

CONTRACT NO. C-16-48-08-AP
For FAMILY MEDICAL LEAVE ADMINISTRATION SERVICES
BETWEEN THE CITY OF SUNRISE, FLORIDA
AND CAREWORKS USA LTD LLC D/B/A CAREWORKS ABSENCE
MANAGEMENT

THIS CONTRACT No. C-16-48-08-AP ("Contract") between the City of Sunrise, a municipal corporation of the State of Florida whose address is 10770 West Oakland Park Boulevard, Sunrise, Florida, 33351 (hereinafter referred to as "the City" or "the Client") and CareWorks USA LTD LLC D/B/A CareWorks Absence Management, a foreign limited liability company authorized to do business in the State of Florida, (hereinafter referred to as the "Contractor" or "CareWorks Absence Management"), whose address is 5500 Glendon Court, Dublin, Ohio 43016 and whose Federal Identification Number is 31-1775640.

In consideration of the mutual terms and promises set forth below, the City and the Contractor agree as follows:

1. Services

1.1 The Contractor shall administer the City's leave program under the Family and Medical Leave Act (FMLA) and state leave laws by furnishing the services described in Exhibit "A" – Scope of Services – which is attached hereto and incorporated herein (collectively referred to as "Services") – in accordance with applicable federal, state and municipal law and the City's collective bargaining agreements.

1.2 The Services to be provided by the Contractor shall be with regard to leaves for (i) City employees whose leave commences on or after the date this Contract has been fully executed by the parties, (ii) for City employees whose leave is active or pending as of the date this Contract is fully executed by the parties, and (iii) for City employees with historical or "tail" claims.

1.3 The City's representative/liaison during the performance of this Contract shall be Carla Maglio Gomez, Human Resources Director, telephone number (954) 838.4522 or designee. The Contractor's representative/liaison during the performance of this Contract shall be Scott Vaka, Chief Sales Officer, along with the designated Account Executive, Operations Manager, and Operations Lead assigned by Contractor to the City.

1.4 The Contractor represents that its principal owners, partners, corporate officers, and employees performing services under this Contract do not have any past felony criminal convictions or, to Contractor's knowledge, any pending criminal charges. The Contractor has disclosed all known felony convictions and any known pending felony convictions and further agrees to disclose any future felony convictions or

pending criminal charges about which Contractor has knowledge to City within five (5) business days of Contractor's receipt of knowledge of same. The City may require state and national criminal record checks on all Contractor's employees providing services under this Contract before such employee performs services under this Contract. Proof of criminal history checks for employees shall be provided to the City once during the term of this Contract if requested by the City in writing. The Contractor shall bear the expense of such criminal history checks.

The City reserves the right to bar any Contractor employees from performing services under this Contract, should the criminal history check reveal unacceptable criminal convictions.

2. Payments

The Contractor will bill the City on a monthly basis at the rate listed in Exhibit "A" and shall submit invoices to:

City of Sunrise
Attn: Accounts Payable Dept.
10770 W. Oakland Park Blvd.
Sunrise, FL 33351

Invoices received from the Contractor pursuant to this Contract will be reviewed and approved by the City's representative, indicating that services have been rendered in conformity with the Contract and then will be sent to the Finance Department for payment. Invoices will generally be paid within thirty (30) days following the City's receipt of same.

Final Invoice: In order for both parties herein to close their books and records, the Contractor will clearly state "final invoice" on the Contractor's final/last billing to the City. This certifies that all services have been properly performed and all charges and costs have been invoiced to the City. Since this account will thereupon be closed, any and other further charges, if not properly included on this final invoice, or which are in excess of the not to exceed amount, are waived by the Contractor.

3. Initial Contract Period and Contract Renewal

The initial Contract period shall be for three (3) years, commencing on date the Contract is fully executed by both parties. The Contract may be renewed by the City for one (1) additional one (1) year period, under the same terms, conditions and specifications with a 5% increase in the monthly flat fee set forth in Exhibit "A," by written notification to the Contractor by the City's Purchasing Director.

In the event the services are scheduled to end either by Contract expiration or by termination by the City, the Contractor shall continue the Services, if requested by the City, until new services can be completely operational. At no time shall this transitional period extend more than one hundred eighty (180) days beyond the expiration date of

the existing Contract. The Contractor will be reimbursed for this service at the rate in effect when this transitional period clause is invoked by the City.

4. Access and Audits

The Contractor shall maintain adequate records related to all charges, expenses, and costs incurred in estimating and performing the work for at least three (3) years after completion of this Contract. The City shall have access to such books, records, and documents as required in this section for the purpose of inspection or audit during normal business hours, at the Contractor's place of business.

5. Truth-In-Negotiation Certificate

Signature of this Contract by the Contractor shall also act as the execution of a truth-in-negotiation certificate certifying that the wage rates, over-head charges, and other costs used to determine the compensation provided for in this Contract are accurate, complete and current as of the date of the Contract and no higher than those charged the Contractor's most favored customer for the same or substantially similar service taking into account all relevant factors. The said rates and costs shall be adjusted to exclude any significant sums should the City determine that the rates and costs were increased due to inaccurate, incomplete or noncurrent wage rates or due to inaccurate presentation of fees paid to outside Contractors. The City shall exercise its rights under this clause within one (1) year following final payment.

6. Insurance Requirements

6.1 The Contractor agrees to maintain, on a primary basis and at its sole expense, at all times during the life of this Contract the following insurance coverage and limits, including the endorsements described herein. The requirements contained herein, as well as the City's review or acceptance of insurance maintained by the Contractor is not intended to and shall not in any manner limit or qualify the liabilities or obligations assumed by the Contractor under this Contract.

6.2 Commercial General Liability: The Contractor agrees to maintain Commercial General Liability at a limit of liability not less than **\$1,000,000** Each Occurrence, **\$2,000,000** Annual Aggregate. Coverage shall not contain any endorsement(s) excluding nor limiting Product/Completed Operations, Contractual Liability or Cross Liability.

6.3 Additional Insured: The Contractor agrees to endorse the City as an Additional Insured on the Commercial General Liability policy with the following, or similar endorsement providing equal or broader Additional Insured coverage, the CG 2026 07 04 Additional Insured – Designated Person or Organization endorsement; or alternatively the CG2010 10 01 Additional Insured – Owners, Lessees, or Contractors or GC2010 07 04 Owners, Lessees, or Contractors endorsement, including the additional endorsement of GC2037 10 01 Additional Insured – Owners, Lessees, or Contractors – Completed Operations shall be required to provide back coverage for the

Contractor's "your work" as defined in the policy and liability arising out of the products-completed operations hazard. The Additional Insured shall read "City of Sunrise."

6.4 Information Security/Cyber and Privacy Liability: The Contractor agrees to maintain Information Security/Cyber and Privacy Liability at a limit of liability not less than \$2,000,000 Per Claim, \$2,000,000 Annual Aggregate, or a \$2,000,000 Combined Single Limit. For policies written on a "Claims-Made" basis, the Contractor agrees to maintain a Retroactive Date prior to or equal to the effective date of this Contract. In the event the policy is cancelled, non-renewed, switched to an Occurrence Form, retroactive date advanced, or any other event triggering the right to purchase a Supplemental Extended Reporting Period (SERP) during the life of this Contract, the Contractor agrees to purchase a SERP with a minimum reporting period not less than two (2) years. The requirement to purchase a SERP shall not relieve the Contractor of the obligation to provide replacement coverage.

6.5 Waiver of Subrogation: The Contractor agrees by entering into this Contract to a Waiver of Subrogation for each required policy herein. When required by the insurer, or should a policy condition not permit the Contractor to enter into a pre-loss agreement to waive subrogation without an endorsement, then the Contractor agrees to notify the insurer and request the policy be endorsed with a Waiver of Transfer of Rights of Recovery Against Others, or its equivalent. This Waiver of Subrogation requirement shall not apply to any policy which includes a condition specifically prohibiting such an endorsement, or voids coverage should the Contractor enter into such an agreement on a pre-loss basis.

6.6 Certificate(s) of Insurance: The Contractor agrees to provide the City with a Certificate of Insurance evidencing that all coverage, limits and endorsements required herein are maintained and in full force and effect. Said Certificate(s) of Insurance shall include a minimum thirty (30) day endeavor to notify when available by the Contractor's insurer. If the Contractor receives a non-renewal or cancellation notice from an insurance carrier affording coverage required herein, or receives notice that coverage no longer complies with the insurance requirements herein, the Contractor agrees to notify the City in writing within five (5) business days with a copy of the non-renewal or cancellation notice, or written specifics as to which coverage is no longer in compliance. The Certificate Holder address shall read:

City of Sunrise
Attn: Purchasing Division
10770 West Oakland Park Blvd, 3rd Floor
Sunrise, FL 33351
Fax (954) 578-4809

6.7 Right to Revise or Reject: The City's Risk Manager reserves the right, but not the obligation, to revise any insurance requirement, not limited to limits, coverage and endorsements, or to reject any insurance policies which fail to meet the criteria stated herein. Additionally, the City reserves the right, but not the obligation, to review and reject any insurer providing coverage due to its poor financial condition or failure to operate legally.

7. Confidentiality

7.1 All documents, records, reports and data, including data recorded in the Contractor's data processing systems, ("Documentation") related to the receipt, processing, and administration of the City's FMLA and state leave program, shall at all times be the property of the City, subject to the Contractor's right to possession and use during the continuance of the Contract and to the Contractor's right to maintain such Documentation both during and after the term of this Contract in such form as the Contractor normally maintains such Documentation.

7.2 The Contractor acknowledges and agrees as follows:

- (a) The medical information, names, addresses, telephone numbers, social security numbers, and dates of birth ("Confidential Information") pertaining to City employees and their dependents, which the City may provide to the Contractor or which the Contractor may obtain as a result of performing the Services under this Contract, are confidential. The Contractor and its affiliates and subsidiaries may use information obtained from the Confidential Information that does not identify the City or any City employee for data compilations and reports, including, but not limited, to statistical reports, cost containment analyses, leave studies and claims studies.
- (b) The Contractor shall exercise the same degree of care in protecting the confidential nature of the Confidential Information as the Contractor exercises to prevent disclosure of its own confidential information.
- (c) The Contractor and the City will each comply with any prohibitions, restrictions, limitations, conditions, or other requirements to the extent they apply to them directly or indirectly pursuant to the Health Insurance Portability and Accountability Act ("HIPAA") and its implementing regulation concerning privacy of individually identifiable health information as set forth in 45 CFR Parts 160-164, as amended from time to time. The Contractor shall agree to execute a mutually negotiated and agreed to Business Associate Agreement, attached as Exhibit "B" and incorporated herein into by reference, with the City.

8. Termination For Governmental Non-Appropriations

The City is a bona fide governmental entity of the State of Florida with a fiscal year ending on September 30 of each calendar year. If the City does not appropriate sufficient funds to purchase the quantities required under this Contract for any of the City's fiscal years subsequent to the one in which the Contract is executed and entered into, then this Contract shall be terminated effective upon expiration of the fiscal year in which sufficient funds to continue satisfaction of the City's obligation under this Contract were last appropriated by the City and the City shall not, in this sole event be obligated



to make any further purchases beyond said fiscal year.

9. Termination For Cause

This Contract may be terminated by either party upon twenty-one (21) calendar days' written notice to the other party should (i) such other party fail substantially to perform in accordance with the material terms through no fault of the party initiating the termination and (ii) such other party fail to remedy the claimed breach (to the extent capable of remedy) within twenty-one (21) days of receipt of the written notice of breach. Any written notice of breach pursuant to this Section 9 shall set forth the particular facts underlying the claimed breach of the Contract. If the claimed breach is remedied within twenty-one (21) days of receipt of the written notice of breach, as determined in the reasonable discretion of the party sending the written notice, this Contract shall continue in effect. In the event the Contractor abandons this Contract or causes it to be terminated by the City, the Contractor shall indemnify the City against any loss pertaining to this termination. As used herein, "abandons" means material failure of the Contractor to perform, and specifically does not include Contractor provided written notice to City as permitted by the first two sentences of this Section 9. In the event that the Contract is terminated by the City for cause and it is subsequently determined by a court of competent jurisdiction that such termination was without cause, such termination shall thereupon be deemed a termination for convenience under Section 10 and the provisions of Section 10 shall govern.

10. Termination For Convenience

This Contract may be terminated by the City without cause upon ninety (90) days' written notice to the Contractor. In the event of such a termination without cause, the Contractor shall be compensated for all work completed and accepted by the City's Representative as authorized herein, together with reimbursable expenses incurred. In such event, the Contractor shall promptly submit to the City its invoice for final payment and reimbursement under the terms of this Contract.

11. Indemnification

11.1 To the fullest extent permitted by law, the CONTRACTOR agrees to indemnify, defend and hold harmless the City of Sunrise, its officers and agents in course and scope of employment or function from and against all losses, liabilities, third-party claims, damages, liabilities, losses, and expenses, including but not limited to attorney fees, court costs, or other alternative dispute resolution costs arising out of or resulting from CONTRACTOR'S performance of Services under this Contract; but only to the extent caused in whole or in part by the negligent: (i) acts, (ii) professional errors or (iii) omissions of the CONTRACTOR, CONTRACTOR's subcontractor(s), or anyone directly or indirectly employed or hired by CONTRACTOR or anyone for whose acts CONTRACTOR may be liable.

11.2 Except as otherwise provided for by Section 5 Mutual Indemnification,

Subsection (b) Indemnification by Business Associate in Exhibit "B" Business Associate Agreement, CONTRACTOR shall assume the defense (including selection and retention of counsel, subject to the reasonable right of approval of the City) of any action for which it indemnifies the CITY OF SUNRISE.

11.3 CONTRACTOR agrees this indemnity obligation shall survive the completion or termination of the Contract.

11.4 In the event of any conflict between the Section 11 Indemnification or Section 15 Governing Law/Jurisdiction/Venue of the Contract and Section 5 Mutual Indemnification or Section 10 Governing Law in Exhibit "B" "Business Associate Agreement," the mutual indemnification and governing law provisions in Exhibit "B" "Business Associate Agreement" shall govern and take priority as it relates to the functions and responsibilities outlined in Exhibit "B".

12. Independent Contractor

The Contractor is an independent contractor under this Contract. Personal services provided by the Contractor shall be by employees of the Contractor who shall be subject to supervision by the Contractor, and who shall not be officers, employees, or agents of the City. Personnel policies applicable to the Contractor's employees, tax responsibilities, purchasing policies and other similar administrative procedures applicable to Services rendered under this Contract shall be those of the Contractor.

13. Authority to Practice

The Contractor hereby represents and warrants that it has and will continue to maintain all licenses and approvals required to conduct its business, and that it will at all times conduct its business activities in a reputable manner. Proof of such licenses and approvals shall be submitted to the City's representative upon request.

14. Severability

If any term or provision of this Contract or the application thereof to any person or circumstances shall, to any extent, be held invalid or unenforceable, the remainder of this Contract, or the application of such terms or provision to persons or circumstances other than those as to which it is held invalid or unenforceable, shall not be affected, and every other term and provision of this Contract shall be deemed valid and enforceable to the extent permitted by law.

15. Governing Law/Jurisdiction/Venue

This Contract shall be construed in accordance with and governed by the law of the State of Florida. Venue for any action arising out of or relating to this Contract shall lie in Broward County, Florida. Both parties hereby agree to waive a jury trial and will proceed to a trial by judge, if necessary. Except as set forth in Section 11 of this

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Contract and Section 5 of the Business Associate Agreement, each party will be responsible for their own attorney's fees and costs.

16. Successors and Assigns

The City and the Contractor bind themselves, their successors, assigns and legal representatives to the other party hereto and to successors, assigns and legal representatives of such other party in respect to the covenants, agreements and obligations contained in this Contract. The Contractor shall not assign this Contract without written consent of the City.

17. [OMITTED]

18. Conflict of Interest

The Contractor represents that it presently has, and shall acquire, no interest, either direct or indirect, in the City which would conflict in any manner with the performance of Services required hereunder. The Contractor further represents that no person having any interest shall be employed for said performance.

19. Contingent Fees

The Contractor warrants that it has not employed or retained any company or person, other than a bona fide employee working solely for the Contractor, to solicit or secure this Contract and that it has not paid or agreed to pay any person, company, corporation, individual, or firm, other than a bona fide employee working solely for the Contractor, any fee, commission, percentage, gift, or any other consideration contingent upon or resulting from the award or making of this Contract.

20. Nondiscrimination

The Contractor warrants and represents that all of its employees are treated equally during employment without regard to race, color, national origin, sex, gender identity, sexual orientation, age, disability/handicap, religion, family or income status.

21. Public Entity Crimes

As provided in Sections 287.132 and 287.133, Florida Statutes, by entering into this Contract or performing any work in furtherance hereof, the Contractor certifies that it, its affiliates, suppliers, consultants and contractors who will perform hereunder, have not been placed on the convicted vendor list maintained by the State of Florida Department of Management Services within the 36 months immediately preceding the date hereof. This notice is required by Section 287.133(3)(a), Florida Statutes.

22. Modifications of Work

22.1 The City reserves the right to make changes in Services, including alterations, reductions or additions thereto. Upon receipt by the Contractor of the City's notification of a contemplated change, the Contractor shall, within thirty (30) days in writing: (1) provide a detailed estimate for the increase or decrease in cost due to the contemplated change, (2) notify the City of any estimated change in the completion date, and (3) advise the City if the contemplated change will affect the Contractor's ability to meet the completion dates or schedules of this Contract. The parties agree to negotiate in good faith any changes in the Services that may occur.

22.2 If the City so instructs in writing, the Contractor shall suspend work on that portion of the Services affected by a contemplated change, pending the City's decision on whether or not to proceed with the change.

22.3 If the City elects to make the change, the City shall initiate a Contract Amendment and the Contractor shall not commence work on any such change until such written amendment is signed by the Contractor and approved and executed by the City.

23. Notice

All written notices required in this Contract shall be sent by overnight mail or by certified mail, return receipt requested, and if sent to the City, shall be sent to:

City of Sunrise
10770 W. Oakland Park Blvd.
Sunrise, FL 33351
Attn: Purchasing Director

cc: City Attorney
City of Sunrise
10770 W. Oakland Park Blvd.
Sunrise, FL 33351

If sent to the Contractor, shall be sent to:

CareWorks USA LTD LLC D/B/A
CareWorks Absence Management
5500 Glendon Court
Dublin, Ohio 43016
Attn: Heather Luiz, President

With a copy to:

CareWorks USA LTD LLC D/B/A
CareWorks Absence Management
One Upper Pond Road
Building F, 4th Floor
Parsippany, NJ 07054
Attn: Michael Krawitz, General Counsel

24. No Damages for Delay

The Contractor shall not be entitled to any claim for damages including, but not limited to, loss of profits, loss of use, home office overhead expenses, equipment rental and similar costs, on account of delays in performance of the Services due to adverse weather conditions, an act of God, strike, war or national disaster or emergency, unusual delay in deliveries, unusual delay in procuring permits, differing site conditions, unavoidable casualties or other causes beyond the Contractor's or the City's control. The Contractor's sole recovery and sole remedy for any such delay shall be a reasonable extension of time and a revision to the project schedule as determined by the City. However, additional costs to the Contractor or delays in the Contractor's performance caused by improperly timed activities shall not be the basis for granting a time extension. If the Contractor wishes to make a claim for an increase in time of performance, written notice of such claim shall be made to the City within ten (10) working days after the occurrence of the event, or the first appearance of the condition giving rise to such claim. The City's representative shall determine whether or not the Contractor is entitled to a time extension for the delay. The failure of the Contractor to give such notice shall constitute a waiver of any claim under this section.

25. Public Records Law

The Contractor shall comply with all applicable requirements contained in the Florida Public Records Law (Chapter 119, Florida Statutes), including but not limited to any applicable provisions in Section 119.0701, Florida Statutes. To the extent that the Contractor and this Contract are subject to the requirements in Section 119.0701, Florida Statutes, the Contractor shall:

- (a) Keep and maintain public records required by the City to perform the Services provided hereunder.
- (b) Upon request from the City's custodian of public records, provide the City with a copy of the requested records or allow the records to be inspected or copied within a reasonable time at a cost that does not exceed the cost provided in Chapter 119, Florida Statutes, or as otherwise provided by law.
- (c) Ensure that public records that are exempt or confidential and exempt from public records disclosure requirements are not disclosed, except as

authorized by law for the duration of the term of this Contract and following completion of this Contract if the Contractor does not transfer the records to the City.

- (d) Upon completion of the Contract, transfer to the City all public records in the possession of the Contractor or keep and maintain public records required by the City to perform the service. If the Contractor transfers all public records to the City upon completion of the Contract, the Contractor shall destroy any duplicate public records that are exempt or confidential and exempt from public records disclosure requirements. If the Contractor keeps and maintains public records upon completion of the Contract, the Contractor shall meet all applicable requirements for retaining public records. Copies of all records stored electronically must be provided to the City, upon request from the City's custodian of public records, in a format that is compatible with the information technology systems of the City.

If the Contractor fails to comply with the requirements in this Section, the City may enforce these provisions in accordance with the terms of this Contract. If the Contractor fails to provide the public records to the City within a reasonable time, it may be subject to penalties under Section 119.10, Florida Statutes.

IF THE CONTRACTOR HAS QUESTIONS REGARDING THE APPLICATION OF CHAPTER 119, FLORIDA STATUTES, TO THE CONTRACTOR'S DUTY TO PROVIDE PUBLIC RECORDS RELATING TO THIS CONTRACT, THE CONTRACTOR SHOULD CONTACT THE CITY'S CUSTODIAN OF PUBLIC RECORDS: THE CITY CLERK, FELICIA M. BRAVO, BY TELEPHONE (954/746-3333), E-MAIL (CITYCLERK@SUNRISEFL.GOV), OR MAIL (CITY OF SUNRISE, OFFICE OF THE CITY CLERK, 10770 WEST OAKLAND PARK BOULEVARD, SUNRISE, FLORIDA 33351).

26. Entirety of Contract

The City and the Contractor agree that this Contract sets forth the entire agreement between the parties, and that there are no promises or understandings other than those stated herein. None of the provisions, terms and conditions contained in this Contract may be added to, modified, superseded or otherwise altered, except by written instrument executed by the parties hereto with the same formality as this Contract.

[REMAINDER OF PAGE INTENTIONALLY LEFT BLANK AND SIGNATURES FOLLOW ON ATTACHED PAGE]

IN WITNESS WHEREOF, the Purchasing Director, authorized to execute same by City Commission, has made and executed this Contract on behalf of the City the day and year below written and Contractor has hereunto set its hand the day and year below written.

CITY OF SUNRISE

By: _____

Print: Ann Potter

Title: Purchasing Director

Date: _____

Approved as to form and legal sufficiency for the City

By: _____


Kimberly A. Kisslan
City Attorney

CONTRACTOR

 _____

Witness

CAREWORKS USA LTD LLC D/B/A
CAREWORKS
ABSENCE MANAGEMENT

 _____

Witness

By:  _____

Title: President

Date: 4/13/17

EXHIBIT "A"
SCOPE OF SERVICES
CITY OF SUNRISE, FL

Summary of Services to be Provided

CareWorks Absence Management will provide leave management services to Client including:

- ☐ Administration of leave under the Family and Medical Leave Act (FMLA)
- ☐ Administration of leave under applicable state leave laws and the City's collective bargaining agreements (CBAs). Please list applicable states and CBAs below:
 - State of Florida
 - CBA between the City of Sunrise, Florida and The Florida State Lodge Fraternal Order of Police for General Employees
 - CBA between the City of Sunrise, Florida and the Metro Broward Professional Firefighters Local 3080, IAFF
 - CBA between the City of Sunrise, Florida and the Metro Broward Professional Firefighters Local 3080, IAFF for Battalion Chiefs
 - CBA between the City of Sunrise and the City of Sunrise Fraternal Order of Police
 - CBA between the City of Sunrise and the City of Sunrise Fraternal Order of Police for Police Lieutenants
- ☐ Administration and import of the City employees with historical or "tail" claims, as well as current and pending claims.

Detailed Scope of Work

1. Implementation

- ☐ Assignment of Implementation Coordinator, Account Executive, and Operations Lead
- ☐ Creation of project plan, including establishment of a go-live date
- ☐ Review of applicable Client policies for consistency with CareWorks Absence Management best practices
- ☐ Workflow development and set up
- ☐ Provision of toll free number for reporting absences/claims available 24/7
- ☐ Deployment of secure web-based portal for access to real-time claim information and employee absence reporting
- ☐ Establishment of weekly status calls during implementation

- ☐ Provision of tail (take-over) claim file layout and assistance with downloading file into CareWorks Absence Management's system.
- ☐ Establishment of eligibility file format for Client to provide CareWorks Absence Management with employee data sufficient to determine employee eligibility for covered benefits.
- ☐ Provision of standard correspondence and notifications
- ☐ Instruction regarding report-generation capabilities through web-based portal
- ☐ Provision of electronic version of customized employee identification cards, communication and training materials for Client distribution to employees. CareWorks will not mail educational materials or ID cards directly to employees. If such service is requested by the Client, a price quote will be provided.
- ☐ Training for Client's human resources and select human resources and/or management employees regarding CareWorks Absence Management best practices for FMLA administration and compliance
- ☐ Data security protocols including secured connection (SSL), data encryption, unique login accounts, encrypted data file transfer, and secured user access
- ☐ CareWorks Absence Management to Client data feeds. Please specify below:
N/A

2. FMLA/State Leave Claim Administration

- ☐ Entry of claim information in CareWorks Absence Management's proprietary system, CaseWorks
- ☐ Evaluation of benefit eligibility
- ☐ Transmission of eligibility notice, rights and responsibilities notice, certification of healthcare provider, optional authorization for release of medical records and information, and return to work form in accordance with federally regulated timeframes
- ☐ Fulfillment of federal and state-specific notification requirements
- ☐ Email notification to designated Client contacts regarding all new claims
- ☐ Monitoring and advising Client of employee deadline via email (at least fifteen (15) days) for returning medical certification form
- ☐ Review of medical certification of healthcare provider by Absence Management Specialist
- ☐ Clarification or escalation review of medical certification if necessary
- ☐ Issuance of approval or denial letter to employee with email copy to designated Client contact
- ☐ Recording and tracking of benefit utilization with notification to designated Client contact
- ☐ Concurrent tracking of FMLA with state leave and employer policies/plans

- ☐ Accurate summaries of all communications with employee and Client within CaseWorks system
- ☐ Recertification when appropriate and necessary
- ☐ Notification to employee of benefit exhaustion for continuous leaves with a copy to designated Client contact
- ☐ Coordination of return to work/fitness for duty with designated Client contact

Services

- ☐ Training for HR and management, if requested
- ☐ Training at implementation
- ☐ Quarterly stewardship reporting
- ☐ Annual on-site visit if requested
- ☐ Designated Account Executive, Operations Manager, Operations Lead

Key Assumptions

- ☐ CareWorks Absence Management will manage and import the City employees with historical or "tail" claims, including anything that is pending or open.
- ☐ Client will provide tail claim information in file layout specified by CareWorks Absence Management. If Client does not use the tail claim file layout provided by CareWorks Absence Management, CareWorks Absence Management will complete the file on Client's behalf for an additional fee of \$30 per claim.
- ☐ Client and/or its prior third-party vendor will timely provide all documentation for tail claims prior to Go-Live Date.
- ☐ Client will provide CareWorks Absence Management with hard or electronic copies of all policies/plans to be administered.
- ☐ Client will provide updated eligibility files to CareWorks Absence Management through its secure FTP site on a monthly basis.
- ☐ Client will provide thirty (30) days' advance notice via email or phone of any changes to the content or format of the eligibility file.
- ☐ Client will advise CareWorks Absence Management of any changes to employee work schedules within five (5) business days of those changes taking effect. CareWorks Absence Management shall not be responsible for eligibility or leave entitlement errors that occur as a result of incorrect schedule information provided by Client.

Fees:

One-time implementation fee	\$2,000
Monthly flat fee for leave administration (guaranteed for first 36 months of Services)	\$1,556.80

EXHIBIT "B"
BUSINESS ASSOCIATE AGREEMENT

**BETWEEN THE CITY OF SUNRISE, A MUNICIPAL CORPORATION
AND
AND CAREWORKS USA LTD LLC D/B/A CAREWORKS ABSENCE MANAGEMENT**

To the extent that Covered Entity discloses Protected Health Information to Business Associate (or Business Associate handles Protected Health Information on Covered Entity's behalf) in connection with services or products provided to Covered Entity, or as otherwise required or allowed by the Health Insurance Portability and Accountability Act of 1996, Public Law 104-191 ("HIPAA") and the regulations promulgated thereunder, including, without limitation, the regulations codified at 45 CFR Parts 160 and 164 ("HIPAA Regulations"), ("HIPAA"), and only to the extent required by law, Covered Entity and Business Associate agree to the following terms and conditions, which are intended to comply with HIPAA, the Health Information Technology for Economic and Clinical Health Act ("HITECH Act"), and the regulations promulgated thereunder, including, without limitation, the regulations codified at 42 U.S.C. §§ 300jj et seq.; §§ 17901 et seq.

1. General Terms and Conditions

- (a) "BA Agreement" shall mean this Business Associate Agreement.
- (b) "Business Associate" shall generally have the same meaning as the term "business associate" at 45 C.F.R. §100, and in reference to the party to this BA Agreement, shall mean CareWorks USA LTD LLC D/B/A CareWorks Absence Management.
- (c) "Covered Entity" shall generally have the same meaning as the term "covered entity" at 45 C.F.R. §160.103, and in reference to the party to this BA Agreement, shall mean City of Sunrise, a municipal corporation.
- (d) "HIPAA Rules" shall mean the Privacy, Security, Breach Notification, and Enforcement Rules at 45 C.F.R. Part 160 and Part 164.

- (e) "Service Agreement" shall mean the separate agreement(s), such as the Agreement for Self-Funded / Administrative Services Only (ASO) Plan Benefits Consulting Services or Agreement for Employee Group Insurance Benefits Consulting Services, between the parties in which Business Associate performs functions or activities on behalf of Covered Entity.
- (f) Other definitions: The following terms used in this BA Agreement shall have the same meaning as those in the HIPAA Rules: Breach, Data Aggregation, Designated Record Set, Disclosure, Health Care Operations, Individual, Minimum Necessary, Notice of Privacy Practices, Protected Health Information (to the extent such Protected Health Information is received, used, disclosed, accessed or maintained by Business Associate), Required By Law, Secretary, Security Incident, Subcontractor, Unsecured Protected Health Information, and Use. Other terms shall have the definitions set forth in this BA Agreement.

2. Obligations and Activities of Business Associate

- (a) Business Associate agrees to not Use or Disclose Protected Health Information other than as permitted or required by this BA Agreement, as Required by Law, or as contemplated by the Service Agreement.
- (b) Business Associate agrees to use appropriate safeguards, including compliance with Subpart C of 45 C.F.R. Part 164 with respect to electronic Protected Health Information, to prevent Use or Disclosure of the Protected Health Information other than as provided for by this BA Agreement.
- (c) Business Associate agrees to report to either the Covered Entity's primary Privacy Official or secondary Privacy Official listed below any Use or Disclosure of Protected Health Information not provided for by this BA Agreement of which it becomes aware, including Breaches of Unsecured Protected Health Information as required by 45 C.F.R. §164.410, and any Security Incident of which it becomes aware. For reports of incidents constituting a Breach, the report shall include, to the extent available, the identification of each individual whose Unsecured Protected Health Information has been, or is reasonably believed by the Business Associate to have been, accessed, acquired, or Disclosed during such Breach. For the purpose of this BA Agreement, the Covered Entity's primary and secondary Privacy Officials shall include:
 - (i) Carla Gomez, Human Resources Director, or successor, as primary Privacy Official
 - (ii) Stella Mesa, Deputy Human Resources Director, or successor, as secondary Privacy Official
- (d) In accordance with 45 C.F.R. §164.502(e)(1)(ii) and 164.308(b)(2), if applicable, Business Associate agrees to ensure that subcontractors that



create, receive, maintain, or transmit Protected Health Information on behalf of Business Associate agree to the same restrictions, conditions and requirements that apply through this BA Agreement to Business Associate with respect to such information.

- (e) To the extent Business Associate has Protected Health Information in a Designated Record Set, and only to the extent required by HIPAA, Business Associate agrees to make available Protected Health Information in a Designated Record Set, to Covered Entity as necessary to satisfy Covered Entity's obligations under 45 C.F.R. §164.524.
- (f) Business Associate agrees to make any amendment(s) to Protected Health Information in its possession contained in a Designated Record Set as directed or agreed to by Covered Entity pursuant to 45 C.F.R. §164.526 or take other measures as necessary to satisfy Covered Entity's obligations under 45 C.F.R. §164.526.
- (g) Business Associate agrees to make internal practices, books, and records relating to the Use and Disclosure of Protected Health Information received from Covered Entity, or created or received by Business Associate on behalf of Covered Entity, available to the Secretary, in a time and manner designated by the Secretary, for purposes of the Secretary determining Covered Entity's compliance with the HIPAA Rules.
- (h) Business Associate agrees to maintain and make available the information required to provide an accounting of disclosures to Covered Entity as necessary to satisfy Covered Entity's obligations under 45 C.F.R. §164.528.
- (i) To the extent Business Associate is to carry out one or more of Covered Entity's obligations under Subpart E of 45 C.F.R. Part 164 or other provisions of the HIPAA Rules, Business Associate agrees to comply with the requirements of Subpart E and other provisions of the HIPAA Rules that apply to Covered Entity in the performance of such obligation(s).
- (j) Business Associate agrees to make its internal practices, books, and records available to the Secretary for purposes of determining compliance with the HIPAA Rules.
- (k) Except as otherwise allowed in this BA Agreement and HIPAA and the HITECH Act, Business Associate shall not directly or indirectly receive remuneration in exchange for any Protected Health Information of an Individual unless the Individual has provided a valid authorization compliant with HIPAA and state law.



3. Permitted Uses and Disclosures of Protected Health Information by Business Associate

- (a) Business Associate may only Use or Disclose Protected Health Information as necessary to perform the services set forth in the Service Agreement and as permitted in this BA Agreement.
- (b) Business Associate may Use or Disclose Protected Health Information as Required By Law.
- (c) Business Associate agrees to make Uses, Disclosures, and requests for Protected Health Information consistent with Covered Entity's Minimum Necessary policies and procedures. Covered Entity represents and warrants to Business Associate that Covered Entity's Minimum Necessary policies and procedures are consistent with, and are not more stringent than, the requirements of the HIPAA Rules. To the extent that Covered Entity's Minimum Necessary policies and procedures impose additional particular restrictions on Business Associate, Covered Entity agrees to provide such policies to Business Associate in writing prior to requesting that Business Associate perform a particular function or activity on behalf of Covered Entity that would be affected by such policies and procedures.
- (d) Business Associate may create de-identified information that may be Used and Disclosed by Business Associate as Business Associate deems appropriate, provided that the information is de-identified in accordance with the HIPAA Rules.
- (e) Business Associate may Use Protected Health Information to provide Data Aggregation services to Covered Entity.
- (f) Business Associate may Use and Disclose Protected Health Information to report violations of law to appropriate Federal and State authorities, in a manner consistent with the HIPAA Rules.
- (g) Business Associate may not Use or Disclose Protected Health Information in a manner that would violate Subpart E of 45 C.F.R. Part 164 if done by Covered Entity, except for the specific Uses and Disclosures set forth below.
- (h) Business Associate may Use Protected Health Information for the proper management and administration of Business Associate or to carry out the legal responsibilities of Business Associate.
- (i) Business Associate may disclose Protected Health Information for the proper management and administration of Business Associate or to carry out the legal responsibilities of Business Associate, provided that the disclosures are Required By Law or Business Associate obtains reasonable assurances from the person to whom the information is disclosed that the information will

remain confidential and used or further disclosed only as Required By Law for the purposes for which it was disclosed to the person, and the person notifies Business Associate of any instances of which it is aware in which the confidentiality of the information has been breached.

4. Obligations of Covered Entity

- (a) Covered Entity shall notify Business Associate, in writing and in a timely manner, of any limitation(s) in the Notice of Privacy Practices of Covered Entity under 45 C.F.R. §164.520, to the extent that such limitation may affect Business Associate's Use or Disclosure of Protected Health Information.
- (b) Covered Entity shall notify Business Associate, in writing and in a timely manner, of any changes in, or revocation of, permission by Individual to Use or Disclose Protected Health Information, if such changes may affect Business Use or Disclosure of Protected Health Information.
- (c) Covered Entity shall notify Business Associate, in writing and in a timely manner, of any restriction on the Use and/or Disclosure of Protected Health Information to which Covered Entity has agreed or is required to abide by under 45 C.F.R. §164.522, to the extent that such restriction may affect Business Associate's Use or Disclosure of Protected Health Information.
- (d) Covered Entity agrees to comply with all applicable state and federal privacy and security laws and regulations, including the HIPAA Rules. Covered Entity agrees to obtain any patient authorizations or consents that may be required under state or federal law in order to transmit Protected Health Information to Business Associate and to enable Business Associate to Use and Disclose Protected Health Information as contemplated by this BA Agreement and any underlying agreement.
- (e) Covered Entity may not ask Business Associate to Use or Disclose Protected Health Information in any manner that would not be permissible under applicable laws and rules, including the HIPAA Rules, if done by Covered Entity, except that Business Associate may use or disclose Protected Health Information for its proper management and administration, data aggregation, and other activities specifically permitted by this BA Agreement.

5. Mutual Indemnification

(a) Indemnification by Covered Entity

To the extent permitted by Florida Statutes, Section 768.28, and notwithstanding anything in this BA Agreement or the Service Agreement to the contrary, Covered Entity agrees to indemnify and hold harmless Business Associate and Business Associates' officers, agents, or employees from and against any and all losses, liabilities, third-party claims, fines, penalties, costs,

and expenses, including reasonable attorneys' fees, consultants' fees, court costs breach notification costs and credit monitoring fees (collectively, "Losses") to the extent that such Losses arise from, or may be in any way attributable to, any sole negligent acts or omissions by Covered Entity or Covered Entity's officers, or employees while within the course and scope of employment that constitutes or that is otherwise asserted by any regulatory agency or is asserted by another third party to be (i) a breach of this BA Agreement, (ii) negligence, (iii) a violation of the HIPAA Rules, HIPAA and/or the HITECH Act; and/or (iv) any Security Incident or Breach involving Protected Health Information in Business Associate's possession, custody or control, or for which Business Associate is otherwise responsible. Business Associate has the option to select defense counsel or to ask Covered Entity to provide a defense. The provisions of this paragraph shall survive the expiration or termination of this BA Agreement for any reason. Nothing in this section shall constitute a waiver of Covered Entity's sovereign immunity, or the limits of Section 768.28, Florida Statutes nor shall anything included herein be construed as consent to be sued by third parties in any matter arising out of this Agreement.

(b) Indemnification by Business Associate

Notwithstanding anything in this BA Agreement or the Service Agreement to the contrary, Business Associate agrees to indemnify and hold harmless Covered Entity and Covered Entity's officers, agents, or employees from and against any and all losses, liabilities, third-party claims, fines, penalties, costs, and expenses, including reasonable attorneys' fees, consultants' fees, court costs breach notification costs and credit monitoring fees (collectively, "Losses") to the extent that such Losses arise from, or may be in any way attributable to, any sole negligent acts or omissions, or any sole professional errors or omissions, by Business Associate or Business Associate's officers, agents, or employees while within the course and scope of employment that constitutes or that is otherwise asserted by any regulatory agency or is asserted by another third party to be (i) a breach of this BA Agreement, (ii) negligence, (iii) a violation of the HIPAA Rules, HIPAA and/or the HITECH Act; and/or (iv) any Security Incident or Breach involving Protected Health Information in Business Associate's possession, custody or control, or for which Business Associate is otherwise responsible. Covered Entity has the right to approve/ disapprove Business Associate's choice of defense counsel and to select defense counsel if Business Associate fails to do so. The provisions of this paragraph shall survive the expiration or termination of this BA Agreement for any reason.

6. Survival and Termination

(a) Term and Survival

Except as otherwise provided herein, the term of this BA Agreement shall

coincide with the Contract and shall be terminable in accordance with the termination provisions of the Service Agreement, or the date either party terminates for cause, as authorized in paragraph (b) of this Section, whichever is sooner.

(b) Termination for Cause

Upon a party's receipt of knowledge of a material breach by the other, the non-breaching party shall provide written notice to the breaching party and may terminate this BA Agreement if the breaching party does not cure the breach or end the violation within thirty (30) days. A party may immediately terminate this BA Agreement if the other party has breached a material term of this BA Agreement and cure or ending the violation is not possible.

(c) Effect of Termination

- (i) Except as provided below in Subsection 6(c)(ii) of this BA Agreement, upon termination of this Agreement, for any reason, Business Associate shall return or destroy all Protected Health Information received from Covered Entity, or created or received by Business Associate on behalf of Covered Entity, that the Business Associate still maintains in any form. Business Associate shall retain no copies of the Protected Health Information.
- (ii) In the event that Business Associate determines that it needs to retain Protected Health Information in order to Use or Disclose Protected Health Information for its own management and administration or to carry out its legal responsibility, Business Associate may retain such Protected Health Information. Upon termination of this Agreement for any reason, Business Associate, with respect to Protected Health Information received from Covered Entity, or created, maintained, or received by Business Associate on behalf of Covered Entity, shall:
 - 1. Retain only that Protected Health Information which is necessary for Business Associate to continue its proper management and administration or to carry out its legal responsibilities;
 - 2. Return or destroy the remaining Protected Health Information that the Business Associate still maintains in any form;
 - 3. Continue to use appropriate safeguards to comply with Subpart C of 45 C.F.R. Part 164 with respect to electronic Protected Health Information to prevent Use or Disclosure of the Protected Health Information, other than as provided for in this Section, for as long as Business Associate retains the Protected Health Information;
 - 4. Not Use or Disclose the Protected Health Information retained by Business Associate other than for the purposes for which

such Protected Health Information was retained and subject to the same conditions set out at Subsections 3(h)-(i) above which applied prior to termination; and

5. Return to Covered Entity or destroy the Protected Health Information retained by Business Associate when it is no longer needed by Business Associate for its proper management and administration or to carry out its legal responsibilities.

- (iii) Business Associate's obligations under this Section 6 shall survive the termination of this BA Agreement.

7. Interpretation and Amendment of this BA Agreement

- (A) A regulatory reference in this BA Agreement to a section of the HIPAA Rules means the section as in effect or as amended. Any ambiguity or inconsistency in this BA Agreement shall be interpreted to permit compliance with the HIPAA Rules. This BA Agreement supersedes any and all prior representations, understandings, or agreements, written or oral, concerning the subject matter herein. The parties hereto agree to negotiate in good faith to amend this BA Agreement from time to time as is necessary for compliance with the requirements of HIPAA or any other applicable law and for Business Associate to provide services to Covered Entity. However, no change, amendment, or modification of this BA Agreement shall be valid unless it is set forth in writing and signed by both parties.

- (B) Except as provided in Section 5, and notwithstanding anything herein to the contrary, no obligation of Business Associate under this BA Agreement shall apply to the extent any information does not constitute Protected Health Information under HIPAA, HIPAA Rules, or the HITECH Act.

8. No Third Party Rights/Independent Contractors

The terms and conditions of this BA Agreement are intended for the sole benefit of Business Associate and Covered Entity and do not create any third party rights. The parties declare that they are independent contractors and not agents of each other, except as otherwise required by law or regulation.

9. Notices

Any notice required or permitted by this BA Agreement to be given or delivered shall be in writing and shall be deemed given or delivered if delivered in person, or sent by courier or expedited delivery service, or sent by registered or certified mail, postage prepaid, return receipt requested, or sent by facsimile (if

confirmed), to the address set forth below. Each party may change its address for purposes of this BA agreement by written notice to the other party.

10. Governing Law

To the extent not preempted by federal law, the BA Agreement shall be construed, interpreted and enforced in accordance with the laws of the State of Florida without giving effect to the choice of law principles thereof or any canon, custom or rule of law requiring construction against the drafter. Venue of any action will be in Broward County, Florida, notwithstanding any conflicts of law provisions that would require the application of the law of a different state. Except as set forth in the indemnification provisions above, should the parties be involved in legal action arising under, or connected to this BA Agreement, each party will be responsible for their own attorney's fees and costs. Both Parties hereby agree to waive a jury trial, and will proceed to a trial by judge, if necessary.

11. Binding Nature and Benefits

This BA Agreement binds and benefits the parties, and their respective successors, and their permitted assigns.

12. Severability

Whenever possible, each provision of this BA Agreement shall be interpreted so as to be effective and valid under applicable law. If any provision of this BA Agreement should be prohibited or found invalid under applicable law, such provision shall be ineffective to the extent of such prohibition or invalidity without invalidating the other of such provision or the remaining provisions of this BA Agreement; provided, however, that if any such invalid provision is material to an extent that a party would not have entered into the BA Agreement absent such provision, then that party may terminate the BA Agreement upon ninety (90) calendar days' prior written notice to the other party.

IN WITNESS WHEREOF, the parties have executed this BA Agreement, effective _____, 2017.

Covered Entity:

City of Sunrise

By: Carla Gomez

Title: Human Resources Director

Date: _____, 2017

Signature

Address: City of Sunrise, Human Resources Department

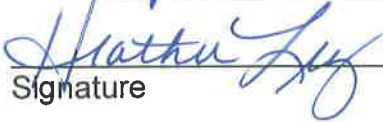
10770 W. Oakland Park Blvd, 1st Floor
Sunrise, FL 33351
Facsimile: (954) 838-4530
Email: cgomez@sunrisefl.gov

Business Associate:
CareWorks USA LTD LLC D/B/A CareWorks
Absence Management

By: HEATHER LUIZ

Title: President

Date: April 13, 2017


Signature

Address: CareWorks USA LTD LLC D/B/A CareWorks
Absence Management

5500 Glendon Court

Dublin, Ohio 43016

Facsimile: 888-436-9535

Email: heather.lui@careworksabsence.com