vendor to perform the Scope of Services as set forth in **Exhibit A** of this

Agreement and shall survive the expiration or termination of this Agreement. Failure to comply with the requirements of this **Section 11 (Copyrights and Patents)** of this Agreement shall constitute a default pursuant to **Section 20 (Termination and Default)** under this Agreement.

12. **ENDORSEMENTS, PUBLIC ANNOUNCEMENTS AND PRESS RELEASES** The Vendor acknowledges and agrees that neither the Coalition nor its applicable governing or funding agencies shall be under any obligation to provide any endorsement of the Vendor's Scope of Services, or any work product resulting, related to or arising from the Scope of Services to any third party. Vendor shall not use the Coalition's name, materials (including but not limited to likeness or names of recipients of the Coalition), or trademark in any manner, expressly or implied, which might tend to convey the impression that the Coalition has endorsed or approved the Vendor's Scope of Services, or the work product resulting, related to, or arising from the Scope of Services, without the prior written consent of the Coalition.
13. **INDEPENDENT CONTRACTOR** The Vendor is an independent contractor and neither the Vendor, nor, if applicable, its employees, its agents or its subcontractors shall be deemed to be affiliated with, an agent of or employed by the Coalition. In addition, the Vendor is solely responsible for the payment of any local, state, and federal income, social security and unemployment taxes for Vendor for purposes of any applicable tax laws and associated filings. The Vendor hereby confirms to the Coalition that the Coalition will not be required to furnish or provide any training to the Vendor to enable the Vendor to perform, deliver or provide the Scope of Services required hereunder. The Vendor, its staff, its agents or its subcontractors shall perform the Scope of Services as stated herein and the Coalition shall not be required to hire, supervise, or pay any assistants or other persons to assist or support the Vendor's performance of the Scope of Services under this Agreement. Except as provided in this Agreement, the Vendor shall be obligated to complete the Scope of Services once the work is initiated or payment is received, whichever is earlier.

Except to the extent that the Scope of Services must be performed utilizing the Coalition's computers, servers, electronic network (i.e. internet, webpage, etc.) or software, the Vendor shall supply all materials used or needed in providing the Scope of Services. In the event the Scope of Services as set forth in **Exhibit A** of this Agreement requires use or access to Coalition equipment and resources (i.e. copy machines, phones, fax machines, jump drives, mobile devices, computers, virtual portals, websites, etc.), the Vendor shall use such resources in compliance with the Coalition's policies and procedures and in accordance with applicable federal or Florida law and such use shall be strictly contained to the Scope of Services.

14. **LIABILITY AND INDEMNIFICATION** The Vendor shall be liable and indemnify, defend, release, and hold harmless the Coalition and all of its officers, agents, members, directors and employees from all claims, suits, judgments, or damages, including attorneys' fees, court costs, and expenses, all trial and appellate levels, related to or arising out of any actions, negligence, or omissions of the Vendor, its agents, officers, subcontractors, members, directors, or employees during the performance or delivery of the Scope of Services and operation of this Agreement whether such damages are direct or indirect, including without limitation, any and all claims, demands, or causes of action of any nature whatsoever resulting from injuries or damages sustained by any person or property.

The Vendor shall indemnify and hold harmless the Coalition for and against any and all claims, damages, losses, or obligations asserted or imposed against the Coalition and any applicable governmental agency responsible for the oversight or monitoring of the Coalition by any third party in connection with the payment or recovery of such sums paid under this Agreement.

To the extent considered necessary by the Coalition, any sums due to the Vendor under this Agreement may be retained by the Coalition until all of the Coalition's claims for indemnification pursuant to this Agreement have been settled or otherwise resolved and any amount withheld shall not be subject to payment of interest by the Coalition. Nothing herein shall be construed to waive any sovereign immunity that may be applicable to the Coalition or Vendor pursuant to Florida or federal law. In the event the Vendor utilizes subcontractor(s) to perform or deliver the Scope of Services and the subcontractor does not meet the definition set forth in §768.28(2), Florida Statutes, the Vendor shall be responsible for ensuring that the subcontractors utilized by the Vendor comply with the liability and indemnity requirements as set forth herein. This **Section 14 (Liability and Indemnification)** shall survive the expiration or earlier termination of this Agreement.

15. **INSURANCE** The Vendor shall maintain, at its sole cost and expense, comprehensive general and professional liability insurance in the amounts and addition to any other insurance as the Coalition may reasonably require in order to provide adequate financial protection for the Coalition as more particularly set forth in **Exhibit A**. Each policy shall state that it is not subject to cancellation, modification, or reduction in coverage without 30 days' written notice to the Coalition prior to the effective date of such cancellation, modification, or reduction in coverage. The Vendor shall provide proof of said insurance to the Coalition in the form of standard ACORD form certificates of insurance and the insurance policies shall be from insurers that are qualified and do business in the state of Florida. The Vendor shall also provide written notification to the Coalition if said policies of insurance are cancelled or are subsequently changed and no longer comply with the Coalition's requirements of insurance coverage. The Vendor shall continuously maintain, without interruption or a lapse in coverage, each of the required types and limits of insurance throughout the Term of this Agreement and any extensions or renewals thereof. The Vendor agrees to add the Coalition as an additional insured under its applicable policies of insurance in accordance with performance of the Scope of Services set forth in **Exhibit A** of this Agreement. In the event the Vendor utilizes subcontractors to perform the Scope of Services, the Vendor shall require said subcontractors to comply with the requirements of this Section.

Vendor shall provide evidence of worker's compensation insurance in compliance with the statutory requirements covering all employees, volunteers, officers, or agents of the Vendor engaged in the performance of the Scope of Services and shall be in accordance with applicable state and federal laws. If the Vendor claims to be exempt from this requirement, the Vendor shall explain the basis for exemption in writing to the Coalition. The Coalition may request documentary proof of such exemption as appropriate.

In the event the Vendor is an agency or subdivision of the state as defined in §768.28(2), Florida Statutes, and has instituted or participates in an adequately funded, legally compliant self-insurance program, the Vendor shall provide evidence of self-insurance as required under this Section.

16. **ASSIGNMENT AND SUBCONTRACTING** This Agreement shall not be assigned, subcontracted, delegated, or otherwise transferred by the Vendor to any other third party without the written consent of the Coalition. Any transfer or assignment made without the consent of the other Party shall be considered null and void as a matter of law and shall be considered a material breach under this Agreement. Assignment shall also include any merger or acquisition of all or a part of the Vendor’s business or the transfer of all or a substantial portion of Vendor’s business, interest, or assets. In the event the Coalition agrees to, whether in whole or in part, to any subcontracting or assignment of this Agreement by the Vendor, the agreement between the Vendor and the third party shall contain the same terms and conditions required in this Agreement. Notwithstanding the foregoing, the Vendor shall retain responsibility for all work, services and expenses required under the Scope of Services if the Coalition approves any work or services performed or delivered by such subcontractor. The Vendor further acknowledges and agrees that it shall be solely and exclusively the Vendor's obligation and responsibility to pay or compensate any subcontractor

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

17. **SEVERABILITY** In the event that any one or more of the provisions of this Agreement shall be held to be invalid, the remaining provisions of the Agreement shall not in any way be affected or impaired thereby. All agreements and covenants herein are severable, and in the event any one of them shall be held to be invalid by any competent court, this Agreement shall be interpreted as if such invalid agreements or covenants were not contained herein.

18. **NOTICE** Whenever a Party desires to give notice any other party, it must be given by written notice, sent by certified United States mail, with return receipt requested, or by overnight courier, addressed to the Party for whom it is intended and the remaining party, at the places last specified, and the places for giving of notice shall remain such until they shall have been changed by written notice in compliance with the provisions of this Section. For the present, Coalition designates the following as the respective places for giving of notice:

Vendor: _____

Attn: _____

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

19. **APPLICABLE LAW AND VENUE.** The Parties acknowledge that the Coalition shall be governed by and this Agreement shall be construed in accordance with the laws of the State of Florida as now and hereinafter in force. The Vendor acknowledges that the Coalition is subject, in whole or in part, to the most current funding and governing or funding agreement between the Division of Early Learning (“DEL”) and the Coalition (“Grant Agreement”) and that in the event the Grant Agreement is applicable, whether in whole or in part, to this Agreement, compliance as stated herein shall require compliance with the Grant Agreement. The Parties

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further agree that the venue for any actions, claims, disputes, hearings, proceedings, or other matters associated, concerning, arising from or related to this Agreement shall be in Broward County, Florida.

20. TERMINATION AND DEFAULT

20.1. TERMINATION FOR CONVENIENCE.

20.1.1. This Agreement may be terminated by the Coalition for convenience upon providing _____ calendar days written notice of such termination to Vendor, in which event Vendor shall be paid its compensation for services performed until the termination date, including services reasonably related to termination.

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

20.1.3. If funds for this Agreement are not allowable, not available, withdrawn or redirected, such lack of funding will not constitute a default pursuant to **Section 20 (Termination and Default)**. The Coalition agrees to notify the Vendor at the earliest possible time if funds are not appropriated or available as stated herein. The cost of services paid under any other contract or from any other source is not eligible for reimbursement under this Agreement.

20.2. TERMINATION FOR CAUSE; DEFAULT.

20.2.1. In addition to all other remedies available to Coalition, this Agreement shall be subject to termination by Coalition for cause, should Vendor neglect or fail to perform or observe any of the terms, provisions, conditions, or requirements herein contained if such neglect or failure shall continue for a period of thirty (30) calendar days after receipt by Vendor of written notice of such neglect or failure. In the event that Vendor abandons this Agreement, Vendor shall indemnify Coalition against loss pertaining to such abandonment. Coalition reserves the right to recover any ascertainable actual damages incurred as a result of the failure of Vendor to perform in accordance with the requirements of this Agreement.

20.2.2. If any party commits a breach of this Agreement, such breach shall constitute a default under this Agreement. The non-breaching party may give the breaching party written notice describing such breach and stating that this Agreement will terminate

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unless such breach is cured within thirty (30) days of receipt of said written notice. In the event the breach is the type that must be cured immediately or within a time period less than thirty (30) days (“Expedited Period”), the Vendor shall cure said breach within the time stated in the notice.

20.2.3. A breach under this Agreement shall include but is not limited to any of the following as required in **Exhibit A**: a) failure to perform, deliver, or provide the Scope of Services, in whole or in part, as required in **Exhibit A**; b) failure to provide the required personnel, vendors, or agents with the necessary experience, expertise, certifications, licenses, trainings, seminars, or education to perform the Scope of Services in **Exhibit A**; c) failure to comply with applicable Florida and federal laws in the delivery and performance of the Scope of Services as set forth in **Exhibit A**; or d) improper, excessive, duplicative, or unauthorized billing of the Coalition by the Vendor for services or work associated or in connection with the Scope of Services as set forth in **Exhibit A**.

20.2.4. If such breach is not corrected within thirty (30) days or within the Expedited Period after notice has been given this Agreement shall terminate at the end of the Cure Period. In the event such breach is incapable of being cured within the aforementioned Cure Period, upon request by the Vendor the Coalition shall have the option in its sole discretion to extend the Cure Period for an additional thirty (30) days (hereinafter referred to as the “Extension Period”) from the expiration of the Cure Period. If said breach is not cured prior to the expiration of the Extension Period, then the Agreement shall terminate upon the expiration of the Extension Period.

20.2.5. **Material Breach.** In event the Vendor commits a breach of this Agreement that (a) would affect the health, safety and welfare of the persons served by the Coalition; (b) would place the Coalition in violation of applicable law(s) and such violation would or could result in a sanction or penalty (financial, administrative, judicial, or otherwise) from a governing or funding agency, court of competent jurisdiction, or other authority against the Coalition; or (c) the Coalition determines that the Coalition may not be entitled to, or restricted in receiving or qualifying for certain insurance coverage, sovereign immunity or other protections available to the Coalition based on the Vendor’s acts or omissions; d) said liability would extend beyond the sovereign immunity limits of §768.28, Florida Statutes, as the same may be amended or altered, from time to time or (e) concerns a breach or violation of **Section 10 Confidentiality and Proprietary Information; Disclosure; Records**) or **Section 11 (Copyrights and Patents)** of this Agreement (hereinafter individually and collectively known as a “Material Breach”), the Coalition may unilaterally terminate this Agreement upon no less than twenty-four (24) hours written notice to the Vendor. The option of entering a Cure Period or an Extension Period as it pertains to a Material Breach shall be at the sole discretion of the Coalition. In the event the Material Breach as stated herein is not cured within the Cure Period or the Extension Period, whichever is applicable, if the same is allowed by Coalition and the Coalition does not desire to terminate the Agreement, the Coalition may seek to cure the Material Breach at its own time and expense in order to resolve the issue or mitigate the damages. The Vendor shall be liable for any and all expenses associated with the Coalition’s efforts to cure the Material Breach of the Agreement as stated herein.

The Coalition shall retain the option to terminate the Agreement even if it undertakes any effort to cure the Material Breach.

20.2.6. **Financial Consequences.** If the Vendor fails to fulfill the requirements of the Scope of Work the Coalition may prorate any payments pending to the Vendor or request a refund of payment in a proportionate amount equal to the Scope of Work unfulfilled. If the Vendor fails to meet and comply with the deliverables required in the Scope of Work or make appropriate progress and it is not resolved within 10 days' from receipt of written notice, the Coalition may at its sole option: a) withhold payment until the deficiency is cured; b) request the Vendor redo the work; c) make a prorated payment; or d) require a refund of payment previously made in a proportionate amount equal to the Scope of Work remaining unfulfilled. The Coalition, at its sole discretion, may offer the Vendor an extension for any listed task, timeline or deliverable during which the indicated financial consequences shall not apply. Notification of any extension shall be provided to the Vendor in writing. If financial consequences are imposed and due, the Coalition may offset the financial consequences from the next invoice or from the final retained payment or require separate payment. Any payment made in reliance on the Vendor's evidence of performance, which evidence is subsequently determined to be erroneous, will be immediately due to the Coalition as an overpayment to the extent of such error or nonperformance.

20.2.7. In the event this Agreement is terminated by the Vendor or the Coalition for any reason and the Scope of Services has not been fully or satisfactorily performed or completed by the Vendor in accordance with terms and conditions of this Agreement, the Vendor acknowledges and agrees to be liable for any and all damages sustained by the Coalition related to or arising from its acts, omissions or negligence as it pertains to the Vendor's failure to satisfactorily perform or complete the Scope of Services if said termination of the Agreement would result in any of the following: a) create an event or occurrence in which the Coalition would be in violation of a federal or Florida law, rule, regulation, or policy; b) the Coalition being held liable for a claim, suit, action or damages from a third party related to or arising from the Agreement; c) result in a sanction, penalty, fine, or corrective action against the Coalition by a governing or funding agency; or d) the Vendor's non-completion or non-performance contributes or directly causes a recipient of the Coalition's services to be at imminent risk of harm. The Vendor shall discontinue all work or services under this Agreement upon termination of the Agreement and shall return in good condition any and all property and materials belonging to the Coalition or any of its other contracted vendors or providers upon termination of the Agreement.

20.3. Any notice of termination required under this Section shall be in accordance with the Notice provisions of **Section 18 (Notice)**.

21. **LIMITATION OF LIABILITY.** If a court of competent jurisdiction or other arbitrator holds the Coalition liable for tortuous acts of its agents, officers, or employees, such liability shall be limited as provided in §768.28, Florida Statutes, or any other applicable Florida or federal statute. This provision shall not be construed as a waiver of any right or defense that the Coalition may possess under this Agreement or in law or in equity. The Coalition specifically

reserves all rights and remedies as against any and all claims that may be brought as a result of this Agreement.

22. **CONFLICT WITH THE AGREEMENT** In the event this Agreement is currently in, or subsequently presents an unallowable conflict, in whole or in part, with the following: (a) any applicable federal or Florida Statutes, rules, codes, or regulation (b) any applicable funding or governing agreement of the Coalition, including but not limited to the Grant Agreement; or (c) the policies and procedures of the Coalition, the aforementioned laws, policies and procedures, and funding or governing agreements shall prevail.
23. **ATTORNEY'S FEES AND COSTS**. In connection with any litigation, mediation, arbitration, or other proceeding related to or arising out of this Agreement, the Coalition and the Vendor agree that each Party will be responsible for its own attorney's fees and costs prior to, during the pendency of, and subsequent to the conclusion of the matter through and including any appeals and post-judgment proceedings, except with respect to any applicable indemnification provision provided in this Agreement. This Section shall be subject to **Section 21 (Limitation of Liability) and 31 (Dispute Resolution)** of this Agreement and shall survive the expiration or termination of this Agreement.
24. **ENTIRE AGREEMENT**. All terms and conditions of this Agreement are fully set forth in this document and supersede all prior agreements, representations, writings and understandings. All exhibits or other documents referenced herein are incorporated in this Agreement and made a specific part hereof, whether or not physically attached.
25. **NONWAIVER**. No failure or neglect of either Party to exercise any right, power or privilege hereunder or under law shall constitute a waiver of any other right, power or privilege or of the same right, power or privilege in any other instance. All waivers by either Party hereto must be contained in a written instrument signed by the party to be charged in accordance with party's policy, procedures, or bylaws.
26. **AMENDMENT**. No amendment, modification, or revision to this Agreement shall be effective or binding on any Party to this Agreement unless set forth in writing and mutually executed by the Parties. The Parties agree to negotiate changes to this Agreement if there are applicable revisions to federal or Florida laws and regulations.
27. **TIME IS OF THE ESSENCE**. The Vendor acknowledges that time is of the essence in all matters relating to fulfillment of its obligations under this Agreement.
28. **NO THIRD PARTY BENEFICIARY**. This Agreement is for the sole benefit of the Parties and nothing herein expressed or implied will provide or be construed to provide any legal or equitable rights hereunder to any other third party.
29. **COUNTERPARTS**. This Agreement may be executed in one or more counterparts, all of which shall be considered one and the same agreement and shall become effective when one or more counterparts shall have been signed by each of the Parties hereto and delivered to the other Party. Facsimiles or other electronically scanned and transmitted signatures shall be deemed originals for all purposes of this Agreement so long as said electronic signatures do not violate applicable law or the signature policy of the Coalition.

30. **COOPERATION**. In the event that either Party is the subject of an investigation by an agency or other governing authority in relation to the Scope of Services or if the Vendor, either by itself or through the persons utilized to perform the Scope of Services, is accused or charged with criminal activity against the Coalition, its employees, its residents, its recipients, its sub-recipients, its vendors, its program participants or its volunteers, Vendor agrees to cooperate with any investigation initiated or conducted by the Coalition or the appropriate agency or governing authority until the conclusion of the investigation or the rendering of a final report, whichever is later. Cooperation shall include, but not be limited to, the production of any requested documents that would not fall under any applicable legal or statutory privilege or exemption and the commitment to make available any applicable witnesses to testify when requested by the aforementioned entities so long as such testimony would not violate any applicable legal or statutory privilege. If Vendor raises or states an objection based on privilege or an exemption and said privilege or exemption is applicable to the Coalition, the Vendor shall seek consent from the Coalition prior to raising or stating said privilege or exemption. The Vendor also agrees to make available any documentation in order for any applicable funding or governing agency of the Coalition, and the Coalition to comply with applicable federal statutes, laws, rules, policy, guidance and procedures as it relates to the funding of the Agreement.
31. **DISPUTE RESOLUTION**. The Parties agree to communicate and conduct themselves in a reasonable manner to resolve any disputes between the Parties arising from or related to this Agreement. Except as stated herein, any controversies or disputes arising out of the terms and conditions of this Agreement that are not settled in accordance with this Agreement or by mutual agreement between the Parties which results in litigation between the Parties shall be settled in accordance with the rules of the American Arbitration Association pursuant to the Federal Arbitration Act, and the judgment upon award may be entered in any court having jurisdiction thereof. Notwithstanding the foregoing, any dispute regarding the interpretation, enforceability, or applicability of any federal or state statute or agency rule, or any funding agreement that the Coalition has with a governmental entity or authority that concerns, references, governs, relates to or arises from this Agreement shall be delegated to the applicable Florida court or designated agency or authority of competent jurisdiction for final determination. For purposes of this Section, "litigation" means the retention or appearance of an attorney on behalf of the Vendor or the Coalition before an arbitrator, judge, or other final authority regarding a dispute or controversy. This Section shall survive the expiration or termination of this Agreement, whichever is applicable.
32. **FORCE MAJEURE** The Coalition and Vendor agree and acknowledge that neither Party shall be liable to the other for any delay, disruption, non-compliance or failure to perform under the Agreement if such delay, disruption, non-compliance or failure to perform is neither the fault nor due to the negligence or intentional acts or omissions of the Party, its employees, or agents and said delay is due directly to acts of God (e.g., hurricanes, tornados), pandemic, wars, acts of public enemies (including, but not limited to terrorist related activities), strikes, fires, floods or other similar cause wholly beyond the party's control, or for any of the foregoing that affects subcontractors or suppliers if no alternate source of supply is available. In the event of a delay from the foregoing causes, the party shall take all reasonable measures to mitigate any and all resulting delay, disruption, non-compliance related to the Party's performance obligation under the Agreement. If the delay, disruption, or non-compliance is excusable under this paragraph, the delay, disruption, or non-compliance will not result in any additional charge or cost under the Agreement to either Party.

In the case of any delay, disruption or non-performance that the Vendor believes is excusable under this paragraph, the Vendor shall notify the Coalition in writing of the delay, disruption or non-performance or the potential thereof within five (5) calendar days after the cause that creates or will create said delay, disruption or non-performance. Notwithstanding the foregoing, the Vendor shall use every reasonable effort to adequately prepare for those matters that while considered "acts of God", occur with enough frequency either during certain time periods or events that would make said acts of God reasonably foreseeable (e.g., hurricanes between the months of August to November). For purposes of this paragraph, "preparation" shall mean the creation and implementation of policies and procedures for those acts of Gods that occur during certain times of the year, or events such as emergency preparedness. Failure to have sufficient policies and procedures in place for those reasonably foreseeable acts of God or other matters as state above shall be determinative of whether or not the parties to the Agreement shall be able to exercise the remedies as set forth herein.

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

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

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

Vendor shall also immediately notify in writing and file any related reports or forms concerning any and all reportable incidents that occur during the Term while delivering or performing the Scope of Services that relate to or arise from, whether directly or indirectly, from this

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Agreement or the Contract. For purposes of this Agreement, a “reportable incident” includes, but is not limited to matters related to the Vendor’s provision of services or performance under this Agreement that involve: a) harm, injury, death, or impact to the health, safety, or welfare of a client, provider, employee, or member of the public in conjunction with or related to the provision of services under this Agreement; b) any reports made or required to be made to the appropriate authorities pursuant to §§39.201 and 415.1034, Florida Statutes; c) any misappropriation, fraud, or other criminal activity related to the provision ; d) any assignment, merger, or change in ownership as described in **Section 16 (Assignment and Subcontracting)**; e) insolvency of the Vendor, the appointment of a receiver, liquidator, or trustee by a competent authority, the filing by Vendor of a petition in bankruptcy, the making of an assignment for the benefit of creditors, or any formal action resulting in the termination of Vendor’s existence or the winding up of Vendor’s affairs. Failure to notify and report incidents as set forth herein shall be considered a default and may be the basis for termination under this Agreement.

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

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

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

Early Learning Coalition of Broward County, Inc:

By: _____

Name: _____

Title: _____

Date: _____

Approved as to form:

ELC General Counsel

Vendor:

By: _____

Name: _____

Title: _____

Date: _____

Exhibit A

Scope of Services

1) DEFINITIONS:

2) DESCRIPTION OF THE SCOPE OF WORK:

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

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

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

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

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

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

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

Any questions, comments or concerns between the Parties regarding the Scope of Services should be addressed directly by the individuals referenced herein. The Vendor agrees and

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acknowledges that the Coalition shall have right to monitor the Scope of Services during the Term of this Agreement. Monitoring shall include, but not be limited to requesting written updates as well as posing direct inquiries to the Vendor regarding the Scope of Services.

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

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

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

11) HEALTH AND SAFETY: (OPTIONAL) Vendor agrees that the Vendor as well as any persons hired, contracted, or utilized by Vendor to perform or deliver the Scope of Services will follow, where applicable, the Coalition's policies and procedures in the performance or delivery of the Scope of Services as it concerns health and safety issues. The Vendor agrees to exercise the upmost care and take all necessary precautions to ensure the health and safety of the program recipients, employees, vendors, or volunteers of the Coalition as well as the public at large in the performance of the Scope of Services. The Vendor shall also ensure that it has in place the

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appropriate post clean up protocols in order to eliminate and alleviate any hazardous conditions subsequent to the completion of its work at the Coalition's site locations. If there is a conflict between the Vendor's post clean up protocols and Coalition's policies, procedures, and best practices, the Vendor shall utilize Coalition's policies, procedures, and best practices unless said policies, procedures, and best practices are in violation of applicable law in which case the Vendor shall use its post clean up protocols.

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

13) Background Screening

A Qualified Entity includes a business or organization, whether public, private, operated for profit or not-for-profit, or voluntary, which provides care or care placement services, including a business or organization that licenses or certifies others to provide care or care placement services in accordance with §943.0542, Florida Statutes.

A Covered Individual includes individuals who have, seeks to have, or may have access to children, to a childcare location, to the children, families, or child care centers served by the Coalition or other Qualified Entity.

If the services required in the Scope of Services qualifies the Vendor as a Qualified Entity and the Vendor's employee, subcontractor, or agent qualify as Covered Individuals, prior to providing any services under this Agreement, the Vendor shall require its employees, subcontractors, or agents providing services under this Agreement to undergo a level 2 background screening or rescreening in accordance with §435.04, Florida Statutes, to include fingerprinting for statewide criminal history records checked through the Florida Department of Law Enforcement and national criminal history records through the Federal Bureau of Investigation, and may include local criminal records checks through local law enforcement agencies.

If the Vendor qualifies as a Qualified Entity but the Coalition determines that certain of the Vendor's employees do not meet the definition of a Covered Individual, but that such persons have access to Confidential or Proprietary Information as defined in **Section 9 (Confidential And Proprietary Information; Disclosure; Records)**, those individuals shall undergo a level 1 background screening or rescreening in accordance with §435.03, Florida Statutes, including screening for employment history, statewide criminal correspondence checks through the Florida Department of Law Enforcement, a check of the Dru Sjodin National Sex Offender Public Website, and a local criminal records check through local law enforcement agencies.

The Vendor shall provide a completed Background Screening Attestation utilizing the Coalition's form, identifying the specific individuals which will be performing services under the Agreement certifying that they comply with the requirements of §§435.01 or 435.02, Florida Statutes, as applicable. In the event a background screening or rescreening of the Vendor its employees is

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required by the Coalition and said screening reveals information that either would place the Coalition or the Vendor in violation of applicable law or raises legitimate concerns for the Coalition, the Vendor and its employees, representatives, or agents will not be allowed to perform service under this Agreement until such time as the Vendor receives the prior written consent of the Coalition that it is in compliance with applicable laws. The Vendor shall require its employees, subcontractors, or agents performing under this Agreement to notify the Vendor upon arrest for any criminal offense. The Vendor shall notify the Coalition within 24 hours of learning of the arrest of such employee or agent.

[This Section Left Intentionally Blank]

Exhibit B

Vendor's Statement of Credentials

Exhibit C

Vendor Service Agreement Certifications and Assurances

The Vendor shall comply with the following laws, rules, and regulations, as may be amended, while performing services and expending funds received or earned under this Agreement.

- A. Debarment, Suspension and Other Responsibility Matters Certification (2 CFR Part 376, 29 CFR Part 95 and 45 CFR Part 74)**
- B. Certification Regarding Lobbying (45 CFR Part 93)**
- C. Drug Free Workplace Certification (2 CFR Part 382)**
- D. Nondiscrimination & Equal Opportunity Assurance (29 CFR Part 37, 45 CFR Part 80, 45 CFR Part 84, 45 CFR Part 86 and 45 CFR 91)**
- E. Certification Regarding Public Entity Crimes (Sections 287.133, 287.134 and 287.135, Florida Statutes)**
- F. Conflicts of Interest**
- G. Access to Public Records (2 CFR § 200.336 and Chapter 119, Florida Statutes)**
- H. Reporting Fraud and Whistleblower Protection (45 CFR §75.113, 2 CFR §200.113 and Section 112.3187, Florida Statutes)**
- I. Certification of Compliance with Procurement of Recovered Materials Requirements (45 CFR 75.331)**
- J. Certification of Compliance with Requirements of Clean Air Act and the Federal Water Pollution Control Act (45 CFR 2543.86), if contracts are for an amount of \$150,000 or more**
- K. Mandatory Reporting Child and Elder Abuse (§§39.201 and 415.1034, Florida Statutes)**

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

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

1. Are presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from securing federally funded contracts by a federal department or agency;
2. Are presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transactions by a federal department or agency;
3. Have within a three-year period preceding this Agreement been convicted or had a civil judgment rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (federal, state, or local) transaction or contract under a public transaction; violation of federal or state antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property;
4. Are presently indicted or otherwise criminally or civilly charged by a government entity (federal, state, or local) with the commission of any of the offenses enumerated in paragraph A.2. of this certification;

5. Have within a three-year period preceding this application/proposal had one or more public transactions (federal, state, or local) terminated for cause of default; or
6. The terms “debarred”, “debarment” “suspended” “ineligible” and “voluntarily excluded” shall have the same meaning as set forth in those applicable federal statutes and codes such as **2 CFR Part 376, 29 CFR Part 95 and 45 CFR Part 74** as well as any Executive Orders such as 12549.

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

B. CERTIFICATION REGARDING LOBBYING

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

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

The Vendor shall require that the award documents for all sub-awards at all tiers (including subcontracts, sub-grants and contracts under grants, loans and cooperative agreements) include this certification’s language and that all sub-recipients, subcontractors, agents, or vendors of the Vendor shall certify and disclose accordingly. This certification attached hereto as **Exhibit C** of this Agreement and a made a part hereof as is a material representation of fact upon which the Parties placed reliance when they made or entered into this Contract. Pursuant to 31 United States Code (“USC”) 1352, the Vendor is required to submit this certification as a prerequisite for making or entering into this Agreement. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

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

form as referenced in 45 C.F.R. §93.110 and Appendix A of 45 CFR 93 to the Vendor if the Agreement is in excess of \$100,000.

C. CERTIFICATION REGARDING DRUG-FREE WORKPLACE REQUIREMENTS.

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

D. EQUAL OPPORTUNITY & NONDISCRIMINATION

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

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

E. CERTIFICATION REGARDING PUBLIC ENTITY CRIMES

The Vendor hereby attests to and certifies the following:

1. Convicted Vendor List

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

National Disqualified List. The Vendor shall maintain verification documentation as required state or federal law, whichever is applicable.

2. Discriminatory Vendor List

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

3. Scrutinized Company List

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

F. CONFLICT OF INTEREST

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

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

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

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

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

G. PUBLIC RECORDS

All of the Vendor's records as it relates or concerns this Agreement are classified as public records pursuant to Chapter 119, Florida Statutes, and must be open and available for inspection by any person unless otherwise determined to be confidential or exempt by law. The Vendor shall provide the public with access to public records on the same terms and conditions that the Coalition would provide the records and at a cost that does not exceed the allowable cost authorized in Chapter 119, Florida Statutes or other Florida law. Upon request of the Coalition, the Vendor shall provide the Coalition with a copy of the requested records or allow the records to be inspected or copied within a reasonable time at no cost or expense to the Coalition. The Vendor shall indemnify and hold the Coalition harmless from any liability arising due to the Vendor's failure to comply with Florida's public records laws.

The Vendor shall notify the Coalition within one (1) business day of receipt of a public record request, whether verbal or in writing, related to records produced pursuant to the Agreement. The Vendor shall forward the public records request in writing to the Coalition in order for the Coalition to review and process the request and to determine the exempt or confidential nature of the record as it pertains to public disclosure. If the Coalition determines that all or part of the requested records must be disclosed to the public and said records are in the possession of the Vendor, the Coalition may direct the Vendor to disclose those non-exempt or non-confidential records to the requesting party. If the Vendor believes that the records to be disclosed contain confidential or exempt information and are either the exclusive property of the Vendor or another third party, the Vendor shall identify as well as provide an adequate explanation or description regarding the exempt, confidential or proprietary nature of the content of the records or information to the Coalition prior to responding to the request. If the Coalition is in agreement with Vendor, the Vendor may withholding of the disclosure of the records so long as it provides the requestor with the required citation and justification for the information withheld. The Coalition may direct the Vendor to redact records containing confidential or exempt information. In the event Vendor believes it must disclose the record to comply with applicable law or such disclosure is being made to comply with a court order or a federal or state agency directive, Vendor will notify the

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Coalition in writing prior to disclosure so that the Coalition may review and assert any challenge it may deem appropriate in a court of competent jurisdiction or by agency appellate proceeding.

If the Coalition has a public records policy, the Coalition shall make the policy available to the Vendor and the Vendor shall follow the Coalition's policy. If there is an unallowable conflict between applicable Florida law and the Coalition's public records policy, applicable Florida law shall control.

The Vendor shall comply with all public record requirements and specifically:

- a. Keep and maintain public records required by the Coalition to perform the services required under this Agreement;
- b. Upon request from the Coalition's custodian of public records, provide the Coalition with a copy of the requested records or allow the records to be inspected or copied within a reasonable time at a cost that does not exceed the cost provided in Chapter 119, Florida Statutes, or as otherwise provided by law;
- c. Ensure that public records that are exempt or that are confidential and exempt from public record disclosure requirements are not disclosed except as authorized by law for the duration of the contract term and, following completion of the contract, Vendor shall destroy all copies of such confidential and exempt records remaining in its possession after the Vendor transfers the records in its possession to the Coalition; and
- d. Upon completion of the contract, Vendor shall transfer to the Coalition, at no cost to the Coalition, all public records in Vendor's possession. All records stored electronically by the Vendor must be provided to the Coalition, upon request from the Coalition's custodian of public records, in a format that is compatible with the information technology systems of the Coalition.
- e. If the Vendor keeps and maintains public records upon the completion of the contract, the Vendor shall meet all applicable requirements for retaining public records. All records stored electronically must be provided to the Coalition upon request from the Coalition's custodian of public records, in a format that is compatible with the information technology systems of the Coalition.
- f. The failure of Vendor to comply with the provisions set forth in this Article shall constitute a default and breach of this Agreement.

IF THE VENDOR HAS QUESTIONS REGARDING THE APPLICATION OF CHAPTER 119, FLORIDA STATUTES, TO THE VENDOR'S DUTY TO PROVIDE PUBLIC RECORDS RELATING TO THIS AGREEMENT, CONTACT THE CUSTODIAN OF PUBLIC RECORDS AT

**KASEY LAFRANCE
EARLY LEARNING COALITION OF BROWARD COUNTY, INC
1475 WEST CYPRESS CREEK BOULEVARD, SUITE 301
FORT LAUDERDALE, FL 33309
contracts@elcbroward.org**

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H. REPORTING FRAUD AND WHISTLEBLOWER PROTECTION

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

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

I. PROCURMENT OF RECOVERED MATERIALS

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

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

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

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K. MANDATORY REPORTING OF CHILD AND ELDER ABUSE

1. Any employee, officer, or agent of the Vendor performing services under this Agreement shall report to the central abuse hotline at 1-800-96-ABUSE if they know or has reasonable cause to suspect that any of the following have occurred:
 - a. Child abuse, abandonment, or neglect by a parent or caregiver, which includes, but is not limited to, when a child is abused, abandoned, or neglected by a parent, legal custodian, caregiver, or other person responsible for the child's welfare or when a child is in need of supervision and care and has no parent, legal custodian, or responsible adult relative immediately known and available to provide such supervision and care.
 - b. Child abuse by an adult other than a parent, legal custodian, caregiver, or other person responsible for the child's welfare.
 - c. A vulnerable adult has been or is being abused, neglected, or exploited.

[This Section Left Intentionally Blank]

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

Vendor

By: _____

Name: _____

Title: _____

Date: _____