

125 Cafeteria Plan Administration Service Agreement

THIS AGREEMENT is made as of **JANUARY 1, 2020** ("Effective Date") by and between Medical Cost Containment Services, Inc., a Florida corporation ("Medcom") and **FLORIDA HOUSING FINANCE CORPORATION** ("**Employer**").

WHEREAS, the Employer has adopted, on behalf of its employees, a Cafeteria Plan ("Plan") which includes a Premium Conversion Plan and/or Medical Care Flexible Spending Account ("Medical Care Account") Plan and/or a Dependent Care Assistance ("DCAP") Plan; and which is adopted and administered in accordance with Sections 105, 125, and 129 of the Internal Revenue Code of 1986, as amended ("Code"); and,

WHEREAS, the Employer will serve as the Plan Administrator under requirements of the Employee Retirement Income Security Act of 1974, as amended ("ERISA"); and,

WHEREAS, the Employer desires to retain Medcom, as its agent, to provide administrative and reimbursement services to the Plan within a framework of policies, interpretations, rules, practices and procedures which were made and established by the Employer to receive and process claims ("Claim(s)") and disburse benefits for eligible expenses under the Plan; and,

WHEREAS, the Employer is to pay all Plan benefits owed or established under the Plan to its employees participating in the Plan ("Participants"), and Medcom is to provide the agreed upon services to the Plan without assuming any such liability;

NOW, THEREFORE, in consideration of the mutual promises and covenants contained in this Agreement, the parties agree as follows:

SECTION I

A. Enrollment and Determination of Eligibility

This Section defines the responsibilities, obligations, and rights of each party in regard to enrollment of employees in the Plan, and in regard to communications of enrollment and change information.

The Employer agrees to answer routine questions from Employees concerning enrollment in the Plan and its terms, conditions and operations; and to advise Plan Participants about how to receive reimbursement benefits and maintain a supply of Claim forms and filing instructions, which are provided by Medcom. Medcom will rely on the eligibility information furnished by the Employer and any signed statements by Participants regarding the eligibility of their Claims under the respective Plan in determining any person's right to benefits under the Plan.

1. **DEBIT CARD:** The Employer hereby acknowledges and agrees to support the terms and conditions of the attached Cardholder Agreement (Agreement) as applicable to employee use of the Debit Card produced and provided by Metavante/mbi and its requirements of issuance and use.

B. The Employer's responsibilities under this Section I are:

1. To provide Medcom with the necessary eligibility information, including names, addresses, Social Security numbers, dates of birth, account numbers and routing transit numbers for direct deposit, if applicable, and election choices of all Participants in the Plan.
2. To notify Medcom immediately via fax or e-mail of any new Participants or events which could change a Participant's status under the Plan, such as termination of employment, change in status or any other change which could affect Medcom's responsibilities as administrative service provider for the Plan.

3. Employer acknowledges that Medcom shall not be responsible for Claims paid in error where the Employer has failed to provide the necessary and required information in a form and manner from which Medcom could reasonably make an administrative decision. Medcom shall not be responsible for errors in Claim payments where the Employer did not provide ineligibility or status change information to Medcom prior to the release of the benefit payment or prior to the deactivation of the Debit Card (“Card”).

SECTION II

A. Funding and Payment of Claims for the Plan Benefits

This Section defines responsibilities and procedures to assure that adequate funds are available to pay benefits and to define procedures for payment of Claims.

B. The Employer's responsibilities under this Section II are:

1. The Employer agrees to open a dedicated checking account and to maintain operating funds in that checking account for purposes of paying eligible Flexible Benefit Plan claims as they are incurred and submitted. These funds should be available on the 1st day of the plan year. In order to cover debit card transactions the Employer further agrees to allow Automatic Clearing House (ACH) debit authority against the checking account to maintain an available balance of at least four percent (4%) of Plan Participants annualized Flexible Spending Account elections; and
2. Additional funding will be made through regular deposits of Participants’ payroll deductions concurrent with payroll cycles.
 - a. If the Employer is using its own checking account for the Plan, the Employer will deposit or transfer, or allow to be transferred, the amount equal to the total pre-tax Plan payroll deductions immediately following each payroll cycle.
 - i. If the Employer is using its own checking account for the Plan, to grant withdrawal authority sufficient to enable Medcom to pay benefits under the Employer's Plan.
 - b. Medcom is not obligated to advance funds on behalf of the Employer to the Plan accounts. Medcom has no responsibility to notify or bill the Employer or to take any action to collect payroll deposits necessary to fund the accounts.

C. Medcom's responsibilities under this Section II are:

1. To provide each Participant with one (1) Card. Additional Cards requested will be provided and charged at the amount in effect at the time the Card is requested to the Participant or the Employer, as directed by the Employer.
2. To provide to the Employer for each Participant all necessary expense reimbursement forms and instructions for filing Medical Care Account and DCAP reimbursement claims.
3. To provide a statement or acknowledgement to the Participant upon each paper Claim filed or at the point of sale for electronic Card transactions. Account statements will also be available online to Participants through their password protected account records.
4. **To provide the Employer with access to our Employer Portal to obtain written reports summarizing the Flexible Spending Account** claims and Card activity in sufficient detail to provide for the audit control of funds used and reconciliation of payroll deduction amounts; and to provide account balance information to the participants.

5. To make changes upon receiving instructions from the Employer regarding Participants' changes in status.
6. To receive and expeditiously process Claims for benefits, including electronic card transactions, and determine what amount, if any, is due and payable based on each Claim.
7. For paper Claims, to disburse the appropriate benefit amount that Medcom determines to be due, provided the Employer has sufficient funds in the checking account.
8. For electronic card transactions, to pay Claims for benefits in the appropriate amount that Medcom determines to be due, provided the Employer has sufficient funds in the checking account.
9. To comply with and follow the prescribed U.S. Department of Labor Claims procedures as detailed in the **FLORIDA HOUSING FINANCE CORPORATION** Plan Document.

The following paragraphs define the procedures to be used in processing Claim Requests for Reimbursement from Flex Spending Accounts.

D. Medcom will process Claim Requests for Reimbursement as follows:

1. Medcom will process the Claim reimbursement request from the Participant. Medcom will make payment either by check, direct deposit or electronic means for the amount of the approved benefit. Payment will be made directly to the Participant at his/her home address or designated bank account as shown in Medcom's records for paper Claims or at the point of sale for electronic card transactions. Medcom will not, under any circumstances, issue checks made payable to service providers.
2. Claims excesses will be handled as follows:
 - a. For the DCAP, a Claim that exceeds the amount the Participant has withheld as of the time the Claim is submitted will be carried forward within the same Plan Year and paid at the time adequate funds are credited to the Participant's account.
 - b. For the Medical Care Account, a Claim that exceeds the amount the Participant has withheld as of the time the Claim is submitted will nevertheless be paid in its entirety up to the total amount the Participant had designated for the Plan Year, provided the Employer has deposited sufficient funds for Medcom to pay such Claim.
3. There is no minimum Claim reimbursement amount.
4. Medcom will notify Participants if any Claims are denied because of inadequate Claim substantiation or improper Claim form submission and will give affected Participants the opportunity to resubmit their Claims.
5. Medcom will not be obligated or responsible for any ineligible and/or fraudulent expenses submitted by the Participants or other Cardholders authorized by the Employer for use under the Plan. Medcom will adjust the account records as required by the Employer and the Plan in the event of payment of ineligible expenses. Medcom shall make a diligent effort to recover any payment made to or on behalf of an ineligible person or any overpayment to a Participant.

SECTION III

A. Compliance with Federal Requirements

This Section defines the responsibilities and obligations of the parties as relates to IRS filing requirements for Form 5500, ERISA reporting requirements, and other requirements applicable to Plan Sponsors, Administrators, and Service Providers.

B. The Employer's responsibilities under this Section III are as follows:

1. To provide the data as requested by Medcom that is necessary to perform the required non-discrimination testing.
2. To comply with the applicable provisions of the Consolidated Omnibus Budget Reconciliation Act of 1985, as amended ("COBRA"), including, but not limited to, providing Covered Employees and Qualified Beneficiaries covered by the Medical Care Account with initial COBRA notices, notices upon a Qualifying Event, and other information concerning COBRA elections.
3. To comply with the certificate of coverage and other requirements imposed by the Health Insurance Portability and Accountability Act of 1996 ("HIPAA").
4. To comply with any Internal Revenue Service requirements with regard to non-discrimination as to eligibility and participation in the Plan, including any applicable withholding and/or reporting obligations applicable to the benefits, by virtue of the Plan, being deemed to be discriminatory and other federal, state, or local statutes or regulations.
5. To distribute Summary Plan Descriptions and Summary Descriptions of Material Modifications to each Participant annually and at other times as may be required.
6. If a Form 5500 filing is required, to review the information supplied by Medcom to verify its correctness and to prepare, or contract with a qualified preparer to prepare, a Form 5500 Summary Annual Report and submit it to the Internal Revenue Service within seven (7) months after the end of the Plan Year.
7. To take all other actions necessary to maintain and operate the Plan in compliance with applicable provisions of the Plan, the Code, and any other applicable federal or state law.

C. Medcom's responsibilities under this Section III are as follows:

1. To prepare the information necessary to satisfy the Form 5500 filing obligation imposed by Section 6039D of the Code upon sponsors of cafeteria plans, based on information supplied by the Employer, if the Employer makes a written request for this information each year, or to prepare a signature-ready Form 5500 if the Employer makes a written request for this service.
2. To prepare ERISA-required annual reports for the Medical Care Account, if required.
3. To conduct and report in writing to the Employer the required non-discrimination testing, based upon information supplied by the Employer, including (a) the cafeteria plan 25% concentration test; (b) the dependent care plan 25% concentration test; and, (c) the dependent care plan 55% average benefits test.
4. Medcom will make a full and fair review on behalf of the Plan Administrator of any appeals as required by regulatory agencies, and to notify the Participant in writing of its decision on review within the time limits applicable to the Claim.

SECTION IV

D. Liability and Indemnity

This Section identifies and defines areas in which either Medcom or the Employer may be held liable for violations or errors in administration of the Plan, and provides indemnity to each party for certain acts or responsibilities of another.

1. In performing its obligations under this Agreement, Medcom neither assumes nor underwrites any liability of the Employer under the Plan. With respect to the Employer, Medcom acts only as provider

of those services specifically described in this Agreement. With respect to Participants, Medcom acts only as the agent of the Employer. The services to be performed by Medcom shall be ministerial in nature and shall be performed within the framework of policies, interpretations, rules, practices, and procedures made or established by the Employer. Medcom shall have no discretionary authority or discretionary control over any assets of the Employer, the Plan or the Participants.

2. Medcom shall have no duty or obligation to defend any legal action or proceeding brought to recover a Claim for Plan benefits. However, Medcom will provide any relevant evidence it has to the Employer and its counsel to assist in such action or proceeding.
3. Except as otherwise explicitly provided in this Agreement, the Employer shall retain the liability, which shall survive the termination of this Agreement, for:
 - a. All Plan benefit Claims and all expenses incident to the Plan and any legal action or proceeding to recover benefits under the Plan.
 - b. Any state premium or similar tax, however denominated, including any penalties and interest payable with respect thereto, assessed on the basis of and/or measured by the amount of Plan benefit funds handled pursuant to this Agreement.
 - c. Any acts or omissions by the Employer and its employees, agents, or affiliates arising out of this Agreement or the administration of the Plan, including those alleged to be a breach of fiduciary duty under applicable law.
 - d. In the absence of negligence, any cost, charge, tax, fine, penalty, or interest, however denominated, that may be assessed against Medcom or the Employer for any violation of the Code including any COBRA or HIPAA provisions.
4. Medcom shall use ordinary and reasonable care in the performance of its duties, and will indemnify and hold Employer harmless from and against all extra-contractual non-benefit costs, damages, judgments, attorneys' fees, expenses and liabilities which occur as a direct result of any acts or omissions of Medcom which, in the aggregate, constitute a failure by Medcom to perform its claim services with that degree of skill and judgment possessed by one experienced in furnishing claim services to plans of similar size and characteristics as the Employer's Plan.
5. Employer shall not be deemed to be in default of this Agreement nor held responsible for any cessation, interruption or delay in the performance of its obligations hereunder due to causes beyond its reasonable control, including, but not limited to, natural disaster, acts of God, labor controversy, civil disturbance, disruption of the public markets, war or armed conflict, or the inability to obtain sufficient materials or services required in the conduct of its business, including Internet access, or any change in or the adoption of any law, judgment or decree.

SECTION V

A. Administrative Service Fee

This Section defines the fees that the Employer will pay to Medcom for administrative services, and the conditions under which the fees may be changed or services suspended.

1. **Amount of Fee.** The Employer and Medcom agree that the Employer will pay Medcom a monthly fee for services (“Service Fee”) performed under this Agreement in the amounts shown on the **Fee Schedule attached to this Agreement**. Monthly billing statements should be mailed by the twentieth (20th) of each month for services to be provided the following month. The billed amount is due by the tenth (10th) of the following month for each month this Agreement is in effect. Medcom’s failure to issue a statement for the Service Fee does not excuse payment.

2. **Separate from Other Plan Funds.** The Service Fee is in addition to and separate from the funds required to be made available for payment of Plan benefits.
3. **Failure to Pay.** The Employer is responsible for paying the Service Fee to Medcom. Medcom is not authorized to withdraw the Service Fee from any Claims account. If the Employer does not pay any applicable monthly Service Fee by the next monthly Claims processing cycle, Medcom will cease Claim processing services until the fees due are received. If Claim processing services are pended for an entire monthly processing cycle, Medcom may terminate this Agreement in accordance with Section VII.
4. **Fee Revision - Anniversary.** Medcom may revise its Service Fee for services performed under this Agreement effective on each Anniversary Date of this Agreement by giving the Employer written notice of the revised rate at least thirty (30) days prior to the applicable Anniversary Date.
5. **Fee Revision - Other.** Medcom may revise the Service Fee set forth above at any time upon thirty (30) days written notice if (a) any change in law or regulations imposes on Medcom greater duties or obligations than contemplated by the Agreement in force at the time of such change; or, (b) the Employer experiences significant differences in number of employees, Participants, locations or Plans that require changes in systems parameters or administration services. However, if the Employer initiates a request for additional or change in services, a written notice of an increase in fees is not required and any additional fee will go into effect on the effective date of the change in services.

SECTION VI

A. Term of Agreement

The initial term of this Agreement shall be period commencing **JANUARY 1, 2020**. Thereafter, this Agreement will automatically renew on the Plan Anniversary Date of **January 1** through the Plan's Year End, **December 31** each year unless, at least thirty (30) days prior to the end of the then current term, Employer or Medcom gives written notice to the other of its intention not to renew the Agreement.

SECTION VII

A. Termination of Agreement

This Agreement shall terminate upon the earliest of the following dates:

1. The end of a term of the Agreement following the timely delivery of written notice of termination pursuant to Section VI.
2. At the option of and after the request for additional funding by Medcom, the date upon which the Employer fails to transfer sufficient funds to Medcom to pay all valid Claims pending under the Plan, or to pay the Service Fee as provided in Section V above. If Medcom chooses to terminate the Agreement under this provision, it will communicate that decision promptly to the Employer.
3. Any other date mutually agreeable to the Employer and Medcom.

Upon termination of this Agreement, Medcom will:

1. Cease the processing of all Claims then in its possession;
2. Return any undistributed funds to the Employer;
3. Deactivate all Cards; and
4. Make necessary records relating to Claims in process reasonably available to the Employer.
5. If the termination occurs at the end of a term of the Agreement as set forth in Section VI above.

- A. The employer may request Medcom to process run out claims by requesting this in writing, and
- b. By paying the applicable Monthly Administration Fee for each month of the run out that this service is provided by Medcom.

Thereafter, the Employer and/or Plan Administrator shall be responsible for all aspects of Claims processing and Plan administration.

SECTION VIII

A. Miscellaneous

1. **Notices.** Any notice which is required by this Agreement to be given to Medcom is considered sufficient if in writing and
 - A. Delivered personally or by prepaid first class mail to **Medcom, 1061 Riverside Avenue, Jacksonville, Florida 32204-4133; or**
 - B. Faxed, with fax delivery verification to **Medcom at (904) 421-3696** or such other fax number as may be provided to the Employer from time to time; or
 - C. By email, if sent to a valid Medcom e-mail address and if received by Medcom.

If to Employer,

- a. Delivered personally or by prepaid first class mail to the Employer at **227 N. Bronough Street, Suite 5000, Tallahassee, FL 32301**
 - b. Faxed, with fax delivery verification to Employer at such fax number as may be provided to Medcom from time to time; or
 - c. By e-mail, if sent to a valid Employer e-mail address and if received by Employer.
2. **Applicable Law.** This Agreement shall be governed by and construed in accordance with the laws of the State of Florida, to the extent they are not preempted by ERISA, the Code, or any other federal law.
 3. **Legal and Tax Status.** The Employer acknowledges that neither Medcom nor its agents are providing legal or tax advice, and that neither Medcom nor its agents serve as the Plan administrator or Plan fiduciary under the Plan. The Employer shall be the sole party responsible for determining the legal and tax status of the Plan under applicable law. Medcom shall have no power or authority to waive, alter, breach or modify any terms or conditions of the Plan.
 4. **Assignment.** Medcom may not assign this Agreement to any other party without the express written consent of Employer. This Agreement shall be binding upon any corporation into which the Employer may be merged or with which it may be consolidated, or any corporation succeeding to all or substantially all of the business assets of the Employer.
 5. **Entire Contract.** This Agreement constitutes the entire contract between the parties and no modification or amendment hereto shall be valid unless in writing and signed by an officer or duly authorized representative of the Employer and Medcom.
 6. **Tax Reporting and Withholdings.** The Employer has ultimate control over the payment of Plan benefits and shall be the sole party responsible for income and employment tax reporting and withholding obligations imposed as a result of the inclusion of such payments in the gross income of recipients. Medcom is a mere agent of the Employer for the processing of benefit Claims.

7. **Unclaimed Property.** With regard to any state unclaimed property laws, which may otherwise apply,

it is understood that medical care flexible spending accounts are governed by ERISA and are otherwise exempt from state law. Further, in accordance with the Plan Document, three months after the close of a Plan Year, any Participant benefit amount that falls into either of the following categories will be considered forfeited and returned to the Plan Sponsor. The Plan Sponsor may, at its discretion, use such forfeitures in the same manner as any other surplus funds as specified in the Plan Document. This provision is applicable to either:

- a. Contributions remaining in the Medical Care Account or the DCAP; or
- b. Any checks or payments issued to but which remain un-cashed by a Participant.

- 8. **Headings and Captions.** The headings and subheadings, as well as explanatory statements that are printed in italics, have been used for convenience of reference and should be disregarded in determining construction or intent of this Agreement.
- 9. **Audits.** The Employer shall be authorized to perform audits, including through an agent of the Employer, of the records of payment to Participants and other data specifically related to the performance by Medcom under this Agreement upon reasonable prior written notice to Medcom.
- 10. **Medical Records.** Medcom shall provide to Employer all notices, including any opt-out notice, reflecting its privacy practices as required by state or federal law including the Gramm-Leach-Bliley Act. Medcom agrees to amend this Agreement as necessary to comply with the requirements of HIPAA.
- 11. **Record Retention.** Medcom shall maintain, for the duration of this Agreement, the usual and customary books, records and documents, including electronic records, which relate to the Plan and its Participants that Medcom has prepared or that have otherwise come within its possession. These books, records and documents, including electronic records to the full extent that electronic files are available, are the property of the Employer, and the Employer has the right of continuing access to them during normal business hours at Medcom's office with reasonable prior written notice. If this Agreement terminates, Medcom will deliver all such books, records and documents to the Employer.

IN WITNESS WHEREOF, by placing their duly authorized signatures below, the parties hereby execute this Agreement and agree to be bound by its terms.

MEDCOM



(Authorized Signature)

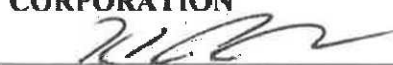
Michael J. Bracken, President

(Printed Name/Title)

12/21/19

(Date Signed)

FLORIDA HOUSING FINANCE CORPORATION



(Authorized Signature)

Hugh R. Brown / General Counsel

(Printed Name/Title)

11-21-19

(Date Signed)

FLORIDA HOUSING FINANCE CORPORATION FEE SCHEDULE – FLEX PLAN ADMINISTRATION

Effective Date: JANUARY 1, 2020

1. BASIC FLEX PLAN SERVICE PACKAGE

A. Initial Administration Set-Up Fee Waived

Includes

1. Completion of First Year Flex Plan Discrimination Testing
2. Plan Design and System Programming
3. Issuing of One Debit Card Per Participant
4. Standard Communication Package Electronic Templates that include: Flexible Spending Account Presentation; Enrollment Form; FSA Claim Form; Employee Flexible Spending Account Flyer (printing & reproduction of these items is permitted)
5. Preparation of Plan Document and Summary Plan Description

B. Monthly Administration Fees* (with Debit Card Administration)

1. **FSA and/ or DCAP**
(Per Participant per month) **\$4.50**
2. **Minimum Monthly Administration Fee** **\$50.00**

C. Dependent, Second or Replacement Cards (Per Card) \$7.50

Fee is deducted from Participant's FSA/DCA Account

2. RENEWAL ADMINISTRATION SET UP FEE Waived

ALL FEES ARE GUARANTEED FOR 36 MONTHS
Fees do not include any compensation for consultant or broker.

FEE SCHEDULE

PLAN ADMINISTRATION continues ...

3. FEEES FOR OPTIONAL SERVICES

A) Changes in Administrative Service	
1) Wire Transfer Fee (Not applicable to ACH Transactions).....	\$15
2) Setup of more than one (1) bank account.....	\$50 setup /
3) Change in Bank Account during Plan Year (off renewal).....	\$25/month/acct
	\$75
B) Mobile Technology	
Gives your participants the ability to check their balance via their cell phone!	Included
C) Printing Costs (When Requested)	
1) Color Copies (Per Page).....	\$.25
2) Black & White Copies (Per Page).....	\$.15
3) Shipping Charges.....	Actual Cost
D) Addition of New Tax Advantaged Plan	
(HRA, Commuter Program, Adoption Assistance, Educational Assistance).....	Please contact Medcom for pricing.
E) On Site Professional Training.....	\$500 /Day
F) COBRA for FSA Administration.....	Please contact Medcom for pricing.

Regulatory Compliance

List of Services

Regulatory Compliance

A. ERISA Plan Documents Preparation

- a. POP Only
- b. Section 105(h) – HRA
- c. Section 125 & 129
- d. Wrap Plan Document
 - “Stand-Alone” Documentation (PD + SPD + Annual Notices)
 - “All-Inclusive” Single Source Document (PD + SPD + Annual Notices)
 - Review of Existing Employer Wrap Document
- e. Plan Amendment Fee
- f. Changes in Plan Year
 - On Renewal Date
 - During Existing Plan Year (Compliance Applies)

B. Non-Discrimination Testing

- a. Section 105(h) – HRA
- b. Section 125 & 129
- c. Section 105(h) – Self-Funded / Self-Insured Health Plans
 - Less than 2 Medical Plans
 - 3-4 Medical Plans
 - 4+ Medical Plans

C. Form 5500 Reporting & Filing

- a. Form 5500 & Up to 3 Schedules
- b. Additional Schedule A's or C's
- c. Form 5558 Extension of Time

D. Comprehensive ERISA Compliance Review

- a. Fringe Benefit Review Only
- b. Full ERISA Compliance Review

Please see your broker for fee information on the above services.

Flexible Benefit Administration Proposal Assumptions

1. DEFINITIONS

- A. "Participant" -An eligible employee electing to have pre-taxed, payroll deductions made for Cafeteria Plan benefits. If applicable, a qualified beneficiary (COBRA) will be considered a participant to the extent they are allowed to participate under the flexible benefit plan.
- B. "Number of Employees" - The number of employees who are eligible to participate in the employer's group health plans.

2. FLEXIBLE BENEFIT PLAN PROPOSAL ASSUMPTIONS

- A. Changes in the employer's initial set-up and implementation parameters that require changes to either computer system or administrative processes must be requested in writing and reviewed by Medcom for feasibility, pricing and scheduling. Payroll cycle and company location changes cannot be made until the first of the following Plan Year.
- B. Fees quoted in this proposal are based on the information available prior to quoting and Medcom reserves the right to change, amend or withdraw this proposal in there is a significant change in information.
 - 1. Fees quoted are subject to change based on significant differences in number of employees, participants, locations, customized monthly report fees; and changes in plan administration requirements (mid-year enrollments; payroll cycle changes; premium changes); the employer's filing status; and/or Plan nondiscrimination status.
- C. Annual Renewal Set-Up Fee is based on the current group demographics, locations, plans and services. All Fees, including Monthly Administration Fee, may be increased if there are any system set-up changes as a result of changes in Plan provisions, Locations, Payroll cycles, employee population, etc. and the new fees could be more than the initial set-up fees and will be based on current pricing structure. Notice of increase in Fees will be given thirty-days (30) prior to annual enrollment.
- D. If Medcom issues Plan Documents, Summary Plan Descriptions and/or Amendments and forms, it is the employer's responsibility to have a formal review conducted by its legal counsel.
- E. If applicable, employer must provide Medcom with a copy of the existing Plan Document and Summary Plan Descriptions prior to the effective date of administration by Medcom.
- F. If employer chooses to use their own corporate checking account, employer is responsible for set-up of bank account and is responsible for all related fees; advance maintenance funding. Whether it is the Employer's Corporate Checking Account or Medcom's omnibus checking account, the employer is responsible for maintaining the account with contributions on a routing, regular basis.
- G. Travel and accommodations; printing, reproduction, postage, shipping and special customization costs are at the expense of the employer.
- H. Medcom assumes no responsibility for prior year flexible benefit plan Form 5500 filings, Schedules and claims run-out, unless specifically quoted and agreed upon under the Administration Service Agreement.
- I. Employer will assume cost of travel and accommodation expenses outside of Jacksonville area.
- J. Participant's receipt of the Debit Card by the effective date of the Plan is contingent on fulfillment of implementation deadlines that will be provided to the employer specifying time lines for receipt of information by Medcom from employer.
- K. All fees for implementation services provided by Medcom must be paid prior to initiation of systems and service set-up. If administration is not implemented due to the employer's decision not to proceed with Medcom administration, all fees for services rendered by Medcom will be due and payable by the employer.

CARDHOLDER AGREEMENT

This Cardholder Agreement ("Agreement") governs your use of your new prepaid MasterCard® debit card that has been issued and delivered to you. Please read it carefully and keep it for your records. **Please sign your Card immediately. By signing the reverse side of your Card or using your Card, you agree to be bound by the terms and conditions of this Agreement.**

1. Meaning of Some Words. In this Agreement, the word "I", "me" and "my" means, each employee and all of their eligible dependents. "You" and "your" means Med-I-Bank, Inc. (dba, MBI) the provider of the MBI Benefits MasterCard® debit Card ("Card") which enables me to use a debit MasterCard program to access coverage under pre-tax/post-tax Savings or Reimbursement Accounts, ("Accounts") established, maintained and controlled by my employer or Its agent, which represents an amount of coverage under my employer's plan(s) ("Plan"). "Card Transaction" means each transaction at a merchant that accepts the Card. This agreement is between the cardholder and KeyBank, N.A., MBI's authorized representative of KeyBank, N.A. In connection with the MBI BenefitsCard™.

2. How the Program and the Card Work: Qualified Expenditures. In connection with participating in the Program, I request that KeyBank, via MBI, issue to me one or more Cards. I agree that each Card is the property of KeyBank and will be surrendered to it via MBI, upon request. I understand that I am responsible for all charges incurred by using the Card and that I can only use the Card for payment of certain eligible expenses defined in my Plan Document(s) and under federal tax law. Any Card Transaction that is not for a Qualified Expenditure is called a "Non Qualified Expenditure", when I use the Card; I incur an expense which may qualify for pre-tax reimbursement under the Plan. I understand that my employer will advance funds on my behalf to cover my expenses and that I am indebted to my employer for such funds until such time as the expense has been deemed to be a Qualified Expenditure. You are authorized by me to deduct the amount of each Qualified Expenditure from the Account in the same way check transactions are handled. I further agree that Card Transactions shall be subject to the terms of this Agreement and the rules of the Account and any applicable federal or state rules or regulations. You are not obligated to me if any merchant refuses to honor my Card or retains my Card if authorization for its use is not given. I understand that if I use my Card for a purchase which is returned for a refund, and such purchase was a Qualified Expenditure charged to my account, such refund must be made on a credit voucher, which shall be credited to the Account in the normal course of business. I agree that all Card Transactions may be presented to my Plan Administrator/Service Provider through the use of either sales or credit drafts or electronic transmission of the transaction information, and that I will, upon request, review transaction statements and sign documents attesting to the validity of my Qualified Expenditures.

3. Non-Qualified Expenditures. I understand that if I use the Card for purchases other than Qualified Expenditures, as determined by the Plan Administrator/Service Provider, the IRS, or any other party having authority, I have violated this Agreement and my obligations under my employer's Plan. I understand that, upon notification, I must immediately re-pay the expense to my employer and that my Card may be immediately suspended or revoked for such failure to comply.

4. My Responsibilities. I accept responsibility for the following: (I) all charges incurred by using the Card and all Card Transactions will be solely for Qualified Expenditures Incurred (not billed or paid) during the Plan Year in which the Card Transaction was Initiated; (II) the Plan Administrator/Service Provider will determine what Card Transactions are Qualified Expenditures and that you have no responsibility to make any such determination; (III) all information relating to the Account and any deductions or exclusions from Income on my federal or state tax returns and filing are my sole responsibility; (IV) to the extent that I misrepresent any Card Transaction as a Qualified Expenditure when it is a Non-Qualified Expenditure, whether by mistake or otherwise, I indemnify you, and the Plan Administrator/Service Provider, and hold you harmless for whatever penalties and consequences that may occur as a result of my actions, (V) if I continually attempt to use the Card for Non-Qualified Expenditures, regardless of whether such transactions are denied, I will be required to return my Card to MBI, the Plan Administrator/Service Provider, or my employer; (VI) Qualified Expenditures for any Card Transactions have not been reimbursed, nor will I seek reimbursement from any source other than the Account, including but not limited to any and all Insurance payments either from my Insurance carriers or my dependents' Insurance carriers; (VII) each time I present the Card for payment, I accept responsibility for the charges incurred and will sign a receipt evidencing that the expense has been incurred and reaffirming my representation that it is a Qualified Expenditure that has not been reimbursed nor will I seek reimbursement from any other source.

5. Inappropriate Use of the Card. I acknowledge and agree that upon any inappropriate or fraudulent use of the Card, or termination of employment, I will immediately return all Cards issued for use against the Account to MBI, the Plan Administrator/Service Provider, or my employer. If I fail to surrender all Cards, I will be responsible, to the extent permitted by law, for any Card Transactions.

CARDHOLDER AGREEMENT (continued)

- 6. Return of the Card.** If I am required to return my Card for any reason before the end of the Plan Year, I shall reimburse my employer for any amounts advanced by the employer from the Account for expenses that are not Qualified Expenditures. My employer may also pursue any and all legal means available to it to recover some or all of the amounts advanced that I am not entitled to, including but not limited to, deducting such owed amounts from subsequent payroll amounts owed me.
- 7. Consequences In the Event of Non-Qualified Expenditures.** To the extent that any Card Transactions are not for Qualified Expenditures and I fail to reimburse the Account for such amounts, I authorize my employer to collect from me personally or withhold such funds from my pay or any other amounts due me including any taxes, fines, surcharges or penalties that may be assessed for the use of the Card for Non-Qualified Expenditures, I also understand that my Card may be immediately suspended and/or permanently revoked.
- 8. Record of Transactions Statements.** I will obtain and retain a receipt at the time I engage in a Card Transaction to verify Card purchases. I will review Transaction activity statements at least monthly, either by reviewing statements received from my Plan Administrator/Service Provider or by accessing the MBI web site, www.mywealthcareonline.com/medcom.
- 9. Liability for Unauthorized Transactions.** Upon review, I will immediately contact my Plan Administrator/Service Provider if my Card was used for any transaction without my permission or has been lost or stolen. If my statement shows Card Transactions that I did not make (even if my Card was not lost), I must and will notify the Plan Administrator/Service Provider at once. If I do not notify the Plan Administrator/Service Provider within 60 days of the Card Transaction date, I may not recover any money I lost after the 60 days if Plan Administrator/Service Provider could have stopped someone from taking the money I had notified Plan Administrator/Service Provider in time.
- 10. Contacts in Event of Unauthorized Transactions.** If I believe my Card was lost or stolen, or that someone has used my card without my permission, or there appears to be an error in my statement, I will immediately call my Plan Administrator/Service Provider as soon as it is discovered, I may also report my lost Card on your web site at www.mywealthcareonline.com/medcom.
- 11. Privacy & Confidentiality.** I hereby release you to provide any information necessary for the validation and/or verification of any Card Transaction, to my Plan Administrator/Service Provider. Otherwise, you will disclose Information to third parties about the Account only to comply with government agency or court orders, or to verify the existence and condition of the Account for a third party, such as a merchant.
- 12. Authorizations.** I agree that Card Transactions will be honored only when sufficient funds or coverage are available in the Account, if you or my employer, at either of your discretion, decides to pay the amount of the Card Transaction that exceeds funds in the Account, I agree to repay you or my employer in full immediately upon notice. I also agree that Card Transactions are subject to prior authorization by you or by a Card sponsoring authorization center.
- 13. Changing or Canceling this Agreement.** You may at any time, and from time to time, upon notification, change or add to any of the terms of this Agreement. You also may cancel this Agreement and my right to use the Card any time without prior notice, but any obligation to pay any items charged against the Account, plus any applicable charges, will continue until paid in full.
- 14. Receipt of Disclosures.** By signing and using the Card, I hereby acknowledge receipt of this Cardholder Agreement informing me of my rights.
- 15. Account Funds.** Account funds do not represent deposits guaranteed, or insured by us, the Issuer, or the Federal Deposit Insurance Corporation (FDIC), or any other state or federal governmental agency, and are subject to typical uninsured, non-guaranteed risk.
- 16. Governing Law.** This Agreement shall be governed by the laws of the Commonwealth of Massachusetts, except to the extent that federal law may apply, in the event of any conflict between the provisions of this Agreement and any applicable law or regulation, the provisions of the Agreement shall be deemed modified to the extent necessary to comply with such law or regulation.

BUSINESS ASSOCIATE AGREEMENT

This Business Associate Agreement, is entered into as of JANUARY 1, 2020, by and between FLORIDA HOUSING FINANCE CORPORATION Health Plan (the "Plan" or "Covered Entity"); and Medical Cost Containment Services, Inc. DBA Medcom (the "Business Associate").

WITNESSETH:

WHEREAS, the Covered Entity previously has entered into an agreement (the "Agreement") with the Business Associate, whereby the Business Associate has agreed to provide certain services to the Plan;

WHEREAS, to provide such services to the Plan, the Business Associate must have access to certain protected health information ("Protected Health Information" or "PHI"), as defined in the Standards for Privacy of Individually Identifiable Health Information (the "Privacy Standards") set forth by the U.S. Department of Health and Human Services ("HHS") pursuant to the Health Insurance Portability and Accountability Act of 1996, ("HIPAA") and amended by the Health Information Technology for Economic and Clinical Health Act ("HITECH Act"), part of the American Recovery and Reinvestment Act of 2009 ("ARRA"), the Genetic Information Nondiscrimination Act of 2008 ("GINA"), and the final regulations to such Acts promulgated in January 2013;

WHEREAS, to comply with the requirements of the Privacy Standards, the Covered Entity must enter into this Business Associate Agreement with the Business Associate.

NOW, THEREFORE, in consideration of the mutual covenants and agreements hereinafter contained, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, and intending to be legally bound hereby, the parties hereto agree as follows:

I. Definitions

The following terms used in this Agreement shall have the same meaning as those terms in the Privacy Rules: Breach, Data Aggregation, Designated Record Set, Disclosure, Health Care Operations, Individual, Minimum Necessary, Notice of Privacy Practices, Secretary, Subcontractor, and Use. If other terms are used, but not otherwise defined under this Business Associate Agreement, such terms shall then have the same meaning as those terms in the Privacy Rule.

- (a) **Business Associate**. "Business Associate" shall generally have the same meaning as the term "business associate" at 45 CFR 160.103.
- (b) **Covered Electronic Transactions**. "Covered Electronic Transactions" shall have the meaning given the term "transaction" in 45 CFR §160.103.
- (c) **Covered Entity**. "Covered Entity" shall generally have the same meaning as the term "covered entity" at 45 CFR 160.103.
- (d) **Electronic Protected Health Information**. "Electronic Protected Health Information" shall have the same meaning as the term "electronic protected health information" in 45 CFR §160.103.

- (e) **Genetic Information.** “Genetic Information” shall have the same meaning as the term “genetic information” in 45 CFR §160.103.
- (f) **HIPAA Rules.** “HIPAA Rules” shall mean the Privacy, Security, Breach Notification, and Enforcement Rules at 45 CFR Part 160 and Part 164.
- (g) **Individual.** “Individual” shall have the same meaning as the term “individual” in 45 CFR §160.103 and shall include a person who qualifies as a personal representative in accordance with 45 CFR §164.502(g).
- (h) **Privacy Rule.** “Privacy Rule” shall mean the Standards for Privacy of Individually Identifiable Health Information at 45 CFR Part 160 and Part 164, subparts A and E.
- (i) **Protected Health Information (PHI).** “Protected Health Information (PHI)” shall have the same meaning as the term “protected health information” in 45 CFR §160.103, limited to the information created or received by Business Associate from or on behalf of a Covered Entity pursuant to this Agreement.
- (j) **Required By Law.** “Required By Law” shall have the same meaning as the term “required by law” in 45 CFR §164.103.
- (k) **Secretary.** “Secretary” shall mean the Secretary of the Department of Health and Human Services or his designee.
- (l) **Standards for Electronic Transactions Rule.** “Standards for Electronic Transactions Rule” means the final regulations issued by HHS concerning standard transactions and code sets under the Administration Simplification provisions of HIPAA, 45 CFR Part 160 and Part 162.
- (m) **Security Incident.** “Security Incident” shall have the same meaning as the term “security incident” in 45 CFR §164.304.
- (n) **Security Rule.** “Security Rule” shall mean the Security Standards and Implementation Specifications at 45 CFR Part 160 and Part 164, subpart C.
- (o) **Subcontractor.** “Subcontractor” shall have the same meaning as the term subcontractor in 45 CFR §160.103.
- (p) **Transaction.** “Transaction” shall have the meaning given the term “transaction” in 45 CFR §160.103
- (q) **Unsecured Protected Health Information.** “Unsecured Protected Health Information” shall have the meaning given the term “unsecured protected health information” in 45 CFR §164.402.

II. Safeguarding Privacy and Security of Protected Health Information

(a) **Permitted Uses and Disclosures.** The Business Associate is permitted to use and disclose Protected Health Information that it creates or receives on the Covered Entity’s behalf or receives from the Covered Entity (or another business associate of the Covered Entity) and to request Protected Health Information on the Covered Entity’s behalf (collectively, “Covered Entity’s Protected Health Information”) only:

(i) Functions and Activities on the Covered Entity's Behalf. To perform those services referred in the attached services agreement.

(ii) Business Associate's Operations. For the Business Associate's proper management and administration or to carry out the Business Associate's legal responsibilities, provided that, with respect to disclosure of the Covered Entity's Protected Health Information, either:

(A) The disclosure is Required by Law; or

(B) The Business Associate obtains reasonable assurance from any person or entity to which the Business Associate will disclose the Covered Entity's Protected Health Information that the person or entity will:

(1) Hold the Covered Entity's Protected Health Information in confidence and use or further disclose the Covered Entity's Protected Health Information only for the purpose for which the Business Associate disclosed the Covered Entity's Protected Health Information to the person or entity or as Required by Law; and

(2) Promptly notify the Business Associate (who will in turn notify the Covered Entity in accordance with the breach notification provisions) of any instance of which the person or entity becomes aware in which the confidentiality of the Covered Entity's Protected Health Information was breached.

(C) To de-identify the information in accordance with 45 CFR 164.514(a) – (c) as necessary to perform those services required under the Agreement.

(iii) Minimum Necessary. The Business Associate will, in its performance of the functions, activities, services, and operations specified above, make reasonable efforts to use, to disclose, and to request only the minimum amount of the Covered Entity's Protected Health Information reasonably necessary to accomplish the intended purpose of the use, disclosure or request, except that the Business Associate will not be obligated to comply with this minimum-necessary limitation if neither the Business Associate nor the Covered Entity is required to limit its use, disclosure or request to the minimum necessary. The Business Associate and the Covered Entity acknowledge that the phrase "minimum necessary" shall be interpreted in accordance with the HITECH Act.

(b) Prohibition on Unauthorized Use or Disclosure. The Business Associate will neither use nor disclose the Covered Entity's Protected Health Information, except as permitted or required by this Agreement or in writing by the Covered Entity or as Required by Law. This Agreement does not authorize the Business Associate to use or disclose the Covered Entity's Protected Health Information in a manner that will violate Subpart E of 45 CFR Part 164 if done by the Covered Entity.

(c) Information Safeguards.

(i) Privacy of the Covered Entity's Protected Health Information. The Business Associate will develop, implement, maintain, and use appropriate administrative, technical, and physical safeguards to protect the privacy of the Covered Entity's Protected Health Information. The safeguards must reasonably protect the Covered Entity's Protected Health Information from any intentional or unintentional use or disclosure in violation of the Privacy

Rule and limit incidental uses or disclosures made to a use or disclosure otherwise permitted by this Agreement.

(ii) Security of the Covered Entity's Electronic Protected Health Information. The Business Associate will develop, implement, maintain, and use administrative, technical, and physical safeguards that reasonably and appropriately protect the confidentiality, integrity, and availability of Electronic Protected Health Information that the Business Associate creates, receives, maintains, or transmits on the Covered Entity's behalf as required by the Security Rule. The Business Associate will comply with Subpart C of 45 CFR Part 164 with respect to Electronic Protected Health Information, to prevent use or disclosure of protected health information other than as provided for by the Agreement.

(iii) Policies and Procedures. The Business Associate shall maintain written policies and procedures, conduct a risk analysis, and train and discipline of its workforce.

(d) Subcontractors and Agents. In accordance with 45 CFR 164.502(e)(1)(ii) and 164.308(b)(2), if applicable, the Business Associate will ensure that any of its Subcontractors and agents that create, receive, maintain, or transmit Protected Health information on behalf of the Business Associate agree to the same restrictions, conditions, and requirements that apply to the Business Associate with respect to such information.

(e) Prohibition on Sale of Records. As of the effective date specified by HHS in final regulations to be issued on this topic, the Business Associate shall not directly or indirectly receive remuneration in exchange for any Protected Health Information of an individual unless the Covered Entity or Business Associate obtained from the individual, in accordance with 45 CFR §164.508, a valid authorization that includes a specification of whether the Protected Health Information can be further exchanged for remuneration by the entity receiving Protected Health Information of that individual, except as otherwise allowed under the HITECH Act.

(f) Prohibition on Use or Disclosure of Genetic Information. Business Associate shall not use or disclose Genetic Information for underwriting purposes in violation of the HIPAA rules.

(g) Penalties For Noncompliance. The Business Associate acknowledges that it is **subject to** civil and criminal enforcement for failure to comply with the privacy rule and security rule under the HIPAA Rules, as amended by the HITECH Act.

III. Compliance with Electronic Transactions Rule

If the Business Associate conducts in whole or part Electronic Transactions on behalf of the Covered Entity for which HHS has established standards, the Business Associate will comply, and will require any Subcontractor or agent it involves with the conduct of such Transactions to comply, with each applicable requirement of the Electronic Transactions Rule. The Business Associate shall also comply with the National Provider Identifier requirements, if and to the extent applicable.

IV. Obligations of the Covered Entity

The Covered Entity shall notify the Business Associate of:

a) Any limitation(s) in its notice of privacy practices of the Covered Entity in accordance with 45 CFR §164.520, to the extent that such limitation may affect the Business Associate's use or disclosure of Protected Health Information;

(b) Any changes in, or revocation of, permission by the Individual to use or disclose Protected Health Information, to the extent that such changes may affect the Business Associate's use or disclosure of Protected Health Information; and

(c) Any restriction to the use or disclosure of Protected Health Information that the Covered Entity has agreed to in accordance with 45 CFR §164.522, to the extent that such restriction may affect the Business Associate's use or disclosure of Protected Health Information.

V. Permissible Requests by the Covered Entity

The Covered Entity shall not request the Business Associate to use or disclose Protected Health Information in any manner that would not be permissible under the Privacy Rule if done by the Covered Entity.

VI. Individual Rights

(a) Access. The Business Associate will, within twenty-five (25) calendar days following the Covered Entity's request, make available to the Covered Entity or, at the Covered Entity's direction, to an individual (or the individual's personal representative) for inspection and obtaining copies of the Covered Entity's Protected Health Information about the individual that is in the Business Associate's custody or control, so that the Covered Entity may meet its access obligations under 45 CFR §164.524. Effective as of the date specified by HHS, if the Protected Health Information is held electronically in a designated record Set in the Business Associate's custody or control. Business Associate will provide an electronic copy in the form and format specified by the Covered Entity if it is readily producible in such form. The Business Associate will provide an electronic copy in the form and format specified by the Covered Entity if it is readily producible in such format; if it not readily producible in such format, the Business Associate will work with the Covered Entity to determine an alternative form and format as specified by the Covered Entity to meet its electronic access obligations under 45 CFR 164.524.

(b) Amendment. The Business Associate will, upon receipt of written notice from the Covered Entity, promptly amend or permit the Covered Entity access to amend any portion of the Covered Entity's Protected Health Information in a designated record set as directed or agreed to by the Covered Entity, so that the Covered Entity may meet its amendment obligations under 45 CFR §164.526.

(c) Disclosure Accounting. The Business Associate will maintain and make available the information required to provide an accounting of disclosures to the Covered Entity as necessary to satisfy the Covered Entity's obligations under 45 CFR §164.528.

(i) Disclosures Subject to Accounting. The Business Associate will record the information specified below ("Disclosure Information") for each disclosure of the Covered Entity's Protected Health Information, not excepted from disclosure accounting as specified below, that the Business Associate makes to the Covered Entity or to a third party.

(ii) Disclosures Not Subject to Accounting. The Business Associate will not be obligated to record Disclosure Information or otherwise account for disclosures of the Covered Entity's Protected Health Information if the Covered Entity need not account for such disclosures under the HIPAA Rules.

(iii) Disclosure Information. With respect to any disclosure by the Business Associate of the Covered Entity's Protected Health Information that is not excepted from disclosure

accounting under the HIPAA Rules, the Business Associate will record the following Disclosure Information as applicable to the type of accountable disclosure made:

(A) Disclosure Information Generally. Except for repetitive disclosures of the Covered Entity's Protected Health Information as specified below, the Disclosure Information that the Business Associate must record for each accountable disclosure is (1) the disclosure date, (2) the name and (if known) address of the entity to which the Business Associate made the disclosure, (3) a brief description of the Covered Entity's Protected Health Information disclosed, and (4) a brief statement of the purpose of the disclosure.

(B) Disclosure Information for Repetitive Disclosures. For repetitive disclosures of the Covered Entity's Protected Health Information that the Business Associate makes for a single purpose to the same person or entity (including the Covered Entity), the Disclosure Information that the Business Associate must record is either the Disclosure Information specified above for each accountable disclosure, or (1) the Disclosure Information specified above for the first of the repetitive accountable disclosures; (2) the frequency, periodicity, or number of the repetitive accountable disclosures; and (3) the date of the last of the repetitive accountable disclosures.

(iv) Availability of Disclosure Information. The Business Associate will maintain the Disclosure Information for at least 6 years following the date of the accountable disclosure to which the Disclosure Information relates (3 years for disclosures related to an Electronic Health Record, starting with the date specified by HHS). The Business Associate will make the Disclosure Information available to the Covered Entity within fifty (50) calendar days following the Covered Entity's request for such Disclosure Information to comply with an individual's request for disclosure accounting. Effective as of the date specified by HHS, with respect to disclosures related to an Electronic Health Record, the Business Associate shall provide the accounting directly to an individual making such a disclosure request, if a direct response is requested by the individual. To the extent the Business Associate is to carry out one or more of Covered Entity's obligation(s) under Subpart E of 45 CFR Part 164, comply with the requirements of Subpart E that apply to the covered entity in the performance of such obligation(s); and make its internal practices, books, and records available to the Secretary for purposes of determining compliance with the HIPAA Rules.

(d) Restriction Agreements and Confidential Communications. The Covered Entity shall notify the Business Associate of any limitations in the notice of privacy practices of Covered Entity under 45 CFR §164.520, to the extent that such limitation may affect the Business Associate's use or disclosure of Protected Health Information. The Business Associate will comply with any agreement that the Covered Entity makes that either (i) restricts use or disclosure of the Covered Entity's Protected Health Information pursuant to 45 CFR §164.522(a), or (ii) requires confidential communication about the Covered Entity's Protected Health Information pursuant to 45 CFR §164.522(b), provided that the Covered Entity notifies the Business Associate in writing of the restriction or confidential communication obligations that the Business Associate must follow. The Covered Entity will promptly notify the Business Associate in writing of the termination of any such restriction agreement or confidential communication requirement and, with respect to termination of any such restriction agreement, instruct the Business Associate whether any of the Covered Entity's Protected Health Information will remain subject to the terms of the restriction agreement. Effective February 17, 2010 (or such other date specified as the effective date by HHS), the Business Associate will comply with any restriction request if: (i) except as otherwise required by law, the disclosure is to a health plan for purposes of carrying out payment or health care operations (and is not for purposes of carrying out treatment); and (ii) the Protected Health Information pertains solely to a

health care item or service for which the health care provider involved has been paid out-of-pocket in full.

VII. Breaches and Security Incidents

(a) Reporting

(i) Impermissible Use or Disclosure. The Business Associate will report to Covered Entity any use or disclosure of Protected Health Information not permitted by this Agreement not more than thirty (30) calendar days after Business Associate becomes aware of such non-permitted use or disclosure.

(ii) Privacy or Security Breach. The Business Associate will report to the Covered Entity any use or disclosure of the Covered Entity's Protected Health Information not permitted by this Agreement of which it becomes aware, including breaches of Unsecured Protected Health Information as required by 45 CFR 164.40, and any Security Incident of which it becomes aware. The Business Associate will make the report to the Covered Entity's Privacy Official not more than thirty (30) calendar days after the Business Associate becomes aware of such non-permitted use or disclosure. If a delay is requested by a law-enforcement official in accordance with 45 CFR §164.412, the Business Associate may delay notifying the Covered Entity for the applicable time period. The Business Associate's report will at least:

(A) Identify the nature of the Breach or other non-permitted use or disclosure, which will include a brief description of what happened, including the date of any Breach and the date of the discovery of the Breach;

(B) Identify the Covered Entity's Protected Health Information that was subject to the non-permitted use or disclosure or Breach (such as whether full name, social security number, date of birth, home address, account number or other information were involved) on an individual basis;

(C) Identify who made the non-permitted use or disclosure and who received the non-permitted use or disclosure;

(D) Identify what corrective or investigational action the Business Associate took or will take to prevent further non-permitted uses or disclosures, to mitigate harmful effects and to protect against any further Breaches;

(E) Identify what steps the individuals who were subject to a Breach should take to protect themselves; and

(F) Provide such other information, including a written report and risk assessment under 45 CFR §164.402, as the Covered Entity may reasonably request.

(iii) Security Incidents. The Business Associate will report to The Covered Entity any Security Incident of which the Business Associate becomes aware. The Business Associate will make this report once per month, except if any such Security Incident resulted in a disclosure not permitted by this Agreement or Breach of Unsecured Protected Health Information, Business Associate will make the report in accordance with the provisions set forth above.

(b) Mitigation. The Business Associate shall mitigate, to the extent practicable, any harmful effect known to the Business Associate resulting from a use or disclosure in violation of this Agreement.

VIII. Term and Termination

(a) **Term.** The term of this Agreement shall be effective as of the date specified above, and shall terminate when all Protected Health Information provided by the Covered Entity to the Business Associate, or created or received by the Business Associate on behalf of the Covered Entity, is destroyed or returned to the Covered Entity, or, if it is infeasible to return or destroy Protected Health Information, protections are extended to such information, in accordance with the termination provisions in this section.

(b) **Right to Terminate for Cause.** The Covered Entity may terminate this Agreement if it determines, in its sole discretion that the Business Associate has breached a material term of this Agreement, and upon written notice to the Business Associate of the breach, the Business Associate fails to cure the breach within thirty (30) calendar days after receipt of the notice. Any such termination will be effective immediately or at such other date specified in the Covered Entity's notice of termination.

(c) **Treatment of Protected Health Information on Termination.**

(i) **Return or Destruction of Covered Entity's Protected Health Information as Feasible.**

Upon termination or other conclusion of this Agreement, the Business Associate will, if feasible, return to the Covered Entity or destroy all of the Covered Entity's Protected Health Information in whatever form or medium, including all copies thereof and all data, compilations, and other works derived therefrom that allow identification of any individual who is a subject of the Covered Entity's Protected Health Information. This provision shall apply to Protected Health Information that is in the possession of Subcontractors or agents of the Business Associate. Further, the Business Associate shall require any such Subcontractor or agent to certify to the Business Associate that it returned to the Business Associate (so that the Business Associate may return it to the Covered Entity) or destroyed all such information which could be returned or destroyed. The Business Associate will complete these obligations as promptly as possible, but not later than thirty (30) calendar days following the effective date of the termination or other conclusion of this Agreement.

(ii) **Procedure When Return or Destruction Is Not Feasible.** The Business Associate will identify any of the Covered Entity's Protected Health Information, including any that the Business Associate has disclosed to Subcontractors or agents as permitted under this Agreement, that cannot feasibly be returned to the Covered Entity or destroyed and explain why return or destruction is infeasible. The Business Associate will limit its further use or disclosure of such information to those purposes that make return or destruction of such information infeasible. The Business Associate will complete these obligations as promptly as possible, but not later than thirty (30) calendar days following the effective date of the termination or other conclusion of this Agreement.

(iii) **Continuing Privacy and Security Obligation.** The Business Associate's obligation to protect the privacy and safeguard the security of the Covered Entity's Protected Health Information as specified in this Agreement will be continuous and survive termination or other conclusion of this Agreement.

IX. Miscellaneous Provisions

(a) Definitions. All terms that are used but not otherwise defined in this Agreement shall have the meaning specified under HIPAA, including its statute, regulations and other official government guidance.

(b) Inspection of Internal Practices, Books, and Records. The Business Associate will make its internal practices, books, and records relating to its use and disclosure of the Covered Entity's Protected Health Information available to the Covered Entity and to HHS to determine compliance with the HIPAA Rules.

(c) Amendment to Agreement. This Agreement may be amended only by a written instrument signed by the parties. In case of a change in applicable law, the parties agree to negotiate in good faith to adopt such amendments as are necessary to comply with the change in law.

(d) No Third-Party Beneficiaries. Nothing in this Agreement shall be construed as creating any rights or benefits to any third parties.

(e) Regulatory References. A reference in this Business Associate Agreement to a section in the Privacy Rule means the section as in effect or as amended.

(f) Survival. The respective rights and obligations of the Business Associate under Section IX(f) of this Agreement shall survive the termination of this Agreement.

(g) Interpretation. Any ambiguity in this Agreement shall be resolved to permit the Covered Entity to comply with the HIPAA Rules.

(h) Notices. All notices hereunder shall be in writing and delivered by hand, by certified mail, return receipt requested or by overnight delivery. Notices shall be directed to the parties at their respective addresses set forth in the first paragraph of this Business Associate Agreement or below their signature, as appropriate, or at such other addresses as the parties may from time to time designate in writing.

(i) Entire Agreement; Modification. This Business Associate Agreement represents the entire agreement between the Business Associate and the Covered Entity relating to the subject matter hereof. No provision of this Business Associate Agreement may be modified, except in writing, signed by the parties.

(j) Indemnification. Each Party agrees to indemnify, defend and hold harmless each other Party, its affiliates and each of their respective directors, officers, employees, agents or assigns from and against any and all actions, causes of actions, claims, suits and demands whatever, and from all damages, liabilities, costs, charges, debts and expenses whatever (including reasonable attorneys' fees and expenses related to any litigation or other defense of any claims), which may be asserted or for which they may now or hereafter become subject arising in connection with (i) any misrepresentation, breach of warranty or non-fulfillment of any undertaking on the part of the Party to the Agreement and (ii) any claims, demands, awards, judgments, actions, and proceedings made by any person or organization arising out of any way connected with the Party's performance.

(k) Assistance in Litigation or Administrative Proceedings. The Business Associate shall make itself, and any Subcontractors, employees or agents assisting the Business Associate in the performance of its obligations under this Agreement, available to the Covered Entity, at no

cost to the Covered Entity, to testify as witnesses, or otherwise, in the event of litigation or administrative proceedings being commenced against the Covered Entity, its directors, officers, or employees based upon a claimed violation of HIPAA, the HIPAA regulations, or other laws relating to security and privacy, except where the Business Associate or its subcontractors, employees, or agents are named as an adverse party.

(l) **Binding Effect.** This Business Associate Agreement shall be binding upon the parties hereto and their successors and assigns.

(m) **Governing Law, Jurisdiction, and Venue.** This Agreement shall be governed by the law of Florida, except to the extent preempted by federal law.

(n) **Severability.** The invalidity or unenforceability of any provisions of this Agreement shall not affect the validity or enforceability of any other provision of this Agreement, which shall remain in full force and effect.

(o) **Construction and Interpretation.** The section headings contained in this Agreement are for reference purposes only and shall not in any way affect the meaning or interpretation of this Agreement. This Agreement has been negotiated by the parties at arm's-length and each of them has had an opportunity to modify the language of the Agreement. Accordingly, the Agreement shall be treated as having been drafted equally by the parties and the language shall be construed as a whole and according to its fair meaning. Any presumption or principle that the language is to be construed against any party shall not apply. This Agreement may be executed in counterparts, each of which shall be deemed to be an original, but all of which, taken together, shall constitute one and the same agreement.

In Witness Whereof, the parties hereto have caused this Agreement to be executed as of the date first above written.

BUSINESS ASSOCIATE:

Medical Cost Containment Services, Inc.

By: _____

Title: President

Date: _____

COVERED ENTITY:

FLORIDA HOUSING FINANCE CORPORATION

By: _____

Title: General Counsel

Date: 11-21-18