FLORIDA MEDICAID LONG TERM CARE
PROGRAM REQUIREMENTS

1. Participation in Florida Medicaid Long Term Care ("**MLTC**") Contract. Subject to and in accordance with the terms of the Agreement, including this Attachment, Contracted Provider agrees to participate in Health Plan's provider networks and render Covered Services to Members pursuant to the Benefit Plan offered or administered by Health Plan under the MLTC Contract between Health Plan and the Florida Agency for Health Care Administration ("**AHCA**"). This Attachment has not yet been reviewed and approved by AHCA. It is subject to AHCA approval and may be changed to comply with all MLTC Program Requirements.

2. Compensation. Compensation for Covered Services provided to Members of Benefit Plans under MLTC Contracts is set forth in the Agreement.

3. Cumulative Provisions. All provisions of the Agreement and this Attachment are cumulative. All provisions shall be given effect when possible. If there is inconsistent or contrary language between this Attachment and any other part of the Agreement, the provisions of this Attachment shall prevail with respect to the MLTC Program, except to the extent a provision of the Agreement exceeds the minimum requirements of this Attachment.

4. Subcontracted and Downstream Providers. Any obligation of Contracted Provider in this Attachment shall apply to all subcontracted and employed Providers to the same extent it applies to Contracted Provider. Contracted Provider agrees to include the terms and conditions contained herein in its contracts with Providers or other subcontractors.

5. Termination by OIR. This Agreement shall terminate if, pursuant to § 641.234, Florida Statutes, as amended, the Florida Office of Insurance Regulation or other governmental authority orders the Health Plan to cancel or terminate this Agreement.

6. Notice of Termination to OIR. Contracted Provider shall provide at least sixty (60) days' advance notice to the Florida Office of Insurance Regulation before terminating this Agreement with Health Plan for any reason. Nonpayment of goods or services rendered by the Contracted Provider or Provider to the Health Plan is not a valid reason for avoiding the sixty (60) day advance notice of termination. Health Plan shall provide the Florida Office of Insurance Regulation sixty (60) days' advance written notice before terminating the Agreement without cause, except in a case in which the Member's health is subject to imminent danger or a Provider's ability to practice medicine is effectively impaired by an action by the Board of Medicine or other governmental agency. [§ 641.315, F.S.]

7. Definitions. Capitalized terms used and not otherwise defined in these Program Requirements shall have the meanings set forth in the Agreement or, if not defined in the Agreement, in the MLTC Contract or under Florida law.

8. State Program Contractual Compliance. Health Plan and Contracted Provider agree to abide by all applicable provisions of the MLTC Contract. Contracted Provider's compliance with the MLTC Contract specifically includes but is not limited to the requirements contained within the Agreement, the AHCA Statewide Medicaid Managed Care Program Invitation to Negotiate (AHCA ITN Nos. 001-011 17/18) (July 14, 2017) ("**MLTC Solicitation**"), and these Program Requirements.

9. Compliance with Federal & State Laws. The parties shall, to the extent applicable, comply with Chapter § 641.315, F.S., 42 CFR § 438.230, 42 CFR § 455.104, 42 CFR § 455.105 and 42 CFR § 455.106. **(MLTC Solicitation, Att. B, § VIII.C.5.b)**

10. Written Agreements. All provider agreements and amendments executed by the Health Plan shall be in writing, signed and dated by the Health Plan and the Contracted Provider, and include the requirements contained in this Attachment. **(MLTC Solicitation, Att. B, § VIII.C.5.c; Att. B § X.C.1.f)**

11. No Restriction on Provider. This Agreement does not prohibit or restrict Contracted Provider acting within the lawful scope of practice, from advising or advocating on behalf of a Member who is his or her patient regarding:

    a. The Member's health status, medical care, or treatment options, including any alternative treatment that may be self-administered.

    b. Any information the Member needs to decide among all relevant treatment options.

    c. The risks, benefits and consequences of treatment or non-treatment.

    d. The Member's right to participate in decisions regarding his or her health care, including the right to refuse treatment, and to express preferences about future treatment decisions (42 CFR § 438.102(a)(1))

    (MLTC Solicitation, Att. B, § VIII.C.5.c.1)

12. Advocating by Provider. This Agreement does not prohibit Contracted Provider from advocating on behalf of the Member in any part of the grievance and appeal system or utilization management process, or individual authorization process to obtain necessary services; (42 CFR § 438.402(c)(1)(i)-(ii); 42 § CFR 438.408). **(MLTC Solicitation, Att. B, § VIII.C.5.c.2)**

13. Hours of Operation. Contracted Provider shall offer hours of operation that are no less than the hours of operation offered to commercial managed care plan members or comparable Medicaid fee-for-service recipients, if the Contracted Provider serves only Medicaid recipients. (42 CFR § 438.206(c)(1)). **(MLTC Solicitation, Att. B § VIII.C.5.c.3)**

14. Special Health Care Needs. Contracted Provider shall ensure physical access, reasonable accommodations, culturally competent communications, and accessible equipment for Medicaid Members with special health care needs, including physical or mental disabilities in accordance with 42 C.F.R. § 438.206(c)(3). **(MLTC Solicitation, Att. B § VIII.C.5.c.4)**

15. Covered Services & Other Requirements. The Agreement and Provider Manual specify Covered Services, including applicable prior authorization requirements, acceptable billing codes, and populations to be served under the Agreement. **(MLTC Solicitation, Att. B § VIII.C.5.c.5)**

16. Notification of Pregnancy. Contracted Provider shall immediately notify Health Plan of a Member's pregnancy as indicated in the Provider Manual, regardless of whether the pregnancy was identified through medical history, examination, testing, claims, or otherwise. **(MLTC Solicitation, Att. B § VIII.C.5.c.6)**

17. Timely Access Standards. Contracted Provider shall meet the timely access standards set forth in the MLTC Solicitation, including, but not limited to, those set forth at MLTC Solicitation Ex. B-1 and Att. B § VIII.A.8. **(MLTC Solicitation, Att. B § VIII.C.5.c.7)**

18. Abuse, Neglect, and Exploitation Training. All direct service Contracted Providers shall complete abuse, neglect, and exploitation training, including training to identify victims of human trafficking. **(MLTC Solicitation, Att. B § VIII.C.5.c.8)**

19. Member Transfer. Contracted Provider shall ensure immediate transfer to another provider if the Member's health or safety is in jeopardy. **(MLTC Solicitation, Att. B § VIII.C.5.c.9)**

20. Transitioning Members. Contracted Provider shall cooperate in all respects with providers of other managed care plans to assure maximum health outcomes for transitioning Members. **(MLTC Solicitation, Att. B § VIII.C.5.c.10)**

21. Continuity of Care. Contracted Provider shall provide for continuity of care for the course of treatment in the event the Agreement terminates during the course of a Member's treatment. Following termination of the Agreement, except in the case of termination for cause, Contracted Provider shall continue to provide medically necessary services to Members who are existing patients of Contracted Provider until the earlier of: (1) the Member's selection of another provider, or (2) the expiration of sixty (60) days from the date of termination, or such other time period as determined by Health Plan. **(MLTC Solicitation, Att. B § VIII.C.5.c.11 & § VIII.C.7.g)**

22. Compensation. Contracted Provider shall look solely to Health Plan for compensation for services rendered, with the exception of any applicable cost-sharing and patient responsibility. **(MLTC Solicitation, Att. B § VIII.C.5.c.12)**

23. Collection of Patient Responsibility. Requirements for institutional care programs, hospice and assisted living facilities regarding collection of patient responsibility, including prohibiting the assessment of late fees is contained in the Provider Manual. **(MLTC Solicitation, Att. B § VIII.C.5.c.13)**

24. Provider Participation. Contracted Provider shall participate in Health Plan's peer review, grievance, quality improvement, and utilization management activities, as directed by Health Plan. **(MLTC Solicitation, Att. B § VIII.C.5.c.14)**

25. Monitoring & Oversight Activities. The monitoring and oversight activities the Health Plan will follow, including monitoring of Covered Services rendered to Members by the Health Plan, are contained in the Provider Manual. **(MLTC Solicitation, Att. B § VIII.C.5.c.15)**

26. Measures of Quality & Performance. The measures, metrics, and frequency of measurement that shall be used by the Health Plan to monitor the quality and performance of the Contracted Provider are contained in the Provider Manual. **(MLTC Solicitation, Att. B § VIII.C.5.c.16)**

27. Marketing Materials. Contracted Provider shall only display marketing materials related to the MLTC Contract that have been approved by AHCA, in writing, prior to use. To the extent that Contracted Provider distributes Health Plan marketing materials, Contracted Provider shall remain neutral in discussing Health Plan benefits with current and potential enrollees. **(MLTC Solicitation, Att. B § IV.P.1, § VIII.C.5.c.17)**

28. Recordkeeping. Contracted Provider shall maintain adequate record systems for recording services, charges, dates and all other commonly accepted information elements for services rendered to Health Plan's Members. (**MLTC Solicitation, Att. B § VIII.C.5.c.18; Att. B § X.C.3.a.6)**

29. Maintenance of Records. Contracted Provider shall maintain records for a period not less than ten (10) years from the close of the MLTC Contract, and retained further if the records are under review or audit until the review or audit is complete, pursuant to 42 C.F.R. § 438.3(u). Prior approval for the disposition of records must be requested and approved by the Health Plan if the Agreement is continuous. Contracted Provider shall follow the Member record standards set forth at Florida Administrative Code Rule 59G-1.054. **(MLTC Solicitation, Att. B § VIII.C.5.c.19; § IX.E.4)**

30. Investigations and Inspections. Contracted Provider shall cooperate fully with Health Plan, AHCA (or its designee), CMS, the Office of the Inspector General (OIG), the Comptroller General, and Attorney General's Office for the inspection, evaluation, and auditing of any records or documents (medical or financial) of the Health Plan or its subcontractors at any time related to the MLTC Contract. **(MLTC Solicitation, Att. B § VIII.C.5.c.20)**

31. Cooperation with Investigations. Contracted Provider shall cooperate fully in any investigation by Health Plan, AHCA, Medicaid Program Integrity Bureau (MPI), Medicaid Fraud Control Unit (MFCU) or other state or federal entity and in any subsequent legal action that may result from such an investigation involving the MLTC Contract. **(MLTC Solicitation, Att. B § VIII.C.5.c.21)**

32. Required Quality Improvement Reports and Clinical Information. The specific reports and clinical information required by the Health Plan for quality improvement or other administrative purposes out of claims processing is contained in the Agreement and the Provider Manual. **(MLTC Solicitation, Att. B § VIII.C.5.c.22)**

33. Claims Submission. Contracted Provider shall submit timely, complete and accurate claims to Health Plan in accordance with the requirements of the MLTC Solicitation, Section X.D, Information Management and Systems. **(MLTC Solicitation, Att. B § VIII.C.5.c.23)**

34. Background Screening. Contracted Provider shall comply with the background screening requirements set forth in the MLTC Solicitation. **(MLTC Solicitation, Att. B § VIII.C.5.c.24)**

35. HIPAA Privacy & Security. Contracted Provider shall comply with HIPAA privacy and security provisions (42 CFR § 438.224). **(MLTC Solicitation, Att. B § VIII.C.5.c.25)**

36. Provider Termination. Contracted Provider shall submit written notice of withdrawal from the Health Plan's network at least ninety (90) days before the effective date of such withdrawal. **(MLTC Solicitation, Att. B § VIII.C.5.c.26)**

37. Appeals. Any Contracted Provider whose participation is terminated pursuant to the Agreement for any reason shall utilize the applicable appeals procedures outlined in the Agreement and Provider Manual. No additional or separate right of appeal to AHCA or Health Plan is created as a result of the Health Plan's act of terminating, or decision to terminate, any provider under the MLTC Contract. **(MLTC Solicitation, Att. B § VIII.C.5.c.27)**

38. Provider Liability. Contracted Provider shall not hold Medicaid Members or AHCA liable for any debts of Contracted Provider. This provision shall survive termination of the Agreement, including termination due to insolvency. **(MLTC Solicitation, Att. B § VIII.C.5.c.28)**

39. Worker's Compensation Insurance. Contracted Provider shall secure and maintain during the life of the Agreement workers' compensation insurance, in compliance with the Florida workers' compensation law, for all of its employees connected with the work under the MLTC Contract, unless such employees are covered by the protection afforded by Health Plan. **(MLTC Solicitation, Att. B § VIII.C.5.c.29; Att. B § X.C.3.c.4)**

40. Lapse in Insurance Coverage. Contracted Provider shall notify Health Plan in the event of a lapse in general liability or medical malpractice insurance or if its assets fall below the amount necessary for licensure under Florida statutes. **(MLTC Solicitation, Att. B § VIII.C.5.c.30)**

41. Indemnification. Contracted Provider shall indemnify, defend, and hold AHCA, its designees, and Health Plan's Members harmless from and against all claims, damages, causes of action, costs or expenses, including court costs and reasonable attorney fees, to the extent proximately caused by any negligent act or other wrongful conduct arising from the Agreement. This provision shall survive the termination of the Agreement, including breach due to insolvency. AHCA may waive this requirement for itself, but not Health Plan's Members, for damages in excess of the statutory cap on damages for public entities, if the Contracted Provider is a State agency or subdivision as defined by Florida Statutes § 768.28 or a public health entity with statutory immunity. All such waivers shall be approved in writing by AHCA. **(MLTC Solicitation, Att. B § VIII.C.5.c.31; Att. B § X.C.3.c.3)**

42. Overpayments. Upon Contracted Provider's identification of an overpayment, Contracted Provider shall report and return such overpayment to Health Plan in writing within sixty (60) days from the date on which the overpayment was identified, including information regarding the reason for the overpayment, as indicated in the Provider Manual. (42 CFR § 438.608(d)(2)) **(MLTC Solicitation, Att. B § VIII.C.5.c.32)**

43. Representations. Any contracts or agreements entered into by the Contracted Provider for the purposes of carrying out any aspect of the MLTC Contract shall include assurances that the individuals who are signing the contract or agreement are so authorized; and that any such contract or agreement includes all the requirements of the MLTC Contract. **(MLTC Solicitation, Att. B § VIII.C.5.c.33)**

44. Copayments. If copayments are waived as an expanded benefit, Contracted Provider must not charge Members copayments for Covered Services; and if copayments are not waived as an expanded benefit; that the amount paid to providers shall be the contracted amount, less any applicable copayments. **(MLTC Solicitation, Att. B § VIII.C.5.c.34)**

45. Responsibility of Health Plan. No provider contract that the Health Plan enters into with respect to performance under the MLTC Contract shall in any way relieve the Health Plan of any responsibility for the provision of services or duties under the MLTC Contract. Health Plan assures that all services and tasks related to the provider contract are performed in accordance with the terms of the MLTC Contract. Health Plan will identify in the provider agreement any aspect of service that may be delegated by the provider. **(MLTC Solicitation, Att. B § VIII.C.5.d)**

46. Pending Agreement. Health Plan reserves the right to execute this Agreement pending the outcome of the provider enrollment process. Health Plan shall terminate this Agreement immediately upon notification from AHCA if Contracted Provider cannot be enrolled, or upon expiration of the one hundred twenty (120) day period without enrollment of the provider, and notify affected Members in accordance with 42 CFR § 438.602(b)(2). Health Plan is authorized to recoup any payments made under the Agreement if the provider does not successfully complete the credentialing process within

one hundred twenty (120) days and the delay is not caused by the Health Plan. **(MLTC Solicitation, Att. B § VIII.C.2.g & 5.e)**

47. NPI Submission. Each Provider must have a national provider identifier (NPI) in accordance with Section 1173(b) of the Social Security Act, as enacted by Section 4707(a) of the Balanced Budget Act of 1997; and must submit any and all NPI numbers to Health Plan. **(MLTC Solicitation, Att. B § VIII.C.2.c)**

48. Unlicensed ALFs and AFCHs. Contracted Provider must report any assisted living facility or adult family care home that is suspected to be unlicensed to AHCA pursuant to Florida Statutes § 408.812. **(MLTC Solicitation, Att. B § VIII.C.2.l)**

49. Current Agreement with AHCA. Contracted Provider shall have a current provider agreement with AHCA. **(MLTC Solicitation, Att. B § VIII.C.2.b)**

50. Staffing Levels. Contracted Provider shall develop and maintain policies and procedures for back-up plans in the event of absent employees. Contracted Provider shall maintain sufficient staffing levels to ensure that service delivery is not interrupted due to absent employees. **(MLTC Solicitation, Att. B, Ex. B-2 § VIII.C.5.a.1)**

51. HCB Setting Requirements for ALFs and AFCHs. To the extent Contracted Provider is an assisted living facility or adult family care home, Contracted Provider shall conform to the home and community-based settings requirements, including the following requirements:

a. Contracted Provider will support the Member's community inclusion and integration by working with the case manager and Member to facilitate the Member's personal goals and community activities.

b. Members residing at Contracted Provider's facility shall be offered services with the following options unless medical, physical, or cognitive impairments restrict or limit exercise of these options.

c. Choice of:

i. Private or semi-private rooms, as available;
ii. Roommate for semi-private rooms;
iii. Locking door to living unit;
iv. Access to telephone and unlimited length of use;
v. Eating schedule;
vi. Activities schedule; and
vii. Participation in facility and community activities.

d. Ability to have:

i. Unrestricted visitation; and
ii. Snacks as desired.

e. Ability to:

i. Prepare snacks as desired; and
ii. Maintain personal sleeping schedule.

(MLTC Solicitation, Att. B, Ex. B-2 § VIII.C.5.a.2)

52. Payment for New or Additional Services. To the extent Contracted Provider is an assisted living facility, Contracted Provider hereby agrees to accept monthly payments from Health Plan for Member services as full and final payment for all long term care services detailed in the Member's plan of care which are to be provided by Contracted Provider. Members remain responsible for the separate assisted living facility room and board costs as detailed in their resident contract. As Members age in place and require more intense or additional long term care services, Contracted Provider may not request payment for new or additional services from a Member, their family members or personal representative. Contracted Provider may only negotiate payment terms for services pursuant to this provider agreement with Health Plan. **(MLTC Solicitation, Att. B, Ex. B-2 § VIII.C.5.a.3)**

53. HCB Setting Requirements for ADHC. To the extent Contracted Provider is an adult day health care provider, Contracted Provider shall conform to the home and community-based settings requirements and the following requirements:

    a. Contracted Provider will support the Member's community inclusion and integration by working with the case manager and Member to facilitate the Member's personal goals and community activities.

    b. Members accessing adult day health services in Contracted Provider's facility shall be offered services with the following options unless medical, physical, or cognitive impairments restrict or limit exercise of these options.

    c. Choice of:

        i. Daily activities;
        ii. Physical environment;
        iii. With whom to interact;
        iv. Access to telephone and unlimited length of use;
        v. Eating schedule;
        vi. Activities schedule; and
        vii. Participation in facility and community activities.

    d. Ability to have:

        i. Right to privacy;
        ii. Right to dignity and respect;
        iii. Freedom from coercion and restraint; and
        iv. Opportunities to express self through individual initiative, autonomy, and independence.

    (MLTC Solicitation, Att. B, Ex. B-2 § VIII.C.5.a.4)

54. Reporting of Critical Incidents. To the extent Contracted Provider is a home and community-based services provider, Contracted Provider shall report critical incidents to Health Plan in a manner and format specified by Health Plan, so as to ensure reporting of such critical incidents to AHCA within twenty-four (24) hours of the incident. Health Plan does not require nursing facilities or assisted living facilities to report critical incidents or provide incident reports to the Health Plan. Critical incidents occurring in nursing facilities and assisted living facilities will be addressed in accordance

with Florida law, including but not limited to Florida Statutes § 400.147 and § 429.23 and Florida Statutes, chapters 39 and 415. **(MLTC Solicitation, Att. B, Ex. B-2 § VIII.C.5.a.5)**

55. Social Networking. Contracted Provider shall comply with social networking requirements set forth in MLTC Solicitation at Att. B § X.D.12. **(MLTC Solicitation, Att. B § X.D.12)**

56. Subcontractor Provisions. The following additional provisions apply if Health Plan and Contracted Provider ("**Subcontractor**") have entered into an agreement pursuant to which Subcontractor has agreed to provide such administrative services on Health Plan's behalf.

    a. *Compliance with all Medicaid Laws*. Subcontractor and Health Plan agree to the extent applicable to comply with 42 CFR § 438.230, 42 CFR § 438.3(k), 42 CFR § 455.104, 42 CFR § 455.105 and 42 CFR § 455.106 and all applicable Medicaid laws and regulations, including applicable sub regulatory guidance and MLTC Contract provisions, and any other applicable State or federal law. **(MLTC Solicitation, Att. B § X.C.1.b)**

    b. *Services/Goods*. The service(s) and/or goods covered by the subcontract are indicated in the Agreement. **(MLTC Solicitation, Att. B § X.C.1.c)**

    c. *Delegated Activities/Reporting Responsibilities*. Subcontractor agrees to perform the delegated activities and reporting responsibilities specified in compliance with Section XVI, Reporting Requirements, and the Statewide Medicaid Managed Care Program Report Guide. **(MLTC Solicitation, Att. B § X.C.1.d)**

    d. *Responsibility of Health Plan*. This Agreement does not relieve Health Plan of any responsibility for the performance of duties under the MLTC Contract. Health Plan assures that all tasks related to this Agreement are performed in accordance with the terms of the MLTC Contract. **(MLTC Solicitation, Att. B § X.C.1.e)**

    e. *Insolvency/Bankruptcy*. Subcontractor shall immediately advise Health Plan of the insolvency of Subcontractor or of a filing of a petition in bankruptcy by or against Subcontractor. **(MLTC Solicitation, Att. B § X.C.1.g)**

    f. *Eligibility*. Subcontractor must be eligible for participation in the Medicaid program; however, Subcontractor is not required to participate in the Medicaid program as a provider. **(MLTC Solicitation, Att. B § X.C.2.a)**

    g. *Involuntary Termination from Medicaid*. If Subcontractor was involuntarily terminated from the Medicaid program other than for purposes of inactivity, Subcontractor is not an eligible subcontractor. **(MLTC Solicitation, Att. B § X.C.2.b)**

    h. Payment Provisions

        i. Payment to Subcontractor. Health Plan agrees to make payment to Subcontractor pursuant to all state and federal laws, rules and regulations, including § 409.967, F.S., § 409.975(6), F.S., § 409.982, F.S., § 641.3155, F.S., 42 CFR § 238.230, 42 CFR § 447.46 and 42 CFR § 447.45(d)(2), (3), (5) and (6) in addition to sub regulatory guidance and provisions of the MLTC Contract. **(MLTC Solicitation, Att. B § X.C.3.a)**

        ii. Conditions & Method of Payment. The conditions and method of payment are indicated in the Agreement. **(MLTC Solicitation, Att. B § X.C.3.a.1)**

iii. Submission of Information. Subcontractor shall make prompt submission of information needed for Health Plan to make payment. **(MLTC Solicitation, Att. B § X.C.3.a.2)**

iv. Compensation. The method and amount of compensation or other consideration to be received from the Health Plan is indicated in the Agreement. **(MLTC Solicitation, Att. B § X.C.3.a.3)**

v. Requirement to Maintain Accurate Information. If Subcontractor is a claims processing vendor it must maintain accurate Member and provider information, including provider agreements reflecting the correct reimbursement rate and provider specialty, to ensure the correct adjudication of claims and proper payment to providers. **(MLTC Solicitation, Att. B § X.C.3.a.4)**

vi. Itemized Accounting. Any payment made by Subcontractor to a provider must be accompanied by an itemized accounting of the individual's claims included in the payment, including but not limited to the Member's name, the date of service, the procedure code, service units, the amount of reimbursement, and the identification of the Health Plan. **(MLTC Solicitation, Att. B § X.C.3.a.5)**

vii. Third Party Collections. Health Plan shall assume responsibility for cost avoidance measures for third party collections in accordance with Section XII, Financial Requirements of the MLTC Contract. **(MLTC Solicitation, Att. B § X.C.3.a.7)**

i. Monitoring and Inspection Provisions

i. Right to Audit. Health Plan, AHCA, CMS, the DHHS Inspector General, the Comptroller General or their designees, and DHHS have the right to audit, evaluate, or inspect the Subcontractor's premises, physical facilities, equipment, books, records, contracts, computer, or other electronic systems of the Subcontractor, or of the Subcontractor's subcontractor, pertaining to any aspect of services and activities performed, or determination of amounts payable under the Health Plan's MLTC Contract with the state. In accordance with 42 CFR § 438.230(c)(3)(iii), Subcontractor agrees that the right to audit exists through ten (10) years from the final date of the MLTC Contract period or from the date of completion of any audit, whichever is later. **(MLTC Solicitation, Att. B § X.C.3.b.1)**

ii. Access. Subcontractor shall make available for purposes of an audit, evaluation, or inspection its premises, physical facilities, equipment, books, records, contracts, computers, or other electronic systems relating to its Medicaid Members pertinent to the MLTC Contract by Health Plan, AHCA, CMS, the United States Department of Health and Human Services (DHHS) Inspector General, the Comptroller General or their designees, and DHHS (42 CFR § 438.3(h); § 1903(m)(2)(A)(iv) of the Social Security Act. **(MLTC Solicitation, Att. B § X.C.3.b.2)**

iii. Cooperation. Subcontractor shall fully cooperate in any investigation by Health Plan, AHCA, Medicaid Fraud Control Unit, CMS, the United States Department of Health and Human Services Inspector General, the Comptroller General, or their designees, Department of Elder Affairs, or other state or federal entity or any subsequent legal action that may result from such an investigation. **(MLTC Solicitation, Att. B § X.C.3.b.3)**

iv. Record Retention. In addition to record retention requirements for practitioner or provider licensure Subcontractor shall retain, as applicable, the following information in accordance

with 42 CFR § 438.3(u); Member grievance and appeal records in 42 CFR § 438.416; base data in 42 CFR § 438.5(c); medical loss ratio reports in 42 CFR § 438.8(k), and the data, information and documentation specified in 42 CFR § 438.604, 42 CFR § 438.606, 42 CFR § 438.608, and 42 CFR § 438.610 for a period not less than ten (10) years from the close of the MLTC Contract and retained further if the records are under review or audit until the review or audit is complete. Prior approval for the disposition of records must be requested and approved by the Health Plan if the Agreement is continuous. 42 CFR § 438.3(h). **(MLTC Solicitation, Att. B § X.C.3.b.4)**

v. Credentialing. Health Plan shall provide monitoring and oversight of the Subcontractor to provide assurance that all licensed medical professionals are credentialed in accordance with the Health Plan's and AHCA's credentialing requirements as found in Section VIII, Provider Services, of the MLTC Contract, if the Health Plan has delegated the credentialing to Subcontractor. **(MLTC Solicitation, Att. B § X.C.3.b.5)**

vi. Monitoring of Services. Health Plan shall provide monitoring of services rendered by Subcontractor to Health Plan's Members. **(MLTC Solicitation, Att. B § X.C.3.b.6)**

j. Protective Clauses

i. Safeguarding Information. Subcontractor shall provide safeguarding of information about Members according to 42 CFR § 438.224. **(MLTC Solicitation, Att. B § X.C.3.c.1)**

ii. No Liability for Debts of Subcontractor. Neither Members or AHCA will be held liable for any debts of the Subcontractor. This clause shall survive termination of the Agreement, including breach of the Agreement due to insolvency. **(MLTC Solicitation, Att. B § X.C.3.c.2)**

iii. Requirements for Delegation of Claims Processing & Payment. If Health Plan delegates claims processing and payment to Subcontractor, it shall:

1. Report its financial status (i.e. periodic financial reporting, financial statements) to the Health Plan at a frequency determined acceptable to the Health Plan.

2. If the Subcontractor is at financial risk and/or delegated to process and pay claims, Subcontractor shall maintain a surplus account to meet its obligations.

(MLTC Solicitation, Att. B § X.C.3.c.5)

iv. Delegation/Subcontracting. If Subcontractor delegates or subcontracts any functions of its contract with the Health Plan, the subcontract or delegation shall include all the requirements of the MLTC Contract. **(MLTC Solicitation, Att. B § X.C.3.c.6)**

v. Waiver. Any terms of the Agreement that are in conflict with the specifications of the MLTC Contract as they pertain to Medicaid Members are hereby waived. **(MLTC Solicitation, Att. B § X.C.3.b.7)**

vi. Revocation of Delegation. Health Plan may revoke the delegation or impose other sanctions permitted in the Agreement if the Subcontractor's performance is inadequate. **(MLTC Solicitation, Att. B § X.C.3.c.8)**

vii. Compensation for UM Subcontractors. Compensation to individuals or entities that conduct utilization management activities shall not be structured so as to provide incentives for the individuals or entity to deny, limit or discontinue medically necessary services to any Member. (42 CFR § 438.210(e)). **(MLTC Solicitation, Att. B § X.C.3.c.9)**

viii. Monitoring of Solvency Requirements. Subcontractor shall establish, enforce, and monitor solvency requirements that provide assurance of the Subcontractor's ability to meet its obligations. **(MLTC Solicitation, Att. B § X.C.3.c.10)**

ix. Changes in Directory Information. Subcontractor shall timely notify the Health Plan of changes in directory information. **(MLTC Solicitation, Att. B § X.C.3.c.11)**

x. False Claims Act. The following information on the False Claims Act (31 U.S.C. §§ 3729 – 3733) is provided pursuant to section 6032 of the Deficit Reduction Act of 2005:

1. The Federal False Claims Act imposes liability on any person or entity who knowingly files a false or fraudulent claim; or uses a false record or statement to obtain payment on a false or fraudulent claim from Medicare, Medicaid or other federally funded health care program. "Knowingly" means having actual knowledge that the information on the claim is false; or acting in deliberate ignorance or reckless disregard of whether the claim is true or false.

2. A person or entity found liable under the False Claims Act is, generally, subject to civil money penalties and three times the amount of damages that the government sustained because of the illegal act.

3. Under the False Claims Act individuals with knowledge of potential violations may file suit on behalf of the government in federal court. These individuals may be entitled to a percentage of the amount recovered by the government. An individual who brings action under the False Claims Act is called a qui tam relator or whistleblower. Federal law prohibits employers from retaliating against employees who file suits on behalf of the government under the False Claims Act.

4. The False Claims Act creates a system for preventing and detecting fraud, waste and abuse in federal and state health care programs by providing governmental agencies with the appropriate authority and mechanisms to investigate and punish fraudulent activity. Health Plan and Provider shall be dedicated to detection and prevention of false claims.

5. To report Medicaid fraud, call the Florida Attorney General's Medicaid Fraud Control Unit at 1-866-966-7226.

See 42 CFR § 438.608(a)(6); § 1902(a)(68) of the Social Security Act. **(MLTC Solicitation, Att. B § X.C.3.c.12)**

k. Termination of Agreement. This Agreement may be terminated in accordance with the termination provision in the Agreement. **(MLTC Solicitation, Att. B § X.C.3.d)**

l. Marketing Requirements. Subcontractor shall comply with the marketing requirements indicated in Section IV, Marketing, of the MLTC Contract. **(MLTC Solicitation, Att. B § X.C.3.e)**

m. Encounter Data. Subcontractor shall submit timely, complete and accurate encounter data to the Health Plan in accordance with the requirements of Section X.D., Information Management Systems of the MLTC Contract. **(MLTC Solicitation, Att. B § X.C.3.f)**

n. Electronic Communications. Subcontractor shall comply with state and federal law governing the monitoring, interception, recording, use or disclosure of wire, oral or electronic communications, including but not limited to the Florida Security of Communications Act, Sections 934.01, et seq., F.S. and the Electronic Communications Privacy Act, 18 USC 2510 et seq. **(MLTC Solicitation, Att. B § XV.L)**

o. Cooperation with OIG. In accordance with § 20.055, F.S. Subcontractor shall cooperate with the OIG in any investigation, audit, inspection, review or hearing; and shall grant access to any records, data or other information the OIG deems necessary to carry out its official duties. **(MLTC Solicitation, Att. B § XV.N.7)**

p. Compliance with Immigration & Nationality Act. Subcontractor shall comply with Section 274 of the Immigration and Nationality Act. AHCA will consider the employment by Subcontractor of unauthorized aliens a violation of the Act. If the Subcontractor knowingly employs unauthorized aliens, such violation shall be cause for unilateral termination of the Agreement. **(MLTC Solicitation, Att. A, Ex. A-8, Section I.DD; Att. B § XV.O)**

q. Compliance with Immigration Reform & Control Act. Subcontractor shall comply with the Immigration Reform and Control Act of 1986, which prohibits employers from knowingly hiring illegal workers. Subcontractor shall only employ individuals who may legally work in the United States – either U.S. citizens or foreign citizens who are authorized to work in the U.S. Subcontractor shall use the U.S. Department of Homeland Security's E-Verify Employment Eligibility Verification system, https://e-verify.uscis.gov/emp, to verify the employment eligibility of all new employees hired by Subcontractor performing work or providing services pursuant to the MLTC Contract. **(MLTC Solicitation, Att. A, Ex. A-8, Section I.EE; Att. B § P)**

r. Compliance Reviews by AHCA. Subcontractor agrees to the following:

i. AHCA may conduct or have conducted, performance and/or compliance reviews, reviews of specific records or other data as determined by AHCA. AHCA may conduct a review of a sample of analyses performed by the Subcontractor to verify the quality of the Subcontractor's analyses. Reasonable notice shall be provided for reviews conducted at the Subcontractor's place of business.

ii. Reviews may include, but shall not be limited to, reviews of procedures, computer systems, recipient records, accounting records, and internal quality control reviews. The Subcontractor shall work with any reviewing entity selected by AHCA.

iii. During the MLTC Contract, these records shall be available at the Subcontractor's office at all reasonable times. After the MLTC Contract period and for ten (10) years following, the records shall be available at the Subcontractor's chosen location subject to the approval of AHCA. If the records need to be sent to AHCA, Subcontractor shall bear the expense of delivery. Prior approval of the disposition of the Subcontractor and its subcontractor records must be requested and approved by AHCA. This obligation survives termination of the MLTC contract.

iv. Subcontractor shall comply with all applicable federal requirements pertaining to procurement, including but not limited to Chapter 2 of the CFR and any other final or interim rules with respect to audit requirements of Federal contracts administered through states and local public agencies.

(MLTC Solicitation, Att. A, Ex. A-8 § I.F)

s. Reporting Concerns. Subcontractor shall report to AHCA any health care facility providing services under the MLTC Contract that may have violated the law. To report concerns pertaining to a health care facility, Subcontractor may contact the AHCA Complaint Hotline by calling 1-888-419-3456 or by completing the online complaint form found at https://apps.ahca.myflorida.com/hcfc. Subcontractor shall report to AHCA any areas of concern relative to the operation of any entity covered by the MLTC Contract. To report such concerns, Subcontractor may contact the AHCA Complaint Hotline by calling 1-877-254-1055 or by completing the online complaint form found at https://apps.ahca.myflorida.com/smmc_cirts/. Reports relating to individuals receiving services who are at risk for, or have suffered serious harm, impairment, or death shall be reported to AHCA immediately and no later than twenty-four (24) clock hours after the observation is made. Reports that reflect noncompliance that does not rise to the level of concern noted above shall be reported to AHCA within ten (10) calendar days of the observation. **(MLTC Solicitation, Att. A, Ex. A-8, Section I.L.3-5)**

t. Improvement Plan. If Subcontractor's performance does not meet AHCA performance standards according to an AHCA or Health Plan monitoring report, Subcontractor shall submit an improvement plan to Health Plan and AHCA within fourteen (14) business days of the deficient report. **(MLTC Solicitation, Att. A, Ex. A-8, Section I.P.5)**

u. Civil Rights Requirements. Subcontractor shall not discriminate against any participant or employee in violation of any of the following statutes, regulations, guidelines and standards:

i. Title VI of the Civil Rights Act of 1964, as amended, 42 U.S.C. 2000d *et seq*., which prohibits discrimination on the basis of race, color, or national origin.

ii. Section 504 of the Rehabilitation Act of 1973, as amended, 29 U.S.C. 794, which prohibits discrimination on the basis of handicap.

iii. Title IX of the Education Amendments of 1972, as amended, 20 U.S.C. 1681 *et seq*., which prohibits discrimination on the basis of sex.

iv. The Age Discrimination Act of 1975, as amended, 42 U.S.C. 6101 *et seq*., which prohibits discrimination on the basis of age.

v. Section 654 of the Omnibus Budget Reconciliation Act of 1981, as amended, 42 U.S.C. 9849, which prohibits discrimination on the basis of race, creed, color, national origin, sex, handicap, political affiliation or beliefs.

vi. The Americans with Disabilities Act of 1990, P.L. 101-336, which prohibits discrimination on the basis of disability and requires reasonable accommodation for persons with disabilities.

vii. Florida Statutes, Chapter 409.

viii. Florida Administrative Code § 62-730.160, pertaining to standards applicable to generators of hazardous waste;

ix. All applicable standards, orders or regulations issued pursuant to the Clean Air Act, 42 U.S.C. 7401 *et seq.*;

x. The Medicare-Medicaid Fraud and Abuse Act of 1978;

xi. Other Federal omnibus budget reconciliation acts;

xii. The Balanced Budget Act of 1997; and

xiii. All regulations, guidelines and standards as are now or may be lawfully adopted under the above statutes.

(MLTC Solicitation, Att. A, Ex. A-8 § I.T)

57. Public Entity Crime. Subcontractor shall not subcontract with a person or affiliate who has been placed on the Florida convicted vendor list following a conviction for a public entity crime. **(MLTC Solicitation, Att. A, Ex. A-8, Section I.AA)**

58. Privacy and Security.

a. Subcontractor shall comply with the privacy and security provisions of the Health Insurance Portability and Accountability Act of 1996. Subcontractor is held to the same confidentiality requirements as Health Plan.

b. Subcontractor shall not use or disclose any confidential information, including social security numbers that may be supplied under the MLTC Contract pursuant to Law, and also including the identity or identifying information concerning a Medicaid recipient or services under the MLTC Contract for any purpose not in conformity with State and Federal laws, except upon written consent of the recipient, or his/her guardian.

c. All personally identifiable information, including Medicaid information, obtained by Subcontractor shall be treated as privileged and confidential information and shall be used only as authorized for purposes directly related to the administration of the MLTC Contract. Subcontractor must have a process that specifies that patient-specific information remains confidential, is used solely for the purposes of data analysis or other responsibilities under the MLTC Contract, and is exchanged only for the purpose of conducting a review or other duties outlined in the MLTC Contract.

d. Any patient-specific information received by Subcontractor can be shared only with those agencies that have legal authority to receive such information and cannot be otherwise transmitted for any purpose other than those for which the Subcontractor is retained by Health Plan. Subcontractor must have in place written confidentiality policies and procedures to ensure confidentiality and to comply with all Federal and State laws (including the HIPAA and HITECH Acts) governing confidentiality, including electronic treatment records, facsimile mail, and electronic mail).

e. Subcontractor shall comply with the requirements of § 501.171, F.S. and shall, in addition to the reporting requirements therein, report to AHCA any breach of personal information.

f. Any releases of information to the media, the public, or other entities require prior approval from Health Plan and AHCA.

(MLTC Solicitation, Att. A, Ex. A-8 § I.CC & Att. B § VIII.C.5.c.25)