AGREEMENT

THIS AGREEMENT is made and entered into as of this ____ day of _____, 2016, by and between

THE SCHOOL BOARD OF BROWARD COUNTY, FLORIDA
(hereinafter referred to as "SBBC"),
a body corporate and political subdivision of the State of Florida,
whose principal place of business is
600 Southeast Third Avenue, Fort Lauderdale, Florida 33301

and

ALISON R. POLUNSKY
(hereinafter referred to as "VENDOR"),
whose principal place of business is
4264 Laurel Ridge Drive
Weston, Florida 33331

WHEREAS, SBBC issued a Request for Proposal identified as RFP 17-005V – Occupational and Physical Therapy Services (hereinafter referred to as "RFP"), dated December 11, 2015 and amended by Addendum No. 2, dated January 15, 2016, and Addendum No. 1, dated January 9, 2016 all of which are incorporated by reference herein, for the purpose of receiving proposals for occupational and physical therapy services; and

WHEREAS, VENDOR offered a proposal dated January 6, 2016 (hereinafter referred to as "Proposal") which is incorporated by reference herein, in response to this RFP.

NOW, THEREFORE, in consideration of the premises and of the mutual covenants contained herein and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the Parties hereby agree as follows:

ARTICLE 1 - RECITALS

1.01 **Recitals**. The parties agree that the foregoing recitals are true and correct and that such recitals are incorporated herein by reference.

ARTICLE 2 – SPECIAL CONDITIONS

2.01 **Term of Agreement**. Unless terminated earlier pursuant to Section 3.05 of this Agreement, the term of this Agreement shall commence on **July 1, 2016** and conclude on **June 30, 2019.** The term of the Agreement may, by mutual agreement between SBBC and VENDOR be extended for two additional one-year periods and, if needed, 180 days beyond the expiration date of the renewal period. SBBC's Procurement & Warehousing Services Department, will, if considering renewing, request a letter consenting to renewal from VENDOR, prior to the end of the term. Any renewal period shall be approved by an Amendment to this Agreement executed by both parties

2.02 **Priority of Documents.** In the event of a conflict between documents, the following priority of documents shall govern.

First: This Agreement, then;
Second: Addendum No. 2, then;
Third: Addendum No. 1, then;
Fourth: RFP 17-005V – Occupational and Physical Therapy Services, then;
Fifth: Proposal submitted in response to the RFP by VENDOR.

2.03 **Services**: VENDOR shall provide SBBC with the Scope of Services as proposed in its Proposal and in compliance with this Agreement and the RFP and its Addenda and as specified in **Attachment A – Scope of Services**.

2.04 **Cost of Services**. SBBC shall pay VENDOR for cost of services satisfactorily rendered for Occupational Therapy services at $64.00/hour. Costs shall not exceed the amount as stated on the Purchase Order. VENDOR may offer SBBC a special educational discount for pricing and reduce the cost of services during the term of this Agreement. VENDOR may invoice SBBC at an hourly rate less than their original bid price.

2.05 **M/WBE Participation**. VENDOR is a current Certified MWBE, Caucasian Female, with SBBC, Certificate #7007-6215.

2.06 **Inspection of VENDOR's Records by SBBC**. VENDOR shall establish and maintain books, records and documents (including electronic storage media) sufficient to reflect all income and expenditures of funds provided by SBBC under this Agreement. All VENDOR's Records, regardless of the form in which they are kept, shall be open to inspection and subject to audit, inspection, examination, evaluation and/or reproduction, during normal working hours, by SBBC's agent or its authorized representative to permit SBBC to evaluate, analyze and verify the satisfactory performance of the terms and conditions of this Agreement and to evaluate, analyze and verify any and all invoices, billings, payments and/or claims submitted by VENDOR or any of VENDOR's payees pursuant to this Agreement. VENDOR's Records subject to examination shall include, without limitation, those records necessary to evaluate and verify direct and indirect costs (including overhead allocations) as they may apply to costs associated with this Agreement. VENDOR's Records subject to this section shall include any and all documents pertinent to the evaluation, analysis, verification and reconciliation of any and all expenditures under this Agreement without regard to funding sources.

(a) VENDOR's Records Defined. For the purposes of this Agreement, the term "VENDOR's Records" shall include, without limitation, accounting records, payroll time sheets, cancelled payroll checks, W-2 forms, written policies and procedures, computer records, disks and software, videos, photographs, executed subcontracts, subcontract files (including proposals of successful and unsuccessful bidders), original estimates, estimating worksheets, correspondence, change order files (including sufficient supporting documentation and documentation covering negotiated settlements), and any other supporting documents that would substantiate, reconcile or refute any charges and/or expenditures related to this Agreement.

(b) Duration of Right to Inspect. For the purpose of such audits, inspections, examinations, evaluations and/or reproductions, SBBC's agent or authorized representative shall have access to VENDOR's Records from the effective date of this Agreement, for the duration of the term of this Agreement, and until the later of five (5) years after the termination of this Agreement or five (5) years after the date of final payment by SBBC to VENDOR pursuant to this Agreement.

(c) Notice of Inspection. SBBC's agent or its authorized representative shall provide VENDOR reasonable advance notice (not to exceed two (2) weeks) of any intended audit, inspection, examination, evaluation and or reproduction.

(d) Audit Site Conditions. SBBC's agent or its authorized representative shall have access to VENDOR's facilities and to any and all records related to this Agreement, and shall be provided adequate and appropriate work space in order to exercise the rights permitted under this section.

(e) Failure to Permit Inspection. Failure by VENDOR to permit audit, inspection, examination, evaluation and/or reproduction as permitted under this Section shall constitute grounds for termination of this Agreement by SBBC for cause and shall be grounds for the denial of some or all of any VENDOR's claims for payment by SBBC.

(f) Overcharges and Unauthorized Charges. If an audit conducted in accordance with this Section discloses overcharges or unauthorized charges to SBBC by VENDOR in excess of two percent (2%) of the total billings under this Agreement, the actual cost of SBBC's audit shall be paid by VENDOR. If the audit discloses billings or charges to which VENDOR is not contractually entitled, VENDOR shall pay said sum to SBBC within twenty (20) days of receipt of written demand under otherwise agreed to in writing by both parties.

(g) Inspection of Subcontractor's Records. VENDOR shall require any and all subcontractors, insurance agents and material suppliers (hereafter referred to as "Payees") providing services or goods with regard to this Agreement to comply with the requirements of this section by insertion of such requirements in any written subcontract. Failure by VENDOR to include such requirements in any subcontract shall constitute grounds for termination of this Agreement by SBBC for cause and shall be grounds for the exclusion of some or all of any Payee's costs from amounts payable by SBBC to VENDOR pursuant to this Agreement and such excluded costs shall become the liability of VENDOR.

(h) Inspector General Audits. VENDOR shall comply and cooperate immediately with any inspections, reviews, investigations, or audits deemed necessary by the Florida Office of the Inspector General or by any other state or federal officials.

2.07 **Notice**. When any of the parties desire to give notice to the other, such notice must be in writing, sent by U.S. Mail, postage prepaid, addressed to the party for whom it is intended at the place last specified; the place for giving notice shall remain such until it is changed by written notice in compliance with the provisions of this paragraph. For the present, the Parties designate the following as the respective places for giving notice:

To SBBC:
Superintendent of Schools
The School Board of Broward County, Florida
600 S.E. 3rd. Avenue
Fort Lauderdale, Florida 33301

With a Copy to: Director, ESE Department
The School Board of Broward County, Florida
Arthur Ashe Campus
1701 NW 23 Avenue
Fort Lauderdale, FL 33311

To VENDOR: Alison R. Polunsky
4264 Laurel Ridge Drive
Weston, Florida 33331

2.08 **Background Screening.** VENDOR agrees to comply with all requirements of Sections 1012.32 and 1012.465, Florida Statutes, and all of its personnel who (1) are to be permitted access to school grounds when students are present, (2) will have direct contact with students, or (3) have access or control of school funds, will successfully complete the background screening required by the referenced statutes and meet the standards established by the statutes. This background screening will be conducted by SBBC in advance of VENDOR or its personnel providing any services under the conditions described in the previous sentence. VENDOR shall bear the cost of acquiring the background screening required by Section 1012.32, Florida Statutes, and any fee imposed by the Florida Department of Law Enforcement to maintain the fingerprints provided with respect to VENDOR and its personnel. The parties agree that the failure of VENDOR to perform any of the duties described in this section shall constitute a material breach of this Agreement entitling SBBC to terminate immediately with no further responsibilities or duties to perform under this Agreement. VENDOR agrees to indemnify and hold harmless SBBC, its officers and employees from any liability in the form of physical or mental injury, death or property damage resulting from VENDOR's failure to comply with the requirements of this Section or with Sections 1012.32 and 1012.465, Florida Statutes.

ARTICLE 3 – GENERAL CONDITIONS

3.01 **No Waiver of Sovereign Immunity**. Nothing herein is intended to serve as a waiver of sovereign immunity by any agency or political subdivision to which sovereign immunity may be applicable or of any rights or limits to liability existing under Section 768.28, Florida Statutes. This section shall survive the termination of all performance or obligations under this Agreement and shall be fully binding until such time as any proceeding brought on account of this Agreement is barred by any applicable statute of limitations.

3.02 **No Third Party Beneficiaries**. The parties expressly acknowledge that it is not their intent to create or confer any rights or obligations in or upon any third person or entity under this Agreement. None of the parties intend to directly or substantially benefit a third party by this Agreement. The parties agree that there are no third party beneficiaries to this Agreement and that no third party shall be entitled to assert a claim against any of the parties based upon this Agreement. Nothing herein shall be construed as consent by an agency or political subdivision of the State of Florida to be sued by third parties in any matter arising out of any contract.

3.03 **Independent Contractor**. The parties to this agreement shall at all times be acting in the capacity of independent contractors and not as an officer, employee or agent of one another. Neither party or its respective agents, employees, subcontractors or assignees shall represent to others that it has the authority to bind the other party unless specifically authorized in writing to do so. No right to SBBC retirement, leave benefits or any other benefits of SBBC employees shall exist as a result of the performance of any duties or responsibilities under this

Agreement. SBBC shall not be responsible for social security, withholding taxes, contributions to unemployment compensation funds or insurance for the other party or the other party's officers, employees, agents, subcontractors or assignees.

3.04 **Equal Opportunity Provision**. The parties agree that no person shall be subjected to discrimination because of age, race, color, disability, gender identity, gender expression marital status, national origin, religion, sex or sexual orientation in the performance of the parties' respective duties, responsibilities and obligations under this Agreement.

3.05 **Termination**. This Agreement may be canceled with or without cause by SBBC during the term hereof upon thirty (30) days written notice to the other parties of its desire to terminate this Agreement. SBBC shall have no liability for any property left on SBBC's property by any party to this Agreement after the termination of this Agreement. Any party contracting with SBBC under this Agreement agrees that any of its property placed upon SBBC's facilities pursuant to this Agreement shall be removed within ten (10) business days following the termination, conclusion or cancellation of this Agreement and that any such property remaining upon SBBC's facilities after that time shall be deemed to be abandoned, title to such property shall pass to SBBC, and SBBC may use or dispose of such property as SBBC deems fit and appropriate.

3.06 **Default**. The parties agree that, in the event that either party is in default of its obligations under this Agreement, the non-defaulting party shall provide to the defaulting party (30) days written notice to cure the default. However, in the event said default cannot be cured within said thirty (30) day period and the defaulting party is diligently attempting in good faith to cure same, the time period shall be reasonably extended to allow the defaulting party additional cure time. Upon the occurrence of a default that is not cured during the applicable cure period, this Agreement may be terminated by the non-defaulting party upon thirty (30) days notice. This remedy is not intended to be exclusive of any other remedy, and each and every such remedy shall be cumulative and shall be in addition to every other remedy now or hereafter existing at law or in equity or by statute or otherwise. No single or partial exercise by any party of any right, power, or remedy hereunder shall preclude any other or future exercise thereof. Nothing in this section shall be construed to preclude termination for convenience pursuant to Section 3.05.

3.07 **Annual Appropriation.** The performance and obligations of SBBC under this Agreement shall be contingent upon an annual budgetary appropriation by its governing body. If SBBC does not allocate funds for the payment of services or products to be provided under this Agreement, this Agreement may be terminated by SBBC at the end of the period for which funds have been allocated. SBBC shall notify the other party at the earliest possible time before such termination. No penalty shall accrue to SBBC in the event this provision is exercised, and SBBC shall not be obligated or liable for any future payments due or any damages as a result of termination under this section.

3.08 **Excess Funds**. Any party receiving funds paid by SBBC under this Agreement agrees to promptly notify SBBC of any funds erroneously received from SBBC upon the discovery of such erroneous payment or overpayment. Any such excess funds shall be refunded to SBBC.

3.09 **Public Records**. Pursuant to Section 119.0701, Florida Statutes, any party contracting with SBBC is required to (a) keep and maintain available for public inspection any records that pertain to services rendered under this Agreement; (b) provide the public with access to public records on the same terms and conditions that SBBC would provide such records and 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; and (d) meet all requirements for retaining public records and transfer, at no cost to SBBC, all public records in that party's possession upon termination of its Agreement with SBBC and destroy any duplicate public records that are exempt or confidential and exempt from public records disclosure requirements. All of such party's records stored electronically must be provided to SBBC in a format that is compatible with SBBC's information technology systems. Each party shall maintain its own respective records and documents associated with this Agreement in accordance with the records retention requirements applicable to public records. Each party shall be responsible for compliance with any public documents request served upon it pursuant to Section 119.07, Florida Statutes, and any resultant award of attorney's fees for non-compliance with that law. Each party acknowledges that this Agreement and all attachments thereto are public records and do not constitute trade secrets.

3.10 **Student Records**: Notwithstanding any provision to the contrary within this Agreement, any party contracting with SBBC under this Agreement shall fully comply with the requirements of Sections 1002.22 and 1002.221, Florida Statutes; FERPA, and any other state or federal law or regulation regarding the confidentiality of student information and records. Each such party agrees, for itself, its officers, employees, agents, representatives, contractors or subcontractors, to fully indemnify and hold harmless SBBC and its officers and employees for any violation of this section, including, without limitation, defending SBBC and its officers and employees against any complaint, administrative or judicial proceeding, payment of any penalty imposed upon SBBC, or payment of any and all costs, damages, judgments or losses incurred by or imposed upon SBBC arising out of a breach of this covenant by the party, or an officer, employee, agent, representative, contractor, or sub-contractor of the party to the extent that the party or an officer, employee, agent, representative, contractor, or sub-contractor of the party shall either intentionally or negligently violate the provisions of this section or of Sections 1002.22 and/or 1002.221, Florida Statutes.

3.11 **Compliance with Laws**. Each party shall comply with all applicable federal, state and local laws, SBBC policies, codes, rules and regulations in performing its duties, responsibilities and obligations pursuant to this Agreement.

3.12 **Place of Performance**. All obligations of SBBC under the terms of this Agreement are reasonably susceptible of being performed in Broward County, Florida and shall be payable and performable in Broward County, Florida.

3.13 **Governing Law and Venue**. This Agreement shall be interpreted and construed in accordance with and governed by the laws of the State of Florida. Any controversies or legal problems arising out of this Agreement and any action involving the enforcement or interpretation of any rights hereunder shall be submitted to the jurisdiction of the State courts of the Seventeenth Judicial Circuit of Broward County, Florida.

3.14 **Entirety of Agreement**. This document incorporates and includes all prior negotiations, correspondence, conversations, agreements and understandings applicable to the matters contained herein and the parties agree that there are no commitments, agreements or understandings concerning the subject matter of this Agreement that are not contained in this document. Accordingly, the parties agree that no deviation from the terms hereof shall be predicated upon any prior representations or agreements, whether oral or written.

3.15 **Binding Effect**. This Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective successors and assigns.

3.16 **Assignment**. Neither this Agreement nor any interest herein may be assigned, transferred or encumbered by any party without the prior written consent of the other party. There shall be no partial assignments of this Agreement including, without limitation, the partial assignment of any right to receive payments from SBBC.

3.17 **Incorporation by Reference**. **Attachment A** attached hereto and referenced herein shall be deemed to be incorporated into this Agreement by reference.

3.18 **Captions**. The captions, section designations, section numbers, article numbers, titles and headings appearing in this Agreement are inserted only as a matter of convenience, have no substantive meaning, and in no way define, limit, construe or describe the scope or intent of such articles or sections of this Agreement, nor in any way affect this Agreement and shall not be construed to create a conflict with the provisions of this Agreement.

3.19 **Severability**. In the event that any one or more of the sections, paragraphs, sentences, clauses or provisions contained in this Agreement is held by a court of competent jurisdiction to be invalid, illegal, unlawful, unenforceable or void in any respect, such shall not affect the remaining portions of this Agreement and the same shall remain in full force and effect as if such invalid, illegal, unlawful, unenforceable or void sections, paragraphs, sentences, clauses or provisions had never been included herein.

3.20 **Preparation of Agreement**. The parties acknowledge that they have sought and obtained whatever competent advice and counsel as was necessary for them to form a full and complete understanding of all rights and obligations herein and that the preparation of this Agreement has been their joint effort. The language agreed to herein expresses their mutual intent and the resulting document shall not, solely as a matter of judicial construction, be construed more severely against one of the parties than the other.

3.21 **Amendments**. No modification, amendment, or alteration in the terms or conditions contained herein shall be effective unless contained in a written document prepared with the same or similar formality as this Agreement and executed by each party hereto.

3.22 **Waiver**. The parties agree that each requirement, duty and obligation set forth herein is substantial and important to the formation of this Agreement and, therefore, is a material term hereof. Any party's failure to enforce any provision of this Agreement shall not be deemed a waiver of such provision or modification of this Agreement unless the waiver is in writing and signed by the party waiving such provision. A written waiver shall only be effective as to the specific instance for which it is obtained and shall not be deemed a continuing or future waiver.

3.23 **Force Majeure**. Neither party shall be obligated to perform any duty, requirement or obligation under this Agreement if such performance is prevented by fire, hurricane, earthquake, explosion, wars, sabotage, accident, flood, acts of God, strikes, or other labor disputes, riot or civil commotions, or by reason of any other matter or condition beyond the control of either party, and which cannot be overcome by reasonable diligence and without unusual expense ("Force Majeure"). In no event shall a lack of funds on the part of either party be deemed Force Majeure.

3.24 **Survival**. All representations and warranties made herein, indemnification obligations, obligations to reimburse SBBC, obligations to maintain and allow inspection and audit of records and property, obligations to maintain the confidentiality of records, reporting requirements, and obligations to return public funds shall survive the termination of this Agreement.

3.25 **Contract Administration.** SBBC has delegated authority to the Superintendent of Schools or his/her designee to take any actions necessary to implement and administer this Agreement.

3.26. **Liability**. This section shall survive the termination of all performance or obligations under this Agreement and shall be fully binding until such time as any proceeding brought on account of this Agreement is barred by any applicable statute of limitations.

A. By SBBC: SBBC agrees to be fully responsible up to the limits of Section 768.28, Florida Statutes, for its acts of negligence, or its employees' acts of negligence when acting within the scope of their employment and agrees to be liable for any damages resulting from said negligence.

B. By VENDOR: VENDOR agrees to indemnify, hold harmless and defend SBBC, its agents, servants and employees from any and all claims, judgments, costs, and expenses including, but not limited to, reasonable attorney's fees, reasonable investigative and discovery costs, court costs and all other sums which SBBC, its agents, servants and employees may pay or become obligated to pay on account of any, all and every claim or demand, or assertion of liability, or any claim or action founded thereon, arising or alleged to have arisen out of the products, goods or services furnished by VENDOR, its agents, servants or employees; the equipment of VENDOR, its agents, servants or employees while such equipment is on premises owned or controlled by SBBC; or the negligence of VENDOR or the negligence of VENDOR's agents when acting within the scope of their employment, whether such claims, judgments, costs and expenses be for damages, damage to property including SBBC's property, and injury or death of any person whether employed by VENDOR, SBBC or otherwise.

3.27 **Authority**. Each person signing this Agreement on behalf of either party individually warrants that he or she has full legal power to execute this Agreement on behalf of the party for whom he or she is signing, and to bind and obligate such party with respect to all provisions contained in this Agreement.

IN WITNESS WHEREOF, the Parties hereto have made and executed this Agreement on the date first above written.

FOR SBBC

(Corporate Seal)

THE SCHOOL BOARD OF BROWARD COUNTY, FLORIDA

By_____
Dr. Rosalind Osgood, Chair

ATTEST:

_____
Robert W. Runcie, Superintendent of Schools

Approved as to Form and Legal Content:

Kathelyn Jacques-Adams

Digitally signed by Kathelyn Jacques-Adams
DN: cn=Kathelyn Jacques-Adams, o=The School District of Broward County, Florida, ou=The Office of the General Counsel, email=kathelyn.jacques-adams@browardschools.com, c=US
Date: 2016.05.25 12:10:16 -04'00'

_____
Office of the General Counsel

FOR VENDOR

Witness

Signature

Witness

Alison R. Polunsky

STATE OF Florida

COUNTY OF Broward

The foregoing instrument was acknowledged before me by Alison Polunsky
Insert Name Here
who is personally known to me or who produced Known as
Type of Identification
identification and who did/did not first take an oath this 8 day of May,
2016.

My Commission Expires:

STEVEN C. LEWIS MY COMMISSION EXPIRES March 4, 2020 #FF 936293 Bonded thru Notary Public Underwriters NOTARY PUBLIC, STATE OF FLORIDA

(SEAL)

Signature – Notary Public

STEVEN LEWIS

Notary's Printed Name

Notary's Commission No.

ATTACHMENT A

SCOPE OF SERVICES

1. VENDOR shall provide occupational therapy services in accordance with Broward County Schools Special Programs and Procedures. A copy of these procedures may be obtained on Exceptional Student Education's website at http://www.broward.k12.fl.us/studentsupport/ese/pdf/SP&P.pdf or as updated by SBBC.

2. VENDOR shall provide a current licensed occupational therapists under this Agreement. **Award of this Agreement shall not be a guarantee of business, a guarantee of specified volume of service or minimum dollar revenue to be received under this Agreement.**

3. VENDOR shall report to the Program Specialist and/or Curriculum Supervisor regarding services under this Agreement.

4. VENDOR shall be compensated for direct student services and student related activities only. VENDOR shall not be compensated/reimbursed for travel under this Agreement.

5. VENDOR shall provide the following services, but not limited to, initial student evaluations, small group or individual therapy with students, record-keeping for student attendance, supervising assistants, preparing progress reports and therapy notes, preparing a therapy plan of care, participating in the development of Individual Education Plans (IEP), attendance at required eligibility, IEP and dismissal staffings, attending in-service meetings as requested and providing consultation with parents, school area, district staff and physicians, as needed. VENDOR shall complete all appropriate documentation for Medicaid Reimbursement.

6. VENDOR shall provide services consistent with the professional standards of care and comply with all the medical and ethical requirements imposed by the State of Florida, Board of Medicine, the Department of Professional Regulations, the Florida State Department of Education and any other applicable federal, state or local regulatory agency.

7. VENDOR shall provide the requested level of service(s), in accordance with and/or changes for services requested by SBBC, within five (5) calendar days of notice, unless otherwise mutually agreed upon. Excessive failure to meet the needs as requested will result in cancellation of VENDOR's Agreement.

8. VENDOR shall maintain normal working hours of 8:00 a.m. to 4:00 p.m. Hours may occasionally be extended from 7:00 a.m. to 4:30 p.m. There will be no reimbursement for a thirty (30) minute lunch period. SBBC may only be invoiced for up to 7.5 hours per day unless prior approval has been granted by SBBC staff for extended service time. Awardee(s) may provide a maximum of four (4) hours of service as needed on each scheduled employee planning day. Invoices not complying with this will be rejected and returned for correction and failure to invoice correctly will result in a delay of payment. Any VENDOR who consistently submits invoices that are not correct may be found in default of Agreement.

SCOPE OF SERVICES

9. VENDOR shall respond to requested services within five (5) school days of the request by submitting to an interview by a designated SBBC representative. Firms can also offer these services and interviews as required.

10. VENDOR shall provide uninterrupted services based upon the current school calendar to students by providing qualified substitutes or replacements in the event of an anticipated or unanticipated lapse of service. A qualified substitute is defined to be a therapist for a therapist or a therapist assistant for an assistant. All qualified substitutes must display an SBBC identification badge. (See General Condition 7.42) Any lapse of service to SBBC for five student attendance days during any school year will result in default of Agreement. VENDOR may be responsible to provide compensatory services or payments to SBBC for lapse of service.

11. VENDOR shall provide a service schedule of all personnel for approval on a regular basis as determined by a designated SBBC representative.

12. VENDOR shall follow all procedures (including, but not limited to, signing in and out, no telephone calls during treatment time) of individual schools where they are assigned. All therapists must carry a cell phone for critical communication throughout the day with SBBC personnel as established. These numbers must be provided to SBBC personnel. There shall be no cost to SBBC to use these communication devices.

13. VENDOR shall prepare time logs, reports, written analysis and other written memoranda in the form and manner deemed appropriate by SBBC.

14. VENDOR shall bill under SBBC's Medicaid provider number, when needed.

15. VENDOR, under this Agreement, shall be required to pass the screening of the of the Broward School's Police, Security Clearance Department prior to placement of assignment as required by SBBC (See General Condition 7.42 of the RFP, SBBC Photo Identification Badge). VENDOR must utilize the STAR system and/or sign-in/out procedures to document attendance at assigned location(s).

16. SBBC reserves the right to interview all therapy candidates prior to placement. K-12 experience is preferred. SBBC reserves the right to refuse to utilize any proposed therapy candidate. SBBC reserves the right to have an individual therapist removed from the assigned position. VENDOR will have five workdays in which to propose a replacement therapist. Should VENDOR be unable to provide an acceptable replacement, all other contracted Awardees will then be notified to submit a candidate to SBBC.

17. VENDOR shall provide proof of services on an original approved voucher form upon initiation of services and up until training is provided on the Accelify Electronic Management System. Once VENDOR has received training, VENDOR will then submit all invoices electronically.

SCOPE OF SERVICES

18. VENDOR shall have all therapists and assistants and required substitutes or replacements submit to, and pass, the screening of the Special Investigative Unit (SIU), including fingerprinting, prior to working with students as required for all SBBC personnel. All therapists and assistants shall display an SBBC Identification Badge during contracted work hours. VENDOR will be required to pay the required fees for screening, fingerprinting and photo identification. (See General Condition 7.42 of the RFP)

19. VENDOR shall cooperate with SBBC in its partnership with universities and colleges to provide supervision of practicum experience for student therapists and assistants.

20. VENDOR shall be evaluated annually in areas to include, but not be limited to, responsiveness, continuity of service, quality of work and professionalism.

21. VENDOR shall not provide private assessments or therapy services to students on their own public school caseload.

22. VENDOR and all therapists and assistants shall attend an orientation workshop of not less than three hours. This orientation workshop will include, but not be limited to, general information on the policies and procedures of the Broward County Special Programs and Procedures, the rights of students with disabilities, and other operational procedures required to carry out the therapy program. Additional workshops may be required during the term of the Agreement.

23. VENDOR will receive, from SBBC, requested materials, equipment and other related items which have been determined to be necessary to carry out the therapy program for students when approved by a designated SBBC representative.

24. VENDOR shall insure that their provider has the necessary technology (eg. Laptop, desktop computer, etc.) needed to carryout job responsibilities.

AGREEMENT

THIS AGREEMENT is made and entered into as of this ____ day of _____, 2016, by and between

THE SCHOOL BOARD OF BROWARD COUNTY, FLORIDA
(hereinafter referred to as "SBBC"),
a body corporate and political subdivision of the State of Florida,
whose principal place of business is
600 Southeast Third Avenue, Fort Lauderdale, Florida 33301

and

ALL SOURCE RECRUITING GROUP, INC.
D/B/A ARDOR HEALTH SOLUTIONS
(hereinafter referred to as "VENDOR"),
whose principal place of business is
5830 Coral Ridge Drive, Suite 300
Coral Springs, Florida 33076

WHEREAS, SBBC issued a Request for Proposal identified as RFP 17-005V – Occupational and Physical Therapy Services (hereinafter referred to as "RFP"), dated December 11, 2015 and amended by Addendum No. 2, dated January 15, 2016, and Addendum No. 1, dated January 9, 2016 all of which are incorporated by reference herein, for the purpose of receiving proposals for occupational and physical therapy services; and

WHEREAS, VENDOR offered a proposal dated January 14, 2016 (hereinafter referred to as "Proposal") which is incorporated by reference herein, in response to this RFP.

NOW, THEREFORE, in consideration of the premises and of the mutual covenants contained herein and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the Parties hereby agree as follows:

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1.01 **Recitals**. The parties agree that the foregoing recitals are true and correct and that such recitals are incorporated herein by reference.

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2.03 **Services**: VENDOR shall provide SBBC with the Scope of Services as proposed in its Proposal and in compliance with this Agreement and the RFP and its Addenda and as specified in **Attachment A – Scope of Services**.

2.04 **Cost of Services**. SBBC shall pay VENDOR for cost of services satisfactorily rendered for Occupational Therapy services at $59.00/hour, and Physical Therapist services at $59.00/hour. Costs shall not exceed the amount as stated on the Purchase Order. VENDOR may offer SBBC a special educational discount for pricing and reduce the cost of services during the term of the Agreement. VENDOR may invoice SBBC at an hourly rate less than their original bid price.

2.05 **M/WBE Commitment**. Throughout the term of the Agreement, VENDOR shall take commercially reasonable steps and use commercially reasonable resources to identify SBBC-certified M/WBE vendors who may be engaged to fulfill various aspects of the Agreement, including, for instance, without limitation, M/WBE vendors to provide office supplies, travel, printing, janitorial supplies/services, consulting services, trade services, installation and repair services, medical supplies, where feasible. VENDOR agrees to provide monthly reports and to conduct quarterly meetings with SBBC to discuss progress in meeting the SBBC's objectives regarding M/WBE participation, including dollars spent on M/WBE vendors for the quarter; and to continue to assess throughout the term of the Agreement new possibilities for M/WBE vendor participation suggested by SBBC. If at any time during the term the parties agree that it is reasonably feasible to include a specific dollar figure for M/WBE participation, the Agreement shall be amended to include the dollar participation objective.

2.06 **Inspection of VENDOR's Records by SBBC**. VENDOR shall establish and maintain books, records and documents (including electronic storage media) sufficient to reflect all income and expenditures of funds provided by SBBC under this Agreement. All VENDOR's Records, regardless of the form in which they are kept, shall be open to inspection and subject to audit, inspection, examination, evaluation and/or reproduction, during normal working hours, by SBBC's agent or its authorized representative to permit SBBC to evaluate, analyze and verify the satisfactory performance of the terms and conditions of this Agreement and to evaluate, analyze and verify any and all invoices, billings, payments and/or claims submitted by VENDOR or any of VENDOR's payees pursuant to this Agreement. VENDOR's Records subject to examination shall include, without limitation, those records necessary to evaluate and verify direct and indirect costs (including overhead allocations) as they may apply to costs associated with this Agreement. VENDOR's Records subject to this section shall include any and all documents pertinent to the evaluation, analysis, verification and reconciliation of any and all expenditures under this Agreement without regard to funding sources.

(a) VENDOR's Records Defined. For the purposes of this Agreement, the term "VENDOR's Records" shall include, without limitation, accounting records, payroll time sheets, cancelled payroll checks, W-2 forms, written policies and procedures, computer records, disks and software, videos, photographs, executed subcontracts, subcontract files (including proposals of successful and unsuccessful bidders), original estimates, estimating worksheets, correspondence, change order files (including sufficient supporting documentation and documentation covering negotiated settlements), and any other supporting documents that would substantiate, reconcile or refute any charges and/or expenditures related to this Agreement.

(b) Duration of Right to Inspect. For the purpose of such audits, inspections, examinations, evaluations and/or reproductions, SBBC's agent or authorized representative shall have access to VENDOR's Records from the effective date of this Agreement, for the duration of the term of this Agreement, and until the later of five (5) years after the termination of this Agreement or five (5) years after the date of final payment by SBBC to VENDOR pursuant to this Agreement.

(c) Notice of Inspection. SBBC's agent or its authorized representative shall provide VENDOR reasonable advance notice (not to exceed two (2) weeks) of any intended audit, inspection, examination, evaluation and or reproduction.

(d) Audit Site Conditions. SBBC's agent or its authorized representative shall have access to VENDOR's facilities and to any and all records related to this Agreement, and shall be provided adequate and appropriate work space in order to exercise the rights permitted under this section.

(e) Failure to Permit Inspection. Failure by VENDOR to permit audit, inspection, examination, evaluation and/or reproduction as permitted under this Section shall constitute grounds for termination of this Agreement by SBBC for cause and shall be grounds for the denial of some or all of any VENDOR's claims for payment by SBBC.

(f) Overcharges and Unauthorized Charges. If an audit conducted in accordance with this Section discloses overcharges or unauthorized charges to SBBC by VENDOR in excess of two percent (2%) of the total billings under this Agreement, the actual cost of SBBC's audit shall be paid by VENDOR. If the audit discloses billings or charges to which VENDOR is not contractually entitled, VENDOR shall pay said sum to SBBC within twenty (20) days of receipt of written demand under otherwise agreed to in writing by both parties.

(g) Inspection of Subcontractor's Records. VENDOR shall require any and all subcontractors, insurance agents and material suppliers (hereafter referred to as "Payees") providing services or goods with regard to this Agreement to comply with the requirements of this section by insertion of such requirements in any written subcontract. Failure by VENDOR to include such requirements in any subcontract shall constitute grounds for termination of this Agreement by SBBC for cause and shall be grounds for the exclusion of some or all of any Payee's costs from amounts payable by SBBC to VENDOR pursuant to this Agreement and such excluded costs shall become the liability of VENDOR.

(h) Inspector General Audits. VENDOR shall comply and cooperate immediately with any inspections, reviews, investigations, or audits deemed necessary by the Florida Office of the Inspector General or by any other state or federal officials.

2.07 **Notice**. When any of the parties desire to give notice to the other, such notice must be in writing, sent by U.S. Mail, postage prepaid, addressed to the party for whom it is intended at the place last specified; the place for giving notice shall remain such until it is changed by written notice in compliance with the provisions of this paragraph. For the present, the Parties designate the following as the respective places for giving notice:

To SBBC:	Superintendent of Schools The School Board of Broward County, Florida 600 S.E. 3rd. Avenue Fort Lauderdale, Florida 33301
With a Copy to:	Director, ESE Department The School Board of Broward County, Florida Arthur Ashe Campus 1701 NW 23 Avenue Fort Lauderdale, FL 33311
To VENDOR:	Maria Aguayo-Amador, Business Development & RFP Manager All Source Recruiting d/b/a Ardor Health Solutions 5830 Coral Ridge Drive, Suite 300 Coral Springs, FL 33076

2.08 **Background Screening.** VENDOR agrees to comply with all requirements of Sections 1012.32 and 1012.465, Florida Statutes, and all of its personnel who (1) are to be permitted access to school grounds when students are present, (2) will have direct contact with students, or (3) have access or control of school funds, will successfully complete the background screening required by the referenced statutes and meet the standards established by the statutes. This background screening will be conducted by SBBC in advance of VENDOR or its personnel providing any services under the conditions described in the previous sentence. VENDOR shall bear the cost of acquiring the background screening required by Section 1012.32, Florida Statutes, and any fee imposed by the Florida Department of Law Enforcement to maintain the fingerprints provided with respect to VENDOR and its personnel. The parties agree that the failure of VENDOR to perform any of the duties described in this section shall constitute a material breach of this Agreement entitling SBBC to terminate immediately with no further responsibilities or duties to perform under this Agreement. VENDOR agrees to indemnify and hold harmless SBBC, its officers and employees from any liability in the form of physical or mental injury, death or property damage resulting from VENDOR's failure to comply with the requirements of this Section or with Sections 1012.32 and 1012.465, Florida Statutes.

ARTICLE 3 – GENERAL CONDITIONS

3.01 **No Waiver of Sovereign Immunity**. Nothing herein is intended to serve as a waiver of sovereign immunity by any agency or political subdivision to which sovereign immunity may be applicable or of any rights or limits to liability existing under Section 768.28, Florida Statutes. This section shall survive the termination of all performance or obligations under this Agreement and shall be fully binding until such time as any proceeding brought on account of this Agreement is barred by any applicable statute of limitations.

3.02 **No Third Party Beneficiaries**. The parties expressly acknowledge that it is not their intent to create or confer any rights or obligations in or upon any third person or entity under this Agreement. None of the parties intend to directly or substantially benefit a third party by this Agreement. The parties agree that there are no third party beneficiaries to this Agreement and that no third party shall be entitled to assert a claim against any of the parties based upon this Agreement. Nothing herein shall be construed as consent by an agency or political subdivision of the State of Florida to be sued by third parties in any matter arising out of any contract.

3.03 **Independent Contractor**. The parties to this agreement shall at all times be acting in the capacity of independent contractors and not as an officer, employee or agent of one another. Neither party or its respective agents, employees, subcontractors or assignees shall represent to others that it has the authority to bind the other party unless specifically authorized in writing to do so. No right to SBBC retirement, leave benefits or any other benefits of SBBC employees shall exist as a result of the performance of any duties or responsibilities under this Agreement. SBBC shall not be responsible for social security, withholding taxes, contributions to unemployment compensation funds or insurance for the other party or the other party's officers, employees, agents, subcontractors or assignees.

3.04 **Equal Opportunity Provision**. The parties agree that no person shall be subjected to discrimination because of age, race, color, disability, gender identity, gender expression marital status, national origin, religion, sex or sexual orientation in the performance of the parties' respective duties, responsibilities and obligations under this Agreement.

3.05 **Termination**. This Agreement may be canceled with or without cause by SBBC during the term hereof upon thirty (30) days written notice to the other parties of its desire to terminate this Agreement. SBBC shall have no liability for any property left on SBBC's property by any party to this Agreement after the termination of this Agreement. Any party contracting with SBBC under this Agreement agrees that any of its property placed upon SBBC's facilities pursuant to this Agreement shall be removed within ten (10) business days following the termination, conclusion or cancellation of this Agreement and that any such property remaining upon SBBC's facilities after that time shall be deemed to be abandoned, title to such property shall pass to SBBC, and SBBC may use or dispose of such property as SBBC deems fit and appropriate.

3.06 **Default**. The parties agree that, in the event that either party is in default of its obligations under this Agreement, the non-defaulting party shall provide to the defaulting party (30) days written notice to cure the default. However, in the event said default cannot be cured within said thirty (30) day period and the defaulting party is diligently attempting in good faith to cure same, the time period shall be reasonably extended to allow the defaulting party additional cure time. Upon the occurrence of a default that is not cured during the applicable cure period, this Agreement may be terminated by the non-defaulting party upon thirty (30) days notice. This remedy is not intended to be exclusive of any other remedy, and each and every such remedy shall be cumulative and shall be in addition to every other remedy now or hereafter existing at law or in equity or by statute or otherwise. No single or partial exercise by any party of any right, power, or remedy hereunder shall preclude any other or future exercise thereof. Nothing in this section shall be construed to preclude termination for convenience pursuant to Section 3.05.

3.07 **Annual Appropriation.** The performance and obligations of SBBC under this Agreement shall be contingent upon an annual budgetary appropriation by its governing body. If SBBC does not allocate funds for the payment of services or products to be provided under this Agreement, this Agreement may be terminated by SBBC at the end of the period for which funds have been allocated. SBBC shall notify the other party at the earliest possible time before such termination. No penalty shall accrue to SBBC in the event this provision is exercised, and SBBC shall not be obligated or liable for any future payments due or any damages as a result of termination under this section.

3.08 **Excess Funds**. Any party receiving funds paid by SBBC under this Agreement agrees to promptly notify SBBC of any funds erroneously received from SBBC upon the discovery of such erroneous payment or overpayment. Any such excess funds shall be refunded to SBBC. Any such excess funds shall be refunded to SBBC.

3.09 **Public Records**. Pursuant to Section 119.0701, Florida Statutes, any party contracting with SBBC is required to (a) keep and maintain available for public inspection any records that pertain to services rendered under this Agreement; (b) provide the public with access to public records on the same terms and conditions that SBBC would provide such records and 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; and (d) meet all requirements for retaining public records and transfer, at no cost to SBBC, all public records in that party's possession upon termination of its Agreement with SBBC and destroy any duplicate public records that are exempt or confidential and exempt from public records disclosure requirements. All of such party's records stored electronically must be provided to SBBC in a format that is compatible with SBBC's information technology systems._ Each party shall maintain its own respective records and documents associated with this Agreement in accordance with the records retention requirements applicable to public records. Each party shall be responsible for compliance with any public documents request served upon it pursuant to Section 119.07, Florida Statutes, and any resultant award of attorney's fees for non-compliance with that law. Each party acknowledges that this Agreement and all attachments thereto are public records and do not constitute trade secrets.

3.10 **Student Records**: Notwithstanding any provision to the contrary within this Agreement, any party contracting with SBBC under this Agreement shall fully comply with the requirements of Sections 1002.22 and 1002.221, Florida Statutes; FERPA, and any other state or federal law or regulation regarding the confidentiality of student information and records. Each such party agrees, for itself, its officers, employees, agents, representatives, contractors or subcontractors, to fully indemnify and hold harmless SBBC and its officers and employees for any violation of this section, including, without limitation, defending SBBC and its officers and employees against any complaint, administrative or judicial proceeding, payment of any penalty imposed upon SBBC, or payment of any and all costs, damages, judgments or losses incurred by or imposed upon SBBC arising out of a breach of this covenant by the party, or an officer, employee, agent, representative, contractor, or sub-contractor of the party to the extent that the party or an officer, employee, agent, representative, contractor, or sub-contractor of the party shall either intentionally or negligently violate the provisions of this section or of Sections 1002.22 and/or 1002.221, Florida Statutes.

3.11 **Compliance with Laws**. Each party shall comply with all applicable federal, state and local laws, SBBC policies, codes, rules and regulations in performing its duties, responsibilities and obligations pursuant to this Agreement.

3.12 **Place of Performance**. All obligations of SBBC under the terms of this Agreement are reasonably susceptible of being performed in Broward County, Florida and shall be payable and performable in Broward County, Florida.

3.13 **Governing Law and Venue**. This Agreement shall be interpreted and construed in accordance with and governed by the laws of the State of Florida. Any controversies or legal problems arising out of this Agreement and any action involving the enforcement or interpretation of any rights hereunder shall be submitted to the jurisdiction of the State courts of the Seventeenth Judicial Circuit of Broward County, Florida.

3.14 **Entirety of Agreement**. This document incorporates and includes all prior negotiations, correspondence, conversations, agreements and understandings applicable to the matters contained herein and the parties agree that there are no commitments, agreements or understandings concerning the subject matter of this Agreement that are not contained in this document. Accordingly, the parties agree that no deviation from the terms hereof shall be predicated upon any prior representations or agreements, whether oral or written.

3.15 **Binding Effect**. This Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective successors and assigns.

3.16 **Assignment**. Neither this Agreement nor any interest herein may be assigned, transferred or encumbered by any party without the prior written consent of the other party. There shall be no partial assignments of this Agreement including, without limitation, the partial assignment of any right to receive payments from SBBC.

3.17 **Incorporation by Reference**. **Attachment A** attached hereto and referenced herein shall be deemed to be incorporated into this Agreement by reference.

3.18 **Captions**. The captions, section designations, section numbers, article numbers, titles and headings appearing in this Agreement are inserted only as a matter of convenience, have no substantive meaning, and in no way define, limit, construe or describe the scope or intent of such articles or sections of this Agreement, nor in any way affect this Agreement and shall not be construed to create a conflict with the provisions of this Agreement.

3.19 **Severability**. In the event that any one or more of the sections, paragraphs, sentences, clauses or provisions contained in this Agreement is held by a court of competent jurisdiction to be invalid, illegal, unlawful, unenforceable or void in any respect, such shall not affect the remaining portions of this Agreement and the same shall remain in full force and effect as if such invalid, illegal, unlawful, unenforceable or void sections, paragraphs, sentences, clauses or provisions had never been included herein.

3.20 **Preparation of Agreement**. The parties acknowledge that they have sought and obtained whatever competent advice and counsel as was necessary for them to form a full and complete understanding of all rights and obligations herein and that the preparation of this Agreement has been their joint effort. The language agreed to herein expresses their mutual intent and the resulting document shall not, solely as a matter of judicial construction, be construed more severely against one of the parties than the other.

3.21 **Amendments**. No modification, amendment, or alteration in the terms or conditions contained herein shall be effective unless contained in a written document prepared with the same or similar formality as this Agreement and executed by each party hereto.

3.22 **Waiver**. The parties agree that each requirement, duty and obligation set forth herein is substantial and important to the formation of this Agreement and, therefore, is a material term hereof. Any party's failure to enforce any provision of this Agreement shall not be deemed a waiver of such provision or modification of this Agreement unless the waiver is in writing and signed by the party waiving such provision. A written waiver shall only be effective as to the specific instance for which it is obtained and shall not be deemed a continuing or future waiver.

3.23 **Force Majeure**. Neither party shall be obligated to perform any duty, requirement or obligation under this Agreement if such performance is prevented by fire, hurricane, earthquake, explosion, wars, sabotage, accident, flood, acts of God, strikes, or other labor disputes, riot or civil commotions, or by reason of any other matter or condition beyond the control of either party, and which cannot be overcome by reasonable diligence and without unusual expense ("Force Majeure"). In no event shall a lack of funds on the part of either party be deemed Force Majeure.

3.24 **Survival**. All representations and warranties made herein, indemnification obligations, obligations to reimburse SBBC, obligations to maintain and allow inspection and audit of records and property, obligations to maintain the confidentiality of records, reporting requirements, and obligations to return public funds shall survive the termination of this Agreement.

3.25 **Contract Administration.** SBBC has delegated authority to the Superintendent of Schools or his/her designee to take any actions necessary to implement and administer this Agreement.

3.26. **Liability**. This section shall survive the termination of all performance or obligations under this Agreement and shall be fully binding until such time as any proceeding brought on account of this Agreement is barred by any applicable statute of limitations.

A. By SBBC: SBBC agrees to be fully responsible up to the limits of Section 768.28, Florida Statutes, for its acts of negligence, or its employees' acts of negligence when acting within the scope of their employment and agrees to be liable for any damages resulting from said negligence.

B. By VENDOR: VENDOR agrees to indemnify, hold harmless and defend SBBC, its agents, servants and employees from any and all claims, judgments, costs, and expenses including, but not limited to, reasonable attorney's fees, reasonable investigative and discovery costs, court costs and all other sums which SBBC, its agents, servants and employees may pay or become obligated to pay on account of any, all and every claim or demand, or assertion of liability, or any claim or action founded thereon, arising or alleged to have arisen out of the products, goods or services furnished by VENDOR, its agents, servants or employees; the equipment of VENDOR, its agents, servants or employees while such equipment is on premises owned or controlled by SBBC; or the negligence of VENDOR or the negligence of VENDOR's agents when acting within the scope of their employment, whether such claims, judgments, costs and expenses be for damages, damage to property including SBBC's property, and injury or death of any person whether employed by VENDOR, SBBC or otherwise.

3.27 **Authority**. Each person signing this Agreement on behalf of either party individually warrants that he or she has full legal power to execute this Agreement on behalf of the party for whom he or she is signing, and to bind and obligate such party with respect to all provisions contained in this Agreement.

IN WITNESS WHEREOF, the Parties hereto have made and executed this Agreement on the date first above written.

FOR SBBC

(Corporate Seal)

THE SCHOOL BOARD OF BROWARD COUNTY, FLORIDA

By_____
Dr. Rosalind Osgood, Chair

ATTEST:

_____
Robert W. Runcie, Superintendent of Schools

Approved as to Form and Legal Content:

Kathelyn Jacques-Adams

Digitally signed by Kathelyn Jacques-Adams
DN: cn=Kathelyn Jacques-Adams, o=The School District of Broward County, Florida, ou=The Office of the General Counsel, email=kathelyn.jacques-adams@browardschools.com, c=US
Date: 2016.05.25 12:10:54 -04'00'

_____
Office of the General Counsel

FOR VENDOR

(Corporate Seal)

ALL SOURCE RECRUITING GROUP, INC.
D/B/A ARDOR HEALTH SOLUTIONS

ATTEST:

Jennifer Miranda
, Secretary

-or-

By Jennifer Miranda, Contract Coordinator

Ernsarinde Joachim
Witness

Maria Aguayo-Amador
Witness

The Following Notarization is Required for Every Agreement Without Regard to Whether the Party Chose to Use a Secretary's Attestation or Two (2) Witnesses.

STATE OF _____

COUNTY OF _____

The foregoing instrument was acknowledged before me this 4th day of May, 2016 by Jennifer Miranda of
Name of Person
All Source Recruiting Group, DBA Ardor Health Solutions, on behalf of the corporation/agency.
Name of Corporation or Agency
He/She ~~is personally known to me~~ or produced personally as identification and did/did not first take an oath.
Type of Identification

My Commission Expires:

2-10-2018

Signature – Notary Public

Greg Brusey
Printed Name of Notary

(SEAL)

FF091370
Notary's Commission No.

GREG E BRUSEY
MY COMMISSION #FF091370
EXPIRES February 10, 2018
(407) 398-0153 FloridaNotaryService.com

ATTACHMENT A

SCOPE OF SERVICES

1. VENDOR shall provide occupational and physical therapy services in accordance with Broward County Schools Special Programs and Procedures. A copy of these procedures may be obtained on Exceptional Student Education's website at http://www.broward.k12.fl.us/studentsupport/ese/pdf/SP&P.pdf or as updated by SBBC.

2. VENDOR shall provide current licensed occupational and physical therapists under this Agreement. **Award of this Agreement shall not be a guarantee of business, a guarantee of specified volume of service or minimum dollar revenue to be received under this Agreement.**

3. VENDOR shall report to the Program Specialist and/or Curriculum Supervisor regarding services under this Agreement.

4. VENDOR shall be compensated for direct student services and student related activities only. VENDOR shall not be compensated/reimbursed for travel under this Agreement.

5. VENDOR shall provide the following services, but not limited to, initial student evaluations, small group or individual therapy with students, record-keeping for student attendance, supervising assistants, preparing progress reports and therapy notes, preparing a therapy plan of care, participating in the development of Individual Education Plans (IEP), attendance at required eligibility, IEP and dismissal staffings, attending in-service meetings as requested and providing consultation with parents, school area, district staff and physicians, as needed. For Certified Occupational Therapy Assistants (COTA) and Licensed Physical Therapy Assistant (LPTA), service shall be provided under supervision in accordance with the OT/PT Practice ACT. VENDOR shall complete all appropriate documentation for Medicaid Reimbursement.

6. VENDOR shall provide services consistent with the professional standards of care and comply with all the medical and ethical requirements imposed by the State of Florida, Board of Medicine, the Department of Professional Regulations, the Florida State Department of Education and any other applicable federal, state or local regulatory agency.

7. VENDOR shall provide the requested level of service(s), in accordance with and/or changes for services requested by SBBC, within five (5) calendar days of notice, unless otherwise mutually agreed upon. Excessive failure to meet the needs as requested will result in cancellation of VENDOR's Agreement.

8. VENDOR shall maintain normal working hours of 8:00 a.m. to 4:00 p.m. Hours may occasionally be extended from 7:00 a.m. to 4:30 p.m. There will be no reimbursement for a thirty (30) minute lunch period. SBBC may only be invoiced for up to 7.5 hours per day unless prior approval has been granted by SBBC staff for extended service time. Awardee(s) may provide a maximum of four (4) hours of service as needed on each scheduled employee planning day. Invoices not complying with this will be rejected and returned for correction and failure to invoice correctly will result in a delay of payment. Any VENDOR who consistently submits invoices that are not correct may be found in default of Agreement.

SCOPE OF SERVICES

9. VENDOR shall respond to requested services within five (5) school days of the request by submitting to an interview by a designated SBBC representative. Firms can also offer these services and interviews as required.

10. VENDOR shall provide uninterrupted services based upon the current school calendar to students by providing qualified substitutes or replacements in the event of an anticipated or unanticipated lapse of service. A qualified substitute is defined to be a therapist for a therapist or a therapist assistant for an assistant. All qualified substitutes must display an SBBC identification badge. (See General Condition 7.42) Any lapse of service to SBBC for five student attendance days during any school year will result in default of Agreement. VENDOR may be responsible to provide compensatory services or payments to SBBC for lapse of service.

11. VENDOR shall provide a service schedule of all personnel for approval on a regular basis as determined by a designated SBBC representative.

12. VENDOR shall follow all procedures (including, but not limited to, signing in and out, no telephone calls during treatment time) of individual schools where they are assigned. All therapists must carry a cell phone for critical communication throughout the day with SBBC personnel as established. These numbers must be provided to SBBC personnel. There shall be no cost to SBBC to use these communication devices.

13. VENDOR shall prepare time logs, reports, written analysis and other written memoranda in the form and manner deemed appropriate by SBBC.

14. VENDOR shall bill under SBBC's Medicaid provider number, when needed.

15. VENDOR, under this Agreement, shall be required to pass the screening of the of the Broward School's Police, Security Clearance Department prior to placement of assignment as required by SBBC (See General Condition 7.42 of the RFP, SBBC Photo Identification Badge). VENDOR must utilize the STAR system and/or sign-in/out procedures to document attendance at assigned location(s).

16. SBBC reserves the right to interview all therapy candidates prior to placement. K-12 experience is preferred. SBBC reserves the right to refuse to utilize any proposed therapy candidate. SBBC reserves the right to have an individual therapist removed from the assigned position. VENDOR will have five workdays in which to propose a replacement therapist. Should VENDOR be unable to provide an acceptable replacement, all other contracted Awardees will then be notified to submit a candidate to SBBC.

17. VENDOR shall provide proof of services on an original approved voucher form upon initiation of services and up until training is provided on the Accelify Electronic Management System. Once VENDOR has received training, VENDOR shall then submit all invoices electronically.

SCOPE OF SERVICES

18. VENDOR must have all therapists and assistants and required substitutes or replacements submit to, and pass, the screening of the Special Investigative Unit (SIU), including fingerprinting, prior to working with students as required for all SBBC personnel. All therapists and assistants shall display an SBBC Identification Badge during contracted work hours. VENDOR will be required to pay the required fees for screening, fingerprinting and photo identification. (See General Condition 7.42 of the RFP)

19. VENDOR shall cooperate with SBBC in its partnership with universities and colleges to provide supervision of practicum experience for student therapists and assistants.

20. VENDOR may be evaluated annually in areas to include, but not be limited to, responsiveness, continuity of service, quality of work and professionalism.

21. VENDOR shall not provide private assessments or therapy services to students on their own public school caseload.

22. VENDOR and all therapists and assistants shall attend an orientation workshop of not less than three hours. This orientation workshop will include, but not be limited to, general information on the policies and procedures of the Broward County Special Programs and Procedures, the rights of students with disabilities, and other operational procedures required to carry out the therapy program. Additional workshops may be required during the term of the Agreement.

23. VENDOR will receive, from SBBC, requested materials, equipment and other related items which have been determined to be necessary to carry out the therapy program for students when approved by a designated SBBC representative.

24. VENDOR shall insure that their provider has the necessary technology (eg. Laptop, desktop computer, etc.) needed to carryout job responsibilities.

AGREEMENT

THIS AGREEMENT is made and entered into as of this ____ day of _____, 2016, by and between

THE SCHOOL BOARD OF BROWARD COUNTY, FLORIDA
(hereinafter referred to as "SBBC"),
a body corporate and political subdivision of the State of Florida,
whose principal place of business is
600 Southeast Third Avenue, Fort Lauderdale, Florida 33301

and

ANN GOGAN
(hereinafter referred to as "VENDOR"),
whose principal place of business is
6240 Windlass Circle
Boynton Beach, Florida 33472

WHEREAS, SBBC issued a Request for Proposal identified as RFP 17-005V – Occupational and Physical Therapy Services (hereinafter referred to as "RFP"), dated December 11, 2015 and amended by Addendum No. 2, dated January 15, 2016, and Addendum No. 1, dated January 9, 2016 all of which are incorporated by reference herein, for the purpose of receiving proposals for occupational and physical therapy services; and

WHEREAS, VENDOR offered a proposal dated January 17, 2016 (hereinafter referred to as "Proposal") which is incorporated by reference herein, in response to this RFP.

NOW, THEREFORE, in consideration of the premises and of the mutual covenants contained herein and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the Parties hereby agree as follows:

ARTICLE 1 - RECITALS

1.01 **Recitals**. The parties agree that the foregoing recitals are true and correct and that such recitals are incorporated herein by reference.

ARTICLE 2 – SPECIAL CONDITIONS

2.01 **Term of Agreement**. Unless terminated earlier pursuant to Section 3.05 of this Agreement, the term of this Agreement shall commence on **July 1, 2016** and conclude on **June 30, 2019.** The term of the Agreement may, by mutual agreement between SBBC and VENDOR be extended for two additional one-year periods and, if needed, 180 days beyond the expiration date of the renewal period. SBBC's Procurement & Warehousing Services Department, will, if considering renewing, request a letter consenting to renewal from VENDOR, prior to the end of the term. Any renewal period shall be approved by an Amendment to this Agreement executed by both parties

2.02 **Priority of Documents.** In the event of a conflict between documents, the following priority of documents shall govern.

First: This Agreement, then;
Second: Addendum No. 2, then;
Third: Addendum No. 1, then;
Fourth: RFP 17-005V – Occupational and Physical Therapy Services, then;
Fifth: Proposal submitted in response to the RFP by VENDOR.

2.03 **Services**: VENDOR shall provide SBBC with the Scope of Services as proposed in its Proposal and in compliance with this Agreement and the RFP and its Addenda and as specified in **Attachment A – Scope of Services**.

2.04 **Cost of Services**. SBBC shall pay VENDOR for cost of services satisfactorily rendered for Licensed Physical Therapist Assistant (LPTA) at $45.00/hour. Costs shall not exceed the amount as stated on the Purchase Order. VENDOR may offer SBBC a special educational discount for pricing and reduce the cost of services during the term of the Agreement. VENDOR may invoice SBBC at an hourly rate less than their original bid price.

2.05 **M/WBE Participation**. VENDOR is a current Certified MWBE, Caucasian Female, with SBBC, Certificate #7007-6217.

2.06 **Inspection of VENDOR's Records by SBBC**. VENDOR shall establish and maintain books, records and documents (including electronic storage media) sufficient to reflect all income and expenditures of funds provided by SBBC under this Agreement. All VENDOR's Records, regardless of the form in which they are kept, shall be open to inspection and subject to audit, inspection, examination, evaluation and/or reproduction, during normal working hours, by SBBC's agent or its authorized representative to permit SBBC to evaluate, analyze and verify the satisfactory performance of the terms and conditions of this Agreement and to evaluate, analyze and verify any and all invoices, billings, payments and/or claims submitted by VENDOR or any of VENDOR's payees pursuant to this Agreement. VENDOR's Records subject to examination shall include, without limitation, those records necessary to evaluate and verify direct and indirect costs (including overhead allocations) as they may apply to costs associated with this Agreement. VENDOR's Records subject to this section shall include any and all documents pertinent to the evaluation, analysis, verification and reconciliation of any and all expenditures under this Agreement without regard to funding sources.

(a) VENDOR's Records Defined. For the purposes of this Agreement, the term "VENDOR's Records" shall include, without limitation, accounting records, payroll time sheets, cancelled payroll checks, W-2 forms, written policies and procedures, computer records, disks and software, videos, photographs, executed subcontracts, subcontract files (including proposals of successful and unsuccessful bidders), original estimates, estimating worksheets, correspondence, change order files (including sufficient supporting documentation and documentation covering negotiated settlements), and any other supporting documents that would substantiate, reconcile or refute any charges and/or expenditures related to this Agreement.

(b) Duration of Right to Inspect. For the purpose of such audits, inspections, examinations, evaluations and/or reproductions, SBBC's agent or authorized representative shall have access to VENDOR's Records from the effective date of this Agreement, for the duration of the term of this Agreement, and until the later of five (5) years after the termination of this Agreement or five (5) years after the date of final payment by SBBC to VENDOR pursuant to this Agreement.

(c) Notice of Inspection. SBBC's agent or its authorized representative shall provide VENDOR reasonable advance notice (not to exceed two (2) weeks) of any intended audit, inspection, examination, evaluation and or reproduction.

(d) Audit Site Conditions. SBBC's agent or its authorized representative shall have access to VENDOR's facilities and to any and all records related to this Agreement, and shall be provided adequate and appropriate work space in order to exercise the rights permitted under this section.

(e) Failure to Permit Inspection. Failure by VENDOR to permit audit, inspection, examination, evaluation and/or reproduction as permitted under this Section shall constitute grounds for termination of this Agreement by SBBC for cause and shall be grounds for the denial of some or all of any VENDOR's claims for payment by SBBC.

(f) Overcharges and Unauthorized Charges. If an audit conducted in accordance with this Section discloses overcharges or unauthorized charges to SBBC by VENDOR in excess of two percent (2%) of the total billings under this Agreement, the actual cost of SBBC's audit shall be paid by VENDOR. If the audit discloses billings or charges to which VENDOR is not contractually entitled, VENDOR shall pay said sum to SBBC within twenty (20) days of receipt of written demand under otherwise agreed to in writing by both parties.

(g) Inspection of Subcontractor's Records. VENDOR shall require any and all subcontractors, insurance agents and material suppliers (hereafter referred to as "Payees") providing services or goods with regard to this Agreement to comply with the requirements of this section by insertion of such requirements in any written subcontract. Failure by VENDOR to include such requirements in any subcontract shall constitute grounds for termination of this Agreement by SBBC for cause and shall be grounds for the exclusion of some or all of any Payee's costs from amounts payable by SBBC to VENDOR pursuant to this Agreement and such excluded costs shall become the liability of VENDOR.

(h) Inspector General Audits. VENDOR shall comply and cooperate immediately with any inspections, reviews, investigations, or audits deemed necessary by the Florida Office of the Inspector General or by any other state or federal officials.

2.07 **Notice**. When any of the parties desire to give notice to the other, such notice must be in writing, sent by U.S. Mail, postage prepaid, addressed to the party for whom it is intended at the place last specified; the place for giving notice shall remain such until it is changed by written notice in compliance with the provisions of this paragraph. For the present, the Parties designate the following as the respective places for giving notice:

To SBBC:	Superintendent of Schools The School Board of Broward County, Florida 600 S.E. 3rd. Avenue Fort Lauderdale, Florida 33301
With a Copy to:	Director, ESE Department The School Board of Broward County, Florida Arthur Ashe Campus 1701 NW 23 Avenue Fort Lauderdale, FL 33311
To VENDOR:	Ann Gogan 6240 Windlass Circle Boynton Beach, Florida 33472

2.08 **Background Screening.** VENDOR agrees to comply with all requirements of Sections 1012.32 and 1012.465, Florida Statutes, and all of its personnel who (1) are to be permitted access to school grounds when students are present, (2) will have direct contact with students, or (3) have access or control of school funds, will successfully complete the background screening required by the referenced statutes and meet the standards established by the statutes. This background screening will be conducted by SBBC in advance of VENDOR or its personnel providing any services under the conditions described in the previous sentence. VENDOR shall bear the cost of acquiring the background screening required by Section 1012.32, Florida Statutes, and any fee imposed by the Florida Department of Law Enforcement to maintain the fingerprints provided with respect to VENDOR and its personnel. The parties agree that the failure of VENDOR to perform any of the duties described in this section shall constitute a material breach of this Agreement entitling SBBC to terminate immediately with no further responsibilities or duties to perform under this Agreement. VENDOR agrees to indemnify and hold harmless SBBC, its officers and employees from any liability in the form of physical or mental injury, death or property damage resulting from VENDOR's failure to comply with the requirements of this Section or with Sections 1012.32 and 1012.465, Florida Statutes.

ARTICLE 3 – GENERAL CONDITIONS

3.01 **No Waiver of Sovereign Immunity**. Nothing herein is intended to serve as a waiver of sovereign immunity by any agency or political subdivision to which sovereign immunity may be applicable or of any rights or limits to liability existing under Section 768.28, Florida Statutes. This section shall survive the termination of all performance or obligations under this Agreement and shall be fully binding until such time as any proceeding brought on account of this Agreement is barred by any applicable statute of limitations.

3.02 **No Third Party Beneficiaries**. The parties expressly acknowledge that it is not their intent to create or confer any rights or obligations in or upon any third person or entity under this Agreement. None of the parties intend to directly or substantially benefit a third party by this Agreement. The parties agree that there are no third party beneficiaries to this Agreement and that no third party shall be entitled to assert a claim against any of the parties based upon this Agreement. Nothing herein shall be construed as consent by an agency or political subdivision of the State of Florida to be sued by third parties in any matter arising out of any contract.

3.03 **Independent Contractor**. The parties to this agreement shall at all times be acting in the capacity of independent contractors and not as an officer, employee or agent of one another. Neither party or its respective agents, employees, subcontractors or assignees shall represent to others that it has the authority to bind the other party unless specifically authorized in writing to do so. No right to SBBC retirement, leave benefits or any other benefits of SBBC employees shall exist as a result of the performance of any duties or responsibilities under this Agreement. SBBC shall not be responsible for social security, withholding taxes, contributions to unemployment compensation funds or insurance for the other party or the other party's officers, employees, agents, subcontractors or assignees.

3.04 **Equal Opportunity Provision**. The parties agree that no person shall be subjected to discrimination because of age, race, color, disability, gender identity, gender expression marital status, national origin, religion, sex or sexual orientation in the performance of the parties' respective duties, responsibilities and obligations under this Agreement.

3.05 **Termination**. This Agreement may be canceled with or without cause by SBBC during the term hereof upon thirty (30) days written notice to the other parties of its desire to terminate this Agreement. SBBC shall have no liability for any property left on SBBC's property by any party to this Agreement after the termination of this Agreement. Any party contracting with SBBC under this Agreement agrees that any of its property placed upon SBBC's facilities pursuant to this Agreement shall be removed within ten (10) business days following the termination, conclusion or cancellation of this Agreement and that any such property remaining upon SBBC's facilities after that time shall be deemed to be abandoned, title to such property shall pass to SBBC, and SBBC may use or dispose of such property as SBBC deems fit and appropriate.

3.06 **Default**. The parties agree that, in the event that either party is in default of its obligations under this Agreement, the non-defaulting party shall provide to the defaulting party (30) days written notice to cure the default. However, in the event said default cannot be cured within said thirty (30) day period and the defaulting party is diligently attempting in good faith to cure same, the time period shall be reasonably extended to allow the defaulting party additional cure time. Upon the occurrence of a default that is not cured during the applicable cure period, this Agreement may be terminated by the non-defaulting party upon thirty (30) days notice. This remedy is not intended to be exclusive of any other remedy, and each and every such remedy shall be cumulative and shall be in addition to every other remedy now or hereafter existing at law or in equity or by statute or otherwise. No single or partial exercise by any party of any right, power, or remedy hereunder shall preclude any other or future exercise thereof. Nothing in this section shall be construed to preclude termination for convenience pursuant to Section 3.05.

3.07 **Annual Appropriation.** The performance and obligations of SBBC under this Agreement shall be contingent upon an annual budgetary appropriation by its governing body. If SBBC does not allocate funds for the payment of services or products to be provided under this Agreement, this Agreement may be terminated by SBBC at the end of the period for which funds have been allocated. SBBC shall notify the other party at the earliest possible time before such termination. No penalty shall accrue to SBBC in the event this provision is exercised, and SBBC shall not be obligated or liable for any future payments due or any damages as a result of termination under this section.

3.08 **Excess Funds**. Any party receiving funds paid by SBBC under this Agreement agrees to promptly notify SBBC of any funds erroneously received from SBBC upon the discovery of such erroneous payment or overpayment. Any such excess funds shall be refunded to SBBC.

3.09 **Public Records**. Pursuant to Section 119.0701, Florida Statutes, any party contracting with SBBC is required to (a) keep and maintain available for public inspection any records that pertain to services rendered under this Agreement; (b) provide the public with access to public records on the same terms and conditions that SBBC would provide such records and 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; and (d) meet all requirements for retaining public records and transfer, at no cost to SBBC, all public records in that party's possession upon termination of its Agreement with SBBC and destroy any duplicate public records that are exempt or confidential and exempt from public records disclosure requirements. All of such party's records stored electronically must be provided to SBBC in a format that is compatible with SBBC's information technology systems. Each party shall maintain its own respective records and documents associated with this Agreement in accordance with the records retention requirements applicable to public records. Each party shall be responsible for compliance with any public documents request served upon it pursuant to Section 119.07, Florida Statutes, and any resultant award of attorney's fees for non-compliance with that law. Each party acknowledges that this Agreement and all attachments thereto are public records and do not constitute trade secrets.

3.10 **Student Records**: Notwithstanding any provision to the contrary within this Agreement, any party contracting with SBBC under this Agreement shall fully comply with the requirements of Sections 1002.22 and 1002.221, Florida Statutes; FERPA, and any other state or federal law or regulation regarding the confidentiality of student information and records. Each such party agrees, for itself, its officers, employees, agents, representatives, contractors or subcontractors, to fully indemnify and hold harmless SBBC and its officers and employees for any violation of this section, including, without limitation, defending SBBC and its officers and employees against any complaint, administrative or judicial proceeding, payment of any penalty imposed upon SBBC, or payment of any and all costs, damages, judgments or losses incurred by or imposed upon SBBC arising out of a breach of this covenant by the party, or an officer, employee, agent, representative, contractor, or sub-contractor of the party to the extent that the party or an officer, employee, agent, representative, contractor, or sub-contractor of the party shall either intentionally or negligently violate the provisions of this section or of Sections 1002.22 and/or 1002.221, Florida Statutes.

3.11 **Compliance with Laws**. Each party shall comply with all applicable federal, state and local laws, SBBC policies, codes, rules and regulations in performing its duties, responsibilities and obligations pursuant to this Agreement.

3.12 **Place of Performance**. All obligations of SBBC under the terms of this Agreement are reasonably susceptible of being performed in Broward County, Florida and shall be payable and performable in Broward County, Florida.

3.13 **Governing Law and Venue**. This Agreement shall be interpreted and construed in accordance with and governed by the laws of the State of Florida. Any controversies or legal problems arising out of this Agreement and any action involving the enforcement or interpretation of any rights hereunder shall be submitted to the jurisdiction of the State courts of the Seventeenth Judicial Circuit of Broward County, Florida.

3.14 **Entirety of Agreement**. This document incorporates and includes all prior negotiations, correspondence, conversations, agreements and understandings applicable to the matters contained herein and the parties agree that there are no commitments, agreements or understandings concerning the subject matter of this Agreement that are not contained in this document. Accordingly, the parties agree that no deviation from the terms hereof shall be predicated upon any prior representations or agreements, whether oral or written.

3.15 **Binding Effect**. This Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective successors and assigns.

3.16 **Assignment**. Neither this Agreement nor any interest herein may be assigned, transferred or encumbered by any party without the prior written consent of the other party. There shall be no partial assignments of this Agreement including, without limitation, the partial assignment of any right to receive payments from SBBC.

3.17 **Incorporation by Reference**. **Attachment A** attached hereto and referenced herein shall be deemed to be incorporated into this Agreement by reference.

3.18 **Captions**. The captions, section designations, section numbers, article numbers, titles and headings appearing in this Agreement are inserted only as a matter of convenience, have no substantive meaning, and in no way define, limit, construe or describe the scope or intent of such articles or sections of this Agreement, nor in any way affect this Agreement and shall not be construed to create a conflict with the provisions of this Agreement.

3.19 **Severability**. In the event that any one or more of the sections, paragraphs, sentences, clauses or provisions contained in this Agreement is held by a court of competent jurisdiction to be invalid, illegal, unlawful, unenforceable or void in any respect, such shall not affect the remaining portions of this Agreement and the same shall remain in full force and effect as if such invalid, illegal, unlawful, unenforceable or void sections, paragraphs, sentences, clauses or provisions had never been included herein.

3.20 **Preparation of Agreement**. The parties acknowledge that they have sought and obtained whatever competent advice and counsel as was necessary for them to form a full and complete understanding of all rights and obligations herein and that the preparation of this Agreement has been their joint effort. The language agreed to herein expresses their mutual intent and the resulting document shall not, solely as a matter of judicial construction, be construed more severely against one of the parties than the other.

3.21 **Amendments**. No modification, amendment, or alteration in the terms or conditions contained herein shall be effective unless contained in a written document prepared with the same or similar formality as this Agreement and executed by each party hereto.

3.22 **Waiver**. The parties agree that each requirement, duty and obligation set forth herein is substantial and important to the formation of this Agreement and, therefore, is a material term hereof. Any party's failure to enforce any provision of this Agreement shall not be deemed a waiver of such provision or modification of this Agreement unless the waiver is in writing and signed by the party waiving such provision. A written waiver shall only be effective as to the specific instance for which it is obtained and shall not be deemed a continuing or future waiver.

3.23 **Force Majeure**. Neither party shall be obligated to perform any duty, requirement or obligation under this Agreement if such performance is prevented by fire, hurricane, earthquake, explosion, wars, sabotage, accident, flood, acts of God, strikes, or other labor disputes, riot or civil commotions, or by reason of any other matter or condition beyond the control of either party, and which cannot be overcome by reasonable diligence and without unusual expense ("Force Majeure"). In no event shall a lack of funds on the part of either party be deemed Force Majeure.

3.24 **Survival**. All representations and warranties made herein, indemnification obligations, obligations to reimburse SBBC, obligations to maintain and allow inspection and audit of records and property, obligations to maintain the confidentiality of records, reporting requirements, and obligations to return public funds shall survive the termination of this Agreement.

3.25 **Contract Administration.** SBBC has delegated authority to the Superintendent of Schools or his/her designee to take any actions necessary to implement and administer this Agreement.

3.26. **Liability**. This section shall survive the termination of all performance or obligations under this Agreement and shall be fully binding until such time as any proceeding brought on account of this Agreement is barred by any applicable statute of limitations.

A. By SBBC: SBBC agrees to be fully responsible up to the limits of Section 768.28, Florida Statutes, for its acts of negligence, or its employees' acts of negligence when acting within the scope of their employment and agrees to be liable for any damages resulting from said negligence.

B. By VENDOR: VENDOR agrees to indemnify, hold harmless and defend SBBC, its agents, servants and employees from any and all claims, judgments, costs, and expenses including, but not limited to, reasonable attorney's fees, reasonable investigative and discovery costs, court costs and all other sums which SBBC, its agents, servants and employees may pay or become obligated to pay on account of any, all and every claim or demand, or assertion of liability, or any claim or action founded thereon, arising or alleged to have arisen out of the products, goods or services furnished by VENDOR, its agents, servants or employees; the equipment of VENDOR, its agents, servants or employees while such equipment is on premises owned or controlled by SBBC; or the negligence of VENDOR or the negligence of VENDOR's agents when acting within the scope of their employment, whether such claims, judgments, costs and expenses be for damages, damage to property including SBBC's property, and injury or death of any person whether employed by VENDOR, SBBC or otherwise.

3.27 **Authority**. Each person signing this Agreement on behalf of either party individually warrants that he or she has full legal power to execute this Agreement on behalf of the party for whom he or she is signing, and to bind and obligate such party with respect to all provisions contained in this Agreement.

IN WITNESS WHEREOF, the Parties hereto have made and executed this Agreement on the date first above written.

FOR SBBC

(Corporate Seal)

THE SCHOOL BOARD OF BROWARD COUNTY, FLORIDA

By_____
Dr. Rosalind Osgood, Chair

ATTEST:

_____
Robert W. Runcie, Superintendent of Schools

Approved as to Form and Legal Content:

Kathelyn Jacques-Adams

Digitally signed by Kathelyn Jacques-Adams
DN: cn=Kathelyn Jacques-Adams, o=The School District of Broward County, Florida, ou=The Office of the General Counsel, email=kathelyn.jacques-adams@browardschools.com, c=US
Date: 2016.05.25 12:11:34 -04'00'

Office of the General Counsel

FOR VENDOR

Witness

Witness

Signature

Ann Gogan

STATE OF FLORIDA

COUNTY OF BROWARD

The foregoing instrument was acknowledged before me by ANN GOGAN
Insert Name Here

who is personally known to me or who produced _____ as
Type of Identification

identification and who did/did not first take an oath this 04 day of MAY,

20 16.

My Commission Expires: 08/01/2017

Signature – Notary Public

MONA LISA MAXEY

Notary's Printed Name

(SEAL)

FF041993

Notary's Commission No.

ATTACHMENT A

SCOPE OF SERVICES

1. VENDOR shall provide a Licensed Physical Therapist Assistant (LPTA) in accordance with Broward County Schools Special Programs and Procedures. A copy of these procedures may be obtained on Exceptional Student Education's website at http://www.broward.k12.fl.us/studentsupport/ese/pdf/SP&P.pdf or as updated by SBBC.

2. VENDOR shall provide a current licensed LPTA under this Agreement. **Award of this Agreement shall not be a guarantee of business, a guarantee of specified volume of service or minimum dollar revenue to be received under this Agreement.**

3. VENDOR shall report to the Program Specialist and/or Curriculum Supervisor regarding services under this Agreement.

4. VENDOR shall be compensated for direct student services and student related activities only. VENDOR shall not be compensated/reimbursed for travel under this Agreement.

5. VENDOR shall provide the following services, but not limited to, initial student evaluations, small group or individual therapy with students, record-keeping for student attendance, supervising assistants, preparing progress reports and therapy notes, preparing a therapy plan of care, participating in the development of Individual Education Plans (IEP), attendance at required eligibility, IEP and dismissal staffings, attending in-service meetings as requested and providing consultation with parents, school area, district staff and physicians, as needed. For Certified Occupational Therapy Assistants (COTA) and Licensed Physical Therapy Assistant (LPTA), service will be provided under supervision in accordance with the OT/PT Practice ACT. VENDOR shall complete all appropriate documentation for Medicaid Reimbursement.

6. VENDOR shall provide services consistent with the professional standards of care and comply with all the medical and ethical requirements imposed by the State of Florida, Board of Medicine, the Department of Professional Regulations, the Florida State Department of Education and any other applicable federal, state or local regulatory agency.

7. VENDOR shall provide the requested level of service(s), in accordance with and/or changes for services requested by SBBC, within five (5) calendar days of notice, unless otherwise mutually agreed upon. Excessive failure to meet the needs as requested will result in cancellation of VENDOR's Agreement.

8. VENDOR shall maintain normal working hours of 8:00 a.m. to 4:00 p.m. Hours may occasionally be extended from 7:00 a.m. to 4:30 p.m. There will be no reimbursement for a thirty (30) minute lunch period. SBBC may only be invoiced for up to 7.5 hours per day unless prior approval has been granted by SBBC staff for extended service time. Awardee(s) may provide a maximum of four (4) hours of service as needed on each scheduled employee planning day. Invoices not complying with this will be rejected and returned for correction and failure to invoice correctly will result in a delay of payment. Any VENDOR who consistently submits invoices that are not correct may be found in default of Agreement.

SCOPE OF SERVICES

9. VENDOR shall respond to requested services within five (5) school days of the request by submitting to an interview by a designated SBBC representative. Firms can also offer these services and interviews as required.

10. VENDOR shall provide uninterrupted services based upon the current school calendar to students by providing qualified substitutes or replacements in the event of an anticipated or unanticipated lapse of service. A qualified substitute is defined to be a therapist for a therapist or a therapist assistant for an assistant. All qualified substitutes must display an SBBC identification badge. (See General Condition 7.42) Any lapse of service to SBBC for five student attendance days during any school year will result in default of Agreement. VENDOR may be responsible to provide compensatory services or payments to SBBC for lapse of service.

11. VENDOR shall provide a service schedule of all personnel for approval on a regular basis as determined by a designated SBBC representative.

12. VENDOR shall follow all procedures (including, but not limited to, signing in and out, no telephone calls during treatment time) of individual schools where they are assigned. All therapists must carry a cell phone for critical communication throughout the day with SBBC personnel as established. These numbers must be provided to SBBC personnel. There shall be no cost to SBBC to use these communication devices.

13. VENDOR shall prepare time logs, reports, written analysis and other written memoranda in the form and manner deemed appropriate by SBBC.

14. VENDOR shall bill under SBBC's Medicaid provider number, when needed.

15. VENDOR, under this Agreement, shall be required to pass the screening of the of the Broward School's Police, Security Clearance Department prior to placement of assignment as required by SBBC (See General Condition 7.42 of the RFP, SBBC Photo Identification Badge). VENDOR must utilize the STAR system and/or sign-in/out procedures to document attendance at assigned location(s).

16. SBBC reserves the right to interview all therapy candidates prior to placement. K-12 experience is preferred. SBBC reserves the right to refuse to utilize any proposed therapy candidate. SBBC reserves the right to have an individual therapist removed from the assigned position. VENDOR will have five workdays in which to propose a replacement therapist. Should VENDOR be unable to provide an acceptable replacement, all other contracted Awardees will then be notified to submit a candidate to SBBC.

17. VENDOR shall provide proof of services on an original approved voucher form upon initiation of services and up until training is provided on the Accelify Electronic Management System. Once VENDOR has received training, VENDOR shall then submit all invoices electronically.

SCOPE OF SERVICES

18. VENDOR shall have all therapists and assistants and required substitutes or replacements submit to, and pass, the screening of the Special Investigative Unit (SIU), including fingerprinting, prior to working with students as required for all SBBC personnel. All therapists and assistants shall display an SBBC Identification Badge during contracted work hours. VENDOR will be required to pay the required fees for screening, fingerprinting and photo identification. (See General Condition 7.42 of the RFP)

19. VENDOR shall cooperate with SBBC in its partnership with universities and colleges to provide supervision of practicum experience for student therapists and assistants.

20. VENDOR may be evaluated annually in areas to include, but not be limited to, responsiveness, continuity of service, quality of work and professionalism.

21. VENDOR shall not provide private assessments or therapy services to students on their own public school caseload.

22. VENDOR and all therapists and assistants shall attend an orientation workshop of not less than three hours. This orientation workshop will include, but not be limited to, general information on the policies and procedures of the Broward County Special Programs and Procedures, the rights of students with disabilities, and other operational procedures required to carry out the therapy program. Additional workshops may be required during the term of the Agreement.

23. VENDOR will receive, from SBBC, requested materials, equipment and other related items which have been determined to be necessary to carry out the therapy program for students when approved by a designated SBBC representative.

24. VENDOR shall insure that their provider has the necessary technology (eg. Laptop, desktop computer, etc.) needed to carryout job responsibilities.

AGREEMENT

THIS AGREEMENT is made and entered into as of this ____ day of _____, 2016, by and between

THE SCHOOL BOARD OF BROWARD COUNTY, FLORIDA
(hereinafter referred to as "SBBC"),
a body corporate and political subdivision of the State of Florida,
whose principal place of business is
600 Southeast Third Avenue, Fort Lauderdale, Florida 33301

and

ASMA PROFESSIONAL SERVICES, INC.
(hereinafter referred to as "VENDOR"),
whose principal place of business is
17658 SW 28th Court
Miramar, Florida 33029

WHEREAS, SBBC issued a Request for Proposal identified as RFP 17-005V – Occupational and Physical Therapy Services (hereinafter referred to as "RFP"), dated December 11, 2015 and amended by Addendum No. 2, dated January 15, 2016, and Addendum No. 1, dated January 9, 2016 all of which are incorporated by reference herein, for the purpose of receiving proposals for occupational and physical therapy services; and

WHEREAS, VENDOR offered a proposal dated January 9, 2016 (hereinafter referred to as "Proposal") which is incorporated by reference herein, in response to this RFP; and

NOW, THEREFORE, in consideration of the premises and of the mutual covenants contained herein and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the Parties hereby agree as follows:

ARTICLE 1 - RECITALS

1.01 **Recitals**. The parties agree that the foregoing recitals are true and correct and that such recitals are incorporated herein by reference.

ARTICLE 2 – SPECIAL CONDITIONS

2.01 **Term of Agreement**. Unless terminated earlier pursuant to Section 3.05 of this Agreement, the term of this Agreement shall commence on **July 1, 2016** and conclude on **June 30, 2019.** The term of the Agreement may, by mutual agreement between SBBC and VENDOR be extended for two additional one-year periods and, if needed, 180 days beyond the expiration date of the renewal period. SBBC's Procurement & Warehousing Services Department, will, if considering renewing, request a letter consenting to renewal from VENDOR, prior to the end of the term. Any renewal period shall be approved by an Amendment to this Agreement executed by both parties

2.02 **Priority of Documents.** In the event of a conflict between documents, the following priority of documents shall govern.

First: This Agreement, then;
Second: Addendum No. 2, then;
Third: Addendum No. 1, then;
Fourth: RFP 17-005V – Occupational and Physical Therapy Services, then;
Fifth: Proposal submitted in response to the RFP by VENDOR.

2.03 **Services**: VENDOR shall provide SBBC with the Scope of Services as proposed in its Proposal and in compliance with this Agreement and the RFP and its Addenda and as specified in **Attachment A – Scope of Services**.

2.04 **Cost of Services**. SBBC shall pay VENDOR for cost of services rendered satisfactorily for Occupational Therapy services at $64.00/hour. Costs shall not exceed the amount as stated on the Purchase Order. VENDOR may offer SBBC a special educational discount for pricing and reduce the cost of services during the term of the Agreement. VENDOR may invoice SBBC at an hourly rate less than their original bid price.

2.05 **M/WBE Participation**. VENDOR is a current Certified MWBE, Subcontinent-Asian, with SBBC, Certificate #7007-6860.

2.06 **Inspection of VENDOR's Records by SBBC**. VENDOR shall establish and maintain books, records and documents (including electronic storage media) sufficient to reflect all income and expenditures of funds provided by SBBC under this Agreement. All VENDOR's Records, regardless of the form in which they are kept, shall be open to inspection and subject to audit, inspection, examination, evaluation and/or reproduction, during normal working hours, by SBBC's agent or its authorized representative to permit SBBC to evaluate, analyze and verify the satisfactory performance of the terms and conditions of this Agreement and to evaluate, analyze and verify any and all invoices, billings, payments and/or claims submitted by VENDOR or any of VENDOR's payees pursuant to this Agreement. VENDOR's Records subject to examination shall include, without limitation, those records necessary to evaluate and verify direct and indirect costs (including overhead allocations) as they may apply to costs associated with this Agreement. VENDOR's Records subject to this section shall include any and all documents pertinent to the evaluation, analysis, verification and reconciliation of any and all expenditures under this Agreement without regard to funding sources.

(a) VENDOR's Records Defined. For the purposes of this Agreement, the term "VENDOR's Records" shall include, without limitation, accounting records, payroll time sheets, cancelled payroll checks, W-2 forms, written policies and procedures, computer records, disks and software, videos, photographs, executed subcontracts, subcontract files (including proposals of successful and unsuccessful bidders), original estimates, estimating worksheets, correspondence, change order files (including sufficient supporting documentation and documentation covering negotiated settlements), and any other supporting documents that would substantiate, reconcile or refute any charges and/or expenditures related to this Agreement.

(b) Duration of Right to Inspect. For the purpose of such audits, inspections, examinations, evaluations and/or reproductions, SBBC's agent or authorized representative shall have access to VENDOR's Records from the effective date of this Agreement, for the duration of the term of this Agreement, and until the later of five (5) years after the termination of this Agreement or five (5) years after the date of final payment by SBBC to VENDOR pursuant to this Agreement.

(c) Notice of Inspection. SBBC's agent or its authorized representative shall provide VENDOR reasonable advance notice (not to exceed two (2) weeks) of any intended audit, inspection, examination, evaluation and or reproduction.

(d) Audit Site Conditions. SBBC's agent or its authorized representative shall have access to VENDOR's facilities and to any and all records related to this Agreement, and shall be provided adequate and appropriate work space in order to exercise the rights permitted under this section.

(e) Failure to Permit Inspection. Failure by VENDOR to permit audit, inspection, examination, evaluation and/or reproduction as permitted under this Section shall constitute grounds for termination of this Agreement by SBBC for cause and shall be grounds for the denial of some or all of any VENDOR's claims for payment by SBBC.

(f) Overcharges and Unauthorized Charges. If an audit conducted in accordance with this Section discloses overcharges or unauthorized charges to SBBC by VENDOR in excess of two percent (2%) of the total billings under this Agreement, the actual cost of SBBC's audit shall be paid by VENDOR. If the audit discloses billings or charges to which VENDOR is not contractually entitled, VENDOR shall pay said sum to SBBC within twenty (20) days of receipt of written demand under otherwise agreed to in writing by both parties.

(g) Inspection of Subcontractor's Records. VENDOR shall require any and all subcontractors, insurance agents and material suppliers (hereafter referred to as "Payees") providing services or goods with regard to this Agreement to comply with the requirements of this section by insertion of such requirements in any written subcontract. Failure by VENDOR to include such requirements in any subcontract shall constitute grounds for termination of this Agreement by SBBC for cause and shall be grounds for the exclusion of some or all of any Payee's costs from amounts payable by SBBC to VENDOR pursuant to this Agreement and such excluded costs shall become the liability of VENDOR.

(h) Inspector General Audits. VENDOR shall comply and cooperate immediately with any inspections, reviews, investigations, or audits deemed necessary by the Florida Office of the Inspector General or by any other state or federal officials.

2.07 **Notice**. When any of the parties desire to give notice to the other, such notice must be in writing, sent by U.S. Mail, postage prepaid, addressed to the party for whom it is intended at the place last specified; the place for giving notice shall remain such until it is changed by written notice in compliance with the provisions of this paragraph. For the present, the Parties designate the following as the respective places for giving notice:

To SBBC:	Superintendent of Schools The School Board of Broward County, Florida 600 S.E. 3rd. Avenue Fort Lauderdale, Florida 33301
With a Copy to:	Director, ESE Department The School Board of Broward County, Florida Arthur Ashe Campus 1701 NW 23 Avenue Fort Lauderdale, FL 33311
To VENDOR:	Asma Lacewala, President ASMA Professional Services, Inc. 17658 SW 28th Court Miramar, Florida 33029

2.08 **Background Screening.** VENDOR agrees to comply with all requirements of Sections 1012.32 and 1012.465, Florida Statutes, and all of its personnel who (1) are to be permitted access to school grounds when students are present, (2) will have direct contact with students, or (3) have access or control of school funds, will successfully complete the background screening required by the referenced statutes and meet the standards established by the statutes. This background screening will be conducted by SBBC in advance of VENDOR or its personnel providing any services under the conditions described in the previous sentence. VENDOR shall bear the cost of acquiring the background screening required by Section 1012.32, Florida Statutes, and any fee imposed by the Florida Department of Law Enforcement to maintain the fingerprints provided with respect to VENDOR and its personnel. The parties agree that the failure of VENDOR to perform any of the duties described in this section shall constitute a material breach of this Agreement entitling SBBC to terminate immediately with no further responsibilities or duties to perform under this Agreement. VENDOR agrees to indemnify and hold harmless SBBC, its officers and employees from any liability in the form of physical or mental injury, death or property damage resulting from VENDOR's failure to comply with the requirements of this Section or with Sections 1012.32 and 1012.465, Florida Statutes.

ARTICLE 3 – GENERAL CONDITIONS

3.01 **No Waiver of Sovereign Immunity**. Nothing herein is intended to serve as a waiver of sovereign immunity by any agency or political subdivision to which sovereign immunity may be applicable or of any rights or limits to liability existing under Section 768.28, Florida Statutes. This section shall survive the termination of all performance or obligations under this Agreement and shall be fully binding until such time as any proceeding brought on account of this Agreement is barred by any applicable statute of limitations.

3.02 **No Third Party Beneficiaries**. The parties expressly acknowledge that it is not their intent to create or confer any rights or obligations in or upon any third person or entity under this Agreement. None of the parties intend to directly or substantially benefit a third party by this Agreement. The parties agree that there are no third party beneficiaries to this Agreement and that no third party shall be entitled to assert a claim against any of the parties based upon this Agreement. Nothing herein shall be construed as consent by an agency or political subdivision of the State of Florida to be sued by third parties in any matter arising out of any contract.

3.03 **Independent Contractor**. The parties to this agreement shall at all times be acting in the capacity of independent contractors and not as an officer, employee or agent of one another. Neither party or its respective agents, employees, subcontractors or assignees shall represent to others that it has the authority to bind the other party unless specifically authorized in writing to do so. No right to SBBC retirement, leave benefits or any other benefits of SBBC employees shall exist as a result of the performance of any duties or responsibilities under this Agreement. SBBC shall not be responsible for social security, withholding taxes, contributions to unemployment compensation funds or insurance for the other party or the other party's officers, employees, agents, subcontractors or assignees.

3.04 **Equal Opportunity Provision**. The parties agree that no person shall be subjected to discrimination because of age, race, color, disability, gender identity, gender expression marital status, national origin, religion, sex or sexual orientation in the performance of the parties' respective duties, responsibilities and obligations under this Agreement.

3.05 **Termination**. This Agreement may be canceled with or without cause by SBBC during the term hereof upon thirty (30) days written notice to the other parties of its desire to terminate this Agreement. SBBC shall have no liability for any property left on SBBC's property by any party to this Agreement after the termination of this Agreement. Any party contracting with SBBC under this Agreement agrees that any of its property placed upon SBBC's facilities pursuant to this Agreement shall be removed within ten (10) business days following the termination, conclusion or cancellation of this Agreement and that any such property remaining upon SBBC's facilities after that time shall be deemed to be abandoned, title to such property shall pass to SBBC, and SBBC may use or dispose of such property as SBBC deems fit and appropriate.

3.06 **Default**. The parties agree that, in the event that either party is in default of its obligations under this Agreement, the non-defaulting party shall provide to the defaulting party (30) days written notice to cure the default. However, in the event said default cannot be cured within said thirty (30) day period and the defaulting party is diligently attempting in good faith to cure same, the time period shall be reasonably extended to allow the defaulting party additional cure time. Upon the occurrence of a default that is not cured during the applicable cure period, this Agreement may be terminated by the non-defaulting party upon thirty (30) days notice. This remedy is not intended to be exclusive of any other remedy, and each and every such remedy shall be cumulative and shall be in addition to every other remedy now or hereafter existing at law or in equity or by statute or otherwise. No single or partial exercise by any party of any right, power, or remedy hereunder shall preclude any other or future exercise thereof. Nothing in this section shall be construed to preclude termination for convenience pursuant to Section 3.05.

3.07 **Annual Appropriation.** The performance and obligations of SBBC under this Agreement shall be contingent upon an annual budgetary appropriation by its governing body. If SBBC does not allocate funds for the payment of services or products to be provided under this Agreement, this Agreement may be terminated by SBBC at the end of the period for which funds have been allocated. SBBC shall notify the other party at the earliest possible time before such termination. No penalty shall accrue to SBBC in the event this provision is exercised, and SBBC shall not be obligated or liable for any future payments due or any damages as a result of termination under this section.

3.08 **Excess Funds**. Any party receiving funds paid by SBBC under this Agreement agrees to promptly notify SBBC of any funds erroneously received from SBBC upon the discovery of such erroneous payment or overpayment. Any such excess funds shall be refunded to SBBC.

3.09 **Public Records**. Pursuant to Section 119.0701, Florida Statutes, any party contracting with SBBC is required to (a) keep and maintain available for public inspection any records that pertain to services rendered under this Agreement; (b) provide the public with access to public records on the same terms and conditions that SBBC would provide such records and 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; and (d) meet all requirements for retaining public records and transfer, at no cost to SBBC, all public records in that party's possession upon termination of its Agreement with SBBC and destroy any duplicate public records that are exempt or confidential and exempt from public records disclosure requirements. All of such party's records stored electronically must be provided to

SBBC in a format that is compatible with SBBC's information technology systems. Each party shall maintain its own respective records and documents associated with this Agreement in accordance with the records retention requirements applicable to public records. Each party shall be responsible for compliance with any public documents request served upon it pursuant to Section 119.07, Florida Statutes, and any resultant award of attorney's fees for non-compliance with that law. Each party acknowledges that this Agreement and all attachments thereto are public records and do not constitute trade secrets.

3.10 **Student Records**: Notwithstanding any provision to the contrary within this Agreement, any party contracting with SBBC under this Agreement shall fully comply with the requirements of Sections 1002.22 and 1002.221, Florida Statutes; FERPA, and any other state or federal law or regulation regarding the confidentiality of student information and records. Each such party agrees, for itself, its officers, employees, agents, representatives, contractors or subcontractors, to fully indemnify and hold harmless SBBC and its officers and employees for any violation of this section, including, without limitation, defending SBBC and its officers and employees against any complaint, administrative or judicial proceeding, payment of any penalty imposed upon SBBC, or payment of any and all costs, damages, judgments or losses incurred by or imposed upon SBBC arising out of a breach of this covenant by the party, or an officer, employee, agent, representative, contractor, or sub-contractor of the party to the extent that the party or an officer, employee, agent, representative, contractor, or sub-contractor of the party shall either intentionally or negligently violate the provisions of this section or of Sections 1002.22 and/or 1002.221, Florida Statutes.

3.11 **Compliance with Laws**. Each party shall comply with all applicable federal, state and local laws, SBBC policies, codes, rules and regulations in performing its duties, responsibilities and obligations pursuant to this Agreement.

3.12 **Place of Performance**. All obligations of SBBC under the terms of this Agreement are reasonably susceptible of being performed in Broward County, Florida and shall be payable and performable in Broward County, Florida.

3.13 **Governing Law and Venue**. This Agreement shall be interpreted and construed in accordance with and governed by the laws of the State of Florida. Any controversies or legal problems arising out of this Agreement and any action involving the enforcement or interpretation of any rights hereunder shall be submitted to the jurisdiction of the State courts of the Seventeenth Judicial Circuit of Broward County, Florida.

3.14 **Entirety of Agreement**. This document incorporates and includes all prior negotiations, correspondence, conversations, agreements and understandings applicable to the matters contained herein and the parties agree that there are no commitments, agreements or understandings concerning the subject matter of this Agreement that are not contained in this document. Accordingly, the parties agree that no deviation from the terms hereof shall be predicated upon any prior representations or agreements, whether oral or written.

3.15 **Binding Effect**. This Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective successors and assigns.

3.16 **Assignment**. Neither this Agreement nor any interest herein may be assigned, transferred or encumbered by any party without the prior written consent of the other party. There shall be no partial assignments of this Agreement including, without limitation, the partial assignment of any right to receive payments from SBBC.

3.17 **Incorporation by Reference**. **Attachment A** attached hereto and referenced herein shall be deemed to be incorporated into this Agreement by reference.

3.18 **Captions**. The captions, section designations, section numbers, article numbers, titles and headings appearing in this Agreement are inserted only as a matter of convenience, have no substantive meaning, and in no way define, limit, construe or describe the scope or intent of such articles or sections of this Agreement, nor in any way affect this Agreement and shall not be construed to create a conflict with the provisions of this Agreement.

3.19 **Severability**. In the event that any one or more of the sections, paragraphs, sentences, clauses or provisions contained in this Agreement is held by a court of competent jurisdiction to be invalid, illegal, unlawful, unenforceable or void in any respect, such shall not affect the remaining portions of this Agreement and the same shall remain in full force and effect as if such invalid, illegal, unlawful, unenforceable or void sections, paragraphs, sentences, clauses or provisions had never been included herein.

3.20 **Preparation of Agreement**. The parties acknowledge that they have sought and obtained whatever competent advice and counsel as was necessary for them to form a full and complete understanding of all rights and obligations herein and that the preparation of this Agreement has been their joint effort. The language agreed to herein expresses their mutual intent and the resulting document shall not, solely as a matter of judicial construction, be construed more severely against one of the parties than the other.

3.21 **Amendments**. No modification, amendment, or alteration in the terms or conditions contained herein shall be effective unless contained in a written document prepared with the same or similar formality as this Agreement and executed by each party hereto.

3.22 **Waiver**. The parties agree that each requirement, duty and obligation set forth herein is substantial and important to the formation of this Agreement and, therefore, is a material term hereof. Any party's failure to enforce any provision of this Agreement shall not be deemed a waiver of such provision or modification of this Agreement unless the waiver is in writing and signed by the party waiving such provision. A written waiver shall only be effective as to the specific instance for which it is obtained and shall not be deemed a continuing or future waiver.

3.23 **Force Majeure**. Neither party shall be obligated to perform any duty, requirement or obligation under this Agreement if such performance is prevented by fire, hurricane, earthquake, explosion, wars, sabotage, accident, flood, acts of God, strikes, or other labor disputes, riot or civil commotions, or by reason of any other matter or condition beyond the control of either party, and which cannot be overcome by reasonable diligence and without unusual expense ("Force Majeure"). In no event shall a lack of funds on the part of either party be deemed Force Majeure.

3.24 **Survival**. All representations and warranties made herein, indemnification obligations, obligations to reimburse SBBC, obligations to maintain and allow inspection and audit of records and property, obligations to maintain the confidentiality of records, reporting requirements, and obligations to return public funds shall survive the termination of this Agreement.

3.25 **Contract Administration.** SBBC has delegated authority to the Superintendent of Schools or his/her designee to take any actions necessary to implement and administer this Agreement.

3.26. **Liability**. This section shall survive the termination of all performance or obligations under this Agreement and shall be fully binding until such time as any proceeding brought on account of this Agreement is barred by any applicable statute of limitations.

A. By SBBC: SBBC agrees to be fully responsible up to the limits of Section 768.28, Florida Statutes, for its acts of negligence, or its employees' acts of negligence when acting within the scope of their employment and agrees to be liable for any damages resulting from said negligence.

B. By VENDOR: VENDOR agrees to indemnify, hold harmless and defend SBBC, its agents, servants and employees from any and all claims, judgments, costs, and expenses including, but not limited to, reasonable attorney's fees, reasonable investigative and discovery costs, court costs and all other sums which SBBC, its agents, servants and employees may pay or become obligated to pay on account of any, all and every claim or demand, or assertion of liability, or any claim or action founded thereon, arising or alleged to have arisen out of the products, goods or services furnished by VENDOR, its agents, servants or employees; the equipment of VENDOR, its agents, servants or employees while such equipment is on premises owned or controlled by SBBC; or the negligence of VENDOR or the negligence of VENDOR's agents when acting within the scope of their employment, whether such claims, judgments, costs and expenses be for damages, damage to property including SBBC's property, and injury or death of any person whether employed by VENDOR, SBBC or otherwise.

3.29 **Authority**. Each person signing this Agreement on behalf of either party individually warrants that he or she has full legal power to execute this Agreement on behalf of the party for whom he or she is signing, and to bind and obligate such party with respect to all provisions contained in this Agreement.

IN WITNESS WHEREOF, the Parties hereto have made and executed this Agreement on the date first above written.

FOR SBBC

(Corporate Seal)

THE SCHOOL BOARD OF BROWARD COUNTY, FLORIDA

By_____
Dr. Rosalind Osgood, Chair

ATTEST:

_____
Robert W. Runcie, Superintendent of Schools

Approved as to Form and Legal Content:

Kathelyn Jacques-Adams

Digitally signed by Kathelyn Jacques-Adams
DN: cn=Kathelyn Jacques-Adams, o=The School District of Broward County, Florida, ou=The Office of the General Counsel, email=kathelyn.jacques-adams@browardschools.com, c=US
Date: 2016.05.25 12:12:32 -04'00'

_____
Office of the General Counsel

FOR VENDOR

(Corporate Seal)

ASMA PROFESSIONAL SERVICES, INC.

ATTEST:

By Asma Lacewala

_____, Secretary

-or-

_____
Witness

_____
Witness

The Following Notarization is Required for Every Agreement Without Regard to Whether the Party Chose to Use a Secretary's Attestation or Two (2) Witnesses.

STATE OF Florida

COUNTY OF Broward

The foregoing instrument was acknowledged before me this 6th day of May, 2016 by Asma Lacewala of
Name of Person
Asma Professional Services Inc. on behalf of the corporation/agency.
Name of Corporation or Agency
He/She is personally known to me or produced FL Driver's License as identification and did/did not first take an oath.
Type of Identification

My Commission Expires:

_____
Signature – Notary Public

(SEAL)

SANA KAZI
Notary Public, State of Florida
Commission# EE 862038
My comm. expires Jan. 02, 2017

Sana Kazi
Printed Name of Notary

EE 862038
Notary's Commission No.

SCOPE OF SERVICES

1. VENDOR shall provide occupational therapy services in accordance with Broward County Schools Special Programs and Procedures. A copy of these procedures may be obtained on Exceptional Student Education's website at http://www.broward.k12.fl.us/studentsupport/ese/pdf/SP&P.pdf or as updated by SBBC.

2. VENDOR shall provide current licensed occupational therapists under this Agreement. **Award of this Agreement shall not be a guarantee of business, a guarantee of specified volume of service or minimum dollar revenue to be received under this Agreement.**

3. VENDOR shall report to the Program Specialist and/or Curriculum Supervisor regarding services under this Agreement.

4. VENDOR shall be compensated for direct student services and student related activities only. VENDOR shall not be compensated/reimbursed for travel under this Agreement.

5. VENDOR shall provide the following services, but not limited to, initial student evaluations, small group or individual therapy with students, record-keeping for student attendance, supervising assistants, preparing progress reports and therapy notes, preparing a therapy plan of care, participating in the development of Individual Education Plans (IEP), attendance at required eligibility, IEP and dismissal staffings, attending in-service meetings as requested and providing consultation with parents, school area, district staff and physicians, as needed. VENDOR shall complete all appropriate documentation for Medicaid Reimbursement.

6. VENDOR shall provide services consistent with the professional standards of care and comply with all the medical and ethical requirements imposed by the State of Florida, Board of Medicine, the Department of Professional Regulations, the Florida State Department of Education and any other applicable federal, state or local regulatory agency.

7. VENDOR shall provide the requested level of service(s), in accordance with and/or changes for services requested by SBBC, within five (5) calendar days of notice, unless otherwise mutually agreed upon. Excessive failure to meet the needs as requested will result in cancellation of VENDOR's Agreement.

8. VENDOR shall maintain normal working hours of 8:00 a.m. to 4:00 p.m. Hours may occasionally be extended from 7:00 a.m. to 4:30 p.m. There will be no reimbursement for a thirty (30) minute lunch period. SBBC may only be invoiced for up to 7.5 hours per day unless prior approval has been granted by SBBC staff for extended service time. Awardee(s) may provide a maximum of four (4) hours of service as needed on each scheduled employee planning day. Invoices not complying with this will be rejected and returned for correction and failure to invoice correctly will result in a delay of payment. Any VENDOR who consistently submits invoices that are not correct may be found in default of Agreement.

ATTACHMENT A

SCOPE OF SERVICES

9. VENDOR shall respond to requested services within five (5) school days of the request by submitting to an interview by a designated SBBC representative. Firms can also offer these services and interviews as required.

10. VENDOR shall provide uninterrupted services based upon the current school calendar to students by providing qualified substitutes or replacements in the event of an anticipated or unanticipated lapse of service. A qualified substitute is defined to be a therapist for a therapist or a therapist assistant for an assistant. All qualified substitutes must display an SBBC identification badge. (See General Condition 7.42) Any lapse of service to SBBC for five student attendance days during any school year will result in default of Agreement. VENDOR may be responsible to provide compensatory services or payments to SBBC for lapse of service.

11. VENDOR shall provide a service schedule of all personnel for approval on a regular basis as determined by a designated SBBC representative.

12. VENDOR shall follow all procedures (including, but not limited to, signing in and out, no telephone calls during treatment time) of individual schools where they are assigned. All therapists must carry a cell phone for critical communication throughout the day with SBBC personnel as established. These numbers must be provided to SBBC personnel. There shall be no cost to SBBC to use these communication devices.

13. VENDOR shall prepare time logs, reports, written analysis and other written memoranda in the form and manner deemed appropriate by SBBC.

14. VENDOR shall bill under SBBC's Medicaid provider number, when needed.

15. VENDOR, under this Agreement, shall be required to pass the screening of the of the Broward School's Police, Security Clearance Department prior to placement of assignment as required by SBBC (See General Condition 7.42 of the RFP, SBBC Photo Identification Badge). VENDOR must utilize the STAR system and/or sign-in/out procedures to document attendance at assigned location(s).

16. SBBC reserves the right to interview all therapy candidates prior to placement. K-12 experience is preferred. SBBC reserves the right to refuse to utilize any proposed therapy candidate. SBBC reserves the right to have an individual therapist removed from the assigned position. VENDOR will have five workdays in which to propose a replacement therapist. Should VENDOR be unable to provide an acceptable replacement, all other contracted Awardees will then be notified to submit a candidate to SBBC.

17. VENDOR shall provide proof of services on an original approved voucher form upon initiation of services and up until training is provided on the Accelify Electronic Management System. Once VENDOR has received training, VENDOR shall then submit all invoices electronically.

SCOPE OF SERVICES

18. VENDOR shall have all therapists and assistants and required substitutes or replacements submit to, and pass, the screening of the Special Investigative Unit (SIU), including fingerprinting, prior to working with students as required for all SBBC personnel. All therapists and assistants shall display an SBBC Identification Badge during contracted work hours. VENDOR will be required to pay the required fees for screening, fingerprinting and photo identification. (See General Condition 7.42 of the RFP)

19. VENDOR shall cooperate with SBBC in its partnership with universities and colleges to provide supervision of practicum experience for student therapists and assistants.

20. VENDOR may be evaluated annually in areas to include, but not be limited to, responsiveness, continuity of service, quality of work and professionalism.

21. VENDOR shall not provide private assessments or therapy services to students on their own public school caseload.

22. VENDOR and all therapists and assistants shall attend an orientation workshop of not less than three hours. This orientation workshop will include, but not be limited to, general information on the policies and procedures of the Broward County Special Programs and Procedures, the rights of students with disabilities, and other operational procedures required to carry out the therapy program. Additional workshops may be required during the term of the Agreement.

23. VENDOR will receive, from SBBC, requested materials, equipment and other related items which have been determined to be necessary to carry out the therapy program for students when approved by a designated SBBC representative.

24. VENDOR shall insure that their provider has the necessary technology (eg. Laptop, desktop computer, etc.) needed to carryout job responsibilities.

AGREEMENT

THIS AGREEMENT is made and entered into as of this ____ day of _____, 2016, by and between

THE SCHOOL BOARD OF BROWARD COUNTY, FLORIDA
(hereinafter referred to as "SBBC"),
a body corporate and political subdivision of the State of Florida,
whose principal place of business is
600 Southeast Third Avenue, Fort Lauderdale, Florida 33301

and

AUDREY B. GREENWALD, M.S., CCC, P.A.
(hereinafter referred to as "VENDOR"),
whose principal place of business is
160 NW 4th Street
Boca Raton, Florida 33432

WHEREAS, SBBC issued a Request for Proposal identified as RFP 17-005V – Occupational and Physical Therapy Services (hereinafter referred to as "RFP"), dated December 11, 2015 and amended by Addendum No. 2, dated January 15, 2016, and Addendum No. 1, dated January 9, 2016 all of which are incorporated by reference herein, for the purpose of receiving proposals for occupational and physical therapy services; and

WHEREAS, VENDOR offered a proposal dated January 14, 2016 (hereinafter referred to as "Proposal") which is incorporated by reference herein, in response to this RFP.

NOW, THEREFORE, in consideration of the premises and of the mutual covenants contained herein and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the Parties hereby agree as follows:

ARTICLE 1 - RECITALS

1.01 **Recitals**. The parties agree that the foregoing recitals are true and correct and that such recitals are incorporated herein by reference.

ARTICLE 2 – SPECIAL CONDITIONS

2.01 **Term of Agreement**. Unless terminated earlier pursuant to Section 3.05 of this Agreement, the term of this Agreement shall commence on **July 1, 2016** and conclude on **June 30, 2019.** The term of the Agreement may, by mutual agreement between SBBC and VENDOR be extended for two additional one-year periods and, if needed, 180 days beyond the expiration date of the renewal period. SBBC's Procurement & Warehousing Services Department, will, if considering renewing, request a letter consenting to renewal from VENDOR, prior to the end of the term. Any renewal period shall be approved by an Amendment to this Agreement executed by both parties

2.02 **Priority of Documents.** In the event of a conflict between documents, the following priority of documents shall govern.

First: This Agreement, then;
Second: Addendum No. 2, then;
Third: Addendum No. 1, then;
Fourth: RFP 17-005V – Occupational and Physical Therapy Services, then;
Fifth: Proposal submitted in response to the RFP by VENDOR.

2.03 **Services**: VENDOR shall provide SBBC with the Scope of Services as proposed in its Proposal and in compliance with this Agreement and the RFP and its Addenda and as specified in **Attachment A – Scope of Services**.

2.04 **Cost of Services**. SBBC shall pay VENDOR for cost of services satisfactorily rendered for:

Occupational Therapy services at $60.00/hour;
Certified Occupational Therapist Assistant (COTA) at $45.00/hr.;
Physical Therapist at $60.00/hr.; and
Licensed Physical Therapist Assistant at $45.00/hr.

Costs shall not exceed the amount as stated on the Purchase Order. VENDOR may offer SBBC a special educational discount for pricing and reduce the cost of services during the term of the Agreement. VENDOR may invoice SBBC at an hourly rate less than their original bid price.

2.05 **M/WBE Participation**. VENDOR is a current Certified MWBE, Caucasian Female, with SBBC, Certificate # 7007-6959.

2.06 **Inspection of VENDOR's Records by SBBC**. VENDOR shall establish and maintain books, records and documents (including electronic storage media) sufficient to reflect all income and expenditures of funds provided by SBBC under this Agreement. All VENDOR's Records, regardless of the form in which they are kept, shall be open to inspection and subject to audit, inspection, examination, evaluation and/or reproduction, during normal working hours, by SBBC's agent or its authorized representative to permit SBBC to evaluate, analyze and verify the satisfactory performance of the terms and conditions of this Agreement and to evaluate, analyze and verify any and all invoices, billings, payments and/or claims submitted by VENDOR or any of VENDOR's payees pursuant to this Agreement. VENDOR's Records subject to examination shall include, without limitation, those records necessary to evaluate and verify direct and indirect costs (including overhead allocations) as they may apply to costs associated with this Agreement. VENDOR's Records subject to this section shall include any and all documents pertinent to the evaluation, analysis, verification and reconciliation of any and all expenditures under this Agreement without regard to funding sources.

(a) VENDOR's Records Defined. For the purposes of this Agreement, the term "VENDOR's Records" shall include, without limitation, accounting records, payroll time sheets, cancelled payroll checks, W-2 forms, written policies and procedures, computer records, disks and software, videos, photographs, executed subcontracts, subcontract files (including proposals of successful and unsuccessful bidders), original estimates, estimating worksheets, correspondence, change order files (including sufficient supporting documentation and documentation covering negotiated settlements), and any other supporting documents that would substantiate, reconcile or refute any charges and/or expenditures related to this Agreement.

(b) Duration of Right to Inspect. For the purpose of such audits, inspections, examinations, evaluations and/or reproductions, SBBC's agent or authorized representative shall have access to VENDOR's Records from the effective date of this Agreement, for the duration of the term of this Agreement, and until the later of five (5) years after the termination of this Agreement or five (5) years after the date of final payment by SBBC to VENDOR pursuant to this Agreement.

(c) Notice of Inspection. SBBC's agent or its authorized representative shall provide VENDOR reasonable advance notice (not to exceed two (2) weeks) of any intended audit, inspection, examination, evaluation and or reproduction.

(d) Audit Site Conditions. SBBC's agent or its authorized representative shall have access to VENDOR's facilities and to any and all records related to this Agreement, and shall be provided adequate and appropriate work space in order to exercise the rights permitted under this section.

(e) Failure to Permit Inspection. Failure by VENDOR to permit audit, inspection, examination, evaluation and/or reproduction as permitted under this Section shall constitute grounds for termination of this Agreement by SBBC for cause and shall be grounds for the denial of some or all of any VENDOR's claims for payment by SBBC.

(f) Overcharges and Unauthorized Charges. If an audit conducted in accordance with this Section discloses overcharges or unauthorized charges to SBBC by VENDOR in excess of two percent (2%) of the total billings under this Agreement, the actual cost of SBBC's audit shall be paid by VENDOR. If the audit discloses billings or charges to which VENDOR is not contractually entitled, VENDOR shall pay said sum to SBBC within twenty (20) days of receipt of written demand under otherwise agreed to in writing by both parties.

(g) Inspection of Subcontractor's Records. VENDOR shall require any and all subcontractors, insurance agents and material suppliers (hereafter referred to as "Payees") providing services or goods with regard to this Agreement to comply with the requirements of this section by insertion of such requirements in any written subcontract. Failure by VENDOR to include such requirements in any subcontract shall constitute grounds for termination of this Agreement by SBBC for cause and shall be grounds for the exclusion of some or all of any Payee's costs from amounts payable by SBBC to VENDOR pursuant to this Agreement and such excluded costs shall become the liability of VENDOR.

(h) Inspector General Audits. VENDOR shall comply and cooperate immediately with any inspections, reviews, investigations, or audits deemed necessary by the Florida Office of the Inspector General or by any other state or federal officials.

2.07 **Notice**. When any of the parties desire to give notice to the other, such notice must be in writing, sent by U.S. Mail, postage prepaid, addressed to the party for whom it is intended at the place last specified; the place for giving notice shall remain such until it is changed by written notice in compliance with the provisions of this paragraph. For the present, the Parties designate the following as the respective places for giving notice:

To SBBC:
Superintendent of Schools
The School Board of Broward County, Florida
600 S.E. 3rd. Avenue
Fort Lauderdale, Florida 33301

With a Copy to:	Director, ESE Department The School Board of Broward County, Florida Arthur Ashe Campus 1701 NW 23 Avenue Fort Lauderdale, FL 33311
To VENDOR:	Audrey B. Greenwald, M.S., CCC, P.A. d/b/a Boca Speech Center 160 NW 4th Street Boca Raton, Florida 33432
With a Copy to:	Nicole Ben-Hamo, M.S., CCC-SLP 160 NW 4th Street Boca Raton, Florida 33432

2.08 **Background Screening.** VENDOR agrees to comply with all requirements of Sections 1012.32 and 1012.465, Florida Statutes, and all of its personnel who (1) are to be permitted access to school grounds when students are present, (2) will have direct contact with students, or (3) have access or control of school funds, will successfully complete the background screening required by the referenced statutes and meet the standards established by the statutes. This background screening will be conducted by SBBC in advance of VENDOR or its personnel providing any services under the conditions described in the previous sentence. VENDOR shall bear the cost of acquiring the background screening required by Section 1012.32, Florida Statutes, and any fee imposed by the Florida Department of Law Enforcement to maintain the fingerprints provided with respect to VENDOR and its personnel. The parties agree that the failure of VENDOR to perform any of the duties described in this section shall constitute a material breach of this Agreement entitling SBBC to terminate immediately with no further responsibilities or duties to perform under this Agreement. VENDOR agrees to indemnify and hold harmless SBBC, its officers and employees from any liability in the form of physical or mental injury, death or property damage resulting from VENDOR's failure to comply with the requirements of this Section or with Sections 1012.32 and 1012.465, Florida Statutes.

ARTICLE 3 – GENERAL CONDITIONS

3.01 **No Waiver of Sovereign Immunity.** Nothing herein is intended to serve as a waiver of sovereign immunity by any agency or political subdivision to which sovereign immunity may be applicable or of any rights or limits to liability existing under Section 768.28, Florida Statutes. This section shall survive the termination of all performance or obligations under this Agreement and shall be fully binding until such time as any proceeding brought on account of this Agreement is barred by any applicable statute of limitations.

3.02 **No Third Party Beneficiaries.** The parties expressly acknowledge that it is not their intent to create or confer any rights or obligations in or upon any third person or entity under this Agreement. None of the parties intend to directly or substantially benefit a third party by this Agreement. The parties agree that there are no third party beneficiaries to this Agreement and that no third party shall be entitled to assert a claim against any of the parties based upon this Agreement. Nothing herein shall be construed as consent by an agency or political subdivision of the State of Florida to be sued by third parties in any matter arising out of any contract.

3.03 **Independent Contractor**. The parties to this agreement shall at all times be acting in the capacity of independent contractors and not as an officer, employee or agent of one another. Neither party or its respective agents, employees, subcontractors or assignees shall represent to others that it has the authority to bind the other party unless specifically authorized in writing to do so. No right to SBBC retirement, leave benefits or any other benefits of SBBC employees shall exist as a result of the performance of any duties or responsibilities under this Agreement. SBBC shall not be responsible for social security, withholding taxes, contributions to unemployment compensation funds or insurance for the other party or the other party's officers, employees, agents, subcontractors or assignees.

3.04 **Equal Opportunity Provision**. The parties agree that no person shall be subjected to discrimination because of age, race, color, disability, gender identity, gender expression marital status, national origin, religion, sex or sexual orientation in the performance of the parties' respective duties, responsibilities and obligations under this Agreement.

3.05 **Termination**. This Agreement may be canceled with or without cause by SBBC during the term hereof upon thirty (30) days written notice to the other parties of its desire to terminate this Agreement. SBBC shall have no liability for any property left on SBBC's property by any party to this Agreement after the termination of this Agreement. Any party contracting with SBBC under this Agreement agrees that any of its property placed upon SBBC's facilities pursuant to this Agreement shall be removed within ten (10) business days following the termination, conclusion or cancellation of this Agreement and that any such property remaining upon SBBC's facilities after that time shall be deemed to be abandoned, title to such property shall pass to SBBC, and SBBC may use or dispose of such property as SBBC deems fit and appropriate.

3.06 **Default**. The parties agree that, in the event that either party is in default of its obligations under this Agreement, the non-defaulting party shall provide to the defaulting party (30) days written notice to cure the default. However, in the event said default cannot be cured within said thirty (30) day period and the defaulting party is diligently attempting in good faith to cure same, the time period shall be reasonably extended to allow the defaulting party additional cure time. Upon the occurrence of a default that is not cured during the applicable cure period, this Agreement may be terminated by the non-defaulting party upon thirty (30) days notice. This remedy is not intended to be exclusive of any other remedy, and each and every such remedy shall be cumulative and shall be in addition to every other remedy now or hereafter existing at law or in equity or by statute or otherwise. No single or partial exercise by any party of any right, power, or remedy hereunder shall preclude any other or future exercise thereof. Nothing in this section shall be construed to preclude termination for convenience pursuant to Section 3.05.

3.07 **Annual Appropriation.** The performance and obligations of SBBC under this Agreement shall be contingent upon an annual budgetary appropriation by its governing body. If SBBC does not allocate funds for the payment of services or products to be provided under this Agreement, this Agreement may be terminated by SBBC at the end of the period for which funds have been allocated. SBBC shall notify the other party at the earliest possible time before such termination. No penalty shall accrue to SBBC in the event this provision is exercised, and SBBC shall not be obligated or liable for any future payments due or any damages as a result of termination under this section.

3.08 **Excess Funds**. Any party receiving funds paid by SBBC under this Agreement agrees to promptly notify SBBC of any funds erroneously received from SBBC upon the discovery of such erroneous payment or overpayment. Any such excess funds shall be refunded to SBBC.

3.09 **Public Records**. Pursuant to Section 119.0701, Florida Statutes, any party contracting with SBBC is required to (a) keep and maintain available for public inspection any records that pertain to services rendered under this Agreement; (b) provide the public with access to public records on the same terms and conditions that SBBC would provide such records and 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; and (d) meet all requirements for retaining public records and transfer, at no cost to SBBC, all public records in that party's possession upon termination of its Agreement with SBBC and destroy any duplicate public records that are exempt or confidential and exempt from public records disclosure requirements. All of such party's records stored electronically must be provided to SBBC in a format that is compatible with SBBC's information technology systems. Each party shall maintain its own respective records and documents associated with this Agreement in accordance with the records retention requirements applicable to public records. Each party shall be responsible for compliance with any public documents request served upon it pursuant to Section 119.07, Florida Statutes, and any resultant award of attorney's fees for non-compliance with that law. Each party acknowledges that this Agreement and all attachments thereto are public records and do not constitute trade secrets.

3.10 **Student Records**: Notwithstanding any provision to the contrary within this Agreement, any party contracting with SBBC under this Agreement shall fully comply with the requirements of Sections 1002.22 and 1002.221, Florida Statutes; FERPA, and any other state or federal law or regulation regarding the confidentiality of student information and records. Each such party agrees, for itself, its officers, employees, agents, representatives, contractors or subcontractors, to fully indemnify and hold harmless SBBC and its officers and employees for any violation of this section, including, without limitation, defending SBBC and its officers and employees against any complaint, administrative or judicial proceeding, payment of any penalty imposed upon SBBC, or payment of any and all costs, damages, judgments or losses incurred by or imposed upon SBBC arising out of a breach of this covenant by the party, or an officer, employee, agent, representative, contractor, or sub-contractor of the party to the extent that the party or an officer, employee, agent, representative, contractor, or sub-contractor of the party shall either intentionally or negligently violate the provisions of this section or of Sections 1002.22 and/or 1002.221, Florida Statutes.

3.11 **Compliance with Laws**. Each party shall comply with all applicable federal, state and local laws, SBBC policies, codes, rules and regulations in performing its duties, responsibilities and obligations pursuant to this Agreement.

3.12 **Place of Performance**. All obligations of SBBC under the terms of this Agreement are reasonably susceptible of being performed in Broward County, Florida and shall be payable and performable in Broward County, Florida.

3.13 **Governing Law and Venue**. This Agreement shall be interpreted and construed in accordance with and governed by the laws of the State of Florida. Any controversies or legal problems arising out of this Agreement and any action involving the enforcement or interpretation of any rights hereunder shall be submitted to the jurisdiction of the State courts of the Seventeenth Judicial Circuit of Broward County, Florida.

3.14 **Entirety of Agreement**. This document incorporates and includes all prior negotiations, correspondence, conversations, agreements and understandings applicable to the matters contained herein and the parties agree that there are no commitments, agreements or understandings concerning the subject matter of this Agreement that are not contained in this document. Accordingly, the parties agree that no deviation from the terms hereof shall be predicated upon any prior representations or agreements, whether oral or written.

3.15 **Binding Effect**. This Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective successors and assigns.

3.16 **Assignment**. Neither this Agreement nor any interest herein may be assigned, transferred or encumbered by any party without the prior written consent of the other party. There shall be no partial assignments of this Agreement including, without limitation, the partial assignment of any right to receive payments from SBBC.

3.17 **Incorporation by Reference**. **Attachment A** attached hereto and referenced herein shall be deemed to be incorporated into this Agreement by reference.

3.18 **Captions**. The captions, section designations, section numbers, article numbers, titles and headings appearing in this Agreement are inserted only as a matter of convenience, have no substantive meaning, and in no way define, limit, construe or describe the scope or intent of such articles or sections of this Agreement, nor in any way affect this Agreement and shall not be construed to create a conflict with the provisions of this Agreement.

3.19 **Severability**. In the event that any one or more of the sections, paragraphs, sentences, clauses or provisions contained in this Agreement is held by a court of competent jurisdiction to be invalid, illegal, unlawful, unenforceable or void in any respect, such shall not affect the remaining portions of this Agreement and the same shall remain in full force and effect as if such invalid, illegal, unlawful, unenforceable or void sections, paragraphs, sentences, clauses or provisions had never been included herein.

3.20 **Preparation of Agreement**. The parties acknowledge that they have sought and obtained whatever competent advice and counsel as was necessary for them to form a full and complete understanding of all rights and obligations herein and that the preparation of this Agreement has been their joint effort. The language agreed to herein expresses their mutual intent and the resulting document shall not, solely as a matter of judicial construction, be construed more severely against one of the parties than the other.

3.21 **Amendments**. No modification, amendment, or alteration in the terms or conditions contained herein shall be effective unless contained in a written document prepared with the same or similar formality as this Agreement and executed by each party hereto.

3.22 **Waiver**. The parties agree that each requirement, duty and obligation set forth herein is substantial and important to the formation of this Agreement and, therefore, is a material term hereof. Any party's failure to enforce any provision of this Agreement shall not be deemed a waiver of such provision or modification of this Agreement unless the waiver is in writing and signed by the party waiving such provision. A written waiver shall only be effective as to the specific instance for which it is obtained and shall not be deemed a continuing or future waiver.

3.23 **Force Majeure**. Neither party shall be obligated to perform any duty, requirement or obligation under this Agreement if such performance is prevented by fire, hurricane, earthquake, explosion, wars, sabotage, accident, flood, acts of God, strikes, or other labor disputes, riot or civil commotions, or by reason of any other matter or condition beyond the control of either party, and which cannot be overcome by reasonable diligence and without unusual expense ("Force Majeure"). In no event shall a lack of funds on the part of either party be deemed Force Majeure.

3.24 **Survival**. All representations and warranties made herein, indemnification obligations, obligations to reimburse SBBC, obligations to maintain and allow inspection and audit of records and property, obligations to maintain the confidentiality of records, reporting requirements, and obligations to return public funds shall survive the termination of this Agreement.

3.25 **Contract Administration.** SBBC has delegated authority to the Superintendent of Schools or his/her designee to take any actions necessary to implement and administer this Agreement.

3.26. **Liability**. This section shall survive the termination of all performance or obligations under this Agreement and shall be fully binding until such time as any proceeding brought on account of this Agreement is barred by any applicable statute of limitations.

A. By SBBC: SBBC agrees to be fully responsible up to the limits of Section 768.28, Florida Statutes, for its acts of negligence, or its employees' acts of negligence when acting within the scope of their employment and agrees to be liable for any damages resulting from said negligence.

B. By VENDOR: VENDOR agrees to indemnify, hold harmless and defend SBBC, its agents, servants and employees from any and all claims, judgments, costs, and expenses including, but not limited to, reasonable attorney's fees, reasonable investigative and discovery costs, court costs and all other sums which SBBC, its agents, servants and employees may pay or become obligated to pay on account of any, all and every claim or demand, or assertion of liability, or any claim or action founded thereon, arising or alleged to have arisen out of the products, goods or services furnished by VENDOR, its agents, servants or employees; the equipment of VENDOR, its agents, servants or employees while such equipment is on premises owned or controlled by SBBC; or the negligence of VENDOR or the negligence of VENDOR's agents when acting within the scope of their employment, whether such claims, judgments, costs and expenses be for damages, damage to property including SBBC's property, and injury or death of any person whether employed by VENDOR, SBBC or otherwise.

3.27 **Authority**. Each person signing this Agreement on behalf of either party individually warrants that he or she has full legal power to execute this Agreement on behalf of the party for whom he or she is signing, and to bind and obligate such party with respect to all provisions contained in this Agreement.

IN WITNESS WHEREOF, the Parties hereto have made and executed this Agreement on the date first above written.

FOR SBBC

(Corporate Seal)

THE SCHOOL BOARD OF BROWARD COUNTY, FLORIDA

By_____
Dr. Rosalind Osgood, Chair

ATTEST:

_____
Robert W. Runcie, Superintendent of Schools

Approved as to Form and Legal Content:

Kathelyn Jacques-Adams

Digitally signed by Kathelyn Jacques-Adams
DN: cn=Kathelyn Jacques-Adams, o=The School District of Broward County, Florida, ou=The Office of the General Counsel, email=kathelyn.jacques-adams@browardschools.com, c=US
Date: 2016.05.25 12:13:08 -04'00'

_____
Office of the General Counsel

FOR VENDOR

(Corporate Seal)

ATTEST:

AUDREY B. GREENWALD, M.S., CCC, P.A.

By Audrey B Greenwald, MS CCC-SLP

_____, Secretary

-or-

_____
Witness

_____
Witness

The Following Notarization is Required for Every Agreement Without Regard to Whether the Party Chose to Use a Secretary's Attestation or Two (2) Witnesses.

STATE OF Florida

COUNTY OF Palm Beach

The foregoing instrument was acknowledged before me this 2 day of May, 2016 by Audrey Greenwald of
Name of Person
Audrey B Greenwald MS CCC PA, on behalf of the corporation/agency.
Name of Corporation or Agency

He/She is personally known to me or produced FL Dr Lic exp 4/6/19 as identification and did/did not first take an oath.
Type of Identification

My Commission Expires:

_____
Signature – Notary Public

(SEAL)

CATHY MENTO
Notary Public, State of Florida
Commission# FF 85235
My comm. expires FEB. 13, 2018

Cathy Mento.
Printed Name of Notary

FF 85235.
Notary's Commission No.

ATTACHMENT A

SCOPE OF SERVICES

1. VENDOR shall provide occupational and physical therapy services in accordance with Broward County Schools Special Programs and Procedures. A copy of these procedures may be obtained on Exceptional Student Education's website at http://www.broward.k12.fl.us/studentsupport/ese/pdf/SP&P.pdf or as updated by SBBC.

2. VENDOR shall provide current licensed occupational and physical therapists under this Agreement. **Award of this Agreement shall not be a guarantee of business, a guarantee of specified volume of service or minimum dollar revenue to be received under this Agreement.**

3. VENDOR shall report to the Program Specialist and/or Curriculum Supervisor regarding services under this Agreement.

4. VENDOR shall be compensated for direct student services and student related activities only. VENDOR shall not be compensated/reimbursed for travel under this Agreement.

5. VENDOR shall provide the following services, but not limited to, initial student evaluations, small group or individual therapy with students, record-keeping for student attendance, supervising assistants, preparing progress reports and therapy notes, preparing a therapy plan of care, participating in the development of Individual Education Plans (IEP), attendance at required eligibility, IEP and dismissal staffings, attending in-service meetings as requested and providing consultation with parents, school area, district staff and physicians, as needed. For Certified Occupational Therapy Assistants (COTA) and Licensed Physical Therapy Assistant (LPTA), service will be provided under supervision in accordance with the OT/PT Practice ACT. VENDOR shall complete all appropriate documentation for Medicaid Reimbursement.

6. VENDOR shall provide services consistent with the professional standards of care and comply with all the medical and ethical requirements imposed by the State of Florida, Board of Medicine, the Department of Professional Regulations, the Florida State Department of Education and any other applicable federal, state or local regulatory agency.

7. VENDOR shall provide the requested level of service(s), in accordance with and/or changes for services requested by SBBC, within five (5) calendar days of notice, unless otherwise mutually agreed upon. Excessive failure to meet the needs as requested will result in cancellation of VENDOR's Agreement.

8. VENDOR shall maintain normal working hours of 8:00 a.m. to 4:00 p.m. Hours may occasionally be extended from 7:00 a.m. to 4:30 p.m. There will be no reimbursement for a thirty (30) minute lunch period. SBBC may only be invoiced for up to 7.5 hours per day unless prior approval has been granted by SBBC staff for extended service time. Awardee(s) may provide a maximum of four (4) hours of service as needed on each scheduled employee planning day. Invoices not complying with this will be rejected and returned for correction and failure to invoice correctly will result in a delay of payment. Any VENDOR who consistently submits invoices that are not correct may be found in default of Agreement.

SCOPE OF SERVICES

9. VENDOR shall respond to requested services within five (5) school days of the request by submitting to an interview by a designated SBBC representative. Firms can also offer these services and interviews as required.

10. VENDOR shall provide uninterrupted services based upon the current school calendar to students by providing qualified substitutes or replacements in the event of an anticipated or unanticipated lapse of service. A qualified substitute is defined to be a therapist for a therapist or a therapist assistant for an assistant. All qualified substitutes must display an SBBC identification badge. (See General Condition 7.42) Any lapse of service to SBBC for five student attendance days during any school year will result in default of Agreement. VENDOR may be responsible to provide compensatory services or payments to SBBC for lapse of service.

11. VENDOR shall provide a service schedule of all personnel for approval on a regular basis as determined by a designated SBBC representative.

12. VENDOR shall follow all procedures (including, but not limited to, signing in and out, no telephone calls during treatment time) of individual schools where they are assigned. All therapists must carry a cell phone for critical communication throughout the day with SBBC personnel as established. These numbers must be provided to SBBC personnel. There shall be no cost to SBBC to use these communication devices.

13. VENDOR shall prepare time logs, reports, written analysis and other written memoranda in the form and manner deemed appropriate by SBBC.

14. VENDOR shall bill under SBBC's Medicaid provider number, when needed.

15. VENDOR, under this Agreement, shall be required to pass the screening of the of the Broward School's Police, Security Clearance Department prior to placement of assignment as required by SBBC (See General Condition 7.42 of the RFP, SBBC Photo Identification Badge). VENDOR must utilize the STAR system and/or sign-in/out procedures to document attendance at assigned location(s).

16. SBBC reserves the right to interview all therapy candidates prior to placement. K-12 experience is preferred. SBBC reserves the right to refuse to utilize any proposed therapy candidate. SBBC reserves the right to have an individual therapist removed from the assigned position. VENDOR will have five workdays in which to propose a replacement therapist. Should VENDOR be unable to provide an acceptable replacement, all other contracted Awardees will then be notified to submit a candidate to SBBC.

17. VENDOR shall provide proof of services on an original approved voucher form upon initiation of services and up until training is provided on the Accelify Electronic Management System. Once VENDOR has received training, VENDOR will then submit all invoices electronically.

SCOPE OF SERVICES

18. VENDOR shall have all therapists and assistants and required substitutes or replacements submit to, and pass, the screening of the Special Investigative Unit (SIU), including fingerprinting, prior to working with students as required for all SBBC personnel. All therapists and assistants shall display an SBBC Identification Badge during contracted work hours. VENDOR will be required to pay the required fees for screening, fingerprinting and photo identification. (See General Condition 7.42 of the RFP)

19. VENDOR shall cooperate with SBBC in its partnership with universities and colleges to provide supervision of practicum experience for student therapists and assistants.

20. VENDOR may be evaluated annually in areas to include, but not be limited to, responsiveness, continuity of service, quality of work and professionalism.

21. VENDOR shall not provide private assessments or therapy services to students on their own public school caseload.

22. VENDOR and all therapists and assistants shall attend an orientation workshop of not less than three hours. This orientation workshop will include, but not be limited to, general information on the policies and procedures of the Broward County Special Programs and Procedures, the rights of students with disabilities, and other operational procedures required to carry out the therapy program. Additional workshops may be required during the term of the Agreement.

23. VENDOR will receive, from SBBC, requested materials, equipment and other related items which have been determined to be necessary to carry out the therapy program for students when approved by a designated SBBC representative.

24. VENDOR shall insure that their provider has the necessary technology (eg. Laptop, desktop computer, etc.) needed to carryout job responsibilities.

AGREEMENT

THIS AGREEMENT is made and entered into as of this ____ day of _____, 2016, by and between

THE SCHOOL BOARD OF BROWARD COUNTY, FLORIDA
(hereinafter referred to as "SBBC"),
a body corporate and political subdivision of the State of Florida,
whose principal place of business is
600 Southeast Third Avenue, Fort Lauderdale, Florida 33301

and

AUM ARTI PEDIATRIC THERAPY, LLC
(hereinafter referred to as "VENDOR"),
whose principal place of business is
4976 SW 38th Way
Fort Lauderdale, Florida 33312

WHEREAS, SBBC issued a Request for Proposal identified as RFP 17-005V – Occupational and Physical Therapy Services (hereinafter referred to as "RFP"), dated December 11, 2015 and amended by Addendum No. 2, dated January 15, 2016, and Addendum No. 1, dated January 9, 2016 all of which are incorporated by reference herein, for the purpose of receiving proposals for occupational and physical therapy services; and

WHEREAS, VENDOR offered a proposal dated January 11, 2016 (hereinafter referred to as "Proposal") which is incorporated by reference herein, in response to this RFP.

NOW, THEREFORE, in consideration of the premises and of the mutual covenants contained herein and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the Parties hereby agree as follows:

ARTICLE 1 - RECITALS

1.01 **Recitals**. The parties agree that the foregoing recitals are true and correct and that such recitals are incorporated herein by reference.

ARTICLE 2 – SPECIAL CONDITIONS

2.01 **Term of Agreement**. Unless terminated earlier pursuant to Section 3.05 of this Agreement, the term of this Agreement shall commence on **July 1, 2016** and conclude on **June 30, 2019.** The term of the Agreement may, by mutual agreement between SBBC and VENDOR be extended for two additional one-year periods and, if needed, 180 days beyond the expiration date of the renewal period. SBBC's Procurement & Warehousing Services Department, will, if considering renewing, request a letter consenting to renewal from VENDOR, prior to the end of the term. Any renewal period shall be approved by an Amendment to this Agreement executed by both parties

2.02 **Priority of Documents.** In the event of a conflict between documents, the following priority of documents shall govern.

First: This Agreement, then;
Second: Addendum No. 2, then;
Third: Addendum No. 1, then;
Fourth: RFP 17-005V – Occupational and Physical Therapy Services, then;
Fifth: Proposal submitted in response to the RFP by VENDOR.

2.03 **Services**: VENDOR shall provide SBBC with the Scope of Services as proposed in its Proposal and in compliance with this Agreement and the RFP and its Addenda and as specified in **Attachment A – Scope of Services**.

2.04 **Cost of Services**. SBBC shall pay VENDOR for cost of services satisfactorily rendered for:

Occupational Therapy services at $64.00/hour;
Certified Occupational Therapist Assistant (COTA) at $45.00/hr.;
Physical Therapist at $64.00/hr.; and
Licensed Physical Therapist Assistant at $45.00/hr.

Costs shall not exceed the amount as stated on the Purchase Order. VENDOR may offer SBBC a special educational discount for pricing and reduce the cost of services during the term of the Agreement. VENDOR may invoice SBBC at an hourly rate less than their original bid price.

2.05 **M/WBE Participation**. VENDOR is a current Certified MWBE, Subcontinent-Asian, with SBBC, Certificate #7007-6853.

2.06 **Inspection of VENDOR's Records by SBBC**. VENDOR shall establish and maintain books, records and documents (including electronic storage media) sufficient to reflect all income and expenditures of funds provided by SBBC under this Agreement. All VENDOR's Records, regardless of the form in which they are kept, shall be open to inspection and subject to audit, inspection, examination, evaluation and/or reproduction, during normal working hours, by SBBC's agent or its authorized representative to permit SBBC to evaluate, analyze and verify the satisfactory performance of the terms and conditions of this Agreement and to evaluate, analyze and verify any and all invoices, billings, payments and/or claims submitted by VENDOR or any of VENDOR's payees pursuant to this Agreement. VENDOR's Records subject to examination shall include, without limitation, those records necessary to evaluate and verify direct and indirect costs (including overhead allocations) as they may apply to costs associated with this Agreement. VENDOR's Records subject to this section shall include any and all documents pertinent to the evaluation, analysis, verification and reconciliation of any and all expenditures under this Agreement without regard to funding sources.

(a) VENDOR's Records Defined. For the purposes of this Agreement, the term "VENDOR's Records" shall include, without limitation, accounting records, payroll time sheets, cancelled payroll checks, W-2 forms, written policies and procedures, computer records, disks and software, videos, photographs, executed subcontracts, subcontract files (including proposals of successful and unsuccessful bidders), original estimates, estimating worksheets, correspondence, change order files (including sufficient supporting documentation and documentation covering negotiated settlements), and any other supporting documents that would substantiate, reconcile or refute any charges and/or expenditures related to this Agreement.

(b) Duration of Right to Inspect. For the purpose of such audits, inspections, examinations, evaluations and/or reproductions, SBBC's agent or authorized representative shall have access to VENDOR's Records from the effective date of this Agreement, for the duration of the term of this Agreement, and until the later of five (5) years after the termination of this Agreement or five (5) years after the date of final payment by SBBC to VENDOR pursuant to this Agreement.

(c) Notice of Inspection. SBBC's agent or its authorized representative shall provide VENDOR reasonable advance notice (not to exceed two (2) weeks) of any intended audit, inspection, examination, evaluation and or reproduction.

(d) Audit Site Conditions. SBBC's agent or its authorized representative shall have access to VENDOR's facilities and to any and all records related to this Agreement, and shall be provided adequate and appropriate work space in order to exercise the rights permitted under this section.

(e) Failure to Permit Inspection. Failure by VENDOR to permit audit, inspection, examination, evaluation and/or reproduction as permitted under this Section shall constitute grounds for termination of this Agreement by SBBC for cause and shall be grounds for the denial of some or all of any VENDOR's claims for payment by SBBC.

(f) Overcharges and Unauthorized Charges. If an audit conducted in accordance with this Section discloses overcharges or unauthorized charges to SBBC by VENDOR in excess of two percent (2%) of the total billings under this Agreement, the actual cost of SBBC's audit shall be paid by VENDOR. If the audit discloses billings or charges to which VENDOR is not contractually entitled, VENDOR shall pay said sum to SBBC within twenty (20) days of receipt of written demand under otherwise agreed to in writing by both parties.

(g) Inspection of Subcontractor's Records. VENDOR shall require any and all subcontractors, insurance agents and material suppliers (hereafter referred to as "Payees") providing services or goods with regard to this Agreement to comply with the requirements of this section by insertion of such requirements in any written subcontract. Failure by VENDOR to include such requirements in any subcontract shall constitute grounds for termination of this Agreement by SBBC for cause and shall be grounds for the exclusion of some or all of any Payee's costs from amounts payable by SBBC to VENDOR pursuant to this Agreement and such excluded costs shall become the liability of VENDOR.

(h) Inspector General Audits. VENDOR shall comply and cooperate immediately with any inspections, reviews, investigations, or audits deemed necessary by the Florida Office of the Inspector General or by any other state or federal officials.

2.07 **Notice**. When any of the parties desire to give notice to the other, such notice must be in writing, sent by U.S. Mail, postage prepaid, addressed to the party for whom it is intended at the place last specified; the place for giving notice shall remain such until it is changed by written notice in compliance with the provisions of this paragraph. For the present, the Parties designate the following as the respective places for giving notice:

To SBBC:
Superintendent of Schools
The School Board of Broward County, Florida
600 S.E. 3rd. Avenue
Fort Lauderdale, Florida 33301

With a Copy to: Director, ESE Department
The School Board of Broward County, Florida
Arthur Ashe Campus
1701 NW 23 Avenue
Fort Lauderdale, FL 33311

To VENDOR: Arti Dusara
AUM Arti Pediatric Therapy, LLC
4976 SW 38th Way
Fort Lauderdale, FL 33312

2.08 **Background Screening.** VENDOR agrees to comply with all requirements of Sections 1012.32 and 1012.465, Florida Statutes, and all of its personnel who (1) are to be permitted access to school grounds when students are present, (2) will have direct contact with students, or (3) have access or control of school funds, will successfully complete the background screening required by the referenced statutes and meet the standards established by the statutes. This background screening will be conducted by SBBC in advance of VENDOR or its personnel providing any services under the conditions described in the previous sentence. VENDOR shall bear the cost of acquiring the background screening required by Section 1012.32, Florida Statutes, and any fee imposed by the Florida Department of Law Enforcement to maintain the fingerprints provided with respect to VENDOR and its personnel. The parties agree that the failure of VENDOR to perform any of the duties described in this section shall constitute a material breach of this Agreement entitling SBBC to terminate immediately with no further responsibilities or duties to perform under this Agreement. VENDOR agrees to indemnify and hold harmless SBBC, its officers and employees from any liability in the form of physical or mental injury, death or property damage resulting from VENDOR's failure to comply with the requirements of this Section or with Sections 1012.32 and 1012.465, Florida Statutes.

ARTICLE 3 – GENERAL CONDITIONS

3.01 **No Waiver of Sovereign Immunity**. Nothing herein is intended to serve as a waiver of sovereign immunity by any agency or political subdivision to which sovereign immunity may be applicable or of any rights or limits to liability existing under Section 768.28, Florida Statutes. This section shall survive the termination of all performance or obligations under this Agreement and shall be fully binding until such time as any proceeding brought on account of this Agreement is barred by any applicable statute of limitations.

3.02 **No Third Party Beneficiaries**. The parties expressly acknowledge that it is not their intent to create or confer any rights or obligations in or upon any third person or entity under this Agreement. None of the parties intend to directly or substantially benefit a third party by this Agreement. The parties agree that there are no third party beneficiaries to this Agreement and that no third party shall be entitled to assert a claim against any of the parties based upon this Agreement. Nothing herein shall be construed as consent by an agency or political subdivision of the State of Florida to be sued by third parties in any matter arising out of any contract.

3.03 **Independent Contractor**. The parties to this agreement shall at all times be acting in the capacity of independent contractors and not as an officer, employee or agent of one another. Neither party or its respective agents, employees, subcontractors or assignees shall represent to others that it has the authority to bind the other party unless specifically authorized

in writing to do so. No right to SBBC retirement, leave benefits or any other benefits of SBBC employees shall exist as a result of the performance of any duties or responsibilities under this Agreement. SBBC shall not be responsible for social security, withholding taxes, contributions to unemployment compensation funds or insurance for the other party or the other party's officers, employees, agents, subcontractors or assignees.

3.04 **Equal Opportunity Provision**. The parties agree that no person shall be subjected to discrimination because of age, race, color, disability, gender identity, gender expression marital status, national origin, religion, sex or sexual orientation in the performance of the parties' respective duties, responsibilities and obligations under this Agreement.

3.05 **Termination**. This Agreement may be canceled with or without cause by SBBC during the term hereof upon thirty (30) days written notice to the other parties of its desire to terminate this Agreement. SBBC shall have no liability for any property left on SBBC's property by any party to this Agreement after the termination of this Agreement. Any party contracting with SBBC under this Agreement agrees that any of its property placed upon SBBC's facilities pursuant to this Agreement shall be removed within ten (10) business days following the termination, conclusion or cancellation of this Agreement and that any such property remaining upon SBBC's facilities after that time shall be deemed to be abandoned, title to such property shall pass to SBBC, and SBBC may use or dispose of such property as SBBC deems fit and appropriate.

3.06 **Default**. The parties agree that, in the event that either party is in default of its obligations under this Agreement, the non-defaulting party shall provide to the defaulting party (30) days written notice to cure the default. However, in the event said default cannot be cured within said thirty (30) day period and the defaulting party is diligently attempting in good faith to cure same, the time period shall be reasonably extended to allow the defaulting party additional cure time. Upon the occurrence of a default that is not cured during the applicable cure period, this Agreement may be terminated by the non-defaulting party upon thirty (30) days notice. This remedy is not intended to be exclusive of any other remedy, and each and every such remedy shall be cumulative and shall be in addition to every other remedy now or hereafter existing at law or in equity or by statute or otherwise. No single or partial exercise by any party of any right, power, or remedy hereunder shall preclude any other or future exercise thereof. Nothing in this section shall be construed to preclude termination for convenience pursuant to Section 3.05.

3.07 **Annual Appropriation.** The performance and obligations of SBBC under this Agreement shall be contingent upon an annual budgetary appropriation by its governing body. If SBBC does not allocate funds for the payment of services or products to be provided under this Agreement, this Agreement may be terminated by SBBC at the end of the period for which funds have been allocated. SBBC shall notify the other party at the earliest possible time before such termination. No penalty shall accrue to SBBC in the event this provision is exercised, and SBBC shall not be obligated or liable for any future payments due or any damages as a result of termination under this section.

3.08 **Excess Funds**. Any party receiving funds paid by SBBC under this Agreement agrees to promptly notify SBBC of any funds erroneously received from SBBC upon the discovery of such erroneous payment or overpayment. Any such excess funds shall be refunded to SBBC.

3.09 **Public Records**. Pursuant to Section 119.0701, Florida Statutes, any party contracting with SBBC is required to (a) keep and maintain available for public inspection any records that pertain to services rendered under this Agreement; (b) provide the public with access to public records on the same terms and conditions that SBBC would provide such records and 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; and (d) meet all requirements for retaining public records and transfer, at no cost to SBBC, all public records in that party's possession upon termination of its Agreement with SBBC and destroy any duplicate public records that are exempt or confidential and exempt from public records disclosure requirements. All of such party's records stored electronically must be provided to SBBC in a format that is compatible with SBBC's information technology systems. Each party shall maintain its own respective records and documents associated with this Agreement in accordance with the records retention requirements applicable to public records. Each party shall be responsible for compliance with any public documents request served upon it pursuant to Section 119.07, Florida Statutes, and any resultant award of attorney's fees for non-compliance with that law. Each party acknowledges that this Agreement and all attachments thereto are public records and do not constitute trade secrets.

3.10 **Student Records**: Notwithstanding any provision to the contrary within this Agreement, any party contracting with SBBC under this Agreement shall fully comply with the requirements of Sections 1002.22 and 1002.221, Florida Statutes; FERPA, and any other state or federal law or regulation regarding the confidentiality of student information and records. Each such party agrees, for itself, its officers, employees, agents, representatives, contractors or subcontractors, to fully indemnify and hold harmless SBBC and its officers and employees for any violation of this section, including, without limitation, defending SBBC and its officers and employees against any complaint, administrative or judicial proceeding, payment of any penalty imposed upon SBBC, or payment of any and all costs, damages, judgments or losses incurred by or imposed upon SBBC arising out of a breach of this covenant by the party, or an officer, employee, agent, representative, contractor, or sub-contractor of the party to the extent that the party or an officer, employee, agent, representative, contractor, or sub-contractor of the party shall either intentionally or negligently violate the provisions of this section or of Sections 1002.22 and/or 1002.221, Florida Statutes.

3.11 **Compliance with Laws**. Each party shall comply with all applicable federal, state and local laws, SBBC policies, codes, rules and regulations in performing its duties, responsibilities and obligations pursuant to this Agreement.

3.12 **Place of Performance**. All obligations of SBBC under the terms of this Agreement are reasonably susceptible of being performed in Broward County, Florida and shall be payable and performable in Broward County, Florida.

3.13 **Governing Law and Venue**. This Agreement shall be interpreted and construed in accordance with and governed by the laws of the State of Florida. Any controversies or legal problems arising out of this Agreement and any action involving the enforcement or interpretation of any rights hereunder shall be submitted to the jurisdiction of the State courts of the Seventeenth Judicial Circuit of Broward County, Florida.

3.14 **Entirety of Agreement**. This document incorporates and includes all prior negotiations, correspondence, conversations, agreements and understandings applicable to the matters contained herein and the parties agree that there are no commitments, agreements or understandings concerning the subject matter of this Agreement that are not contained in this document. Accordingly, the parties agree that no deviation from the terms hereof shall be predicated upon any prior representations or agreements, whether oral or written.

3.15 **Binding Effect**. This Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective successors and assigns.

3.16 **Assignment**. Neither this Agreement nor any interest herein may be assigned, transferred or encumbered by any party without the prior written consent of the other party. There shall be no partial assignments of this Agreement including, without limitation, the partial assignment of any right to receive payments from SBBC.

3.17 **Incorporation by Reference**. **Attachment A** attached hereto and referenced herein shall be deemed to be incorporated into this Agreement by reference.

3.18 **Captions**. The captions, section designations, section numbers, article numbers, titles and headings appearing in this Agreement are inserted only as a matter of convenience, have no substantive meaning, and in no way define, limit, construe or describe the scope or intent of such articles or sections of this Agreement, nor in any way affect this Agreement and shall not be construed to create a conflict with the provisions of this Agreement.

3.19 **Severability**. In the event that any one or more of the sections, paragraphs, sentences, clauses or provisions contained in this Agreement is held by a court of competent jurisdiction to be invalid, illegal, unlawful, unenforceable or void in any respect, such shall not affect the remaining portions of this Agreement and the same shall remain in full force and effect as if such invalid, illegal, unlawful, unenforceable or void sections, paragraphs, sentences, clauses or provisions had never been included herein.

3.20 **Preparation of Agreement**. The parties acknowledge that they have sought and obtained whatever competent advice and counsel as was necessary for them to form a full and complete understanding of all rights and obligations herein and that the preparation of this Agreement has been their joint effort. The language agreed to herein expresses their mutual intent and the resulting document shall not, solely as a matter of judicial construction, be construed more severely against one of the parties than the other.

3.21 **Amendments**. No modification, amendment, or alteration in the terms or conditions contained herein shall be effective unless contained in a written document prepared with the same or similar formality as this Agreement and executed by each party hereto.

3.22 **Waiver**. The parties agree that each requirement, duty and obligation set forth herein is substantial and important to the formation of this Agreement and, therefore, is a material term hereof. Any party's failure to enforce any provision of this Agreement shall not be deemed a waiver of such provision or modification of this Agreement unless the waiver is in writing and signed by the party waiving such provision. A written waiver shall only be effective as to the specific instance for which it is obtained and shall not be deemed a continuing or future waiver.

3.23 **Force Majeure**. Neither party shall be obligated to perform any duty, requirement or obligation under this Agreement if such performance is prevented by fire, hurricane, earthquake, explosion, wars, sabotage, accident, flood, acts of God, strikes, or other labor disputes, riot or civil commotions, or by reason of any other matter or condition beyond the control of either party, and which cannot be overcome by reasonable diligence and without unusual expense ("Force Majeure"). In no event shall a lack of funds on the part of either party be deemed Force Majeure.

3.24 **Survival**. All representations and warranties made herein, indemnification obligations, obligations to reimburse SBBC, obligations to maintain and allow inspection and audit of records and property, obligations to maintain the confidentiality of records, reporting requirements, and obligations to return public funds shall survive the termination of this Agreement.

3.25 **Contract Administration.** SBBC has delegated authority to the Superintendent of Schools or his/her designee to take any actions necessary to implement and administer this Agreement.

3.26. **Liability**. This section shall survive the termination of all performance or obligations under this Agreement and shall be fully binding until such time as any proceeding brought on account of this Agreement is barred by any applicable statute of limitations.

A. By SBBC: SBBC agrees to be fully responsible up to the limits of Section 768.28, Florida Statutes, for its acts of negligence, or its employees' acts of negligence when acting within the scope of their employment and agrees to be liable for any damages resulting from said negligence.

B. By VENDOR: VENDOR agrees to indemnify, hold harmless and defend SBBC, its agents, servants and employees from any and all claims, judgments, costs, and expenses including, but not limited to, reasonable attorney's fees, reasonable investigative and discovery costs, court costs and all other sums which SBBC, its agents, servants and employees may pay or become obligated to pay on account of any, all and every claim or demand, or assertion of liability, or any claim or action founded thereon, arising or alleged to have arisen out of the products, goods or services furnished by VENDOR, its agents, servants or employees; the equipment of VENDOR, its agents, servants or employees while such equipment is on premises owned or controlled by SBBC; or the negligence of VENDOR or the negligence of VENDOR's agents when acting within the scope of their employment, whether such claims, judgments, costs and expenses be for damages, damage to property including SBBC's property, and injury or death of any person whether employed by VENDOR, SBBC or otherwise.

3.27 **Authority**. Each person signing this Agreement on behalf of either party individually warrants that he or she has full legal power to execute this Agreement on behalf of the party for whom he or she is signing, and to bind and obligate such party with respect to all provisions contained in this Agreement.

IN WITNESS WHEREOF, the Parties hereto have made and executed this Agreement on the date first above written.

FOR SBBC

(Corporate Seal)

THE SCHOOL BOARD OF BROWARD COUNTY, FLORIDA

By_____
Dr. Rosalind Osgood, Chair

ATTEST:

_____
Robert W. Runcie, Superintendent of Schools

Approved as to Form and Legal Content:

Kathelyn Jacques-Adams

Digitally signed by Kathelyn Jacques-Adams
DN: cn=Kathelyn Jacques-Adams, o=The School District of Broward County, Florida, ou=The Office of the General Counsel, email=kathelyn.jacques-adams@browardschools.com, c=US
Date: 2016.05.25 12:13:54 -04'00'

Office of the General Counsel

FOR VENDOR

(Corporate Seal)

AUM ARTI PEDIATRIC THERAPY, LLC

ATTEST:

By _____

_____, Secretary

-or-

_____
Witness

_____
Witness

The Following Notarization is Required for Every Agreement Without Regard to Whether the Party Chose to Use a Secretary's Attestation or Two (2) Witnesses.

STATE OF Florida

COUNTY OF Broward

The foregoing instrument was acknowledged before me this 6 day of May, 2016 by Arti Dusara, as Name of Person of Aum Arti Pediatric therapy, on behalf of the corporation/agency.
Name of Corporation or Agency

He/She is personally known to me or produced FL DL as identification and did/did not first take an oath.
Type of Identification

My Commission Expires:

_____
Signature – Notary Public

(SEAL) GUSTAVO ADOLFO TRUJILLO Notary Public, State of Florida Commission# FF 209421 My comm. expires Mar. 12, 2019

Gustavo A Trujillo
Printed Name of Notary

_____
Notary's Commission No.

ATTACHMENT A

SCOPE OF SERVICES

1. VENDOR shall provide occupational and physical therapy services in accordance with Broward County Schools Special Programs and Procedures. A copy of these procedures may be obtained on Exceptional Student Education's website at http://www.broward.k12.fl.us/studentsupport/ese/pdf/SP&P.pdf or as updated by SBBC.

2. VENDOR shall provide current licensed occupational and physical therapists under this Agreement. **Award of this Agreement shall not be a guarantee of business, a guarantee of specified volume of service or minimum dollar revenue to be received under this Agreement.**

3. VENDOR shall report to the Program Specialist and/or Curriculum Supervisor regarding services under this Agreement.

4. VENDOR shall be compensated for direct student services and student related activities only. VENDOR shall not be compensated/reimbursed for travel under this Agreement.

5. VENDOR shall provide the following services, but not limited to, initial student evaluations, small group or individual therapy with students, record-keeping for student attendance, supervising assistants, preparing progress reports and therapy notes, preparing a therapy plan of care, participating in the development of Individual Education Plans (IEP), attendance at required eligibility, IEP and dismissal staffings, attending in-service meetings as requested and providing consultation with parents, school area, district staff and physicians, as needed. For Certified Occupational Therapy Assistants (COTA) and Licensed Physical Therapy Assistant (LPTA), service will be provided under supervision in accordance with the OT/PT Practice ACT. VENDOR shall complete all appropriate documentation for Medicaid Reimbursement.

6. VENDOR shall provide services consistent with the professional standards of care and comply with all the medical and ethical requirements imposed by the State of Florida, Board of Medicine, the Department of Professional Regulations, the Florida State Department of Education and any other applicable federal, state or local regulatory agency.

7. VENDOR shall provide the requested level of service(s), in accordance with and/or changes for services requested by SBBC, within five (5) calendar days of notice, unless otherwise mutually agreed upon. Excessive failure to meet the needs as requested will result in cancellation of VENDOR's Agreement.

8. VENDOR shall maintain normal working hours of 8:00 a.m. to 4:00 p.m. Hours may occasionally be extended from 7:00 a.m. to 4:30 p.m. There will be no reimbursement for a thirty (30) minute lunch period. SBBC may only be invoiced for up to 7.5 hours per day unless prior approval has been granted by SBBC staff for extended service time. Awardee(s) may provide a maximum of four (4) hours of service as needed on each scheduled employee planning day. Invoices not complying with this will be rejected and returned for correction and failure to invoice correctly will result in a delay of payment. Any VENDOR who consistently submits invoices that are not correct may be found in default of Agreement.

SCOPE OF SERVICES

9. VENDOR shall respond to requested services within five (5) school days of the request by submitting to an interview by a designated SBBC representative. Firms can also offer these services and interviews as required.

10. VENDOR shall provide uninterrupted services based upon the current school calendar to students by providing qualified substitutes or replacements in the event of an anticipated or unanticipated lapse of service. A qualified substitute is defined to be a therapist for a therapist or a therapist assistant for an assistant. All qualified substitutes must display an SBBC identification badge. (See General Condition 7.42) Any lapse of service to SBBC for five student attendance days during any school year will result in default of Agreement. VENDOR may be responsible to provide compensatory services or payments to SBBC for lapse of service.

11. VENDOR shall provide a service schedule of all personnel for approval on a regular basis as determined by a designated SBBC representative.

12. VENDOR shall follow all procedures (including, but not limited to, signing in and out, no telephone calls during treatment time) of individual schools where they are assigned. All therapists must carry a cell phone for critical communication throughout the day with SBBC personnel as established. These numbers must be provided to SBBC personnel. There shall be no cost to SBBC to use these communication devices.

13. VENDOR shall prepare time logs, reports, written analysis and other written memoranda in the form and manner deemed appropriate by SBBC.

14. VENDOR shall bill under SBBC's Medicaid provider number, when needed.

15. VENDOR, under this Agreement, shall be required to pass the screening of the of the Broward School's Police, Security Clearance Department prior to placement of assignment as required by SBBC (See General Condition 7.42 of the RFP, SBBC Photo Identification Badge). VENDOR must utilize the STAR system and/or sign-in/out procedures to document attendance at assigned location(s).

16. SBBC reserves the right to interview all therapy candidates prior to placement. K-12 experience is preferred. SBBC reserves the right to refuse to utilize any proposed therapy candidate. SBBC reserves the right to have an individual therapist removed from the assigned position. VENDOR will have five workdays in which to propose a replacement therapist. Should VENDOR be unable to provide an acceptable replacement, all other contracted Awardees will then be notified to submit a candidate to SBBC.

17. VENDOR shall provide proof of services on an original approved voucher form upon initiation of services and up until training is provided on the Accelify Electronic Management System. Once VENDOR has received training, VENDOR shall then submit all invoices electronically.

SCOPE OF SERVICES

18. VENDOR shall have all therapists and assistants and required substitutes or replacements submit to, and pass, the screening of the Special Investigative Unit (SIU), including fingerprinting, prior to working with students as required for all SBBC personnel. All therapists and assistants shall display an SBBC Identification Badge during contracted work hours. VENDOR will be required to pay the required fees for screening, fingerprinting and photo identification. (See General Condition 7.42 of the RFP)

19. VENDOR shall cooperate with SBBC in its partnership with universities and colleges to provide supervision of practicum experience for student therapists and assistants.

20. VENDOR may be evaluated annually in areas to include, but not be limited to, responsiveness, continuity of service, quality of work and professionalism.

21. VENDOR shall not provide private assessments or therapy services to students on their own public school caseload.

22. VENDOR and all therapists and assistants shall attend an orientation workshop of not less than three hours. This orientation workshop will include, but not be limited to, general information on the policies and procedures of the Broward County Special Programs and Procedures, the rights of students with disabilities, and other operational procedures required to carry out the therapy program. Additional workshops may be required during the term of the Agreement.

23. VENDOR will receive, from SBBC, requested materials, equipment and other related items which have been determined to be necessary to carry out the therapy program for students when approved by a designated SBBC representative.

24. VENDOR shall insure that their provider has the necessary technology (eg. Laptop, desktop computer, etc.) needed to carryout job responsibilities.

AGREEMENT

THIS AGREEMENT is made and entered into as of this ____ day of _____, 2016, by and between

THE SCHOOL BOARD OF BROWARD COUNTY, FLORIDA
(hereinafter referred to as "SBBC"),
a body corporate and political subdivision of the State of Florida,
whose principal place of business is
600 Southeast Third Avenue, Fort Lauderdale, Florida 33301

and

AW THERAPY SERVICES, INC.
(hereinafter referred to as "VENDOR"),
whose principal place of business is
902 NE 1st Street, #9
Pompano Beach, Florida 33060

WHEREAS, SBBC issued a Request for Proposal identified as RFP 17-005V – Occupational and Physical Therapy Services (hereinafter referred to as "RFP"), dated December 11, 2015 and amended by Addendum No. 2, dated January 15, 2016, and Addendum No. 1, dated January 9, 2016 all of which are incorporated by reference herein, for the purpose of receiving proposals for occupational and physical therapy services; and

WHEREAS, VENDOR offered a proposal dated January 12, 2016 (hereinafter referred to as "Proposal") which is incorporated by reference herein, in response to this RFP.

NOW, THEREFORE, in consideration of the premises and of the mutual covenants contained herein and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the Parties hereby agree as follows:

ARTICLE 1 - RECITALS

1.01 **Recitals**. The parties agree that the foregoing recitals are true and correct and that such recitals are incorporated herein by reference.

ARTICLE 2 – SPECIAL CONDITIONS

2.01 **Term of Agreement**. Unless terminated earlier pursuant to Section 3.05 of this Agreement, the term of this Agreement shall commence on **July 1, 2016** and conclude on **June 30, 2019.** The term of the Agreement may, by mutual agreement between SBBC and VENDOR be extended for two additional one-year periods and, if needed, 180 days beyond the expiration date of the renewal period. SBBC's Procurement & Warehousing Services Department, will, if considering renewing, request a letter consenting to renewal from VENDOR, prior to the end of the term. Any renewal period shall be approved by an Amendment to this Agreement executed by both parties

2.02 **Priority of Documents.** In the event of a conflict between documents, the following priority of documents shall govern.

First: This Agreement, then;
Second: Addendum No. 2, then;
Third: Addendum No. 1, then;
Fourth: RFP 17-005V – Occupational and Physical Therapy Services, then;
Fifth: Proposal submitted in response to the RFP by VENDOR.

2.03 **Services**: VENDOR shall provide SBBC with the Scope of Services as proposed in its Proposal and in compliance with this Agreement and the RFP and its Addenda and as specified in **Attachment A – Scope of Services**.

2.04 **Cost of Services**. SBBC shall pay VENDOR for cost of services satisfactorily rendered for:

Occupational Therapy services at $64.00/hour;
Certified Occupational Therapist Assistant (COTA) at $44.00/hr.;
Physical Therapist at $64.00/hr.; and
Licensed Physical Therapist Assistant at $44.00/hr.

Costs shall not exceed the amount as stated on the Purchase Order. VENDOR may offer SBBC a special educational discount for pricing and reduce the cost of services during the term of the Agreement. VENDOR may invoice SBBC at an hourly rate less than their original bid price.

2.05 **M/WBE Participation**. VENDOR is a current Certified MWBE, Caucasian Female, with SBBC, Certificate #7007-6229. As consideration for being awarded this Agreement, VENDOR shall maintain CPR Training 2Go d/b/a CPRB2B #7007-6935 for CPR Training for health professionals, Marie M. Rosier, CPA #7007-7016 for business taxes and filing, and Innovative Software Solutions, Inc. #7007-6857 for computer/printer supplies at (100%) percent M/WBE participation for each participant in this Agreement.

VENDOR shall obtain prior written approval from the Coordinator of Supplier Diversity & Outreach Program for any replacement of any of the entities listed above. Utilizing any entity other than the ones listed, will be considered a breach of this Agreement; and VENDOR is subject to debarment and any other remedy available for any breaches to this Agreement.

2.06 **Inspection of VENDOR's Records by SBBC**. VENDOR shall establish and maintain books, records and documents (including electronic storage media) sufficient to reflect all income and expenditures of funds provided by SBBC under this Agreement. All VENDOR's Records, regardless of the form in which they are kept, shall be open to inspection and subject to audit, inspection, examination, evaluation and/or reproduction, during normal working hours, by SBBC's agent or its authorized representative to permit SBBC to evaluate, analyze and verify the satisfactory performance of the terms and conditions of this Agreement and to evaluate, analyze and verify any and all invoices, billings, payments and/or claims submitted by VENDOR or any of VENDOR's payees pursuant to this Agreement. VENDOR's Records subject to examination shall include, without limitation, those records necessary to evaluate and verify direct and indirect costs (including overhead allocations) as they may apply to costs associated with this Agreement. VENDOR's Records subject to this section shall include any and all documents pertinent to the evaluation, analysis, verification and reconciliation of any and all expenditures under this Agreement without regard to funding sources.

(a) VENDOR's Records Defined. For the purposes of this Agreement, the term "VENDOR's Records" shall include, without limitation, accounting records, payroll time sheets, cancelled payroll checks, W-2 forms, written policies and procedures, computer records, disks and software, videos, photographs, executed subcontracts, subcontract files (including proposals of successful and unsuccessful bidders), original estimates, estimating worksheets, correspondence, change order files (including sufficient supporting documentation and documentation covering negotiated settlements), and any other supporting documents that would substantiate, reconcile or refute any charges and/or expenditures related to this Agreement.

(b) Duration of Right to Inspect. For the purpose of such audits, inspections, examinations, evaluations and/or reproductions, SBBC's agent or authorized representative shall have access to VENDOR's Records from the effective date of this Agreement, for the duration of the term of this Agreement, and until the later of five (5) years after the termination of this Agreement or five (5) years after the date of final payment by SBBC to VENDOR pursuant to this Agreement.

(c) Notice of Inspection. SBBC's agent or its authorized representative shall provide VENDOR reasonable advance notice (not to exceed two (2) weeks) of any intended audit, inspection, examination, evaluation and or reproduction.

(d) Audit Site Conditions. SBBC's agent or its authorized representative shall have access to VENDOR's facilities and to any and all records related to this Agreement, and shall be provided adequate and appropriate work space in order to exercise the rights permitted under this section.

(e) Failure to Permit Inspection. Failure by VENDOR to permit audit, inspection, examination, evaluation and/or reproduction as permitted under this Section shall constitute grounds for termination of this Agreement by SBBC for cause and shall be grounds for the denial of some or all of any VENDOR's claims for payment by SBBC.

(f) Overcharges and Unauthorized Charges. If an audit conducted in accordance with this Section discloses overcharges or unauthorized charges to SBBC by VENDOR in excess of two percent (2%) of the total billings under this Agreement, the actual cost of SBBC's audit shall be paid by VENDOR. If the audit discloses billings or charges to which VENDOR is not contractually entitled, VENDOR shall pay said sum to SBBC within twenty (20) days of receipt of written demand under otherwise agreed to in writing by both parties.

(g) Inspection of Subcontractor's Records. VENDOR shall require any and all subcontractors, insurance agents and material suppliers (hereafter referred to as "Payees") providing services or goods with regard to this Agreement to comply with the requirements of this section by insertion of such requirements in any written subcontract. Failure by VENDOR to include such requirements in any subcontract shall constitute grounds for termination of this Agreement by SBBC for cause and shall be grounds for the exclusion of some or all of any Payee's costs from amounts payable by SBBC to VENDOR pursuant to this Agreement and such excluded costs shall become the liability of VENDOR.

(h) Inspector General Audits. VENDOR shall comply and cooperate immediately with any inspections, reviews, investigations, or audits deemed necessary by the Florida Office of the Inspector General or by any other state or federal officials.

2.07 **Notice**. When any of the parties desire to give notice to the other, such notice must be in writing, sent by U.S. Mail, postage prepaid, addressed to the party for whom it is intended at the place last specified; the place for giving notice shall remain such until it is changed by written notice in compliance with the provisions of this paragraph. For the present, the Parties designate the following as the respective places for giving notice:

To SBBC:	Superintendent of Schools The School Board of Broward County, Florida 600 S.E. 3rd. Avenue Fort Lauderdale, Florida 33301
With a Copy to:	Director, ESE Department The School Board of Broward County, Florida Arthur Ashe Campus 1701 NW 23 Avenue Fort Lauderdale, FL 33311
To VENDOR:	Allison Weissman AW Therapy Services 902 NE 1st Street #9 Pompano Beach, FL 33030

2.08 **Background Screening.** VENDOR agrees to comply with all requirements of Sections 1012.32 and 1012.465, Florida Statutes, and all of its personnel who (1) are to be permitted access to school grounds when students are present, (2) will have direct contact with students, or (3) have access or control of school funds, will successfully complete the background screening required by the referenced statutes and meet the standards established by the statutes. This background screening will be conducted by SBBC in advance of VENDOR or its personnel providing any services under the conditions described in the previous sentence. VENDOR shall bear the cost of acquiring the background screening required by Section 1012.32, Florida Statutes, and any fee imposed by the Florida Department of Law Enforcement to maintain the fingerprints provided with respect to VENDOR and its personnel. The parties agree that the failure of VENDOR to perform any of the duties described in this section shall constitute a material breach of this Agreement entitling SBBC to terminate immediately with no further responsibilities or duties to perform under this Agreement. VENDOR agrees to indemnify and hold harmless SBBC, its officers and employees from any liability in the form of physical or mental injury, death or property damage resulting from VENDOR's failure to comply with the requirements of this Section or with Sections 1012.32 and 1012.465, Florida Statutes.

ARTICLE 3 – GENERAL CONDITIONS

3.01 **No Waiver of Sovereign Immunity**. Nothing herein is intended to serve as a waiver of sovereign immunity by any agency or political subdivision to which sovereign immunity may be applicable or of any rights or limits to liability existing under Section 768.28, Florida Statutes. This section shall survive the termination of all performance or obligations under this Agreement and shall be fully binding until such time as any proceeding brought on account of this Agreement is barred by any applicable statute of limitations.

3.02 **No Third Party Beneficiaries**. The parties expressly acknowledge that it is not their intent to create or confer any rights or obligations in or upon any third person or entity under this Agreement. None of the parties intend to directly or substantially benefit a third party by this Agreement. The parties agree that there are no third party beneficiaries to this Agreement and that no third party shall be entitled to assert a claim against any of the parties based upon this Agreement. Nothing herein shall be construed as consent by an agency or political subdivision of the State of Florida to be sued by third parties in any matter arising out of any contract.

3.03 **Independent Contractor**. The parties to this agreement shall at all times be acting in the capacity of independent contractors and not as an officer, employee or agent of one another. Neither party or its respective agents, employees, subcontractors or assignees shall represent to others that it has the authority to bind the other party unless specifically authorized in writing to do so. No right to SBBC retirement, leave benefits or any other benefits of SBBC employees shall exist as a result of the performance of any duties or responsibilities under this Agreement. SBBC shall not be responsible for social security, withholding taxes, contributions to unemployment compensation funds or insurance for the other party or the other party's officers, employees, agents, subcontractors or assignees.

3.04 **Equal Opportunity Provision**. The parties agree that no person shall be subjected to discrimination because of age, race, color, disability, gender identity, gender expression marital status, national origin, religion, sex or sexual orientation in the performance of the parties' respective duties, responsibilities and obligations under this Agreement.

3.05 **Termination**. This Agreement may be canceled with or without cause by SBBC during the term hereof upon thirty (30) days written notice to the other parties of its desire to terminate this Agreement. SBBC shall have no liability for any property left on SBBC's property by any party to this Agreement after the termination of this Agreement. Any party contracting with SBBC under this Agreement agrees that any of its property placed upon SBBC's facilities pursuant to this Agreement shall be removed within ten (10) business days following the termination, conclusion or cancellation of this Agreement and that any such property remaining upon SBBC's facilities after that time shall be deemed to be abandoned, title to such property shall pass to SBBC, and SBBC may use or dispose of such property as SBBC deems fit and appropriate.

3.06 **Default**. The parties agree that, in the event that either party is in default of its obligations under this Agreement, the non-defaulting party shall provide to the defaulting party (30) days written notice to cure the default. However, in the event said default cannot be cured within said thirty (30) day period and the defaulting party is diligently attempting in good faith to cure same, the time period shall be reasonably extended to allow the defaulting party additional cure time. Upon the occurrence of a default that is not cured during the applicable cure period, this Agreement may be terminated by the non-defaulting party upon thirty (30) days notice. This remedy is not intended to be exclusive of any other remedy, and each and every such remedy shall be cumulative and shall be in addition to every other remedy now or hereafter existing at law or in equity or by statute or otherwise. No single or partial exercise by any party of any right, power, or remedy hereunder shall preclude any other or future exercise thereof. Nothing in this section shall be construed to preclude termination for convenience pursuant to Section 3.05.

3.07 **Annual Appropriation.** The performance and obligations of SBBC under this Agreement shall be contingent upon an annual budgetary appropriation by its governing body. If SBBC does not allocate funds for the payment of services or products to be provided under this Agreement, this Agreement may be terminated by SBBC at the end of the period for which funds have been allocated. SBBC shall notify the other party at the earliest possible time before such termination. No penalty shall accrue to SBBC in the event this provision is exercised, and SBBC shall not be obligated or liable for any future payments due or any damages as a result of termination under this section.

3.08 **Excess Funds**. Any party receiving funds paid by SBBC under this Agreement agrees to promptly notify SBBC of any funds erroneously received from SBBC upon the discovery of such erroneous payment or overpayment. Any such excess funds shall be refunded to SBBC.

3.09 **Public Records**. Pursuant to Section 119.0701, Florida Statutes, any party contracting with SBBC is required to (a) keep and maintain available for public inspection any records that pertain to services rendered under this Agreement; (b) provide the public with access to public records on the same terms and conditions that SBBC would provide such records and 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; and (d) meet all requirements for retaining public records and transfer, at no cost to SBBC, all public records in that party's possession upon termination of its Agreement with SBBC and destroy any duplicate public records that are exempt or confidential and exempt from public records disclosure requirements. All of such party's records stored electronically must be provided to SBBC in a format that is compatible with SBBC's information technology systems. Each party shall maintain its own respective records and documents associated with this Agreement in accordance with the records retention requirements applicable to public records. Each party shall be responsible for compliance with any public documents request served upon it pursuant to Section 119.07, Florida Statutes, and any resultant award of attorney's fees for non-compliance with that law. Each party acknowledges that this Agreement and all attachments thereto are public records and do not constitute trade secrets.

3.10 **Student Records**: Notwithstanding any provision to the contrary within this Agreement, any party contracting with SBBC under this Agreement shall fully comply with the requirements of Sections 1002.22 and 1002.221, Florida Statutes; FERPA, and any other state or federal law or regulation regarding the confidentiality of student information and records. Each such party agrees, for itself, its officers, employees, agents, representatives, contractors or subcontractors, to fully indemnify and hold harmless SBBC and its officers and employees for any violation of this section, including, without limitation, defending SBBC and its officers and employees against any complaint, administrative or judicial proceeding, payment of any penalty imposed upon SBBC, or payment of any and all costs, damages, judgments or losses incurred by or imposed upon SBBC arising out of a breach of this covenant by the party, or an officer, employee, agent, representative, contractor, or sub-contractor of the party to the extent that the party or an officer, employee, agent, representative, contractor, or sub-contractor of the party shall either intentionally or negligently violate the provisions of this section or of Sections 1002.22 and/or 1002.221, Florida Statutes.

3.11 **Compliance with Laws**. Each party shall comply with all applicable federal, state and local laws, SBBC policies, codes, rules and regulations in performing its duties, responsibilities and obligations pursuant to this Agreement.

3.12 **Place of Performance**. All obligations of SBBC under the terms of this Agreement are reasonably susceptible of being performed in Broward County, Florida and shall be payable and performable in Broward County, Florida.

3.13 **Governing Law and Venue**. This Agreement shall be interpreted and construed in accordance with and governed by the laws of the State of Florida. Any controversies or legal problems arising out of this Agreement and any action involving the enforcement or interpretation of any rights hereunder shall be submitted to the jurisdiction of the State courts of the Seventeenth Judicial Circuit of Broward County, Florida.

3.14 **Entirety of Agreement**. This document incorporates and includes all prior negotiations, correspondence, conversations, agreements and understandings applicable to the matters contained herein and the parties agree that there are no commitments, agreements or understandings concerning the subject matter of this Agreement that are not contained in this document. Accordingly, the parties agree that no deviation from the terms hereof shall be predicated upon any prior representations or agreements, whether oral or written.

3.15 **Binding Effect**. This Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective successors and assigns.

3.16 **Assignment**. Neither this Agreement nor any interest herein may be assigned, transferred or encumbered by any party without the prior written consent of the other party. There shall be no partial assignments of this Agreement including, without limitation, the partial assignment of any right to receive payments from SBBC.

3.17 **Incorporation by Reference**. **Attachment A** attached hereto and referenced herein shall be deemed to be incorporated into this Agreement by reference.

3.18 **Captions**. The captions, section designations, section numbers, article numbers, titles and headings appearing in this Agreement are inserted only as a matter of convenience, have no substantive meaning, and in no way define, limit, construe or describe the scope or intent of such articles or sections of this Agreement, nor in any way affect this Agreement and shall not be construed to create a conflict with the provisions of this Agreement.

3.19 **Severability**. In the event that any one or more of the sections, paragraphs, sentences, clauses or provisions contained in this Agreement is held by a court of competent jurisdiction to be invalid, illegal, unlawful, unenforceable or void in any respect, such shall not affect the remaining portions of this Agreement and the same shall remain in full force and effect as if such invalid, illegal, unlawful, unenforceable or void sections, paragraphs, sentences, clauses or provisions had never been included herein.

3.20 **Preparation of Agreement**. The parties acknowledge that they have sought and obtained whatever competent advice and counsel as was necessary for them to form a full and complete understanding of all rights and obligations herein and that the preparation of this Agreement has been their joint effort. The language agreed to herein expresses their mutual intent and the resulting document shall not, solely as a matter of judicial construction, be construed more severely against one of the parties than the other.

3.21 **Amendments**. No modification, amendment, or alteration in the terms or conditions contained herein shall be effective unless contained in a written document prepared with the same or similar formality as this Agreement and executed by each party hereto.

3.22 **Waiver**. The parties agree that each requirement, duty and obligation set forth herein is substantial and important to the formation of this Agreement and, therefore, is a material term hereof. Any party's failure to enforce any provision of this Agreement shall not be deemed a waiver of such provision or modification of this Agreement unless the waiver is in writing and signed by the party waiving such provision. A written waiver shall only be effective as to the specific instance for which it is obtained and shall not be deemed a continuing or future waiver.

3.23 **Force Majeure**. Neither party shall be obligated to perform any duty, requirement or obligation under this Agreement if such performance is prevented by fire, hurricane, earthquake, explosion, wars, sabotage, accident, flood, acts of God, strikes, or other labor disputes, riot or civil commotions, or by reason of any other matter or condition beyond the control of either party, and which cannot be overcome by reasonable diligence and without unusual expense ("Force Majeure"). In no event shall a lack of funds on the part of either party be deemed Force Majeure.

3.24 **Survival**. All representations and warranties made herein, indemnification obligations, obligations to reimburse SBBC, obligations to maintain and allow inspection and audit of records and property, obligations to maintain the confidentiality of records, reporting requirements, and obligations to return public funds shall survive the termination of this Agreement.

3.25 **Contract Administration.** SBBC has delegated authority to the Superintendent of Schools or his/her designee to take any actions necessary to implement and administer this Agreement.

3.26. **Liability**. This section shall survive the termination of all performance or obligations under this Agreement and shall be fully binding until such time as any proceeding brought on account of this Agreement is barred by any applicable statute of limitations.

A. By SBBC: SBBC agrees to be fully responsible up to the limits of Section 768.28, Florida Statutes, for its acts of negligence, or its employees' acts of negligence when acting within the scope of their employment and agrees to be liable for any damages resulting from said negligence.

B. By VENDOR: VENDOR agrees to indemnify, hold harmless and defend SBBC, its agents, servants and employees from any and all claims, judgments, costs, and expenses including, but not limited to, reasonable attorney's fees, reasonable investigative and discovery costs, court costs and all other sums which SBBC, its agents, servants and employees may pay or become obligated to pay on account of any, all and every claim or demand, or assertion of liability, or any claim or action founded thereon, arising or alleged to have arisen out of the products, goods or services furnished by VENDOR, its agents, servants or employees; the equipment of VENDOR, its agents, servants or employees while such equipment is on premises owned or controlled by SBBC; or the negligence of VENDOR or the negligence of VENDOR's agents when acting within the scope of their employment, whether such claims, judgments, costs and expenses be for damages, damage to property including SBBC's property, and injury or death of any person whether employed by VENDOR, SBBC or otherwise.

3.27 **Authority**. Each person signing this Agreement on behalf of either party individually warrants that he or she has full legal power to execute this Agreement on behalf of the party for whom he or she is signing, and to bind and obligate such party with respect to all provisions contained in this Agreement.

IN WITNESS WHEREOF, the Parties hereto have made and executed this Agreement on the date first above written.

FOR SBBC

(Corporate Seal)

THE SCHOOL BOARD OF BROWARD COUNTY, FLORIDA

By_____
Dr. Rosalind Osgood, Chair

ATTEST:

_____
Robert W. Runcie, Superintendent of Schools

Approved as to Form and Legal Content:

Kathelyn Jacques-Adams

Digitally signed by Kathelyn Jacques-Adams
DN: cn=Kathelyn Jacques-Adams, o=The School District of Broward County, Florida, ou=The Office of the General Counsel, email=kathelyn.jacques-adams@browardschools.com, c=US
Date: 2016.05.25 12:14:37 -04'00'

_____
Office of the General Counsel

FOR VENDOR

(Corporate Seal)

AW THERAPY SERVICES, INC.

ATTEST:

By _____

_____, Secretary

-or-

_____
Witness

_____
Witness

The Following Notarization is Required for Every Agreement Without Regard to Whether the Party Chose to Use a Secretary's Attestation or Two (2) Witnesses.

STATE OF FL

COUNTY OF Broward

The foregoing instrument was acknowledged before me this 6 day of May, 2016 by Alison Weissman of
Name of Person
AW Therapy Inc, on behalf of the corporation/agency.
Name of Corporation or Agency

He/She is personally known to me or produced _____ as identification and did/did not first take an oath.
Type of Identification

My Commission Expires:

_____
Signature – Notary Public

Christine M. Calcanes
Printed Name of Notary

(SEAL)

FF946881
Notary's Commission No.

CHRISTINE M. CALCANES
MY COMMISSION # FF 946881
EXPIRES: January 9, 2020
Bonded Thru Budget Notary Services

ATTACHMENT A

SCOPE OF SERVICES

1. VENDOR shall provide occupational and physical therapy services in accordance with Broward County Schools Special Programs and Procedures. A copy of these procedures may be obtained on Exceptional Student Education's website at http://www.broward.k12.fl.us/studentsupport/ese/pdf/SP&P.pdf or as updated by SBBC.

2. VENDOR shall provide current licensed occupational and physical therapists under this Agreement. **Award of this Agreement shall not be a guarantee of business, a guarantee of specified volume of service or minimum dollar revenue to be received under this Agreement.**

3. VENDOR shall report to the Program Specialist and/or Curriculum Supervisor regarding services under this Agreement.

4. VENDOR shall be compensated for direct student services and student related activities only. VENDOR shall not be compensated/reimbursed for travel under this Agreement.

5. VENDOR shall provide the following services, but not limited to, initial student evaluations, small group or individual therapy with students, record-keeping for student attendance, supervising assistants, preparing progress reports and therapy notes, preparing a therapy plan of care, participating in the development of Individual Education Plans (IEP), attendance at required eligibility, IEP and dismissal staffings, attending in-service meetings as requested and providing consultation with parents, school area, district staff and physicians, as needed. For Certified Occupational Therapy Assistants (COTA) and Licensed Physical Therapy Assistant (LPTA), service will be provided under supervision in accordance with the OT/PT Practice ACT. VENDOR shall complete all appropriate documentation for Medicaid Reimbursement.

6. VENDOR shall provide services consistent with the professional standards of care and comply with all the medical and ethical requirements imposed by the State of Florida, Board of Medicine, the Department of Professional Regulations, the Florida State Department of Education and any other applicable federal, state or local regulatory agency.

7. VENDOR shall provide the requested level of service(s), in accordance with and/or changes for services requested by SBBC, within five (5) calendar days of notice, unless otherwise mutually agreed upon. Excessive failure to meet the needs as requested will result in cancellation of VENDOR's Agreement.

8. VENDOR shall maintain normal working hours of 8:00 a.m. to 4:00 p.m. Hours may occasionally be extended from 7:00 a.m. to 4:30 p.m. There will be no reimbursement for a thirty (30) minute lunch period. SBBC may only be invoiced for up to 7.5 hours per day unless prior approval has been granted by SBBC staff for extended service time. Awardee(s) may provide a maximum of four (4) hours of service as needed on each scheduled employee planning day. Invoices not complying with this will be rejected and returned for correction and failure to invoice correctly will result in a delay of payment. Any VENDOR who consistently submits invoices that are not correct may be found in default of Agreement.

SCOPE OF SERVICES

9. VENDOR shall respond to requested services within five (5) school days of the request by submitting to an interview by a designated SBBC representative. Firms can also offer these services and interviews as required.

10. VENDOR shall provide uninterrupted services based upon the current school calendar to students by providing qualified substitutes or replacements in the event of an anticipated or unanticipated lapse of service. A qualified substitute is defined to be a therapist for a therapist or a therapist assistant for an assistant. All qualified substitutes must display an SBBC identification badge. (See General Condition 7.42) Any lapse of service to SBBC for five student attendance days during any school year will result in default of Agreement. VENDOR may be responsible to provide compensatory services or payments to SBBC for lapse of service.

11. VENDOR shall provide a service schedule of all personnel for approval on a regular basis as determined by a designated SBBC representative.

12. VENDOR shall follow all procedures (including, but not limited to, signing in and out, no telephone calls during treatment time) of individual schools where they are assigned. All therapists must carry a cell phone for critical communication throughout the day with SBBC personnel as established. These numbers must be provided to SBBC personnel. There shall be no cost to SBBC to use these communication devices.

13. VENDOR shall prepare time logs, reports, written analysis and other written memoranda in the form and manner deemed appropriate by SBBC.

14. VENDOR shall bill under SBBC's Medicaid provider number, when needed.

15. VENDOR, under this Agreement, shall be required to pass the screening of the of the Broward School's Police, Security Clearance Department prior to placement of assignment as required by SBBC (See General Condition 7.42 of the RFP, SBBC Photo Identification Badge). VENDOR must utilize the STAR system and/or sign-in/out procedures to document attendance at assigned location(s).

16. SBBC reserves the right to interview all therapy candidates prior to placement. K-12 experience is preferred. SBBC reserves the right to refuse to utilize any proposed therapy candidate. SBBC reserves the right to have an individual therapist removed from the assigned position. VENDOR will have five workdays in which to propose a replacement therapist. Should VENDOR be unable to provide an acceptable replacement, all other contracted Awardees will then be notified to submit a candidate to SBBC.

17. VENDOR shall provide proof of services on an original approved voucher form upon initiation of services and up until training is provided on the Accelify Electronic Management System. Once VENDOR has received training, VENDOR shall then submit all invoices electronically.

SCOPE OF SERVICES

18. VENDOR shall have all therapists and assistants and required substitutes or replacements submit to, and pass, the screening of the Special Investigative Unit (SIU), including fingerprinting, prior to working with students as required for all SBBC personnel. All therapists and assistants shall display an SBBC Identification Badge during contracted work hours. VENDOR will be required to pay the required fees for screening, fingerprinting and photo identification. (See General Condition 7.42 of the RFP)

19. VENDOR shall cooperate with SBBC in its partnership with universities and colleges to provide supervision of practicum experience for student therapists and assistants.

20. VENDOR may be evaluated annually in areas to include, but not be limited to, responsiveness, continuity of service, quality of work and professionalism.

21. VENDOR shall not provide private assessments or therapy services to students on their own public school caseload.

22. VENDOR and all therapists and assistants shall attend an orientation workshop of not less than three hours. This orientation workshop will include, but not be limited to, general information on the policies and procedures of the Broward County Special Programs and Procedures, the rights of students with disabilities, and other operational procedures required to carry out the therapy program. Additional workshops may be required during the term of the Agreement.

23. VENDOR will receive, from SBBC, requested materials, equipment and other related items which have been determined to be necessary to carry out the therapy program for students when approved by a designated SBBC representative.

24. VENDOR shall insure that their provider has the necessary technology (eg. Laptop, desktop computer, etc.) needed to carryout job responsibilities.

AGREEMENT

THIS AGREEMENT is made and entered into as of this ____ day of _____, 2016, by and between

THE SCHOOL BOARD OF BROWARD COUNTY, FLORIDA
(hereinafter referred to as "SBBC"),
a body corporate and political subdivision of the State of Florida,
whose principal place of business is
600 Southeast Third Avenue, Fort Lauderdale, Florida 33301

and

BEST ONSITE THERAPY SERVICES, INC.
(hereinafter referred to as "VENDOR"),
whose principal place of business is
18541 SW 43rd Street
Miramar, Florida 33029

WHEREAS, SBBC issued a Request for Proposal identified as RFP 17-005V – Occupational and Physical Therapy Services (hereinafter referred to as "RFP"), dated December 11, 2015 and amended by Addendum No. 2, dated January 15, 2016, and Addendum No. 1, dated January 9, 2016 all of which are incorporated by reference herein, for the purpose of receiving proposals for occupational and physical therapy services; and

WHEREAS, VENDOR offered a proposal dated January 15, 2016 (hereinafter referred to as "Proposal") which is incorporated by reference herein, in response to this RFP.

NOW, THEREFORE, in consideration of the premises and of the mutual covenants contained herein and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the Parties hereby agree as follows:

ARTICLE 1 - RECITALS

1.01 **Recitals**. The parties agree that the foregoing recitals are true and correct and that such recitals are incorporated herein by reference.

ARTICLE 2 – SPECIAL CONDITIONS

2.01 **Term of Agreement**. Unless terminated earlier pursuant to Section 3.05 of this Agreement, the term of this Agreement shall commence on **July 1, 2016** and conclude on **June 30, 2019.** The term of the Agreement may, by mutual agreement between SBBC and VENDOR be extended for two additional one-year periods and, if needed, 180 days beyond the expiration date of the renewal period. SBBC's Procurement & Warehousing Services Department, will, if considering renewing, request a letter consenting to renewal from VENDOR, prior to the end of the term. Any renewal period shall be approved by an Amendment to this Agreement executed by both parties

2.02 **Priority of Documents.** In the event of a conflict between documents, the following priority of documents shall govern.

First: This Agreement, then;
Second: Addendum No. 2, then;
Third: Addendum No. 1, then;
Fourth: RFP 17-005V – Occupational and Physical Therapy Services, then;
Fifth: Proposal submitted in response to the RFP by VENDOR.

2.03 **Services**: VENDOR shall provide SBBC with the Scope of Services as proposed in its Proposal and in compliance with this Agreement and the RFP and its Addenda and as specified in **Attachment A – Scope of Services**.

2.04 **Cost of Services**. SBBC shall pay VENDOR for cost of services satisfactorily rendered for:

Occupational Therapy services at $64.00/hour;
Certified Occupational Therapist Assistant (COTA) at $42.00/hr.;
Physical Therapist at $64.00/hr.; and
Licensed Physical Therapist Assistant at $42.00/hr.

Costs shall not exceed the amount as stated on the Purchase Order. VENDOR may offer SBBC a special educational discount for pricing and reduce the cost of services during the term of the Agreement. VENDOR may invoice SBBC at an hourly rate less than their original bid price.

2.05 **M/WBE Participation**. VENDOR is a current Certified MWBE, Subcontinent-Asian, with SBBC, Certificate #7007-686013.

2.06 **Inspection of VENDOR's Records by SBBC**. VENDOR shall establish and maintain books, records and documents (including electronic storage media) sufficient to reflect all income and expenditures of funds provided by SBBC under this Agreement. All VENDOR's Records, regardless of the form in which they are kept, shall be open to inspection and subject to audit, inspection, examination, evaluation and/or reproduction, during normal working hours, by SBBC's agent or its authorized representative to permit SBBC to evaluate, analyze and verify the satisfactory performance of the terms and conditions of this Agreement and to evaluate, analyze and verify any and all invoices, billings, payments and/or claims submitted by VENDOR or any of VENDOR's payees pursuant to this Agreement. VENDOR's Records subject to examination shall include, without limitation, those records necessary to evaluate and verify direct and indirect costs (including overhead allocations) as they may apply to costs associated with this Agreement. VENDOR's Records subject to this section shall include any and all documents pertinent to the evaluation, analysis, verification and reconciliation of any and all expenditures under this Agreement without regard to funding sources.

(a) VENDOR's Records Defined. For the purposes of this Agreement, the term "VENDOR's Records" shall include, without limitation, accounting records, payroll time sheets, cancelled payroll checks, W-2 forms, written policies and procedures, computer records, disks and software, videos, photographs, executed subcontracts, subcontract files (including proposals of successful and unsuccessful bidders), original estimates, estimating worksheets, correspondence, change order files (including sufficient supporting documentation and documentation covering negotiated settlements), and any other supporting documents that would substantiate, reconcile or refute any charges and/or expenditures related to this Agreement.

(b) Duration of Right to Inspect. For the purpose of such audits, inspections, examinations, evaluations and/or reproductions, SBBC's agent or authorized representative shall have access to VENDOR's Records from the effective date of this Agreement, for the duration of the term of this Agreement, and until the later of five (5) years after the termination of this Agreement or five (5) years after the date of final payment by SBBC to VENDOR pursuant to this Agreement.

(c) Notice of Inspection. SBBC's agent or its authorized representative shall provide VENDOR reasonable advance notice (not to exceed two (2) weeks) of any intended audit, inspection, examination, evaluation and or reproduction.

(d) Audit Site Conditions. SBBC's agent or its authorized representative shall have access to VENDOR's facilities and to any and all records related to this Agreement, and shall be provided adequate and appropriate work space in order to exercise the rights permitted under this section.

(e) Failure to Permit Inspection. Failure by VENDOR to permit audit, inspection, examination, evaluation and/or reproduction as permitted under this Section shall constitute grounds for termination of this Agreement by SBBC for cause and shall be grounds for the denial of some or all of any VENDOR's claims for payment by SBBC.

(f) Overcharges and Unauthorized Charges. If an audit conducted in accordance with this Section discloses overcharges or unauthorized charges to SBBC by VENDOR in excess of two percent (2%) of the total billings under this Agreement, the actual cost of SBBC's audit shall be paid by VENDOR. If the audit discloses billings or charges to which VENDOR is not contractually entitled, VENDOR shall pay said sum to SBBC within twenty (20) days of receipt of written demand under otherwise agreed to in writing by both parties.

(g) Inspection of Subcontractor's Records. VENDOR shall require any and all subcontractors, insurance agents and material suppliers (hereafter referred to as "Payees") providing services or goods with regard to this Agreement to comply with the requirements of this section by insertion of such requirements in any written subcontract. Failure by VENDOR to include such requirements in any subcontract shall constitute grounds for termination of this Agreement by SBBC for cause and shall be grounds for the exclusion of some or all of any Payee's costs from amounts payable by SBBC to VENDOR pursuant to this Agreement and such excluded costs shall become the liability of VENDOR.

(h) Inspector General Audits. VENDOR shall comply and cooperate immediately with any inspections, reviews, investigations, or audits deemed necessary by the Florida Office of the Inspector General or by any other state or federal officials.

2.07 **Notice**. When any of the parties desire to give notice to the other, such notice must be in writing, sent by U.S. Mail, postage prepaid, addressed to the party for whom it is intended at the place last specified; the place for giving notice shall remain such until it is changed by written notice in compliance with the provisions of this paragraph. For the present, the Parties designate the following as the respective places for giving notice:

To SBBC:
Superintendent of Schools
The School Board of Broward County, Florida
600 S.E. 3rd. Avenue
Fort Lauderdale, Florida 33301

With a Copy to:	Director, ESE Department The School Board of Broward County, Florida Arthur Ashe Campus 1701 NW 23 Avenue Fort Lauderdale, FL 33311
To VENDOR:	Dr. Elizabeth O. Morejon, OT, OTR/L, C-SIPT President Best Onsite Therapy Services, Inc. 18541 SW 43rd Street Miramar, Florida

2.08 **Background Screening.** VENDOR agrees to comply with all requirements of Sections 1012.32 and 1012.465, Florida Statutes, and all of its personnel who (1) are to be permitted access to school grounds when students are present, (2) will have direct contact with students, or (3) have access or control of school funds, will successfully complete the background screening required by the referenced statutes and meet the standards established by the statutes. This background screening will be conducted by SBBC in advance of VENDOR or its personnel providing any services under the conditions described in the previous sentence. VENDOR shall bear the cost of acquiring the background screening required by Section 1012.32, Florida Statutes, and any fee imposed by the Florida Department of Law Enforcement to maintain the fingerprints provided with respect to VENDOR and its personnel. The parties agree that the failure of VENDOR to perform any of the duties described in this section shall constitute a material breach of this Agreement entitling SBBC to terminate immediately with no further responsibilities or duties to perform under this Agreement. VENDOR agrees to indemnify and hold harmless SBBC, its officers and employees from any liability in the form of physical or mental injury, death or property damage resulting from VENDOR's failure to comply with the requirements of this Section or with Sections 1012.32 and 1012.465, Florida Statutes.

ARTICLE 3 – GENERAL CONDITIONS

3.01 **No Waiver of Sovereign Immunity**. Nothing herein is intended to serve as a waiver of sovereign immunity by any agency or political subdivision to which sovereign immunity may be applicable or of any rights or limits to liability existing under Section 768.28, Florida Statutes. This section shall survive the termination of all performance or obligations under this Agreement and shall be fully binding until such time as any proceeding brought on account of this Agreement is barred by any applicable statute of limitations.

3.02 **No Third Party Beneficiaries**. The parties expressly acknowledge that it is not their intent to create or confer any rights or obligations in or upon any third person or entity under this Agreement. None of the parties intend to directly or substantially benefit a third party by this Agreement. The parties agree that there are no third party beneficiaries to this Agreement and that no third party shall be entitled to assert a claim against any of the parties based upon this Agreement. Nothing herein shall be construed as consent by an agency or political subdivision of the State of Florida to be sued by third parties in any matter arising out of any contract.

3.03 **Independent Contractor**. The parties to this agreement shall at all times be acting in the capacity of independent contractors and not as an officer, employee or agent of one another. Neither party or its respective agents, employees, subcontractors or assignees shall represent to others that it has the authority to bind the other party unless specifically authorized in writing to do so. No right to SBBC retirement, leave benefits or any other benefits of SBBC employees shall exist as a result of the performance of any duties or responsibilities under this Agreement. SBBC shall not be responsible for social security, withholding taxes, contributions to unemployment compensation funds or insurance for the other party or the other party's officers, employees, agents, subcontractors or assignees.

3.04 **Equal Opportunity Provision**. The parties agree that no person shall be subjected to discrimination because of age, race, color, disability, gender identity, gender expression marital status, national origin, religion, sex or sexual orientation in the performance of the parties' respective duties, responsibilities and obligations under this Agreement.

3.05 **Termination**. This Agreement may be canceled with or without cause by SBBC during the term hereof upon thirty (30) days written notice to the other parties of its desire to terminate this Agreement. SBBC shall have no liability for any property left on SBBC's property by any party to this Agreement after the termination of this Agreement. Any party contracting with SBBC under this Agreement agrees that any of its property placed upon SBBC's facilities pursuant to this Agreement shall be removed within ten (10) business days following the termination, conclusion or cancellation of this Agreement and that any such property remaining upon SBBC's facilities after that time shall be deemed to be abandoned, title to such property shall pass to SBBC, and SBBC may use or dispose of such property as SBBC deems fit and appropriate.

3.06 **Default**. The parties agree that, in the event that either party is in default of its obligations under this Agreement, the non-defaulting party shall provide to the defaulting party (30) days written notice to cure the default. However, in the event said default cannot be cured within said thirty (30) day period and the defaulting party is diligently attempting in good faith to cure same, the time period shall be reasonably extended to allow the defaulting party additional cure time. Upon the occurrence of a default that is not cured during the applicable cure period, this Agreement may be terminated by the non-defaulting party upon thirty (30) days notice. This remedy is not intended to be exclusive of any other remedy, and each and every such remedy shall be cumulative and shall be in addition to every other remedy now or hereafter existing at law or in equity or by statute or otherwise. No single or partial exercise by any party of any right, power, or remedy hereunder shall preclude any other or future exercise thereof. Nothing in this section shall be construed to preclude termination for convenience pursuant to Section 3.05.

3.07 **Annual Appropriation.** The performance and obligations of SBBC under this Agreement shall be contingent upon an annual budgetary appropriation by its governing body. If SBBC does not allocate funds for the payment of services or products to be provided under this Agreement, this Agreement may be terminated by SBBC at the end of the period for which funds have been allocated. SBBC shall notify the other party at the earliest possible time before such termination. No penalty shall accrue to SBBC in the event this provision is exercised, and SBBC shall not be obligated or liable for any future payments due or any damages as a result of termination under this section.

3.08 **Excess Funds**. Any party receiving funds paid by SBBC under this Agreement agrees to promptly notify SBBC of any funds erroneously received from SBBC upon the discovery of such erroneous payment or overpayment. Any such excess funds shall be refunded to SBBC.

3.09 **Public Records**. Pursuant to Section 119.0701, Florida Statutes, any party contracting with SBBC is required to (a) keep and maintain available for public inspection any records that pertain to services rendered under this Agreement; (b) provide the public with access to public records on the same terms and conditions that SBBC would provide such records and 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; and (d) meet all requirements for retaining public records and transfer, at no cost to SBBC, all public records in that party's possession upon termination of its Agreement with SBBC and destroy any duplicate public records that are exempt or confidential and exempt from public records disclosure requirements. All of such party's records stored electronically must be provided to SBBC in a format that is compatible with SBBC's information technology systems. Each party shall maintain its own respective records and documents associated with this Agreement in accordance with the records retention requirements applicable to public records. Each party shall be responsible for compliance with any public documents request served upon it pursuant to Section 119.07, Florida Statutes, and any resultant award of attorney's fees for non-compliance with that law. Each party acknowledges that this Agreement and all attachments thereto are public records and do not constitute trade secrets.

3.10 **Student Records**: Notwithstanding any provision to the contrary within this Agreement, any party contracting with SBBC under this Agreement shall fully comply with the requirements of Sections 1002.22 and 1002.221, Florida Statutes; FERPA, and any other state or federal law or regulation regarding the confidentiality of student information and records. Each such party agrees, for itself, its officers, employees, agents, representatives, contractors or subcontractors, to fully indemnify and hold harmless SBBC and its officers and employees for any violation of this section, including, without limitation, defending SBBC and its officers and employees against any complaint, administrative or judicial proceeding, payment of any penalty imposed upon SBBC, or payment of any and all costs, damages, judgments or losses incurred by or imposed upon SBBC arising out of a breach of this covenant by the party, or an officer, employee, agent, representative, contractor, or sub-contractor of the party to the extent that the party or an officer, employee, agent, representative, contractor, or sub-contractor of the party shall either intentionally or negligently violate the provisions of this section or of Sections 1002.22 and/or 1002.221, Florida Statutes.

3.11 **Compliance with Laws**. Each party shall comply with all applicable federal, state and local laws, SBBC policies, codes, rules and regulations in performing its duties, responsibilities and obligations pursuant to this Agreement.

3.12 **Place of Performance**. All obligations of SBBC under the terms of this Agreement are reasonably susceptible of being performed in Broward County, Florida and shall be payable and performable in Broward County, Florida.

3.13 **Governing Law and Venue**. This Agreement shall be interpreted and construed in accordance with and governed by the laws of the State of Florida. Any controversies or legal problems arising out of this Agreement and any action involving the enforcement or interpretation of any rights hereunder shall be submitted to the jurisdiction of the State courts of the Seventeenth Judicial Circuit of Broward County, Florida.

3.14 **Entirety of Agreement**. This document incorporates and includes all prior negotiations, correspondence, conversations, agreements and understandings applicable to the matters contained herein and the parties agree that there are no commitments, agreements or understandings concerning the subject matter of this Agreement that are not contained in this document. Accordingly, the parties agree that no deviation from the terms hereof shall be predicated upon any prior representations or agreements, whether oral or written.

3.15 **Binding Effect**. This Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective successors and assigns.

3.16 **Assignment**. Neither this Agreement nor any interest herein may be assigned, transferred or encumbered by any party without the prior written consent of the other party. There shall be no partial assignments of this Agreement including, without limitation, the partial assignment of any right to receive payments from SBBC.

3.17 **Incorporation by Reference**. **Attachment A** attached hereto and referenced herein shall be deemed to be incorporated into this Agreement by reference.

3.18 **Captions**. The captions, section designations, section numbers, article numbers, titles and headings appearing in this Agreement are inserted only as a matter of convenience, have no substantive meaning, and in no way define, limit, construe or describe the scope or intent of such articles or sections of this Agreement, nor in any way affect this Agreement and shall not be construed to create a conflict with the provisions of this Agreement.

3.19 **Severability**. In the event that any one or more of the sections, paragraphs, sentences, clauses or provisions contained in this Agreement is held by a court of competent jurisdiction to be invalid, illegal, unlawful, unenforceable or void in any respect, such shall not affect the remaining portions of this Agreement and the same shall remain in full force and effect as if such invalid, illegal, unlawful, unenforceable or void sections, paragraphs, sentences, clauses or provisions had never been included herein.

3.20 **Preparation of Agreement**. The parties acknowledge that they have sought and obtained whatever competent advice and counsel as was necessary for them to form a full and complete understanding of all rights and obligations herein and that the preparation of this Agreement has been their joint effort. The language agreed to herein expresses their mutual intent and the resulting document shall not, solely as a matter of judicial construction, be construed more severely against one of the parties than the other.

3.21 **Amendments**. No modification, amendment, or alteration in the terms or conditions contained herein shall be effective unless contained in a written document prepared with the same or similar formality as this Agreement and executed by each party hereto.

3.22 **Waiver**. The parties agree that each requirement, duty and obligation set forth herein is substantial and important to the formation of this Agreement and, therefore, is a material term hereof. Any party's failure to enforce any provision of this Agreement shall not be deemed a waiver of such provision or modification of this Agreement unless the waiver is in writing and signed by the party waiving such provision. A written waiver shall only be effective as to the specific instance for which it is obtained and shall not be deemed a continuing or future waiver.

3.23 **Force Majeure**. Neither party shall be obligated to perform any duty, requirement or obligation under this Agreement if such performance is prevented by fire, hurricane, earthquake, explosion, wars, sabotage, accident, flood, acts of God, strikes, or other labor disputes, riot or civil commotions, or by reason of any other matter or condition beyond the control of either party, and which cannot be overcome by reasonable diligence and without unusual expense ("Force Majeure"). In no event shall a lack of funds on the part of either party be deemed Force Majeure.

3.24 **Survival**. All representations and warranties made herein, indemnification obligations, obligations to reimburse SBBC, obligations to maintain and allow inspection and audit of records and property, obligations to maintain the confidentiality of records, reporting requirements, and obligations to return public funds shall survive the termination of this Agreement.

3.25 **Contract Administration.** SBBC has delegated authority to the Superintendent of Schools or his/her designee to take any actions necessary to implement and administer this Agreement.

3.26. **Liability**. This section shall survive the termination of all performance or obligations under this Agreement and shall be fully binding until such time as any proceeding brought on account of this Agreement is barred by any applicable statute of limitations.

A. By SBBC: SBBC agrees to be fully responsible up to the limits of Section 768.28, Florida Statutes, for its acts of negligence, or its employees' acts of negligence when acting within the scope of their employment and agrees to be liable for any damages resulting from said negligence.

B. By VENDOR: VENDOR agrees to indemnify, hold harmless and defend SBBC, its agents, servants and employees from any and all claims, judgments, costs, and expenses including, but not limited to, reasonable attorney's fees, reasonable investigative and discovery costs, court costs and all other sums which SBBC, its agents, servants and employees may pay or become obligated to pay on account of any, all and every claim or demand, or assertion of liability, or any claim or action founded thereon, arising or alleged to have arisen out of the products, goods or services furnished by VENDOR, its agents, servants or employees; the equipment of VENDOR, its agents, servants or employees while such equipment is on premises owned or controlled by SBBC; or the negligence of VENDOR or the negligence of VENDOR's agents when acting within the scope of their employment, whether such claims, judgments, costs and expenses be for damages, damage to property including SBBC's property, and injury or death of any person whether employed by VENDOR, SBBC or otherwise.

3.27 **Authority**. Each person signing this Agreement on behalf of either party individually warrants that he or she has full legal power to execute this Agreement on behalf of the party for whom he or she is signing, and to bind and obligate such party with respect to all provisions contained in this Agreement.

IN WITNESS WHEREOF, the Parties hereto have made and executed this Agreement on the date first above written.

FOR SBBC

(Corporate Seal)

THE SCHOOL BOARD OF BROWARD COUNTY, FLORIDA

By_____
Dr. Rosalind Osgood, Chair

ATTEST:

_____
Robert W. Runcie, Superintendent of Schools

Approved as to Form and Legal Content:

Kathelyn Jacques-Adams

Digitally signed by Kathelyn Jacques-Adams
DN: cn=Kathelyn Jacques-Adams, o=The School District of Broward County, Florida, ou=The Office of the General Counsel, email=kathelyn.jacques-adams@browardschools.com, c=US
Date: 2016.05.25 12:15:16 -04'00'

_____
Office of the General Counsel

FOR VENDOR

(Corporate Seal)

BEST ONSITE THERAPY SERVICES, INC.

ATTEST:

By Elizabeth O. Morejon
President

_____, Secretary

-or-

Witness Gena Forte

Witness adalberto Morejon

The Following Notarization is Required for Every Agreement Without Regard to Whether the Party Chose to Use a Secretary's Attestation or Two (2) Witnesses.

STATE OF Fl.

COUNTY OF Broward

The foregoing instrument was acknowledged before me this 3rd day of May, 2016 by Elizabeth O. Morejon (Name of Person) of Best Onsite Therapy Services (Name of Corporation or Agency), on behalf of the corporation/agency.

He/She is personally known to me or produced DL (Type of Identification) as identification and did/did not first take an oath.

My Commission Expires:

Signature – Notary Public

Sara C. Mederos
Printed Name of Notary

(SEAL)

F.F. 113148
Notary's Commission No.

SARA C. MEDEROS
Notary Public - State of Florida
My Comm. Expires Apr 15, 2018
Commission # FF 113148

ATTACHMENT A

SCOPE OF SERVICES

1. VENDOR shall provide occupational and physical therapy services in accordance with Broward County Schools Special Programs and Procedures. A copy of these procedures may be obtained on Exceptional Student Education's website at http://www.broward.k12.fl.us/studentsupport/ese/pdf/SP&P.pdf or as updated by SBBC.

2. VENDOR shall provide current licensed occupational and physical therapists under this Agreement. **Award of this Agreement shall not be a guarantee of business, a guarantee of specified volume of service or minimum dollar revenue to be received under this Agreement.**

3. VENDOR shall report to the Program Specialist and/or Curriculum Supervisor regarding services under this Agreement.

4. VENDOR shall be compensated for direct student services and student related activities only. VENDOR shall not be compensated/reimbursed for travel under this Agreement.

5. VENDOR shall provide the following services, but not limited to, initial student evaluations, small group or individual therapy with students, record-keeping for student attendance, supervising assistants, preparing progress reports and therapy notes, preparing a therapy plan of care, participating in the development of Individual Education Plans (IEP), attendance at required eligibility, IEP and dismissal staffings, attending in-service meetings as requested and providing consultation with parents, school area, district staff and physicians, as needed. For Certified Occupational Therapy Assistants (COTA) and Licensed Physical Therapy Assistant (LPTA), service will be provided under supervision in accordance with the OT/PT Practice ACT. VENDOR shall complete all appropriate documentation for Medicaid Reimbursement. Awardees will be compensated for direct student services and student related activities only.

6. VENDOR shall provide services consistent with the professional standards of care and comply with all the medical and ethical requirements imposed by the State of Florida, Board of Medicine, the Department of Professional Regulations, the Florida State Department of Education and any other applicable federal, state or local regulatory agency.

7. VENDOR shall provide the requested level of service(s), in accordance with and/or changes for services requested by SBBC, within five (5) calendar days of notice, unless otherwise mutually agreed upon. Excessive failure to meet the needs as requested will result in cancellation of VENDOR's Agreement.

8. VENDOR shall maintain normal working hours of 8:00 a.m. to 4:00 p.m. Hours may occasionally be extended from 7:00 a.m. to 4:30 p.m. There will be no reimbursement for a thirty (30) minute lunch period. SBBC may only be invoiced for up to 7.5 hours per day unless prior approval has been granted by SBBC staff for extended service time. Awardee(s) may provide a maximum of four (4) hours of service as needed on each scheduled employee planning day. Invoices not complying with this will be rejected and returned for correction and failure to invoice correctly will result in a delay of payment. Any VENDOR who consistently submits invoices that are not correct may be found in default of Agreement.

SCOPE OF SERVICES

9. VENDOR shall respond to requested services within five (5) school days of the request by submitting to an interview by a designated SBBC representative. Firms can also offer these services and interviews as required.

10. VENDOR shall provide uninterrupted services based upon the current school calendar to students by providing qualified substitutes or replacements in the event of an anticipated or unanticipated lapse of service. A qualified substitute is defined to be a therapist for a therapist or a therapist assistant for an assistant. All qualified substitutes must display an SBBC identification badge. (See General Condition 7.42) Any lapse of service to SBBC for five student attendance days during any school year will result in default of Agreement. VENDOR may be responsible to provide compensatory services or payments to SBBC for lapse of service.

11. VENDOR shall provide a service schedule of all personnel for approval on a regular basis as determined by a designated SBBC representative.

12. VENDOR shall follow all procedures (including, but not limited to, signing in and out, no telephone calls during treatment time) of individual schools where they are assigned. All therapists must carry a cell phone for critical communication throughout the day with SBBC personnel as established. These numbers must be provided to SBBC personnel. There shall be no cost to SBBC to use these communication devices.

13. VENDOR shall prepare time logs, reports, written analysis and other written memoranda in the form and manner deemed appropriate by SBBC.

14. VENDOR shall bill under SBBC's Medicaid provider number, when needed.

15. VENDOR, under this Agreement, shall be required to pass the screening of the of the Broward School's Police, Security Clearance Department prior to placement of assignment as required by SBBC (See General Condition 7.42 of the RFP, SBBC Photo Identification Badge). VENDOR must utilize the STAR system and/or sign-in/out procedures to document attendance at assigned location(s).

16. SBBC reserves the right to interview all therapy candidates prior to placement. K-12 experience is preferred. SBBC reserves the right to refuse to utilize any proposed therapy candidate. SBBC reserves the right to have an individual therapist removed from the assigned position. VENDOR will have five workdays in which to propose a replacement therapist. Should VENDOR be unable to provide an acceptable replacement, all other contracted Awardees will then be notified to submit a candidate to SBBC.

17. VENDOR shall provide proof of services on an original approved voucher form upon initiation of services and up until training is provided on the Accelify Electronic Management System. Once VENDOR has received training, VENDOR shall then submit all invoices electronically.

SCOPE OF SERVICES

18. VENDOR shall have all therapists and assistants and required substitutes or replacements submit to, and pass, the screening of the Special Investigative Unit (SIU), including fingerprinting, prior to working with students as required for all SBBC personnel. All therapists and assistants shall display an SBBC Identification Badge during contracted work hours. VENDOR will be required to pay the required fees for screening, fingerprinting and photo identification. (See General Condition 7.42 of the RFP)

19. VENDOR shall cooperate with SBBC in its partnership with universities and colleges to provide supervision of practicum experience for student therapists and assistants.

20. VENDOR may be evaluated annually in areas to include, but not be limited to, responsiveness, continuity of service, quality of work and professionalism.

21. VENDOR shall not provide private assessments or therapy services to students on their own public school caseload.

22. VENDOR and all therapists and assistants shall attend an orientation workshop of not less than three hours. This orientation workshop will include, but not be limited to, general information on the policies and procedures of the Broward County Special Programs and Procedures, the rights of students with disabilities, and other operational procedures required to carry out the therapy program. Additional workshops may be required during the term of the Agreement.

23. VENDOR will receive, from SBBC, requested materials, equipment and other related items which have been determined to be necessary to carry out the therapy program for students when approved by a designated SBBC representative.

24. VENDOR shall insure that their provider has the necessary technology (eg. Laptop, desktop computer, etc.) needed to carryout job responsibilities.

AGREEMENT

THIS AGREEMENT is made and entered into as of this ____ day of _____, 2016, by and between

THE SCHOOL BOARD OF BROWARD COUNTY, FLORIDA
(hereinafter referred to as "SBBC"),
a body corporate and political subdivision of the State of Florida,
whose principal place of business is
600 Southeast Third Avenue, Fort Lauderdale, Florida 33301

and

BONNIE WEBERMAN, OTR/L
(hereinafter referred to as "VENDOR"),
whose principal place of business is
3900 North 48th Avenue
Hollywood, Florida 33021

WHEREAS, SBBC issued a Request for Proposal identified as RFP 17-005V – Occupational and Physical Therapy Services (hereinafter referred to as "RFP"), dated December 11, 2015 and amended by Addendum No. 2, dated January 15, 2016, and Addendum No. 1, dated January 9, 2016 all of which are incorporated by reference herein, for the purpose of receiving proposals for occupational and physical therapy services; and

WHEREAS, VENDOR offered a proposal dated January 12, 2016 (hereinafter referred to as "Proposal") which is incorporated by reference herein, in response to this RFP.

NOW, THEREFORE, in consideration of the premises and of the mutual covenants contained herein and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the Parties hereby agree as follows:

ARTICLE 1 - RECITALS

1.01 **Recitals**. The parties agree that the foregoing recitals are true and correct and that such recitals are incorporated herein by reference.

ARTICLE 2 – SPECIAL CONDITIONS

2.01 **Term of Agreement**. Unless terminated earlier pursuant to Section 3.05 of this Agreement, the term of this Agreement shall commence on **July 1, 2016** and conclude on **June 30, 2019.** The term of the Agreement may, by mutual agreement between SBBC and VENDOR be extended for two additional one-year periods and, if needed, 180 days beyond the expiration date of the renewal period. SBBC's Procurement & Warehousing Services Department, will, if considering renewing, request a letter consenting to renewal from VENDOR, prior to the end of the term. Any renewal period shall be approved by an Amendment to this Agreement executed by both parties

2.02 **Priority of Documents.** In the event of a conflict between documents, the following priority of documents shall govern.

First: This Agreement, then;
Second: Addendum No. 2, then;
Third: Addendum No. 1, then;
Fourth: RFP 17-005V – Occupational and Physical Therapy Services, then;
Fifth: Proposal submitted in response to the RFP by VENDOR.

2.03 **Services**: VENDOR shall provide SBBC with the Scope of Services as proposed in its Proposal and in compliance with this Agreement and the RFP and its Addenda and as specified in **Attachment A – Scope of Services**.

2.04 **Cost of Services**. SBBC shall pay VENDOR for cost of services rendered for Occupational Therapy services at $64.00/hour. Costs shall not exceed the amount as stated on the Purchase Order. VENDOR may offer SBBC a special educational discount for pricing and reduce the cost of services during the term of the Agreement. VENDOR may invoice SBBC at an hourly rate less than their original bid price.

2.05 **M/WBE Participation**. VENDOR is a current Certified MWBE, Caucasian Female, with SBBC, Certificate #7007-3696.

2.06 **Inspection of VENDOR's Records by SBBC**. VENDOR shall establish and maintain books, records and documents (including electronic storage media) sufficient to reflect all income and expenditures of funds provided by SBBC under this Agreement. All VENDOR's Records, regardless of the form in which they are kept, shall be open to inspection and subject to audit, inspection, examination, evaluation and/or reproduction, during normal working hours, by SBBC's agent or its authorized representative to permit SBBC to evaluate, analyze and verify the satisfactory performance of the terms and conditions of this Agreement and to evaluate, analyze and verify any and all invoices, billings, payments and/or claims submitted by VENDOR or any of VENDOR's payees pursuant to this Agreement. VENDOR's Records subject to examination shall include, without limitation, those records necessary to evaluate and verify direct and indirect costs (including overhead allocations) as they may apply to costs associated with this Agreement. VENDOR's Records subject to this section shall include any and all documents pertinent to the evaluation, analysis, verification and reconciliation of any and all expenditures under this Agreement without regard to funding sources.

(a) VENDOR's Records Defined. For the purposes of this Agreement, the term "VENDOR's Records" shall include, without limitation, accounting records, payroll time sheets, cancelled payroll checks, W-2 forms, written policies and procedures, computer records, disks and software, videos, photographs, executed subcontracts, subcontract files (including proposals of successful and unsuccessful bidders), original estimates, estimating worksheets, correspondence, change order files (including sufficient supporting documentation and documentation covering negotiated settlements), and any other supporting documents that would substantiate, reconcile or refute any charges and/or expenditures related to this Agreement.

(b) Duration of Right to Inspect. For the purpose of such audits, inspections, examinations, evaluations and/or reproductions, SBBC's agent or authorized representative shall have access to VENDOR's Records from the effective date of this Agreement, for the duration of the term of this Agreement, and until the later of five (5) years after the termination of this Agreement or five (5) years after the date of final payment by SBBC to VENDOR pursuant to this Agreement.

(c) Notice of Inspection. SBBC's agent or its authorized representative shall provide VENDOR reasonable advance notice (not to exceed two (2) weeks) of any intended audit, inspection, examination, evaluation and or reproduction.

(d) Audit Site Conditions. SBBC's agent or its authorized representative shall have access to VENDOR's facilities and to any and all records related to this Agreement, and shall be provided adequate and appropriate work space in order to exercise the rights permitted under this section.

(e) Failure to Permit Inspection. Failure by VENDOR to permit audit, inspection, examination, evaluation and/or reproduction as permitted under this Section shall constitute grounds for termination of this Agreement by SBBC for cause and shall be grounds for the denial of some or all of any VENDOR's claims for payment by SBBC.

(f) Overcharges and Unauthorized Charges. If an audit conducted in accordance with this Section discloses overcharges or unauthorized charges to SBBC by VENDOR in excess of two percent (2%) of the total billings under this Agreement, the actual cost of SBBC's audit shall be paid by VENDOR. If the audit discloses billings or charges to which VENDOR is not contractually entitled, VENDOR shall pay said sum to SBBC within twenty (20) days of receipt of written demand under otherwise agreed to in writing by both parties.

(g) Inspection of Subcontractor's Records. VENDOR shall require any and all subcontractors, insurance agents and material suppliers (hereafter referred to as "Payees") providing services or goods with regard to this Agreement to comply with the requirements of this section by insertion of such requirements in any written subcontract. Failure by VENDOR to include such requirements in any subcontract shall constitute grounds for termination of this Agreement by SBBC for cause and shall be grounds for the exclusion of some or all of any Payee's costs from amounts payable by SBBC to VENDOR pursuant to this Agreement and such excluded costs shall become the liability of VENDOR.

(h) Inspector General Audits. VENDOR shall comply and cooperate immediately with any inspections, reviews, investigations, or audits deemed necessary by the Florida Office of the Inspector General or by any other state or federal officials.

2.07 **Notice**. When any of the parties desire to give notice to the other, such notice must be in writing, sent by U.S. Mail, postage prepaid, addressed to the party for whom it is intended at the place last specified; the place for giving notice shall remain such until it is changed by written notice in compliance with the provisions of this paragraph. For the present, the Parties designate the following as the respective places for giving notice:

To SBBC:
Superintendent of Schools
The School Board of Broward County, Florida
600 S.E. 3rd. Avenue
Fort Lauderdale, Florida 33301

With a Copy to: Director, ESE Department
The School Board of Broward County, Florida
Arthur Ashe Campus
1701 NW 23 Avenue
Fort Lauderdale, FL 33311

To VENDOR: Bonnie Weberman, OTR/L
3900 North 48th Avenue
Hollywood, Florida 33021

2.08 **Background Screening.** VENDOR agrees to comply with all requirements of Sections 1012.32 and 1012.465, Florida Statutes, and all of its personnel who (1) are to be permitted access to school grounds when students are present, (2) will have direct contact with students, or (3) have access or control of school funds, will successfully complete the background screening required by the referenced statutes and meet the standards established by the statutes. This background screening will be conducted by SBBC in advance of VENDOR or its personnel providing any services under the conditions described in the previous sentence. VENDOR shall bear the cost of acquiring the background screening required by Section 1012.32, Florida Statutes, and any fee imposed by the Florida Department of Law Enforcement to maintain the fingerprints provided with respect to VENDOR and its personnel. The parties agree that the failure of VENDOR to perform any of the duties described in this section shall constitute a material breach of this Agreement entitling SBBC to terminate immediately with no further responsibilities or duties to perform under this Agreement. VENDOR agrees to indemnify and hold harmless SBBC, its officers and employees from any liability in the form of physical or mental injury, death or property damage resulting from VENDOR's failure to comply with the requirements of this Section or with Sections 1012.32 and 1012.465, Florida Statutes.

ARTICLE 3 – GENERAL CONDITIONS

3.01 **No Waiver of Sovereign Immunity**. Nothing herein is intended to serve as a waiver of sovereign immunity by any agency or political subdivision to which sovereign immunity may be applicable or of any rights or limits to liability existing under Section 768.28, Florida Statutes. This section shall survive the termination of all performance or obligations under this Agreement and shall be fully binding until such time as any proceeding brought on account of this Agreement is barred by any applicable statute of limitations.

3.02 **No Third Party Beneficiaries**. The parties expressly acknowledge that it is not their intent to create or confer any rights or obligations in or upon any third person or entity under this Agreement. None of the parties intend to directly or substantially benefit a third party by this Agreement. The parties agree that there are no third party beneficiaries to this Agreement and that no third party shall be entitled to assert a claim against any of the parties based upon this Agreement. Nothing herein shall be construed as consent by an agency or political subdivision of the State of Florida to be sued by third parties in any matter arising out of any contract.

3.03 **Independent Contractor**. The parties to this agreement shall at all times be acting in the capacity of independent contractors and not as an officer, employee or agent of one another. Neither party or its respective agents, employees, subcontractors or assignees shall represent to others that it has the authority to bind the other party unless specifically authorized in writing to do so. No right to SBBC retirement, leave benefits or any other benefits of SBBC employees shall exist as a result of the performance of any duties or responsibilities under this Agreement. SBBC shall not be responsible for social security, withholding taxes, contributions to unemployment compensation funds or insurance for the other party or the other party's officers, employees, agents, subcontractors or assignees.

3.04 **Equal Opportunity Provision**. The parties agree that no person shall be subjected to discrimination because of age, race, color, disability, gender identity, gender expression marital status, national origin, religion, sex or sexual orientation in the performance of the parties' respective duties, responsibilities and obligations under this Agreement.

3.05 **Termination**. This Agreement may be canceled with or without cause by SBBC during the term hereof upon thirty (30) days written notice to the other parties of its desire to terminate this Agreement. SBBC shall have no liability for any property left on SBBC's property by any party to this Agreement after the termination of this Agreement. Any party contracting with SBBC under this Agreement agrees that any of its property placed upon SBBC's facilities pursuant to this Agreement shall be removed within ten (10) business days following the termination, conclusion or cancellation of this Agreement and that any such property remaining upon SBBC's facilities after that time shall be deemed to be abandoned, title to such property shall pass to SBBC, and SBBC may use or dispose of such property as SBBC deems fit and appropriate.

3.06 **Default**. The parties agree that, in the event that either party is in default of its obligations under this Agreement, the non-defaulting party shall provide to the defaulting party (30) days written notice to cure the default. However, in the event said default cannot be cured within said thirty (30) day period and the defaulting party is diligently attempting in good faith to cure same, the time period shall be reasonably extended to allow the defaulting party additional cure time. Upon the occurrence of a default that is not cured during the applicable cure period, this Agreement may be terminated by the non-defaulting party upon thirty (30) days notice. This remedy is not intended to be exclusive of any other remedy, and each and every such remedy shall be cumulative and shall be in addition to every other remedy now or hereafter existing at law or in equity or by statute or otherwise. No single or partial exercise by any party of any right, power, or remedy hereunder shall preclude any other or future exercise thereof. Nothing in this section shall be construed to preclude termination for convenience pursuant to Section 3.05.

3.07 **Annual Appropriation.** The performance and obligations of SBBC under this Agreement shall be contingent upon an annual budgetary appropriation by its governing body. If SBBC does not allocate funds for the payment of services or products to be provided under this Agreement, this Agreement may be terminated by SBBC at the end of the period for which funds have been allocated. SBBC shall notify the other party at the earliest possible time before such termination. No penalty shall accrue to SBBC in the event this provision is exercised, and SBBC shall not be obligated or liable for any future payments due or any damages as a result of termination under this section.

3.08 **Excess Funds**. Any party receiving funds paid by SBBC under this Agreement agrees to promptly notify SBBC of any funds erroneously received from SBBC upon the discovery of such erroneous payment or overpayment. Any such excess funds shall be refunded to SBBC.

3.09 **Public Records**. Pursuant to Section 119.0701, Florida Statutes, any party contracting with SBBC is required to (a) keep and maintain available for public inspection any records that pertain to services rendered under this Agreement; (b) provide the public with access to public records on the same terms and conditions that SBBC would provide such records and 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; and (d) meet all requirements for retaining public records and transfer, at no cost to SBBC, all public records in that party's possession upon termination of its Agreement with SBBC and destroy any duplicate public records that are exempt or confidential and exempt from public records disclosure requirements. All of such party's records stored electronically must be provided to SBBC in a format that is compatible with SBBC's information technology systems. Each party shall maintain its own respective records and documents associated with this Agreement in accordance with the records retention requirements applicable to public records. Each party shall be responsible for compliance with any public documents request served upon it pursuant to Section 119.07, Florida Statutes, and any resultant award of attorney's fees for non-compliance with that law. Each party acknowledges that this Agreement and all attachments thereto are public records and do not constitute trade secrets.

3.10 **Student Records**: Notwithstanding any provision to the contrary within this Agreement, any party contracting with SBBC under this Agreement shall fully comply with the requirements of Sections 1002.22 and 1002.221, Florida Statutes; FERPA, and any other state or federal law or regulation regarding the confidentiality of student information and records. Each such party agrees, for itself, its officers, employees, agents, representatives, contractors or subcontractors, to fully indemnify and hold harmless SBBC and its officers and employees for any violation of this section, including, without limitation, defending SBBC and its officers and employees against any complaint, administrative or judicial proceeding, payment of any penalty imposed upon SBBC, or payment of any and all costs, damages, judgments or losses incurred by or imposed upon SBBC arising out of a breach of this covenant by the party, or an officer, employee, agent, representative, contractor, or sub-contractor of the party to the extent that the party or an officer, employee, agent, representative, contractor, or sub-contractor of the party shall either intentionally or negligently violate the provisions of this section or of Sections 1002.22 and/or 1002.221, Florida Statutes.

3.11 **Compliance with Laws**. Each party shall comply with all applicable federal, state and local laws, SBBC policies, codes, rules and regulations in performing its duties, responsibilities and obligations pursuant to this Agreement.

3.12 **Place of Performance**. All obligations of SBBC under the terms of this Agreement are reasonably susceptible of being performed in Broward County, Florida and shall be payable and performable in Broward County, Florida.

3.13 **Governing Law and Venue**. This Agreement shall be interpreted and construed in accordance with and governed by the laws of the State of Florida. Any controversies or legal problems arising out of this Agreement and any action involving the enforcement or interpretation of any rights hereunder shall be submitted to the jurisdiction of the State courts of the Seventeenth Judicial Circuit of Broward County, Florida.

3.14 **Entirety of Agreement**. This document incorporates and includes all prior negotiations, correspondence, conversations, agreements and understandings applicable to the matters contained herein and the parties agree that there are no commitments, agreements or understandings concerning the subject matter of this Agreement that are not contained in this document. Accordingly, the parties agree that no deviation from the terms hereof shall be predicated upon any prior representations or agreements, whether oral or written.

3.15 **Binding Effect**. This Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective successors and assigns.

3.16 **Assignment**. Neither this Agreement nor any interest herein may be assigned, transferred or encumbered by any party without the prior written consent of the other party. There shall be no partial assignments of this Agreement including, without limitation, the partial assignment of any right to receive payments from SBBC.

3.17 **Incorporation by Reference**. **Attachment A** attached hereto and referenced herein shall be deemed to be incorporated into this Agreement by reference.

3.18 **Captions**. The captions, section designations, section numbers, article numbers, titles and headings appearing in this Agreement are inserted only as a matter of convenience, have no substantive meaning, and in no way define, limit, construe or describe the scope or intent of such articles or sections of this Agreement, nor in any way affect this Agreement and shall not be construed to create a conflict with the provisions of this Agreement.

3.19 **Severability**. In the event that any one or more of the sections, paragraphs, sentences, clauses or provisions contained in this Agreement is held by a court of competent jurisdiction to be invalid, illegal, unlawful, unenforceable or void in any respect, such shall not affect the remaining portions of this Agreement and the same shall remain in full force and effect as if such invalid, illegal, unlawful, unenforceable or void sections, paragraphs, sentences, clauses or provisions had never been included herein.

3.20 **Preparation of Agreement**. The parties acknowledge that they have sought and obtained whatever competent advice and counsel as was necessary for them to form a full and complete understanding of all rights and obligations herein and that the preparation of this Agreement has been their joint effort. The language agreed to herein expresses their mutual intent and the resulting document shall not, solely as a matter of judicial construction, be construed more severely against one of the parties than the other.

3.21 **Amendments**. No modification, amendment, or alteration in the terms or conditions contained herein shall be effective unless contained in a written document prepared with the same or similar formality as this Agreement and executed by each party hereto.

3.22 **Waiver**. The parties agree that each requirement, duty and obligation set forth herein is substantial and important to the formation of this Agreement and, therefore, is a material term hereof. Any party's failure to enforce any provision of this Agreement shall not be deemed a waiver of such provision or modification of this Agreement unless the waiver is in writing and signed by the party waiving such provision. A written waiver shall only be effective as to the specific instance for which it is obtained and shall not be deemed a continuing or future waiver.

3.23 **Force Majeure**. Neither party shall be obligated to perform any duty, requirement or obligation under this Agreement if such performance is prevented by fire, hurricane, earthquake, explosion, wars, sabotage, accident, flood, acts of God, strikes, or other labor disputes, riot or civil commotions, or by reason of any other matter or condition beyond the control of either party, and which cannot be overcome by reasonable diligence and without unusual expense ("Force Majeure"). In no event shall a lack of funds on the part of either party be deemed Force Majeure.

3.24 **Survival**. All representations and warranties made herein, indemnification obligations, obligations to reimburse SBBC, obligations to maintain and allow inspection and audit of records and property, obligations to maintain the confidentiality of records, reporting requirements, and obligations to return public funds shall survive the termination of this Agreement.

3.25 **Contract Administration.** SBBC has delegated authority to the Superintendent of Schools or his/her designee to take any actions necessary to implement and administer this Agreement.

3.26. **Liability**. This section shall survive the termination of all performance or obligations under this Agreement and shall be fully binding until such time as any proceeding brought on account of this Agreement is barred by any applicable statute of limitations.

A. By SBBC: SBBC agrees to be fully responsible up to the limits of Section 768.28, Florida Statutes, for its acts of negligence, or its employees' acts of negligence when acting within the scope of their employment and agrees to be liable for any damages resulting from said negligence.

B. By VENDOR: VENDOR agrees to indemnify, hold harmless and defend SBBC, its agents, servants and employees from any and all claims, judgments, costs, and expenses including, but not limited to, reasonable attorney's fees, reasonable investigative and discovery costs, court costs and all other sums which SBBC, its agents, servants and employees may pay or become obligated to pay on account of any, all and every claim or demand, or assertion of liability, or any claim or action founded thereon, arising or alleged to have arisen out of the products, goods or services furnished by VENDOR, its agents, servants or employees; the equipment of VENDOR, its agents, servants or employees while such equipment is on premises owned or controlled by SBBC; or the negligence of VENDOR or the negligence of VENDOR's agents when acting within the scope of their employment, whether such claims, judgments, costs and expenses be for damages, damage to property including SBBC's property, and injury or death of any person whether employed by VENDOR, SBBC or otherwise.

3.27 **Authority**. Each person signing this Agreement on behalf of either party individually warrants that he or she has full legal power to execute this Agreement on behalf of the party for whom he or she is signing, and to bind and obligate such party with respect to all provisions contained in this Agreement.

IN WITNESS WHEREOF, the Parties hereto have made and executed this Agreement on the date first above written.

FOR SBBC

(Corporate Seal)

THE SCHOOL BOARD OF BROWARD COUNTY, FLORIDA

By_____
Dr. Rosalind Osgood, Chair

ATTEST:

_____
Robert W. Runcie, Superintendent of Schools

Approved as to Form and Legal Content:

Kathelyn Jacques-Adams

Digitally signed by Kathelyn Jacques-Adams
DN: cn=Kathelyn Jacques-Adams, o=The School District of Broward County, Florida, ou=The Office of the General Counsel, email=kathelyn.jacques-adams@browardschools.com, c=US
Date: 2016.05.25 12:15:53 -04'00'

Office of the General Counsel

FOR VENDOR

Witness

Signature

Witness

Bonnie Weberman, OTR/L

STATE OF Florida

COUNTY OF Broward

The foregoing instrument was acknowledged before me by Bonnie Weberman
Insert Name Here
who is personally known to me or who produced personally known as
Type of Identification
identification and who did/did not first take an oath this 4th day of May,
20 16.

My Commission Expires:

REGINA WOODS
MY COMMISSION # FF 223795
EXPIRES: August 22, 2019
Bonded Thru Notary Public Underwriters

(SEAL)

Signature – Notary Public

Regina Wood

Notary's Printed Name

FF 223795

Notary's Commission No.

ATTACHMENT A

SCOPE OF SERVICES

1. VENDOR shall provide occupational therapy services in accordance with Broward County Schools Special Programs and Procedures. A copy of these procedures may be obtained on Exceptional Student Education's website at http://www.broward.k12.fl.us/studentsupport/ese/pdf/SP&P.pdf or as updated by SBBC.

2. VENDOR shall provide current licensed occupational therapists under this Agreement. **Award of this Agreement shall not be a guarantee of business, a guarantee of specified volume of service or minimum dollar revenue to be received under this Agreement.**

3. VENDOR shall report to the Program Specialist and/or Curriculum Supervisor regarding services under this Agreement.

4. VENDOR shall be compensated for direct student services and student related activities only. VENDOR shall not be compensated/reimbursed for travel under this Agreement.

5. VENDOR shall provide the following services, but not limited to, initial student evaluations, small group or individual therapy with students, record-keeping for student attendance, supervising assistants, preparing progress reports and therapy notes, preparing a therapy plan of care, participating in the development of Individual Education Plans (IEP), attendance at required eligibility, IEP and dismissal staffings, attending in-service meetings as requested and providing consultation with parents, school area, district staff and physicians, as needed. VENDOR shall complete all appropriate documentation for Medicaid Reimbursement.

6. VENDOR shall provide services consistent with the professional standards of care and comply with all the medical and ethical requirements imposed by the State of Florida, Board of Medicine, the Department of Professional Regulations, the Florida State Department of Education and any other applicable federal, state or local regulatory agency.

7. VENDOR shall provide the requested level of service(s), in accordance with and/or changes for services requested by SBBC, within five (5) calendar days of notice, unless otherwise mutually agreed upon. Excessive failure to meet the needs as requested will result in cancellation of VENDOR's Agreement.

8. VENDOR shall maintain normal working hours of 8:00 a.m. to 4:00 p.m. Hours may occasionally be extended from 7:00 a.m. to 4:30 p.m. There will be no reimbursement for a thirty (30) minute lunch period. SBBC may only be invoiced for up to 7.5 hours per day unless prior approval has been granted by SBBC staff for extended service time. Awardee(s) may provide a maximum of four (4) hours of service as needed on each scheduled employee planning day. Invoices not complying with this will be rejected and returned for correction and failure to invoice correctly will result in a delay of payment. Any VENDOR who consistently submits invoices that are not correct may be found in default of Agreement.

SCOPE OF SERVICES

9. VENDOR shall respond to requested services within five (5) school days of the request by submitting to an interview by a designated SBBC representative. Firms can also offer these services and interviews as required.

10. VENDOR shall provide uninterrupted services based upon the current school calendar to students by providing qualified substitutes or replacements in the event of an anticipated or unanticipated lapse of service. A qualified substitute is defined to be a therapist for a therapist or a therapist assistant for an assistant. All qualified substitutes must display an SBBC identification badge. (See General Condition 7.42) Any lapse of service to SBBC for five student attendance days during any school year will result in default of Agreement. VENDOR may be responsible to provide compensatory services or payments to SBBC for lapse of service.

11. VENDOR shall provide a service schedule of all personnel for approval on a regular basis as determined by a designated SBBC representative.

12. VENDOR shall follow all procedures (including, but not limited to, signing in and out, no telephone calls during treatment time) of individual schools where they are assigned. All therapists must carry a cell phone for critical communication throughout the day with SBBC personnel as established. These numbers must be provided to SBBC personnel. There shall be no cost to SBBC to use these communication devices.

13. VENDOR shall prepare time logs, reports, written analysis and other written memoranda in the form and manner deemed appropriate by SBBC.

14. VENDOR shall bill under SBBC's Medicaid provider number, when needed.

15. VENDOR, under this Agreement, shall be required to pass the screening of the of the Broward School's Police, Security Clearance Department prior to placement of assignment as required by SBBC (See General Condition 7.42 of the RFP, SBBC Photo Identification Badge). VENDOR must utilize the STAR system and/or sign-in/out procedures to document attendance at assigned location(s).

16. SBBC reserves the right to interview all therapy candidates prior to placement. K-12 experience is preferred. SBBC reserves the right to refuse to utilize any proposed therapy candidate. SBBC reserves the right to have an individual therapist removed from the assigned position. VENDOR will have five workdays in which to propose a replacement therapist. Should VENDOR be unable to provide an acceptable replacement, all other contracted Awardees will then be notified to submit a candidate to SBBC.

17. VENDOR shall provide proof of services on an original approved voucher form upon initiation of services and up until training is provided on the Accelify Electronic Management System. Once VENDOR has received training, VENDOR shall then submit all invoices electronically.

SCOPE OF SERVICES

18. VENDOR shall have all therapists and assistants and required substitutes or replacements submit to, and pass, the screening of the Special Investigative Unit (SIU), including fingerprinting, prior to working with students as required for all SBBC personnel. All therapists and assistants shall display an SBBC Identification Badge during contracted work hours. VENDOR will be required to pay the required fees for screening, fingerprinting and photo identification. (See General Condition 7.42 of the RFP)

19. VENDOR shall cooperate with SBBC in its partnership with universities and colleges to provide supervision of practicum experience for student therapists and assistants.

20. VENDOR may be evaluated annually in areas to include, but not be limited to, responsiveness, continuity of service, quality of work and professionalism.

21. VENDOR may not provide private assessments or therapy services to students on their own public school caseload.

22. VENDOR and all therapists and assistants shall attend an orientation workshop of not less than three hours. This orientation workshop will include, but not be limited to, general information on the policies and procedures of the Broward County Special Programs and Procedures, the rights of students with disabilities, and other operational procedures required to carry out the therapy program. Additional workshops may be required during the term of the Agreement.

23. VENDOR will receive, from SBBC, requested materials, equipment and other related items which have been determined to be necessary to carry out the therapy program for students when approved by a designated SBBC representative.

24. VENDOR shall insure that their provider has the necessary technology (eg. Laptop, desktop computer, etc.) needed to carryout job responsibilities.

AGREEMENT

THIS AGREEMENT is made and entered into as of this ____ day of _____, 2016, by and between

THE SCHOOL BOARD OF BROWARD COUNTY, FLORIDA
(hereinafter referred to as "SBBC"),
a body corporate and political subdivision of the State of Florida,
whose principal place of business is
600 Southeast Third Avenue, Fort Lauderdale, Florida 33301

and

C.E.S. THERAPY, LLC
(hereinafter referred to as "VENDOR"),
whose principal place of business is
951 SW 96th Avenue
Pembroke Pines, Florida 33025

WHEREAS, SBBC issued a Request for Proposal identified as RFP 17-005V – Occupational and Physical Therapy Services (hereinafter referred to as "RFP"), dated December 11, 2015 and amended by Addendum No. 2, dated January 15, 2016, and Addendum No. 1, dated January 9, 2016 all of which are incorporated by reference herein, for the purpose of receiving proposals for occupational and physical therapy services; and

WHEREAS, VENDOR offered a proposal dated January 15, 2016 (hereinafter referred to as "Proposal") which is incorporated by reference herein, in response to this RFP.

NOW, THEREFORE, in consideration of the premises and of the mutual covenants contained herein and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the Parties hereby agree as follows:

ARTICLE 1 - RECITALS

1.01 **Recitals**. The parties agree that the foregoing recitals are true and correct and that such recitals are incorporated herein by reference.

ARTICLE 2 – SPECIAL CONDITIONS

2.01 **Term of Agreement**. Unless terminated earlier pursuant to Section 3.05 of this Agreement, the term of this Agreement shall commence on **July 1, 2016** and conclude on **June 30, 2019.** The term of the Agreement may, by mutual agreement between SBBC and VENDOR be extended for two additional one-year periods and, if needed, 180 days beyond the expiration date of the renewal period. SBBC's Procurement & Warehousing Services Department, will, if considering renewing, request a letter consenting to renewal from VENDOR, prior to the end of the term. Any renewal period shall be approved by an Amendment to this Agreement executed by both parties

2.02 **Priority of Documents.** In the event of a conflict between documents, the following priority of documents shall govern.

First: This Agreement, then;
Second: Addendum No. 2, then;
Third: Addendum No. 1, then;
Fourth: RFP 17-005V – Occupational and Physical Therapy Services, then;
Fifth: Proposal submitted in response to the RFP by VENDOR.

2.03 **Services**: VENDOR shall provide SBBC with the Scope of Services as proposed in its Proposal and in compliance with this Agreement and the RFP and its Addenda and as specified in **Attachment A – Scope of Services**.

2.04 **Cost of Services**. SBBC shall pay VENDOR for cost of services rendered for Occupational Therapy services at $62.00/hour. Costs shall not exceed the amount as stated on the Purchase Order. VENDOR may offer SBBC a special educational discount for pricing and reduce the cost of services during the term of the Agreement. VENDOR may invoice SBBC at an hourly rate less than their original bid price.

2.05 **M/WBE Participation**. VENDOR is a current Certified MWBE, African American, with SBBC, Certificate #7007-7149.

2.06 **Inspection of VENDOR's Records by SBBC**. VENDOR shall establish and maintain books, records and documents (including electronic storage media) sufficient to reflect all income and expenditures of funds provided by SBBC under this Agreement. All VENDOR's Records, regardless of the form in which they are kept, shall be open to inspection and subject to audit, inspection, examination, evaluation and/or reproduction, during normal working hours, by SBBC's agent or its authorized representative to permit SBBC to evaluate, analyze and verify the satisfactory performance of the terms and conditions of this Agreement and to evaluate, analyze and verify any and all invoices, billings, payments and/or claims submitted by VENDOR or any of VENDOR's payees pursuant to this Agreement. VENDOR's Records subject to examination shall include, without limitation, those records necessary to evaluate and verify direct and indirect costs (including overhead allocations) as they may apply to costs associated with this Agreement. VENDOR's Records subject to this section shall include any and all documents pertinent to the evaluation, analysis, verification and reconciliation of any and all expenditures under this Agreement without regard to funding sources.

(a) VENDOR's Records Defined. For the purposes of this Agreement, the term "VENDOR's Records" shall include, without limitation, accounting records, payroll time sheets, cancelled payroll checks, W-2 forms, written policies and procedures, computer records, disks and software, videos, photographs, executed subcontracts, subcontract files (including proposals of successful and unsuccessful bidders), original estimates, estimating worksheets, correspondence, change order files (including sufficient supporting documentation and documentation covering negotiated settlements), and any other supporting documents that would substantiate, reconcile or refute any charges and/or expenditures related to this Agreement.

(b) Duration of Right to Inspect. For the purpose of such audits, inspections, examinations, evaluations and/or reproductions, SBBC's agent or authorized representative shall have access to VENDOR's Records from the effective date of this Agreement, for the duration of the term of this Agreement, and until the later of five (5) years after the termination of this Agreement or five (5) years after the date of final payment by SBBC to VENDOR pursuant to this Agreement.

(c) Notice of Inspection. SBBC's agent or its authorized representative shall provide VENDOR reasonable advance notice (not to exceed two (2) weeks) of any intended audit, inspection, examination, evaluation and or reproduction.

(d) Audit Site Conditions. SBBC's agent or its authorized representative shall have access to VENDOR's facilities and to any and all records related to this Agreement, and shall be provided adequate and appropriate work space in order to exercise the rights permitted under this section.

(e) Failure to Permit Inspection. Failure by VENDOR to permit audit, inspection, examination, evaluation and/or reproduction as permitted under this Section shall constitute grounds for termination of this Agreement by SBBC for cause and shall be grounds for the denial of some or all of any VENDOR's claims for payment by SBBC.

(f) Overcharges and Unauthorized Charges. If an audit conducted in accordance with this Section discloses overcharges or unauthorized charges to SBBC by VENDOR in excess of two percent (2%) of the total billings under this Agreement, the actual cost of SBBC's audit shall be paid by VENDOR. If the audit discloses billings or charges to which VENDOR is not contractually entitled, VENDOR shall pay said sum to SBBC within twenty (20) days of receipt of written demand under otherwise agreed to in writing by both parties.

(g) Inspection of Subcontractor's Records. VENDOR shall require any and all subcontractors, insurance agents and material suppliers (hereafter referred to as "Payees") providing services or goods with regard to this Agreement to comply with the requirements of this section by insertion of such requirements in any written subcontract. Failure by VENDOR to include such requirements in any subcontract shall constitute grounds for termination of this Agreement by SBBC for cause and shall be grounds for the exclusion of some or all of any Payee's costs from amounts payable by SBBC to VENDOR pursuant to this Agreement and such excluded costs shall become the liability of VENDOR.

(h) Inspector General Audits. VENDOR shall comply and cooperate immediately with any inspections, reviews, investigations, or audits deemed necessary by the Florida Office of the Inspector General or by any other state or federal officials.

2.07 **Notice**. When any of the parties desire to give notice to the other, such notice must be in writing, sent by U.S. Mail, postage prepaid, addressed to the party for whom it is intended at the place last specified; the place for giving notice shall remain such until it is changed by written notice in compliance with the provisions of this paragraph. For the present, the Parties designate the following as the respective places for giving notice:

To SBBC:
Superintendent of Schools
The School Board of Broward County, Florida
600 S.E. 3rd. Avenue
Fort Lauderdale, Florida 33301

With a Copy to: Director, ESE Department
The School Board of Broward County, Florida
Arthur Ashe Campus
1701 NW 23 Avenue
Fort Lauderdale, FL 33311

To VENDOR: Charlette Emilien OTR/L
C.E.S. Therapy, LLC
951 SW 96th Avenue
Pembroke Pines, Florida 33025

2.08 **Background Screening.** VENDOR agrees to comply with all requirements of Sections 1012.32 and 1012.465, Florida Statutes, and all of its personnel who (1) are to be permitted access to school grounds when students are present, (2) will have direct contact with students, or (3) have access or control of school funds, will successfully complete the background screening required by the referenced statutes and meet the standards established by the statutes. This background screening will be conducted by SBBC in advance of VENDOR or its personnel providing any services under the conditions described in the previous sentence. VENDOR shall bear the cost of acquiring the background screening required by Section 1012.32, Florida Statutes, and any fee imposed by the Florida Department of Law Enforcement to maintain the fingerprints provided with respect to VENDOR and its personnel. The parties agree that the failure of VENDOR to perform any of the duties described in this section shall constitute a material breach of this Agreement entitling SBBC to terminate immediately with no further responsibilities or duties to perform under this Agreement. VENDOR agrees to indemnify and hold harmless SBBC, its officers and employees from any liability in the form of physical or mental injury, death or property damage resulting from VENDOR's failure to comply with the requirements of this Section or with Sections 1012.32 and 1012.465, Florida Statutes.

ARTICLE 3 – GENERAL CONDITIONS

3.01 **No Waiver of Sovereign Immunity**. Nothing herein is intended to serve as a waiver of sovereign immunity by any agency or political subdivision to which sovereign immunity may be applicable or of any rights or limits to liability existing under Section 768.28, Florida Statutes. This section shall survive the termination of all performance or obligations under this Agreement and shall be fully binding until such time as any proceeding brought on account of this Agreement is barred by any applicable statute of limitations.

3.02 **No Third Party Beneficiaries**. The parties expressly acknowledge that it is not their intent to create or confer any rights or obligations in or upon any third person or entity under this Agreement. None of the parties intend to directly or substantially benefit a third party by this Agreement. The parties agree that there are no third party beneficiaries to this Agreement and that no third party shall be entitled to assert a claim against any of the parties based upon this Agreement. Nothing herein shall be construed as consent by an agency or political subdivision of the State of Florida to be sued by third parties in any matter arising out of any contract.

3.03 **Independent Contractor**. The parties to this agreement shall at all times be acting in the capacity of independent contractors and not as an officer, employee or agent of one another. Neither party or its respective agents, employees, subcontractors or assignees shall represent to others that it has the authority to bind the other party unless specifically authorized in writing to do so. No right to SBBC retirement, leave benefits or any other benefits of SBBC employees shall exist as a result of the performance of any duties or responsibilities under this Agreement. SBBC shall not be responsible for social security, withholding taxes, contributions to unemployment compensation funds or insurance for the other party or the other party's officers, employees, agents, subcontractors or assignees.

3.04 **Equal Opportunity Provision**. The parties agree that no person shall be subjected to discrimination because of age, race, color, disability, gender identity, gender expression marital status, national origin, religion, sex or sexual orientation in the performance of the parties' respective duties, responsibilities and obligations under this Agreement.

3.05 **Termination**. This Agreement may be canceled with or without cause by SBBC during the term hereof upon thirty (30) days written notice to the other parties of its desire to terminate this Agreement. SBBC shall have no liability for any property left on SBBC's property by any party to this Agreement after the termination of this Agreement. Any party contracting with SBBC under this Agreement agrees that any of its property placed upon SBBC's facilities pursuant to this Agreement shall be removed within ten (10) business days following the termination, conclusion or cancellation of this Agreement and that any such property remaining upon SBBC's facilities after that time shall be deemed to be abandoned, title to such property shall pass to SBBC, and SBBC may use or dispose of such property as SBBC deems fit and appropriate.

3.06 **Default**. The parties agree that, in the event that either party is in default of its obligations under this Agreement, the non-defaulting party shall provide to the defaulting party (30) days written notice to cure the default. However, in the event said default cannot be cured within said thirty (30) day period and the defaulting party is diligently attempting in good faith to cure same, the time period shall be reasonably extended to allow the defaulting party additional cure time. Upon the occurrence of a default that is not cured during the applicable cure period, this Agreement may be terminated by the non-defaulting party upon thirty (30) days notice. This remedy is not intended to be exclusive of any other remedy, and each and every such remedy shall be cumulative and shall be in addition to every other remedy now or hereafter existing at law or in equity or by statute or otherwise. No single or partial exercise by any party of any right, power, or remedy hereunder shall preclude any other or future exercise thereof. Nothing in this section shall be construed to preclude termination for convenience pursuant to Section 3.05.

3.07 **Annual Appropriation.** The performance and obligations of SBBC under this Agreement shall be contingent upon an annual budgetary appropriation by its governing body. If SBBC does not allocate funds for the payment of services or products to be provided under this Agreement, this Agreement may be terminated by SBBC at the end of the period for which funds have been allocated. SBBC shall notify the other party at the earliest possible time before such termination. No penalty shall accrue to SBBC in the event this provision is exercised, and SBBC shall not be obligated or liable for any future payments due or any damages as a result of termination under this section.

3.08 **Excess Funds**. Any party receiving funds paid by SBBC under this Agreement agrees to promptly notify SBBC of any funds erroneously received from SBBC upon the discovery of such erroneous payment or overpayment. Any such excess funds shall be refunded to SBBC.

3.09 **Public Records**. Pursuant to Section 119.0701, Florida Statutes, any party contracting with SBBC is required to (a) keep and maintain available for public inspection any records that pertain to services rendered under this Agreement; (b) provide the public with access to public records on the same terms and conditions that SBBC would provide such records and 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; and (d) meet all requirements for retaining public records and transfer, at no cost to SBBC, all public records in that party's possession upon termination of its Agreement with SBBC and destroy any duplicate public records that are exempt or confidential and exempt from public records disclosure requirements. All of such party's records stored electronically must be provided to SBBC in a format that is compatible with SBBC's information technology systems. Each party shall maintain its own respective records and documents associated with this Agreement in accordance with the records retention requirements applicable to public records. Each party shall be responsible for compliance with any public documents request served upon it pursuant to Section 119.07, Florida Statutes, and any resultant award of attorney's fees for non-compliance with that law. Each party acknowledges that this Agreement and all attachments thereto are public records and do not constitute trade secrets.

3.10 **Student Records**: Notwithstanding any provision to the contrary within this Agreement, any party contracting with SBBC under this Agreement shall fully comply with the requirements of Sections 1002.22 and 1002.221, Florida Statutes; FERPA, and any other state or federal law or regulation regarding the confidentiality of student information and records. Each such party agrees, for itself, its officers, employees, agents, representatives, contractors or subcontractors, to fully indemnify and hold harmless SBBC and its officers and employees for any violation of this section, including, without limitation, defending SBBC and its officers and employees against any complaint, administrative or judicial proceeding, payment of any penalty imposed upon SBBC, or payment of any and all costs, damages, judgments or losses incurred by or imposed upon SBBC arising out of a breach of this covenant by the party, or an officer, employee, agent, representative, contractor, or sub-contractor of the party to the extent that the party or an officer, employee, agent, representative, contractor, or sub-contractor of the party shall either intentionally or negligently violate the provisions of this section or of Sections 1002.22 and/or 1002.221, Florida Statutes.

3.11 **Compliance with Laws**. Each party shall comply with all applicable federal, state and local laws, SBBC policies, codes, rules and regulations in performing its duties, responsibilities and obligations pursuant to this Agreement.

3.12 **Place of Performance**. All obligations of SBBC under the terms of this Agreement are reasonably susceptible of being performed in Broward County, Florida and shall be payable and performable in Broward County, Florida.

3.13 **Governing Law and Venue**. This Agreement shall be interpreted and construed in accordance with and governed by the laws of the State of Florida. Any controversies or legal problems arising out of this Agreement and any action involving the enforcement or interpretation of any rights hereunder shall be submitted to the jurisdiction of the State courts of the Seventeenth Judicial Circuit of Broward County, Florida.

3.14 **Entirety of Agreement**. This document incorporates and includes all prior negotiations, correspondence, conversations, agreements and understandings applicable to the matters contained herein and the parties agree that there are no commitments, agreements or understandings concerning the subject matter of this Agreement that are not contained in this document. Accordingly, the parties agree that no deviation from the terms hereof shall be predicated upon any prior representations or agreements, whether oral or written.

3.15 **Binding Effect**. This Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective successors and assigns.

3.16 **Assignment**. Neither this Agreement nor any interest herein may be assigned, transferred or encumbered by any party without the prior written consent of the other party. There shall be no partial assignments of this Agreement including, without limitation, the partial assignment of any right to receive payments from SBBC.

3.17 **Incorporation by Reference**. **Attachment A** attached hereto and referenced herein shall be deemed to be incorporated into this Agreement by reference.

3.18 **Captions**. The captions, section designations, section numbers, article numbers, titles and headings appearing in this Agreement are inserted only as a matter of convenience, have no substantive meaning, and in no way define, limit, construe or describe the scope or intent of such articles or sections of this Agreement, nor in any way affect this Agreement and shall not be construed to create a conflict with the provisions of this Agreement.

3.19 **Severability**. In the event that any one or more of the sections, paragraphs, sentences, clauses or provisions contained in this Agreement is held by a court of competent jurisdiction to be invalid, illegal, unlawful, unenforceable or void in any respect, such shall not affect the remaining portions of this Agreement and the same shall remain in full force and effect as if such invalid, illegal, unlawful, unenforceable or void sections, paragraphs, sentences, clauses or provisions had never been included herein.

3.20 **Preparation of Agreement**. The parties acknowledge that they have sought and obtained whatever competent advice and counsel as was necessary for them to form a full and complete understanding of all rights and obligations herein and that the preparation of this Agreement has been their joint effort. The language agreed to herein expresses their mutual intent and the resulting document shall not, solely as a matter of judicial construction, be construed more severely against one of the parties than the other.

3.21 **Amendments**. No modification, amendment, or alteration in the terms or conditions contained herein shall be effective unless contained in a written document prepared with the same or similar formality as this Agreement and executed by each party hereto.

3.22 **Waiver**. The parties agree that each requirement, duty and obligation set forth herein is substantial and important to the formation of this Agreement and, therefore, is a material term hereof. Any party's failure to enforce any provision of this Agreement shall not be deemed a waiver of such provision or modification of this Agreement unless the waiver is in writing and signed by the party waiving such provision. A written waiver shall only be effective as to the specific instance for which it is obtained and shall not be deemed a continuing or future waiver.

3.23 **Force Majeure**. Neither party shall be obligated to perform any duty, requirement or obligation under this Agreement if such performance is prevented by fire, hurricane, earthquake, explosion, wars, sabotage, accident, flood, acts of God, strikes, or other labor disputes, riot or civil commotions, or by reason of any other matter or condition beyond the control of either party, and which cannot be overcome by reasonable diligence and without unusual expense ("Force Majeure"). In no event shall a lack of funds on the part of either party be deemed Force Majeure.

3.24 **Survival**. All representations and warranties made herein, indemnification obligations, obligations to reimburse SBBC, obligations to maintain and allow inspection and audit of records and property, obligations to maintain the confidentiality of records, reporting requirements, and obligations to return public funds shall survive the termination of this Agreement.

3.25 **Contract Administration.** SBBC has delegated authority to the Superintendent of Schools or his/her designee to take any actions necessary to implement and administer this Agreement.

3.26. **Liability**. This section shall survive the termination of all performance or obligations under this Agreement and shall be fully binding until such time as any proceeding brought on account of this Agreement is barred by any applicable statute of limitations.

A. By SBBC: SBBC agrees to be fully responsible up to the limits of Section 768.28, Florida Statutes, for its acts of negligence, or its employees' acts of negligence when acting within the scope of their employment and agrees to be liable for any damages resulting from said negligence.

B. By VENDOR: VENDOR agrees to indemnify, hold harmless and defend SBBC, its agents, servants and employees from any and all claims, judgments, costs, and expenses including, but not limited to, reasonable attorney's fees, reasonable investigative and discovery costs, court costs and all other sums which SBBC, its agents, servants and employees may pay or become obligated to pay on account of any, all and every claim or demand, or assertion of liability, or any claim or action founded thereon, arising or alleged to have arisen out of the products, goods or services furnished by VENDOR, its agents, servants or employees; the equipment of VENDOR, its agents, servants or employees while such equipment is on premises owned or controlled by SBBC; or the negligence of VENDOR or the negligence of VENDOR's agents when acting within the scope of their employment, whether such claims, judgments, costs and expenses be for damages, damage to property including SBBC's property, and injury or death of any person whether employed by VENDOR, SBBC or otherwise.

3.29 **Authority**. Each person signing this Agreement on behalf of either party individually warrants that he or she has full legal power to execute this Agreement on behalf of the party for whom he or she is signing, and to bind and obligate such party with respect to all provisions contained in this Agreement.

IN WITNESS WHEREOF, the Parties hereto have made and executed this Agreement on the date first above written.

FOR SBBC

(Corporate Seal)

THE SCHOOL BOARD OF BROWARD COUNTY, FLORIDA

By_____
Dr. Rosalind Osgood, Chair

ATTEST:

_____
Robert W. Runcie, Superintendent of Schools

Approved as to Form and Legal Content:

Kathelyn Jacques-Adams

Digitally signed by Kathelyn Jacques-Adams
DN: cn=Kathelyn Jacques-Adams, o=The School District of Broward County, Florida, ou=The Office of the General Counsel, email=kathelyn.jacques-adams@browardschools.com, c=US
Date: 2016.05.25 12:16:55 -04'00'

_____
Office of the General Counsel

FOR VENDOR

(Corporate Seal)

C.E.S. THERAPY, LLC

ATTEST:

By _____

_____, Secretary

-or-

_____
Witness

_____
Witness

The Following Notarization is Required for Every Agreement Without Regard to Whether the Party Chose to Use a Secretary's Attestation or Two (2) Witnesses.

STATE OF Florida

COUNTY OF Broward

The foregoing instrument was acknowledged before me this 6 day of May, 2019 by Charlethe Emilien of
Name of Person
C.E.S Therapy LLC, on behalf of the corporation/agency.
Name of Corporation or Agency
He/She is personally known to me or produced FL Drivers License. as identification and did/did not first take an oath.
Type of Identification

My Commission Expires: April 5 2019

_____
Signature - Notary Public

Yizrel Melendez
Printed Name of Notary

FF217259
Notary's Commission No.

(SEAL)

YIZREL MELENDEZ
Notary Public, State of Florida
Commission# FF 217259
My comm. expires April 5, 2019

ATTACHMENT A

SCOPE OF SERVICES

1. VENDOR shall provide occupational therapy services in accordance with Broward County Schools Special Programs and Procedures. A copy of these procedures may be obtained on Exceptional Student Education's website at http://www.broward.k12.fl.us/studentsupport/ese/pdf/SP&P.pdf or as updated by SBBC.

2. VENDOR shall provide current licensed occupational therapists under this Agreement. **Award of this Agreement shall not be a guarantee of business, a guarantee of specified volume of service or minimum dollar revenue to be received under this Agreement.**

3. VENDOR shall report to the Program Specialist and/or Curriculum Supervisor regarding services under this Agreement.

4. VENDOR shall be compensated for direct student services and student related activities only. VENDOR shall not be compensated/reimbursed for travel under this Agreement.

5. VENDOR shall provide the following services, but not limited to, initial student evaluations, small group or individual therapy with students, record-keeping for student attendance, supervising assistants, preparing progress reports and therapy notes, preparing a therapy plan of care, participating in the development of Individual Education Plans (IEP), attendance at required eligibility, IEP and dismissal staffings, attending in-service meetings as requested and providing consultation with parents, school area, district staff and physicians, as needed. VENDOR shall complete all appropriate documentation for Medicaid Reimbursement.

6. VENDOR shall provide services consistent with the professional standards of care and comply with all the medical and ethical requirements imposed by the State of Florida, Board of Medicine, the Department of Professional Regulations, the Florida State Department of Education and any other applicable federal, state or local regulatory agency.

7. VENDOR shall provide the requested level of service(s), in accordance with and/or changes for services requested by SBBC, within five (5) calendar days of notice, unless otherwise mutually agreed upon. Excessive failure to meet the needs as requested will result in cancellation of VENDOR's Agreement.

8. VENDOR shall maintain normal working hours of 8:00 a.m. to 4:00 p.m. Hours may occasionally be extended from 7:00 a.m. to 4:30 p.m. There will be no reimbursement for a thirty (30) minute lunch period. SBBC may only be invoiced for up to 7.5 hours per day unless prior approval has been granted by SBBC staff for extended service time. Awardee(s) may provide a maximum of four (4) hours of service as needed on each scheduled employee planning day. Invoices not complying with this will be rejected and returned for correction and failure to invoice correctly will result in a delay of payment. Any VENDOR who consistently submits invoices that are not correct may be found in default of Agreement.

SCOPE OF SERVICES

9. VENDOR shall respond to requested services within five (5) school days of the request by submitting to an interview by a designated SBBC representative. Firms can also offer these services and interviews as required.

10. VENDOR shall provide uninterrupted services based upon the current school calendar to students by providing qualified substitutes or replacements in the event of an anticipated or unanticipated lapse of service. A qualified substitute is defined to be a therapist for a therapist or a therapist assistant for an assistant. All qualified substitutes must display an SBBC identification badge. (See General Condition 7.42) Any lapse of service to SBBC for five student attendance days during any school year will result in default of Agreement. VENDOR may be responsible to provide compensatory services or payments to SBBC for lapse of service.

11. VENDOR shall provide a service schedule of all personnel for approval on a regular basis as determined by a designated SBBC representative.

12. VENDOR shall follow all procedures (including, but not limited to, signing in and out, no telephone calls during treatment time) of individual schools where they are assigned. All therapists must carry a cell phone for critical communication throughout the day with SBBC personnel as established. These numbers must be provided to SBBC personnel. There shall be no cost to SBBC to use these communication devices.

13. VENDOR shall prepare time logs, reports, written analysis and other written memoranda in the form and manner deemed appropriate by SBBC.

14. VENDOR shall bill under SBBC's Medicaid provider number, when needed.

15. VENDOR, under this Agreement, shall be required to pass the screening of the of the Broward School's Police, Security Clearance Department prior to placement of assignment as required by SBBC (See General Condition 7.42 of the RFP, SBBC Photo Identification Badge). VENDOR must utilize the STAR system and/or sign-in/out procedures to document attendance at assigned location(s).

16. SBBC reserves the right to interview all therapy candidates prior to placement. K-12 experience is preferred. SBBC reserves the right to refuse to utilize any proposed therapy candidate. SBBC reserves the right to have an individual therapist removed from the assigned position. VENDOR will have five workdays in which to propose a replacement therapist. Should VENDOR be unable to provide an acceptable replacement, all other contracted Awardees will then be notified to submit a candidate to SBBC.

17. VENDOR shall provide proof of services on an original approved voucher form upon initiation of services and up until training is provided on the Accelify Electronic Management System. Once VENDOR has received training, VENDOR shall then submit all invoices electronically.

SCOPE OF SERVICES

18. VENDOR must have all therapists and assistants and required substitutes or replacements submit to, and pass, the screening of the Special Investigative Unit (SIU), including fingerprinting, prior to working with students as required for all SBBC personnel. All therapists and assistants shall display an SBBC Identification Badge during contracted work hours. VENDOR will be required to pay the required fees for screening, fingerprinting and photo identification. (See General Condition 7.42 of the RFP)

19. VENDOR shall cooperate with SBBC in its partnership with universities and colleges to provide supervision of practicum experience for student therapists and assistants.

20. VENDOR may be evaluated annually in areas to include, but not be limited to, responsiveness, continuity of service, quality of work and professionalism.

21. VENDOR shall not provide private assessments or therapy services to students on their own public school caseload.

22. VENDOR and all therapists and assistants shall attend an orientation workshop of not less than three hours. This orientation workshop will include, but not be limited to, general information on the policies and procedures of the Broward County Special Programs and Procedures, the rights of students with disabilities, and other operational procedures required to carry out the therapy program. Additional workshops may be required during the term of the Agreement.

23. VENDOR will receive, from SBBC, requested materials, equipment and other related items which have been determined to be necessary to carry out the therapy program for students when approved by a designated SBBC representative.

24. VENDOR shall insure that their provider has the necessary technology (eg. Laptop, desktop computer, etc.) needed to carryout job responsibilities.

AGREEMENT

THIS AGREEMENT is made and entered into as of this ____ day of _____, 2016, by and between

THE SCHOOL BOARD OF BROWARD COUNTY, FLORIDA
(hereinafter referred to as "SBBC"),
a body corporate and political subdivision of the State of Florida,
whose principal place of business is
600 Southeast Third Avenue, Fort Lauderdale, Florida 33301

and

CLK THERAPY, INC.
(hereinafter referred to as "VENDOR"),
whose principal place of business is
1321 SW 18th Street
Boca Raton, Florida 33486

WHEREAS, SBBC issued a Request for Proposal identified as RFP 17-005V – Occupational and Physical Therapy Services (hereinafter referred to as "RFP"), dated December 11, 2015 and amended by Addendum No. 2, dated January 15, 2016, and Addendum No. 1, dated January 9, 2016 all of which are incorporated by reference herein, for the purpose of receiving proposals for occupational and physical therapy services; and

WHEREAS, VENDOR offered a proposal dated January 19, 2016 (hereinafter referred to as "Proposal") which is incorporated by reference herein, in response to this RFP.

NOW, THEREFORE, in consideration of the premises and of the mutual covenants contained herein and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the Parties hereby agree as follows:

ARTICLE 1 - RECITALS

1.01 **Recitals**. The parties agree that the foregoing recitals are true and correct and that such recitals are incorporated herein by reference.

ARTICLE 2 – SPECIAL CONDITIONS

2.01 **Term of Agreement**. Unless terminated earlier pursuant to Section 3.05 of this Agreement, the term of this Agreement shall commence on **July 1, 2016** and conclude on **June 30, 2019.** The term of the Agreement may, by mutual agreement between SBBC and VENDOR be extended for two additional one-year periods and, if needed, 180 days beyond the expiration date of the renewal period. SBBC's Procurement & Warehousing Services Department, will, if considering renewing, request a letter consenting to renewal from VENDOR, prior to the end of the term. Any renewal period shall be approved by an Amendment to this Agreement executed by both parties

2.02 **Priority of Documents.** In the event of a conflict between documents, the following priority of documents shall govern.

First: This Agreement, then;
Second: Addendum No. 2, then;
Third: Addendum No. 1, then;
Fourth: RFP 17-005V – Occupational and Physical Therapy Services, then;
Fifth: Proposal submitted in response to the RFP by VENDOR.

2.03 **Services**: VENDOR shall provide SBBC with the Scope of Services as proposed in its Proposal and in compliance with this Agreement and the RFP and its Addenda and as specified in **Attachment A – Scope of Services**.

2.04 **Cost of Services**. SBBC shall pay VENDOR for cost of services rendered for Occupational Therapy services at $64.00/hour. Costs shall not exceed the amount as stated on the Purchase Order. VENDOR may offer SBBC a special educational discount for pricing and reduce the cost of services during the term of the Agreement. VENDOR may invoice SBBC at an hourly rate less than their original bid price.

2.05 **M/WBE Participation**. VENDOR is a current Certified MWBE, Caucasian Female, with SBBC, Certificate #7007-6212.

2.06 **Inspection of VENDOR's Records by SBBC**. VENDOR shall establish and maintain books, records and documents (including electronic storage media) sufficient to reflect all income and expenditures of funds provided by SBBC under this Agreement. All VENDOR's Records, regardless of the form in which they are kept, shall be open to inspection and subject to audit, inspection, examination, evaluation and/or reproduction, during normal working hours, by SBBC's agent or its authorized representative to permit SBBC to evaluate, analyze and verify the satisfactory performance of the terms and conditions of this Agreement and to evaluate, analyze and verify any and all invoices, billings, payments and/or claims submitted by VENDOR or any of VENDOR's payees pursuant to this Agreement. VENDOR's Records subject to examination shall include, without limitation, those records necessary to evaluate and verify direct and indirect costs (including overhead allocations) as they may apply to costs associated with this Agreement. VENDOR's Records subject to this section shall include any and all documents pertinent to the evaluation, analysis, verification and reconciliation of any and all expenditures under this Agreement without regard to funding sources.

(a) VENDOR's Records Defined. For the purposes of this Agreement, the term "VENDOR's Records" shall include, without limitation, accounting records, payroll time sheets, cancelled payroll checks, W-2 forms, written policies and procedures, computer records, disks and software, videos, photographs, executed subcontracts, subcontract files (including proposals of successful and unsuccessful bidders), original estimates, estimating worksheets, correspondence, change order files (including sufficient supporting documentation and documentation covering negotiated settlements), and any other supporting documents that would substantiate, reconcile or refute any charges and/or expenditures related to this Agreement.

(b) Duration of Right to Inspect. For the purpose of such audits, inspections, examinations, evaluations and/or reproductions, SBBC's agent or authorized representative shall have access to VENDOR's Records from the effective date of this Agreement, for the duration of the term of this Agreement, and until the later of five (5) years after the termination of this Agreement or five (5) years after the date of final payment by SBBC to VENDOR pursuant to this Agreement.

(c) Notice of Inspection. SBBC's agent or its authorized representative shall provide VENDOR reasonable advance notice (not to exceed two (2) weeks) of any intended audit, inspection, examination, evaluation and or reproduction.

(d) Audit Site Conditions. SBBC's agent or its authorized representative shall have access to VENDOR's facilities and to any and all records related to this Agreement, and shall be provided adequate and appropriate work space in order to exercise the rights permitted under this section.

(e) Failure to Permit Inspection. Failure by VENDOR to permit audit, inspection, examination, evaluation and/or reproduction as permitted under this Section shall constitute grounds for termination of this Agreement by SBBC for cause and shall be grounds for the denial of some or all of any VENDOR's claims for payment by SBBC.

(f) Overcharges and Unauthorized Charges. If an audit conducted in accordance with this Section discloses overcharges or unauthorized charges to SBBC by VENDOR in excess of two percent (2%) of the total billings under this Agreement, the actual cost of SBBC's audit shall be paid by VENDOR. If the audit discloses billings or charges to which VENDOR is not contractually entitled, VENDOR shall pay said sum to SBBC within twenty (20) days of receipt of written demand under otherwise agreed to in writing by both parties.

(g) Inspection of Subcontractor's Records. VENDOR shall require any and all subcontractors, insurance agents and material suppliers (hereafter referred to as "Payees") providing services or goods with regard to this Agreement to comply with the requirements of this section by insertion of such requirements in any written subcontract. Failure by VENDOR to include such requirements in any subcontract shall constitute grounds for termination of this Agreement by SBBC for cause and shall be grounds for the exclusion of some or all of any Payee's costs from amounts payable by SBBC to VENDOR pursuant to this Agreement and such excluded costs shall become the liability of VENDOR.

(h) Inspector General Audits. VENDOR shall comply and cooperate immediately with any inspections, reviews, investigations, or audits deemed necessary by the Florida Office of the Inspector General or by any other state or federal officials.

2.07 **Notice**. When any of the parties desire to give notice to the other, such notice must be in writing, sent by U.S. Mail, postage prepaid, addressed to the party for whom it is intended at the place last specified; the place for giving notice shall remain such until it is changed by written notice in compliance with the provisions of this paragraph. For the present, the Parties designate the following as the respective places for giving notice:

To SBBC: Superintendent of Schools
The School Board of Broward County, Florida
600 S.E. 3rd. Avenue
Fort Lauderdale, Florida 33301

With a Copy to: Director, ESE Department
The School Board of Broward County, Florida
Arthur Ashe Campus
1701 NW 23 Avenue
Fort Lauderdale, FL 33311

To VENDOR: Christina Weires, President
CLK Therapy, Inc.
1321 SW 18th Street
Boca Raton, Florida 33486

2.08 **Background Screening.** VENDOR agrees to comply with all requirements of Sections 1012.32 and 1012.465, Florida Statutes, and all of its personnel who (1) are to be permitted access to school grounds when students are present, (2) will have direct contact with students, or (3) have access or control of school funds, will successfully complete the background screening required by the referenced statutes and meet the standards established by the statutes. This background screening will be conducted by SBBC in advance of VENDOR or its personnel providing any services under the conditions described in the previous sentence. VENDOR shall bear the cost of acquiring the background screening required by Section 1012.32, Florida Statutes, and any fee imposed by the Florida Department of Law Enforcement to maintain the fingerprints provided with respect to VENDOR and its personnel. The parties agree that the failure of VENDOR to perform any of the duties described in this section shall constitute a material breach of this Agreement entitling SBBC to terminate immediately with no further responsibilities or duties to perform under this Agreement. VENDOR agrees to indemnify and hold harmless SBBC, its officers and employees from any liability in the form of physical or mental injury, death or property damage resulting from VENDOR's failure to comply with the requirements of this Section or with Sections 1012.32 and 1012.465, Florida Statutes.

ARTICLE 3 – GENERAL CONDITIONS

3.01 **No Waiver of Sovereign Immunity**. Nothing herein is intended to serve as a waiver of sovereign immunity by any agency or political subdivision to which sovereign immunity may be applicable or of any rights or limits to liability existing under Section 768.28, Florida Statutes. This section shall survive the termination of all performance or obligations under this Agreement and shall be fully binding until such time as any proceeding brought on account of this Agreement is barred by any applicable statute of limitations.

3.02 **No Third Party Beneficiaries**. The parties expressly acknowledge that it is not their intent to create or confer any rights or obligations in or upon any third person or entity under this Agreement. None of the parties intend to directly or substantially benefit a third party by this Agreement. The parties agree that there are no third party beneficiaries to this Agreement and that no third party shall be entitled to assert a claim against any of the parties based upon this Agreement. Nothing herein shall be construed as consent by an agency or political subdivision of the State of Florida to be sued by third parties in any matter arising out of any contract.

3.03 **Independent Contractor**. The parties to this agreement shall at all times be acting in the capacity of independent contractors and not as an officer, employee or agent of one another. Neither party or its respective agents, employees, subcontractors or assignees shall represent to others that it has the authority to bind the other party unless specifically authorized in writing to do so. No right to SBBC retirement, leave benefits or any other benefits of SBBC employees shall exist as a result of the performance of any duties or responsibilities under this Agreement. SBBC shall not be responsible for social security, withholding taxes, contributions to unemployment compensation funds or insurance for the other party or the other party's officers, employees, agents, subcontractors or assignees.

3.04 **Equal Opportunity Provision**. The parties agree that no person shall be subjected to discrimination because of age, race, color, disability, gender identity, gender expression marital status, national origin, religion, sex or sexual orientation in the performance of the parties' respective duties, responsibilities and obligations under this Agreement.

3.05 **Termination**. This Agreement may be canceled with or without cause by SBBC during the term hereof upon thirty (30) days written notice to the other parties of its desire to terminate this Agreement. SBBC shall have no liability for any property left on SBBC's property by any party to this Agreement after the termination of this Agreement. Any party contracting with SBBC under this Agreement agrees that any of its property placed upon SBBC's facilities pursuant to this Agreement shall be removed within ten (10) business days following the termination, conclusion or cancellation of this Agreement and that any such property remaining upon SBBC's facilities after that time shall be deemed to be abandoned, title to such property shall pass to SBBC, and SBBC may use or dispose of such property as SBBC deems fit and appropriate.

3.06 **Default**. The parties agree that, in the event that either party is in default of its obligations under this Agreement, the non-defaulting party shall provide to the defaulting party (30) days written notice to cure the default. However, in the event said default cannot be cured within said thirty (30) day period and the defaulting party is diligently attempting in good faith to cure same, the time period shall be reasonably extended to allow the defaulting party additional cure time. Upon the occurrence of a default that is not cured during the applicable cure period, this Agreement may be terminated by the non-defaulting party upon thirty (30) days notice. This remedy is not intended to be exclusive of any other remedy, and each and every such remedy shall be cumulative and shall be in addition to every other remedy now or hereafter existing at law or in equity or by statute or otherwise. No single or partial exercise by any party of any right, power, or remedy hereunder shall preclude any other or future exercise thereof. Nothing in this section shall be construed to preclude termination for convenience pursuant to Section 3.05.

3.07 **Annual Appropriation.** The performance and obligations of SBBC under this Agreement shall be contingent upon an annual budgetary appropriation by its governing body. If SBBC does not allocate funds for the payment of services or products to be provided under this Agreement, this Agreement may be terminated by SBBC at the end of the period for which funds have been allocated. SBBC shall notify the other party at the earliest possible time before such termination. No penalty shall accrue to SBBC in the event this provision is exercised, and SBBC shall not be obligated or liable for any future payments due or any damages as a result of termination under this section.

3.08 **Excess Funds**. Any party receiving funds paid by SBBC under this Agreement agrees to promptly notify SBBC of any funds erroneously received from SBBC upon the discovery of such erroneous payment or overpayment. Any such excess funds shall be refunded to SBBC.

3.09 **Public Records**. Pursuant to Section 119.0701, Florida Statutes, any party contracting with SBBC is required to (a) keep and maintain available for public inspection any records that pertain to services rendered under this Agreement; (b) provide the public with access to public records on the same terms and conditions that SBBC would provide such records and 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; and (d) meet all requirements for retaining public records and transfer, at no cost to SBBC, all public records in that party's possession upon termination of its Agreement with SBBC and destroy any duplicate public records that are exempt or confidential and exempt from public records disclosure requirements. All of such party's records stored electronically must be provided to SBBC in a format that is compatible with SBBC's information technology systems. Each party shall maintain its own respective records and documents associated with this Agreement in accordance with the records retention requirements applicable to public records. Each party shall be responsible for compliance with any public documents request served upon it pursuant to Section 119.07, Florida Statutes, and any resultant award of attorney's fees for non-compliance with that law. Each party acknowledges that this Agreement and all attachments thereto are public records and do not constitute trade secrets.

3.10 **Student Records**: Notwithstanding any provision to the contrary within this Agreement, any party contracting with SBBC under this Agreement shall fully comply with the requirements of Sections 1002.22 and 1002.221, Florida Statutes; FERPA, and any other state or federal law or regulation regarding the confidentiality of student information and records. Each such party agrees, for itself, its officers, employees, agents, representatives, contractors or subcontractors, to fully indemnify and hold harmless SBBC and its officers and employees for any violation of this section, including, without limitation, defending SBBC and its officers and employees against any complaint, administrative or judicial proceeding, payment of any penalty imposed upon SBBC, or payment of any and all costs, damages, judgments or losses incurred by or imposed upon SBBC arising out of a breach of this covenant by the party, or an officer, employee, agent, representative, contractor, or sub-contractor of the party to the extent that the party or an officer, employee, agent, representative, contractor, or sub-contractor of the party shall either intentionally or negligently violate the provisions of this section or of Sections 1002.22 and/or 1002.221, Florida Statutes.

3.11 **Compliance with Laws**. Each party shall comply with all applicable federal, state and local laws, SBBC policies, codes, rules and regulations in performing its duties, responsibilities and obligations pursuant to this Agreement.

3.12 **Place of Performance**. All obligations of SBBC under the terms of this Agreement are reasonably susceptible of being performed in Broward County, Florida and shall be payable and performable in Broward County, Florida.

3.13 **Governing Law and Venue**. This Agreement shall be interpreted and construed in accordance with and governed by the laws of the State of Florida. Any controversies or legal problems arising out of this Agreement and any action involving the enforcement or interpretation of any rights hereunder shall be submitted to the jurisdiction of the State courts of the Seventeenth Judicial Circuit of Broward County, Florida.

3.14 **Entirety of Agreement**. This document incorporates and includes all prior negotiations, correspondence, conversations, agreements and understandings applicable to the matters contained herein and the parties agree that there are no commitments, agreements or understandings concerning the subject matter of this Agreement that are not contained in this document. Accordingly, the parties agree that no deviation from the terms hereof shall be predicated upon any prior representations or agreements, whether oral or written.

3.15 **Binding Effect**. This Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective successors and assigns.

3.16 **Assignment**. Neither this Agreement nor any interest herein may be assigned, transferred or encumbered by any party without the prior written consent of the other party. There shall be no partial assignments of this Agreement including, without limitation, the partial assignment of any right to receive payments from SBBC.

3.17 **Incorporation by Reference**. **Attachment A** attached hereto and referenced herein shall be deemed to be incorporated into this Agreement by reference.

3.18 **Captions**. The captions, section designations, section numbers, article numbers, titles and headings appearing in this Agreement are inserted only as a matter of convenience, have no substantive meaning, and in no way define, limit, construe or describe the scope or intent of such articles or sections of this Agreement, nor in any way effect this Agreement and shall not be construed to create a conflict with the provisions of this Agreement.

3.19 **Severability**. In the event that any one or more of the sections, paragraphs, sentences, clauses or provisions contained in this Agreement is held by a court of competent jurisdiction to be invalid, illegal, unlawful, unenforceable or void in any respect, such shall not affect the remaining portions of this Agreement and the same shall remain in full force and effect as if such invalid, illegal, unlawful, unenforceable or void sections, paragraphs, sentences, clauses or provisions had never been included herein.

3.20 **Preparation of Agreement**. The parties acknowledge that they have sought and obtained whatever competent advice and counsel as was necessary for them to form a full and complete understanding of all rights and obligations herein and that the preparation of this Agreement has been their joint effort. The language agreed to herein expresses their mutual intent and the resulting document shall not, solely as a matter of judicial construction, be construed more severely against one of the parties than the other.

3.21 **Amendments**. No modification, amendment, or alteration in the terms or conditions contained herein shall be effective unless contained in a written document prepared with the same or similar formality as this Agreement and executed by each party hereto.

3.22 **Waiver**. The parties agree that each requirement, duty and obligation set forth herein is substantial and important to the formation of this Agreement and, therefore, is a material term hereof. Any party's failure to enforce any provision of this Agreement shall not be deemed a waiver of such provision or modification of this Agreement unless the waiver is in writing and signed by the party waiving such provision. A written waiver shall only be effective as to the specific instance for which it is obtained and shall not be deemed a continuing or future waiver.

3.23 **Force Majeure**. Neither party shall be obligated to perform any duty, requirement or obligation under this Agreement if such performance is prevented by fire, hurricane, earthquake, explosion, wars, sabotage, accident, flood, acts of God, strikes, or other labor disputes, riot or civil commotions, or by reason of any other matter or condition beyond the control of either party, and which cannot be overcome by reasonable diligence and without unusual expense ("Force Majeure"). In no event shall a lack of funds on the part of either party be deemed Force Majeure.

3.24 **Survival**. All representations and warranties made herein, indemnification obligations, obligations to reimburse SBBC, obligations to maintain and allow inspection and audit of records and property, obligations to maintain the confidentiality of records, reporting requirements, and obligations to return public funds shall survive the termination of this Agreement.

3.25 **Contract Administration.** SBBC has delegated authority to the Superintendent of Schools or his/her designee to take any actions necessary to implement and administer this Agreement.

3.26. **Liability**. This section shall survive the termination of all performance or obligations under this Agreement and shall be fully binding until such time as any proceeding brought on account of this Agreement is barred by any applicable statute of limitations.

A. By SBBC: SBBC agrees to be fully responsible up to the limits of Section 768.28, Florida Statutes, for its acts of negligence, or its employees' acts of negligence when acting within the scope of their employment and agrees to be liable for any damages resulting from said negligence.

B. By VENDOR: VENDOR agrees to indemnify, hold harmless and defend SBBC, its agents, servants and employees from any and all claims, judgments, costs, and expenses including, but not limited to, reasonable attorney's fees, reasonable investigative and discovery costs, court costs and all other sums which SBBC, its agents, servants and employees may pay or become obligated to pay on account of any, all and every claim or demand, or assertion of liability, or any claim or action founded thereon, arising or alleged to have arisen out of the products, goods or services furnished by VENDOR, its agents, servants or employees; the equipment of VENDOR, its agents, servants or employees while such equipment is on premises owned or controlled by SBBC; or the negligence of VENDOR or the negligence of VENDOR's agents when acting within the scope of their employment, whether such claims, judgments, costs and expenses be for damages, damage to property including SBBC's property, and injury or death of any person whether employed by VENDOR, SBBC or otherwise.

3.27 **Authority**. Each person signing this Agreement on behalf of either party individually warrants that he or she has full legal power to execute this Agreement on behalf of the party for whom he or she is signing, and to bind and obligate such party with respect to all provisions contained in this Agreement.

IN WITNESS WHEREOF, the Parties hereto have made and executed this Agreement on the date first above written.

FOR SBBC

(Corporate Seal)

THE SCHOOL BOARD OF BROWARD COUNTY, FLORIDA

By_____
Dr. Rosalind Osgood, Chair

ATTEST:

_____
Robert W. Runcie, Superintendent of Schools

Approved as to Form and Legal Content:

Kathelyn Jacques-Adams

Digitally signed by Kathelyn Jacques-Adams
DN: cn=Kathelyn Jacques-Adams, o=The School District of Broward County, Florida, ou=The Office of the General Counsel, email=kathelyn.jacques-adams@browardschools.com, c=US
Date: 2016.05.25 12:18:08 -04'00'

_____
Office of the General Counsel

FOR VENDOR

(Corporate Seal)

CLK THERAPY, INC.

ATTEST:

By _____

_____
, Secretary

-or-

_____
Witness

_____
Witness

STATE OF Florida

COUNTY OF Broward

The foregoing instrument was acknowledged before me by CHRISTINA WEISS
Insert Name Here
who is personally known to me or who produced Florida driver license as
Type of Identification
identification and who did/did not first take an oath this 5 day of May,
2016.

My Commission Expires: 8/19/2017

_____
Signature – Notary Public

ANDREA BASSA
Notary's Printed Name

(SEAL)

ANDREA B. BASSA
Notary Public - State of Florida
My Comm. Expires Aug 19, 2017
Commission # FF 046653
Bonded Through National Notary Assn.

FF 046653
Notary's Commission No.

ATTACHMENT A

SCOPE OF SERVICES

1. VENDOR shall provide occupational therapy services in accordance with Broward County Schools Special Programs and Procedures. A copy of these procedures may be obtained on Exceptional Student Education's website at http://www.broward.k12.fl.us/studentsupport/ese/pdf/SP&P.pdf or as updated by SBBC.

2. VENDOR shall provide current licensed occupational therapists under this Agreement. **Award of this Agreement shall not be a guarantee of business, a guarantee of specified volume of service or minimum dollar revenue to be received under this Agreement.**

3. VENDOR shall report to the Program Specialist and/or Curriculum Supervisor regarding services under this Agreement.

4. VENDOR shall be compensated for direct student services and student related activities only. VENDOR shall not be compensated/reimbursed for travel under this Agreement.

5. VENDOR shall provide the following services, but not limited to, initial student evaluations, small group or individual therapy with students, record-keeping for student attendance, supervising assistants, preparing progress reports and therapy notes, preparing a therapy plan of care, participating in the development of Individual Education Plans (IEP), attendance at required eligibility, IEP and dismissal staffings, attending in-service meetings as requested and providing consultation with parents, school area, district staff and physicians, as needed. VENDOR shall complete all appropriate documentation for Medicaid Reimbursement.

6. VENDOR shall provide services consistent with the professional standards of care and comply with all the medical and ethical requirements imposed by the State of Florida, Board of Medicine, the Department of Professional Regulations, the Florida State Department of Education and any other applicable federal, state or local regulatory agency.

7. VENDOR shall provide the requested level of service(s), in accordance with and/or changes for services requested by SBBC, within five (5) calendar days of notice, unless otherwise mutually agreed upon. Excessive failure to meet the needs as requested will result in cancellation of VENDOR's Agreement.

8. VENDOR shall maintain normal working hours of 8:00 a.m. to 4:00 p.m. Hours may occasionally be extended from 7:00 a.m. to 4:30 p.m. There will be no reimbursement for a thirty (30) minute lunch period. SBBC may only be invoiced for up to 7.5 hours per day unless prior approval has been granted by SBBC staff for extended service time. Awardee(s) may provide a maximum of four (4) hours of service as needed on each scheduled employee planning day. Invoices not complying with this will be rejected and returned for correction and failure to invoice correctly will result in a delay of payment. Any VENDOR who consistently submits invoices that are not correct may be found in default of Agreement.

SCOPE OF SERVICES

9. VENDOR shall respond to requested services within five (5) school days of the request by submitting to an interview by a designated SBBC representative. Firms can also offer these services and interviews as required.

10. VENDOR shall provide uninterrupted services based upon the current school calendar to students by providing qualified substitutes or replacements in the event of an anticipated or unanticipated lapse of service. A qualified substitute is defined to be a therapist for a therapist or a therapist assistant for an assistant. All qualified substitutes must display an SBBC identification badge. (See General Condition 7.42) Any lapse of service to SBBC for five student attendance days during any school year will result in default of Agreement. VENDOR may be responsible to provide compensatory services or payments to SBBC for lapse of service.

11. VENDOR shall provide a service schedule of all personnel for approval on a regular basis as determined by a designated SBBC representative.

12. VENDOR shall follow all procedures (including, but not limited to, signing in and out, no telephone calls during treatment time) of individual schools where they are assigned. All therapists must carry a cell phone for critical communication throughout the day with SBBC personnel as established. These numbers must be provided to SBBC personnel. There shall be no cost to SBBC to use these communication devices.

13. VENDOR shall prepare time logs, reports, written analysis and other written memoranda in the form and manner deemed appropriate by SBBC.

14. VENDOR shall bill under SBBC's Medicaid provider number, when needed.

15. VENDOR, under this Agreement, shall be required to pass the screening of the of the Broward School's Police, Security Clearance Department prior to placement of assignment as required by SBBC (See General Condition 7.42 of the RFP, SBBC Photo Identification Badge). VENDOR must utilize the STAR system and/or sign-in/out procedures to document attendance at assigned location(s).

16. SBBC reserves the right to interview all therapy candidates prior to placement. K-12 experience is preferred. SBBC reserves the right to refuse to utilize any proposed therapy candidate. SBBC reserves the right to have an individual therapist removed from the assigned position. VENDOR will have five workdays in which to propose a replacement therapist. Should VENDOR be unable to provide an acceptable replacement, all other contracted Awardees will then be notified to submit a candidate to SBBC.

17. VENDOR shall provide proof of services on an original approved voucher form upon initiation of services and up until training is provided on the Accelify Electronic Management System. Once VENDOR has received training, VENDOR shall then submit all invoices electronically.

SCOPE OF SERVICES

18. VENDOR shall have all therapists and assistants and required substitutes or replacements submit to, and pass, the screening of the Special Investigative Unit (SIU), including fingerprinting, prior to working with students as required for all SBBC personnel. All therapists and assistants shall display an SBBC Identification Badge during contracted work hours. VENDOR will be required to pay the required fees for screening, fingerprinting and photo identification. (See General Condition 7.42 of the RFP)

19. VENDOR shall cooperate with SBBC in its partnership with universities and colleges to provide supervision of practicum experience for student therapists and assistants.

20. VENDOR may be evaluated annually in areas to include, but not be limited to, responsiveness, continuity of service, quality of work and professionalism.

21. VENDOR shall not provide private assessments or therapy services to students on their own public school caseload.

22. VENDOR and all therapists and assistants must attend an orientation workshop of not less than three hours. This orientation workshop will include, but not be limited to, general information on the policies and procedures of the Broward County Special Programs and Procedures, the rights of students with disabilities, and other operational procedures required to carry out the therapy program. Additional workshops may be required during the term of the Agreement.

23. VENDOR will receive, from SBBC, requested materials, equipment and other related items which have been determined to be necessary to carry out the therapy program for students when approved by a designated SBBC representative.

24. VENDOR shall insure that their provider has the necessary technology (eg. Laptop, desktop computer, etc.) needed to carryout job responsibilities.

AGREEMENT

THIS AGREEMENT is made and entered into as of this ____ day of _____, 2016, by and between

THE SCHOOL BOARD OF BROWARD COUNTY, FLORIDA
(hereinafter referred to as "SBBC"),
a body corporate and political subdivision of the State of Florida,
whose principal place of business is
600 Southeast Third Avenue, Fort Lauderdale, Florida 33301

and

COMMUNITY REHAB ASSOCIATES, INC.
(hereinafter referred to as "VENDOR"),
whose principal place of business is
3950 3rd Street North, Suite D
Saint Petersburg, Florida 33703

WHEREAS, SBBC issued a Request for Proposal identified as RFP 17-005V – Occupational and Physical Therapy Services (hereinafter referred to as "RFP"), dated December 11, 2015 and amended by Addendum No. 2, dated January 15, 2016, and Addendum No. 1, dated January 9, 2016 all of which are incorporated by reference herein, for the purpose of receiving proposals for occupational and physical therapy services; and

WHEREAS, VENDOR offered a proposal dated January 15, 2016 (hereinafter referred to as "Proposal") which is incorporated by reference herein, in response to this RFP.

NOW, THEREFORE, in consideration of the premises and of the mutual covenants contained herein and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the Parties hereby agree as follows:

ARTICLE 1 - RECITALS

1.01 **Recitals**. The parties agree that the foregoing recitals are true and correct and that such recitals are incorporated herein by reference.

ARTICLE 2 – SPECIAL CONDITIONS

2.01 **Term of Agreement**. Unless terminated earlier pursuant to Section 3.05 of this Agreement, the term of this Agreement shall commence on **July 1, 2016** and conclude on **June 30, 2019.** The term of the Agreement may, by mutual agreement between SBBC and VENDOR be extended for two additional one-year periods and, if needed, 180 days beyond the expiration date of the renewal period. SBBC's Procurement & Warehousing Services Department, will, if considering renewing, request a letter consenting to renewal from VENDOR, prior to the end of the term. Any renewal period shall be approved by an Amendment to this Agreement executed by both parties

2.02 **Priority of Documents.** In the event of a conflict between documents, the following priority of documents shall govern.

First: This Agreement, then;
Second: Addendum No. 2, then;
Third: Addendum No. 1, then;
Fourth: RFP 17-005V – Occupational and Physical Therapy Services, then;
Fifth: Proposal submitted in response to the RFP by VENDOR.

2.03 **Services**: VENDOR shall provide SBBC with the Scope of Services as proposed in its Proposal and in compliance with this Agreement and the RFP and its Addenda and as specified in **Attachment A – Scope of Services**.

2.04 **Cost of Services**. SBBC shall pay VENDOR for cost of services satisfactorily rendered for:

Occupational Therapy services at $64.00/hour;
Certified Occupational Therapist Assistant (COTA) at $45.00/hr.;
Physical Therapist at $64.00/hr.; and
Licensed Physical Therapist Assistant at $45.00/hr.

Costs shall not exceed the amount as stated on the Purchase Order. VENDOR may offer SBBC a special educational discount for pricing and reduce the cost of services during the term of the Agreement. VENDOR may invoice SBBC at an hourly rate less than their original bid price.

2.05 **M/WBE Participation**. As consideration for being awarded this Agreement, VENDOR shall maintain the following M/WBE participation with House of Promos, Inc., #7007-6445 at 100% providing promo materials for professional conventions or conferences to increase recruiting efforts; Taie, Inc. d/b/a Minutemen Press, #7007-6112 at 100% providing brochures to be distributed in marketing efforts to increase recruitment; and A Graphic Difference d/b/a Image360, #7007-6506 to provide graphic arts.

VENDOR shall obtain prior written approval from the Coordinator of Supplier Diversity & Outreach Program for any replacement of any of the entities listed above. Utilizing any entity other than the ones listed, will be considered a breach of this Agreement; and VENDOR is subject to debarment and any other remedy available for any breaches to this Agreement.

2.06 **Inspection of VENDOR's Records by SBBC**. VENDOR shall establish and maintain books, records and documents (including electronic storage media) sufficient to reflect all income and expenditures of funds provided by SBBC under this Agreement. All VENDOR's Records, regardless of the form in which they are kept, shall be open to inspection and subject to audit, inspection, examination, evaluation and/or reproduction, during normal working hours, by SBBC's agent or its authorized representative to permit SBBC to evaluate, analyze and verify the satisfactory performance of the terms and conditions of this Agreement and to evaluate, analyze and verify any and all invoices, billings, payments and/or claims submitted by VENDOR or any of VENDOR's payees pursuant to this Agreement. VENDOR's Records subject to examination shall include, without limitation, those records necessary to evaluate and verify direct and indirect costs (including overhead allocations) as they may apply to costs associated with this Agreement. VENDOR's Records subject to this section shall include any and all documents pertinent to the evaluation, analysis, verification and reconciliation of any and all expenditures under this Agreement without regard to funding sources.

(a) VENDOR's Records Defined. For the purposes of this Agreement, the term "VENDOR's Records" shall include, without limitation, accounting records, payroll time sheets, cancelled payroll checks, W-2 forms, written policies and procedures, computer records, disks and software, videos, photographs, executed subcontracts, subcontract files (including proposals of successful and unsuccessful bidders), original estimates, estimating worksheets, correspondence, change order files (including sufficient supporting documentation and documentation covering negotiated settlements), and any other supporting documents that would substantiate, reconcile or refute any charges and/or expenditures related to this Agreement.

(b) Duration of Right to Inspect. For the purpose of such audits, inspections, examinations, evaluations and/or reproductions, SBBC's agent or authorized representative shall have access to VENDOR's Records from the effective date of this Agreement, for the duration of the term of this Agreement, and until the later of five (5) years after the termination of this Agreement or five (5) years after the date of final payment by SBBC to VENDOR pursuant to this Agreement.

(c) Notice of Inspection. SBBC's agent or its authorized representative shall provide VENDOR reasonable advance notice (not to exceed two (2) weeks) of any intended audit, inspection, examination, evaluation and or reproduction.

(d) Audit Site Conditions. SBBC's agent or its authorized representative shall have access to VENDOR's facilities and to any and all records related to this Agreement, and shall be provided adequate and appropriate work space in order to exercise the rights permitted under this section.

(e) Failure to Permit Inspection. Failure by VENDOR to permit audit, inspection, examination, evaluation and/or reproduction as permitted under this Section shall constitute grounds for termination of this Agreement by SBBC for cause and shall be grounds for the denial of some or all of any VENDOR's claims for payment by SBBC.

(f) Overcharges and Unauthorized Charges. If an audit conducted in accordance with this Section discloses overcharges or unauthorized charges to SBBC by VENDOR in excess of two percent (2%) of the total billings under this Agreement, the actual cost of SBBC's audit shall be paid by VENDOR. If the audit discloses billings or charges to which VENDOR is not contractually entitled, VENDOR shall pay said sum to SBBC within twenty (20) days of receipt of written demand under otherwise agreed to in writing by both parties.

(g) Inspection of Subcontractor's Records. VENDOR shall require any and all subcontractors, insurance agents and material suppliers (hereafter referred to as "Payees") providing services or goods with regard to this Agreement to comply with the requirements of this section by insertion of such requirements in any written subcontract. Failure by VENDOR to include such requirements in any subcontract shall constitute grounds for termination of this Agreement by SBBC for cause and shall be grounds for the exclusion of some or all of any Payee's costs from amounts payable by SBBC to VENDOR pursuant to this Agreement and such excluded costs shall become the liability of VENDOR.

(h) Inspector General Audits. VENDOR shall comply and cooperate immediately with any inspections, reviews, investigations, or audits deemed necessary by the Florida Office of the Inspector General or by any other state or federal officials.

2.07 **Notice**. When any of the parties desire to give notice to the other, such notice must be in writing, sent by U.S. Mail, postage prepaid, addressed to the party for whom it is intended at the place last specified; the place for giving notice shall remain such until it is changed by written notice in compliance with the provisions of this paragraph. For the present, the Parties designate the following as the respective places for giving notice:

To SBBC:	Superintendent of Schools The School Board of Broward County, Florida 600 S.E. 3rd. Avenue Fort Lauderdale, Florida 33301
With a Copy to:	Director, ESE Department The School Board of Broward County, Florida Arthur Ashe Campus 1701 NW 23 Avenue Fort Lauderdale, FL 33311
To VENDOR:	Deborah Scheble, Director of Therapy Services Community Rehab Associates, Inc. 3950 3rd Street North, Suite D St. Petersburg, Florida 33703

2.08 **Background Screening.** VENDOR agrees to comply with all requirements of Sections 1012.32 and 1012.465, Florida Statutes, and all of its personnel who (1) are to be permitted access to school grounds when students are present, (2) will have direct contact with students, or (3) have access or control of school funds, will successfully complete the background screening required by the referenced statutes and meet the standards established by the statutes. This background screening will be conducted by SBBC in advance of VENDOR or its personnel providing any services under the conditions described in the previous sentence. VENDOR shall bear the cost of acquiring the background screening required by Section 1012.32, Florida Statutes, and any fee imposed by the Florida Department of Law Enforcement to maintain the fingerprints provided with respect to VENDOR and its personnel. The parties agree that the failure of VENDOR to perform any of the duties described in this section shall constitute a material breach of this Agreement entitling SBBC to terminate immediately with no further responsibilities or duties to perform under this Agreement. VENDOR agrees to indemnify and hold harmless SBBC, its officers and employees from any liability in the form of physical or mental injury, death or property damage resulting from VENDOR's failure to comply with the requirements of this Section or with Sections 1012.32 and 1012.465, Florida Statutes.

ARTICLE 3 – GENERAL CONDITIONS

3.01 **No Waiver of Sovereign Immunity**. Nothing herein is intended to serve as a waiver of sovereign immunity by any agency or political subdivision to which sovereign immunity may be applicable or of any rights or limits to liability existing under Section 768.28, Florida Statutes. This section shall survive the termination of all performance or obligations under this Agreement and shall be fully binding until such time as any proceeding brought on account of this Agreement is barred by any applicable statute of limitations.

3.02 **No Third Party Beneficiaries**. The parties expressly acknowledge that it is not their intent to create or confer any rights or obligations in or upon any third person or entity under this Agreement. None of the parties intend to directly or substantially benefit a third party by this Agreement. The parties agree that there are no third party beneficiaries to this Agreement and that no third party shall be entitled to assert a claim against any of the parties based upon this Agreement. Nothing herein shall be construed as consent by an agency or political subdivision of the State of Florida to be sued by third parties in any matter arising out of any contract.

3.03 **Independent Contractor**. The parties to this agreement shall at all times be acting in the capacity of independent contractors and not as an officer, employee or agent of one another. Neither party or its respective agents, employees, subcontractors or assignees shall represent to others that it has the authority to bind the other party unless specifically authorized in writing to do so. No right to SBBC retirement, leave benefits or any other benefits of SBBC employees shall exist as a result of the performance of any duties or responsibilities under this Agreement. SBBC shall not be responsible for social security, withholding taxes, contributions to unemployment compensation funds or insurance for the other party or the other party's officers, employees, agents, subcontractors or assignees.

3.04 **Equal Opportunity Provision**. The parties agree that no person shall be subjected to discrimination because of age, race, color, disability, gender identity, gender expression marital status, national origin, religion, sex or sexual orientation in the performance of the parties' respective duties, responsibilities and obligations under this Agreement.

3.05 **Termination**. This Agreement may be canceled with or without cause by SBBC during the term hereof upon thirty (30) days written notice to the other parties of its desire to terminate this Agreement. SBBC shall have no liability for any property left on SBBC's property by any party to this Agreement after the termination of this Agreement. Any party contracting with SBBC under this Agreement agrees that any of its property placed upon SBBC's facilities pursuant to this Agreement shall be removed within ten (10) business days following the termination, conclusion or cancellation of this Agreement and that any such property remaining upon SBBC's facilities after that time shall be deemed to be abandoned, title to such property shall pass to SBBC, and SBBC may use or dispose of such property as SBBC deems fit and appropriate.

3.06 **Default**. The parties agree that, in the event that either party is in default of its obligations under this Agreement, the non-defaulting party shall provide to the defaulting party (30) days written notice to cure the default. However, in the event said default cannot be cured within said thirty (30) day period and the defaulting party is diligently attempting in good faith to cure same, the time period shall be reasonably extended to allow the defaulting party additional cure time. Upon the occurrence of a default that is not cured during the applicable cure period, this Agreement may be terminated by the non-defaulting party upon thirty (30) days notice. This remedy is not intended to be exclusive of any other remedy, and each and every such remedy shall be cumulative and shall be in addition to every other remedy now or hereafter existing at law or in equity or by statute or otherwise. No single or partial exercise by any party of any right, power, or remedy hereunder shall preclude any other or future exercise thereof. Nothing in this section shall be construed to preclude termination for convenience pursuant to Section 3.05.

3.07 **Annual Appropriation.** The performance and obligations of SBBC under this Agreement shall be contingent upon an annual budgetary appropriation by its governing body. If SBBC does not allocate funds for the payment of services or products to be provided under this Agreement, this Agreement may be terminated by SBBC at the end of the period for which funds have been allocated. SBBC shall notify the other party at the earliest possible time before such termination. No penalty shall accrue to SBBC in the event this provision is exercised, and SBBC shall not be obligated or liable for any future payments due or any damages as a result of termination under this section.

3.08 **Excess Funds**. Any party receiving funds paid by SBBC under this Agreement agrees to promptly notify SBBC of any funds erroneously received from SBBC upon the discovery of such erroneous payment or overpayment. Any such excess funds shall be refunded to SBBC.

3.09 **Public Records**. Pursuant to Section 119.0701, Florida Statutes, any party contracting with SBBC is required to (a) keep and maintain available for public inspection any records that pertain to services rendered under this Agreement; (b) provide the public with access to public records on the same terms and conditions that SBBC would provide such records and 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; and (d) meet all requirements for retaining public records and transfer, at no cost to SBBC, all public records in that party's possession upon termination of its Agreement with SBBC and destroy any duplicate public records that are exempt or confidential and exempt from public records disclosure requirements. All of such party's records stored electronically must be provided to SBBC in a format that is compatible with SBBC's information technology systems. Each party shall maintain its own respective records and documents associated with this Agreement in accordance with the records retention requirements applicable to public records. Each party shall be responsible for compliance with any public documents request served upon it pursuant to Section 119.07, Florida Statutes, and any resultant award of attorney's fees for non-compliance with that law. Each party acknowledges that this Agreement and all attachments thereto are public records and do not constitute trade secrets.

3.10 **Student Records**: Notwithstanding any provision to the contrary within this Agreement, any party contracting with SBBC under this Agreement shall fully comply with the requirements of Sections 1002.22 and 1002.221, Florida Statutes; FERPA, and any other state or federal law or regulation regarding the confidentiality of student information and records. Each such party agrees, for itself, its officers, employees, agents, representatives, contractors or subcontractors, to fully indemnify and hold harmless SBBC and its officers and employees for any violation of this section, including, without limitation, defending SBBC and its officers and employees against any complaint, administrative or judicial proceeding, payment of any penalty imposed upon SBBC, or payment of any and all costs, damages, judgments or losses incurred by or imposed upon SBBC arising out of a breach of this covenant by the party, or an officer, employee, agent, representative, contractor, or sub-contractor of the party to the extent that the party or an officer, employee, agent, representative, contractor, or sub-contractor of the party shall either intentionally or negligently violate the provisions of this section or of Sections 1002.22 and/or 1002.221, Florida Statutes.

3.11 **Compliance with Laws**. Each party shall comply with all applicable federal, state and local laws, SBBC policies, codes, rules and regulations in performing its duties, responsibilities and obligations pursuant to this Agreement.

3.12 **Place of Performance**. All obligations of SBBC under the terms of this Agreement are reasonably susceptible of being performed in Broward County, Florida and shall be payable and performable in Broward County, Florida.

3.13 **Governing Law and Venue**. This Agreement shall be interpreted and construed in accordance with and governed by the laws of the State of Florida. Any controversies or legal problems arising out of this Agreement and any action involving the enforcement or interpretation of any rights hereunder shall be submitted to the jurisdiction of the State courts of the Seventeenth Judicial Circuit of Broward County, Florida.

3.14 **Entirety of Agreement**. This document incorporates and includes all prior negotiations, correspondence, conversations, agreements and understandings applicable to the matters contained herein and the parties agree that there are no commitments, agreements or understandings concerning the subject matter of this Agreement that are not contained in this document. Accordingly, the parties agree that no deviation from the terms hereof shall be predicated upon any prior representations or agreements, whether oral or written.

3.15 **Binding Effect**. This Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective successors and assigns.

3.16 **Assignment**. Neither this Agreement nor any interest herein may be assigned, transferred or encumbered by any party without the prior written consent of the other party. There shall be no partial assignments of this Agreement including, without limitation, the partial assignment of any right to receive payments from SBBC.

3.17 **Incorporation by Reference**. **Attachment A** attached hereto and referenced herein shall be deemed to be incorporated into this Agreement by reference.

3.18 **Captions**. The captions, section designations, section numbers, article numbers, titles and headings appearing in this Agreement are inserted only as a matter of convenience, have no substantive meaning, and in no way define, limit, construe or describe the scope or intent of such articles or sections of this Agreement, nor in any way affect this Agreement and shall not be construed to create a conflict with the provisions of this Agreement.

3.19 **Severability**. In the event that any one or more of the sections, paragraphs, sentences, clauses or provisions contained in this Agreement is held by a court of competent jurisdiction to be invalid, illegal, unlawful, unenforceable or void in any respect, such shall not affect the remaining portions of this Agreement and the same shall remain in full force and effect as if such invalid, illegal, unlawful, unenforceable or void sections, paragraphs, sentences, clauses or provisions had never been included herein.

3.20 **Preparation of Agreement**. The parties acknowledge that they have sought and obtained whatever competent advice and counsel as was necessary for them to form a full and complete understanding of all rights and obligations herein and that the preparation of this Agreement has been their joint effort. The language agreed to herein expresses their mutual intent and the resulting document shall not, solely as a matter of judicial construction, be construed more severely against one of the parties than the other.

3.21 **Amendments**. No modification, amendment, or alteration in the terms or conditions contained herein shall be effective unless contained in a written document prepared with the same or similar formality as this Agreement and executed by each party hereto.

3.22 **Waiver**. The parties agree that each requirement, duty and obligation set forth herein is substantial and important to the formation of this Agreement and, therefore, is a material term hereof. Any party's failure to enforce any provision of this Agreement shall not be deemed a waiver of such provision or modification of this Agreement unless the waiver is in writing and signed by the party waiving such provision. A written waiver shall only be effective as to the specific instance for which it is obtained and shall not be deemed a continuing or future waiver.

3.23 **Force Majeure**. Neither party shall be obligated to perform any duty, requirement or obligation under this Agreement if such performance is prevented by fire, hurricane, earthquake, explosion, wars, sabotage, accident, flood, acts of God, strikes, or other labor disputes, riot or civil commotions, or by reason of any other matter or condition beyond the control of either party, and which cannot be overcome by reasonable diligence and without unusual expense ("Force Majeure"). In no event shall a lack of funds on the part of either party be deemed Force Majeure.

3.24 **Survival**. All representations and warranties made herein, indemnification obligations, obligations to reimburse SBBC, obligations to maintain and allow inspection and audit of records and property, obligations to maintain the confidentiality of records, reporting requirements, and obligations to return public funds shall survive the termination of this Agreement.

3.25 **Contract Administration.** SBBC has delegated authority to the Superintendent of Schools or his/her designee to take any actions necessary to implement and administer this Agreement.

3.26. **Liability**. This section shall survive the termination of all performance or obligations under this Agreement and shall be fully binding until such time as any proceeding brought on account of this Agreement is barred by any applicable statute of limitations.

A. By SBBC: SBBC agrees to be fully responsible up to the limits of Section 768.28, Florida Statutes, for its acts of negligence, or its employees' acts of negligence when acting within the scope of their employment and agrees to be liable for any damages resulting from said negligence.

B. By VENDOR: VENDOR agrees to indemnify, hold harmless and defend SBBC, its agents, servants and employees from any and all claims, judgments, costs, and expenses including, but not limited to, reasonable attorney's fees, reasonable investigative and discovery costs, court costs and all other sums which SBBC, its agents, servants and employees may pay or become obligated to pay on account of any, all and every claim or demand, or assertion of liability, or any claim or action founded thereon, arising or alleged to have arisen out of the products, goods or services furnished by VENDOR, its agents, servants or employees; the equipment of VENDOR, its agents, servants or employees while such equipment is on premises owned or controlled by SBBC; or the negligence of VENDOR or the negligence of VENDOR's agents when acting within the scope of their employment, whether such claims, judgments, costs and expenses be for damages, damage to property including SBBC's property, and injury or death of any person whether employed by VENDOR, SBBC or otherwise.

3.27 **Authority**. Each person signing this Agreement on behalf of either party individually warrants that he or she has full legal power to execute this Agreement on behalf of the party for whom he or she is signing, and to bind and obligate such party with respect to all provisions contained in this Agreement.

IN WITNESS WHEREOF, the Parties hereto have made and executed this Agreement on the date first above written.

FOR SBBC

(Corporate Seal)

THE SCHOOL BOARD OF BROWARD COUNTY, FLORIDA

By_____
Dr. Rosalind Osgood, Chair

ATTEST:

_____
Robert W. Runcie, Superintendent of Schools

Approved as to Form and Legal Content:

Kathelyn Jacques-Adams

Digitally signed by Kathelyn Jacques-Adams
DN: cn=Kathelyn Jacques-Adams, o=The School District of Broward County, Florida, ou=The Office of the General Counsel, email=kathelyn.jacques-adams@browardschools.com, c=US
Date: 2016.05.25 21:41:35 -04'00'

_____
Office of the General Counsel

FOR VENDOR

(Corporate Seal)

COMMUNITY REHAB ASSOCIATES, INC.

ATTEST:

S. Lithman
, Secretary

-or-

By Kelly McDonnell

Witness

Witness

The Following Notarization is Required for Every Agreement Without Regard to Whether the Party Chose to Use a Secretary's Attestation or Two (2) Witnesses.

STATE OF Florida

COUNTY OF Pinellas

The foregoing instrument was acknowledged before me this 4th day of May, 2016 by Kelly McDonnell (Name of Person) of Community Rehab Associates Inc (Name of Corporation or Agency), on behalf of the corporation/agency.

He/She is personally known to me or produced personally known to me (Type of Identification) as identification and did/did not first take an oath.

My Commission Expires: March 2, 2020

Heather Berberich
Signature – Notary Public

(SEAL)

HEATHER BERBERICH
Notary Public - State of Florida
Commission # FF 966921
My Comm. Expires Mar 2, 2020

Heather Berberich
Printed Name of Notary

FF 966921
Notary's Commission No.

ATTACHMENT A

SCOPE OF SERVICES

1. VENDOR shall provide occupational and physical therapy services in accordance with Broward County Schools Special Programs and Procedures. A copy of these procedures may be obtained on Exceptional Student Education's website at http://www.broward.k12.fl.us/studentsupport/ese/pdf/SP&P.pdf or as updated by SBBC.

2. VENDOR shall provide current licensed occupational and physical therapists under this Agreement. **Award of this Agreement shall not be a guarantee of business, a guarantee of specified volume of service or minimum dollar revenue to be received under this Agreement.**

3. VENDOR shall report to the Program Specialist and/or Curriculum Supervisor regarding services under this Agreement.

4. VENDOR shall be compensated for direct student services and student related activities only. VENDOR shall not be compensated/reimbursed for travel under this Agreement.

5. VENDOR shall provide the following services, but not limited to, initial student evaluations, small group or individual therapy with students, record-keeping for student attendance, supervising assistants, preparing progress reports and therapy notes, preparing a therapy plan of care, participating in the development of Individual Education Plans (IEP), attendance at required eligibility, IEP and dismissal staffings, attending in-service meetings as requested and providing consultation with parents, school area, district staff and physicians, as needed. For Certified Occupational Therapy Assistants (COTA) and Licensed Physical Therapy Assistant (LPTA), service will be provided under supervision in accordance with the OT/PT Practice ACT. VENDOR shall complete all appropriate documentation for Medicaid Reimbursement.

6. VENDOR shall provide services consistent with the professional standards of care and comply with all the medical and ethical requirements imposed by the State of Florida, Board of Medicine, the Department of Professional Regulations, the Florida State Department of Education and any other applicable federal, state or local regulatory agency.

7. VENDOR shall provide the requested level of service(s), in accordance with and/or changes for services requested by SBBC, within five (5) calendar days of notice, unless otherwise mutually agreed upon. Excessive failure to meet the needs as requested will result in cancellation of VENDOR's Agreement.

8. VENDOR shall maintain normal working hours of 8:00 a.m. to 4:00 p.m. Hours may occasionally be extended from 7:00 a.m. to 4:30 p.m. There will be no reimbursement for a thirty (30) minute lunch period. SBBC may only be invoiced for up to 7.5 hours per day unless prior approval has been granted by SBBC staff for extended service time. Awardee(s) may provide a maximum of four (4) hours of service as needed on each scheduled employee planning day. Invoices not complying with this will be rejected and returned for correction and failure to invoice correctly will result in a delay of payment. Any VENDOR who consistently submits invoices that are not correct may be found in default of Agreement.

SCOPE OF SERVICES

9. VENDOR shall respond to requested services within five (5) school days of the request by submitting to an interview by a designated SBBC representative. Firms can also offer these services and interviews as required.

10. VENDOR shall provide uninterrupted services based upon the current school calendar to students by providing qualified substitutes or replacements in the event of an anticipated or unanticipated lapse of service. A qualified substitute is defined to be a therapist for a therapist or a therapist assistant for an assistant. All qualified substitutes must display an SBBC identification badge. (See General Condition 7.42) Any lapse of service to SBBC for five student attendance days during any school year will result in default of Agreement. VENDOR may be responsible to provide compensatory services or payments to SBBC for lapse of service.

11. VENDOR shall provide a service schedule of all personnel for approval on a regular basis as determined by a designated SBBC representative.

12. VENDOR shall follow all procedures (including, but not limited to, signing in and out, no telephone calls during treatment time) of individual schools where they are assigned. All therapists must carry a cell phone for critical communication throughout the day with SBBC personnel as established. These numbers must be provided to SBBC personnel. There shall be no cost to SBBC to use these communication devices.

13. VENDOR shall prepare time logs, reports, written analysis and other written memoranda in the form and manner deemed appropriate by SBBC.

14. VENDOR shall bill under SBBC's Medicaid provider number, when needed.

15. VENDOR, under this Agreement, shall be required to pass the screening of the of the Broward School's Police, Security Clearance Department prior to placement of assignment as required by SBBC (See General Condition 7.42 of the RFP, SBBC Photo Identification Badge). VENDOR must utilize the STAR system and/or sign-in/out procedures to document attendance at assigned location(s).

16. SBBC reserves the right to interview all therapy candidates prior to placement. K-12 experience is preferred. SBBC reserves the right to refuse to utilize any proposed therapy candidate. SBBC reserves the right to have an individual therapist removed from the assigned position. VENDOR will have five workdays in which to propose a replacement therapist. Should VENDOR be unable to provide an acceptable replacement, all other contracted Awardees will then be notified to submit a candidate to SBBC.

17. VENDOR shall provide proof of services on an original approved voucher form upon initiation of services and up until training is provided on the Accelify Electronic Management System. Once VENDOR has received training, VENDOR shall then submit all invoices electronically.

SCOPE OF SERVICES

18. VENDOR shall have all therapists and assistants and required substitutes or replacements submit to, and pass, the screening of the Special Investigative Unit (SIU), including fingerprinting, prior to working with students as required for all SBBC personnel. All therapists and assistants shall display an SBBC Identification Badge during contracted work hours. VENDOR will be required to pay the required fees for screening, fingerprinting and photo identification. (See General Condition 7.42 of the RFP)

19. VENDOR shall cooperate with SBBC in its partnership with universities and colleges to provide supervision of practicum experience for student therapists and assistants.

20. VENDOR may be evaluated annually in areas to include, but not be limited to, responsiveness, continuity of service, quality of work and professionalism.

21. VENDOR shall not provide private assessments or therapy services to students on their own public school caseload.

22. VENDOR and all therapists and assistants shall attend an orientation workshop of not less than three hours. This orientation workshop will include, but not be limited to, general information on the policies and procedures of the Broward County Special Programs and Procedures, the rights of students with disabilities, and other operational procedures required to carry out the therapy program. Additional workshops may be required during the term of the Agreement.

23. VENDOR will receive, from SBBC, requested materials, equipment and other related items which have been determined to be necessary to carry out the therapy program for students when approved by a designated SBBC representative.

24. VENDOR shall insure that their provider has the necessary technology (eg. Laptop, desktop computer, etc.) needed to carryout job responsibilities.

AGREEMENT

THIS AGREEMENT is made and entered into as of this ____ day of _____, 2016, by and between

THE SCHOOL BOARD OF BROWARD COUNTY, FLORIDA
(hereinafter referred to as "SBBC"),
a body corporate and political subdivision of the State of Florida,
whose principal place of business is
600 Southeast Third Avenue, Fort Lauderdale, Florida 33301

and

COMPREHENSIVE THERAPY CONSULTANTS, INC.
(hereinafter referred to as "VENDOR"),
whose principal place of business is
3725 Jailette Road
College Park, Georgia 30349

WHEREAS, SBBC issued a Request for Proposal identified as RFP 17-005V – Occupational and Physical Therapy Services (hereinafter referred to as "RFP"), dated December 11, 2015 and amended by Addendum No. 2, dated January 15, 2016, and Addendum No. 1, dated January 9, 2016 all of which are incorporated by reference herein, for the purpose of receiving proposals for occupational and physical therapy services; and

WHEREAS, VENDOR offered a proposal dated January 19, 2016 (hereinafter referred to as "Proposal") which is incorporated by reference herein, in response to this RFP.

NOW, THEREFORE, in consideration of the premises and of the mutual covenants contained herein and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the Parties hereby agree as follows:

ARTICLE 1 - RECITALS

1.01 **Recitals**. The parties agree that the foregoing recitals are true and correct and that such recitals are incorporated herein by reference.

ARTICLE 2 – SPECIAL CONDITIONS

2.01 **Term of Agreement**. Unless terminated earlier pursuant to Section 3.05 of this Agreement, the term of this Agreement shall commence on **July 1, 2016** and conclude on **June 30, 2019.** The term of the Agreement may, by mutual agreement between SBBC and VENDOR be extended for two additional one-year periods and, if needed, 180 days beyond the expiration date of the renewal period. SBBC's Procurement & Warehousing Services Department, will, if considering renewing, request a letter consenting to renewal from VENDOR, prior to the end of the term. Any renewal period shall be approved by an Amendment to this Agreement executed by both parties

2.02 **Priority of Documents.** In the event of a conflict between documents, the following priority of documents shall govern.

First: This Agreement, then;
Second: Addendum No. 2, then;
Third: Addendum No. 1, then;
Fourth: RFP 17-005V – Occupational and Physical Therapy Services, then;
Fifth: Proposal submitted in response to the RFP by VENDOR.

2.03 **Services**: VENDOR shall provide SBBC with services as proposed in its Proposal and in compliance with this Agreement and the RFP and its Addenda and as specified in **Attachment A – Scope of Services**.

2.04 **Cost of Services**. SBBC shall pay VENDOR for cost of services satisfactorily rendered for:

Occupational Therapy services at $61.00/hour;
Certified Occupational Therapist Assistant (COTA) at $41.00/hr.;
Physical Therapist at $61.00/hr.; and
Licensed Physical Therapist Assistant at $41.00/hr.

Costs shall not exceed the amount as stated on the Purchase Order. VENDOR may offer SBBC a special educational discount for pricing and reduce the cost of services during the term of the Agreement. VENDOR may invoice SBBC at an hourly rate less than their original bid price.

2.05 **M/WBE Participation**. VENDOR is a current Certified MWBE, African American, with SBBC, Certificate #7007-7138.

2.06 **Inspection of VENDOR's Records by SBBC**. VENDOR shall establish and maintain books, records and documents (including electronic storage media) sufficient to reflect all income and expenditures of funds provided by SBBC under this Agreement. All VENDOR's Records, regardless of the form in which they are kept, shall be open to inspection and subject to audit, inspection, examination, evaluation and/or reproduction, during normal working hours, by SBBC's agent or its authorized representative to permit SBBC to evaluate, analyze and verify the satisfactory performance of the terms and conditions of this Agreement and to evaluate, analyze and verify any and all invoices, billings, payments and/or claims submitted by VENDOR or any of VENDOR's payees pursuant to this Agreement. VENDOR's Records subject to examination shall include, without limitation, those records necessary to evaluate and verify direct and indirect costs (including overhead allocations) as they may apply to costs associated with this Agreement. VENDOR's Records subject to this section shall include any and all documents pertinent to the evaluation, analysis, verification and reconciliation of any and all expenditures under this Agreement without regard to funding sources.

(a) VENDOR's Records Defined. For the purposes of this Agreement, the term "VENDOR's Records" shall include, without limitation, accounting records, payroll time sheets, cancelled payroll checks, W-2 forms, written policies and procedures, computer records, disks and software, videos, photographs, executed subcontracts, subcontract files (including proposals of successful and unsuccessful bidders), original estimates, estimating worksheets, correspondence, change order files (including sufficient supporting documentation and documentation covering negotiated settlements), and any other supporting documents that would substantiate, reconcile or refute any charges and/or expenditures related to this Agreement.

(b) Duration of Right to Inspect. For the purpose of such audits, inspections, examinations, evaluations and/or reproductions, SBBC's agent or authorized representative shall have access to VENDOR's Records from the effective date of this Agreement, for the duration of the term of this Agreement, and until the later of five (5) years after the termination of this Agreement or five (5) years after the date of final payment by SBBC to VENDOR pursuant to this Agreement.

(c) Notice of Inspection. SBBC's agent or its authorized representative shall provide VENDOR reasonable advance notice (not to exceed two (2) weeks) of any intended audit, inspection, examination, evaluation and or reproduction.

(d) Audit Site Conditions. SBBC's agent or its authorized representative shall have access to VENDOR's facilities and to any and all records related to this Agreement, and shall be provided adequate and appropriate work space in order to exercise the rights permitted under this section.

(e) Failure to Permit Inspection. Failure by VENDOR to permit audit, inspection, examination, evaluation and/or reproduction as permitted under this Section shall constitute grounds for termination of this Agreement by SBBC for cause and shall be grounds for the denial of some or all of any VENDOR's claims for payment by SBBC.

(f) Overcharges and Unauthorized Charges. If an audit conducted in accordance with this Section discloses overcharges or unauthorized charges to SBBC by VENDOR in excess of two percent (2%) of the total billings under this Agreement, the actual cost of SBBC's audit shall be paid by VENDOR. If the audit discloses billings or charges to which VENDOR is not contractually entitled, VENDOR shall pay said sum to SBBC within twenty (20) days of receipt of written demand under otherwise agreed to in writing by both parties.

(g) Inspection of Subcontractor's Records. VENDOR shall require any and all subcontractors, insurance agents and material suppliers (hereafter referred to as "Payees") providing services or goods with regard to this Agreement to comply with the requirements of this section by insertion of such requirements in any written subcontract. Failure by VENDOR to include such requirements in any subcontract shall constitute grounds for termination of this Agreement by SBBC for cause and shall be grounds for the exclusion of some or all of any Payee's costs from amounts payable by SBBC to VENDOR pursuant to this Agreement and such excluded costs shall become the liability of VENDOR.

(h) Inspector General Audits. VENDOR shall comply and cooperate immediately with any inspections, reviews, investigations, or audits deemed necessary by the Florida Office of the Inspector General or by any other state or federal officials.

2.07 **Notice**. When any of the parties desire to give notice to the other, such notice must be in writing, sent by U.S. Mail, postage prepaid, addressed to the party for whom it is intended at the place last specified; the place for giving notice shall remain such until it is changed by written notice in compliance with the provisions of this paragraph. For the present, the Parties designate the following as the respective places for giving notice:

To SBBC:
Superintendent of Schools
The School Board of Broward County, Florida
600 S.E. 3rd. Avenue
Fort Lauderdale, Florida 33301

With a Copy to: Director, ESE Department
The School Board of Broward County, Florida
Arthur Ashe Campus
1701 NW 23 Avenue
Fort Lauderdale, FL 33311

To VENDOR: NeShanta Wilburn, CEO
Comprehensive Therapy Consultants
P.O. Box 310686
Atlanta, Georgia 31131

2.08 **Background Screening.** VENDOR agrees to comply with all requirements of Sections 1012.32 and 1012.465, Florida Statutes, and all of its personnel who (1) are to be permitted access to school grounds when students are present, (2) will have direct contact with students, or (3) have access or control of school funds, will successfully complete the background screening required by the referenced statutes and meet the standards established by the statutes. This background screening will be conducted by SBBC in advance of VENDOR or its personnel providing any services under the conditions described in the previous sentence. VENDOR shall bear the cost of acquiring the background screening required by Section 1012.32, Florida Statutes, and any fee imposed by the Florida Department of Law Enforcement to maintain the fingerprints provided with respect to VENDOR and its personnel. The parties agree that the failure of VENDOR to perform any of the duties described in this section shall constitute a material breach of this Agreement entitling SBBC to terminate immediately with no further responsibilities or duties to perform under this Agreement. VENDOR agrees to indemnify and hold harmless SBBC, its officers and employees from any liability in the form of physical or mental injury, death or property damage resulting from VENDOR's failure to comply with the requirements of this Section or with Sections 1012.32 and 1012.465, Florida Statutes.

ARTICLE 3 – GENERAL CONDITIONS

3.01 **No Waiver of Sovereign Immunity**. Nothing herein is intended to serve as a waiver of sovereign immunity by any agency or political subdivision to which sovereign immunity may be applicable or of any rights or limits to liability existing under Section 768.28, Florida Statutes. This section shall survive the termination of all performance or obligations under this Agreement and shall be fully binding until such time as any proceeding brought on account of this Agreement is barred by any applicable statute of limitations.

3.02 **No Third Party Beneficiaries**. The parties expressly acknowledge that it is not their intent to create or confer any rights or obligations in or upon any third person or entity under this Agreement. None of the parties intend to directly or substantially benefit a third party by this Agreement. The parties agree that there are no third party beneficiaries to this Agreement and that no third party shall be entitled to assert a claim against any of the parties based upon this Agreement. Nothing herein shall be construed as consent by an agency or political subdivision of the State of Florida to be sued by third parties in any matter arising out of any contract.

3.03 **Independent Contractor**. The parties to this agreement shall at all times be acting in the capacity of independent contractors and not as an officer, employee or agent of one another. Neither party or its respective agents, employees, subcontractors or assignees shall represent to others that it has the authority to bind the other party unless specifically authorized in writing to do so. No right to SBBC retirement, leave benefits or any other benefits of SBBC employees shall exist as a result of the performance of any duties or responsibilities under this Agreement. SBBC shall not be responsible for social security, withholding taxes, contributions to unemployment compensation funds or insurance for the other party or the other party's officers, employees, agents, subcontractors or assignees.

3.04 **Equal Opportunity Provision**. The parties agree that no person shall be subjected to discrimination because of age, race, color, disability, gender identity, gender expression marital status, national origin, religion, sex or sexual orientation in the performance of the parties' respective duties, responsibilities and obligations under this Agreement.

3.05 **Termination**. This Agreement may be canceled with or without cause by SBBC during the term hereof upon thirty (30) days written notice to the other parties of its desire to terminate this Agreement. SBBC shall have no liability for any property left on SBBC's property by any party to this Agreement after the termination of this Agreement. Any party contracting with SBBC under this Agreement agrees that any of its property placed upon SBBC's facilities pursuant to this Agreement shall be removed within ten (10) business days following the termination, conclusion or cancellation of this Agreement and that any such property remaining upon SBBC's facilities after that time shall be deemed to be abandoned, title to such property shall pass to SBBC, and SBBC may use or dispose of such property as SBBC deems fit and appropriate.

3.06 **Default**. The parties agree that, in the event that either party is in default of its obligations under this Agreement, the non-defaulting party shall provide to the defaulting party (30) days written notice to cure the default. However, in the event said default cannot be cured within said thirty (30) day period and the defaulting party is diligently attempting in good faith to cure same, the time period shall be reasonably extended to allow the defaulting party additional cure time. Upon the occurrence of a default that is not cured during the applicable cure period, this Agreement may be terminated by the non-defaulting party upon thirty (30) days notice. This remedy is not intended to be exclusive of any other remedy, and each and every such remedy shall be cumulative and shall be in addition to every other remedy now or hereafter existing at law or in equity or by statute or otherwise. No single or partial exercise by any party of any right, power, or remedy hereunder shall preclude any other or future exercise thereof. Nothing in this section shall be construed to preclude termination for convenience pursuant to Section 3.05.

3.07 **Annual Appropriation.** The performance and obligations of SBBC under this Agreement shall be contingent upon an annual budgetary appropriation by its governing body. If SBBC does not allocate funds for the payment of services or products to be provided under this Agreement, this Agreement may be terminated by SBBC at the end of the period for which funds have been allocated. SBBC shall notify the other party at the earliest possible time before such termination. No penalty shall accrue to SBBC in the event this provision is exercised, and SBBC shall not be obligated or liable for any future payments due or any damages as a result of termination under this section.

3.08 **Excess Funds**. Any party receiving funds paid by SBBC under this Agreement agrees to promptly notify SBBC of any funds erroneously received from SBBC upon the discovery of such erroneous payment or overpayment. Any such excess funds shall be refunded to SBBC.

3.09 **Public Records**. Pursuant to Section 119.0701, Florida Statutes, any party contracting with SBBC is required to (a) keep and maintain available for public inspection any records that pertain to services rendered under this Agreement; (b) provide the public with access to public records on the same terms and conditions that SBBC would provide such records and 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; and (d) meet all requirements for retaining public records and transfer, at no cost to SBBC, all public records in that party's possession upon termination of its Agreement with SBBC and destroy any duplicate public records that are exempt or confidential and exempt from public records disclosure requirements. All of such party's records stored electronically must be provided to SBBC in a format that is compatible with SBBC's information technology systems. Each party shall maintain its own respective records and documents associated with this Agreement in accordance with the records retention requirements applicable to public records. Each party shall be responsible for compliance with any public documents request served upon it pursuant to Section 119.07, Florida Statutes, and any resultant award of attorney's fees for non-compliance with that law. Each party acknowledges that this Agreement and all attachments thereto are public records and do not constitute trade secrets.

3.10 **Student Records**: Notwithstanding any provision to the contrary within this Agreement, any party contracting with SBBC under this Agreement shall fully comply with the requirements of Sections 1002.22 and 1002.221, Florida Statutes; FERPA, and any other state or federal law or regulation regarding the confidentiality of student information and records. Each such party agrees, for itself, its officers, employees, agents, representatives, contractors or subcontractors, to fully indemnify and hold harmless SBBC and its officers and employees for any violation of this section, including, without limitation, defending SBBC and its officers and employees against any complaint, administrative or judicial proceeding, payment of any penalty imposed upon SBBC, or payment of any and all costs, damages, judgments or losses incurred by or imposed upon SBBC arising out of a breach of this covenant by the party, or an officer, employee, agent, representative, contractor, or sub-contractor of the party to the extent that the party or an officer, employee, agent, representative, contractor, or sub-contractor of the party shall either intentionally or negligently violate the provisions of this section or of Sections 1002.22 and/or 1002.221, Florida Statutes.

3.11 **Compliance with Laws**. Each party shall comply with all applicable federal, state and local laws, SBBC policies, codes, rules and regulations in performing its duties, responsibilities and obligations pursuant to this Agreement.

3.12 **Place of Performance**. All obligations of SBBC under the terms of this Agreement are reasonably susceptible of being performed in Broward County, Florida and shall be payable and performable in Broward County, Florida.

3.13 **Governing Law and Venue**. This Agreement shall be interpreted and construed in accordance with and governed by the laws of the State of Florida. Any controversies or legal problems arising out of this Agreement and any action involving the enforcement or interpretation of any rights hereunder shall be submitted to the jurisdiction of the State courts of the Seventeenth Judicial Circuit of Broward County, Florida.

3.14 **Entirety of Agreement**. This document incorporates and includes all prior negotiations, correspondence, conversations, agreements and understandings applicable to the matters contained herein and the parties agree that there are no commitments, agreements or understandings concerning the subject matter of this Agreement that are not contained in this document. Accordingly, the parties agree that no deviation from the terms hereof shall be predicated upon any prior representations or agreements, whether oral or written.

3.15 **Binding Effect**. This Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective successors and assigns.

3.16 **Assignment**. Neither this Agreement nor any interest herein may be assigned, transferred or encumbered by any party without the prior written consent of the other party. There shall be no partial assignments of this Agreement including, without limitation, the partial assignment of any right to receive payments from SBBC.

3.17 **Incorporation by Reference**. **Attachment A** attached hereto and referenced herein shall be deemed to be incorporated into this Agreement by reference.

3.18 **Captions**. The captions, section designations, section numbers, article numbers, titles and headings appearing in this Agreement are inserted only as a matter of convenience, have no substantive meaning, and in no way define, limit, construe or describe the scope or intent of such articles or sections of this Agreement, nor in any way affect this Agreement and shall not be construed to create a conflict with the provisions of this Agreement.

3.19 **Severability**. In the event that any one or more of the sections, paragraphs, sentences, clauses or provisions contained in this Agreement is held by a court of competent jurisdiction to be invalid, illegal, unlawful, unenforceable or void in any respect, such shall not affect the remaining portions of this Agreement and the same shall remain in full force and effect as if such invalid, illegal, unlawful, unenforceable or void sections, paragraphs, sentences, clauses or provisions had never been included herein.

3.20 **Preparation of Agreement**. The parties acknowledge that they have sought and obtained whatever competent advice and counsel as was necessary for them to form a full and complete understanding of all rights and obligations herein and that the preparation of this Agreement has been their joint effort. The language agreed to herein expresses their mutual intent and the resulting document shall not, solely as a matter of judicial construction, be construed more severely against one of the parties than the other.

3.21 **Amendments**. No modification, amendment, or alteration in the terms or conditions contained herein shall be effective unless contained in a written document prepared with the same or similar formality as this Agreement and executed by each party hereto.

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3.23 **Force Majeure**. Neither party shall be obligated to perform any duty, requirement or obligation under this Agreement if such performance is prevented by fire, hurricane, earthquake, explosion, wars, sabotage, accident, flood, acts of God, strikes, or other labor disputes, riot or civil commotions, or by reason of any other matter or condition beyond the control of either party, and which cannot be overcome by reasonable diligence and without unusual expense ("Force Majeure"). In no event shall a lack of funds on the part of either party be deemed Force Majeure.

3.24 **Survival**. All representations and warranties made herein, indemnification obligations, obligations to reimburse SBBC, obligations to maintain and allow inspection and audit of records and property, obligations to maintain the confidentiality of records, reporting requirements, and obligations to return public funds shall survive the termination of this Agreement.

3.25 **Contract Administration.** SBBC has delegated authority to the Superintendent of Schools or his/her designee to take any actions necessary to implement and administer this Agreement.

3.26. **Liability**. This section shall survive the termination of all performance or obligations under this Agreement and shall be fully binding until such time as any proceeding brought on account of this Agreement is barred by any applicable statute of limitations.

A. By SBBC: SBBC agrees to be fully responsible up to the limits of Section 768.28, Florida Statutes, for its acts of negligence, or its employees' acts of negligence when acting within the scope of their employment and agrees to be liable for any damages resulting from said negligence.

B. By VENDOR: VENDOR agrees to indemnify, hold harmless and defend SBBC, its agents, servants and employees from any and all claims, judgments, costs, and expenses including, but not limited to, reasonable attorney's fees, reasonable investigative and discovery costs, court costs and all other sums which SBBC, its agents, servants and employees may pay or become obligated to pay on account of any, all and every claim or demand, or assertion of liability, or any claim or action founded thereon, arising or alleged to have arisen out of the products, goods or services furnished by VENDOR, its agents, servants or employees; the equipment of VENDOR, its agents, servants or employees while such equipment is on premises owned or controlled by SBBC; or the negligence of VENDOR or the negligence of VENDOR's agents when acting within the scope of their employment, whether such claims, judgments, costs and expenses be for damages, damage to property including SBBC's property, and injury or death of any person whether employed by VENDOR, SBBC or otherwise.

3.27 **Authority**. Each person signing this Agreement on behalf of either party individually warrants that he or she has full legal power to execute this Agreement on behalf of the party for whom he or she is signing, and to bind and obligate such party with respect to all provisions contained in this Agreement.

IN WITNESS WHEREOF, the Parties hereto have made and executed this Agreement on the date first above written.

FOR SBBC

(Corporate Seal)

THE SCHOOL BOARD OF BROWARD COUNTY, FLORIDA

By_____
Dr. Rosalind Osgood, Chair

ATTEST:

_____
Robert W. Runcie, Superintendent of Schools

Approved as to Form and Legal Content:

Kathelyn Jacques-Adams

Digitally signed by Kathelyn Jacques-Adams
DN: cn=Kathelyn Jacques-Adams, o=The School District of Broward County, Florida, ou=The Office of the General Counsel, email=kathelyn.jacques-adams@browardschools.com, c=US
Date: 2016.05.25 21:42:19 -04'00'

_____
Office of the General Counsel

FOR VENDOR

(Corporate Seal)

COMPREHENSIVE THERAPY CONSULTANTS, INC.

ATTEST:

By _____

_____, Secretary

-or-

_____

Witness

_____

Witness

The Following Notarization is Required for Every Agreement Without Regard to Whether the Party Chose to Use a Secretary's Attestation or Two (2) Witnesses.

STATE OF Georgia

COUNTY OF Douglasville

The foregoing instrument was acknowledged before me this 4th day of May, 2020 by Neshanta D Wilson of
Name of Person
Comprehensive Therapy Consultants, on behalf of the corporation/agency.
Name of Corporation or Agency
He/She is personally known to me or produced Drivers License exp 8/6/20 as identification and did/did not first take an oath.
Type of Identification

My Commission Expires:

_____
Signature – Notary Public

(SEAL)

CHRISTOPHER J KYLES NOTARY PUBLIC MY COMMISSION EXPIRES MARCH 28, 2020 DOUGLAS COUNTY, GEORGIA

Christopher J Kyles
Printed Name of Notary

03/28/2020
Notary's Commission No.

ATTACHMENT A

SCOPE OF SERVICES

1. VENDOR shall provide occupational and physical therapy services in accordance with Broward County Schools Special Programs and Procedures. A copy of these procedures may be obtained on Exceptional Student Education's website at http://www.broward.k12.fl.us/studentsupport/ese/pdf/SP&P.pdf or as updated by SBBC.

2. VENDOR shall provide current licensed occupational and physical therapists under this Agreement. **Award of this Agreement shall not be a guarantee of business, a guarantee of specified volume of service or minimum dollar revenue to be received under this Agreement.**

3. VENDOR shall report to the Program Specialist and/or Curriculum Supervisor regarding services under this Agreement.

4. VENDOR shall be compensated for direct student services and student related activities only. VENDOR shall not be compensated/reimbursed for travel under this Agreement.

5. VENDOR shall provide the following services, but not limited to, initial student evaluations, small group or individual therapy with students, record-keeping for student attendance, supervising assistants, preparing progress reports and therapy notes, preparing a therapy plan of care, participating in the development of Individual Education Plans (IEP), attendance at required eligibility, IEP and dismissal staffings, attending in-service meetings as requested and providing consultation with parents, school area, district staff and physicians, as needed. For Certified Occupational Therapy Assistants (COTA) and Licensed Physical Therapy Assistant (LPTA), service will be provided under supervision in accordance with the OT/PT Practice ACT. VENDOR shall complete all appropriate documentation for Medicaid Reimbursement.

6. VENDOR shall provide services consistent with the professional standards of care and comply with all the medical and ethical requirements imposed by the State of Florida, Board of Medicine, the Department of Professional Regulations, the Florida State Department of Education and any other applicable federal, state or local regulatory agency.

7. VENDOR shall provide the requested level of service(s), in accordance with and/or changes for services requested by SBBC, within five (5) calendar days of notice, unless otherwise mutually agreed upon. Excessive failure to meet the needs as requested will result in cancellation of VENDOR's Agreement.

8. VENDOR will maintain normal working hours of 8:00 a.m. to 4:00 p.m. Hours may occasionally be extended from 7:00 a.m. to 4:30 p.m. There will be no reimbursement for a thirty (30) minute lunch period. SBBC may only be invoiced for up to 7.5 hours per day unless prior approval has been granted by SBBC staff for extended service time. Awardee(s) may provide a maximum of four (4) hours of service as needed on each scheduled employee planning day. Invoices not complying with this will be rejected and returned for correction and failure to invoice correctly will result in a delay of payment. Any VENDOR who consistently submits invoices that are not correct may be found in default of Agreement.

SCOPE OF SERVICES

9. VENDOR shall respond to requested services within five (5) school days of the request by submitting to an interview by a designated SBBC representative. Firms can also offer these services and interviews as required.

10. VENDOR shall provide uninterrupted services based upon the current school calendar to students by providing qualified substitutes or replacements in the event of an anticipated or unanticipated lapse of service. A qualified substitute is defined to be a therapist for a therapist or a therapist assistant for an assistant. All qualified substitutes must display an SBBC identification badge. (See General Condition 7.42) Any lapse of service to SBBC for five student attendance days during any school year will result in default of Agreement. VENDOR may be responsible to provide compensatory services or payments to SBBC for lapse of service.

11. VENDOR shall provide a service schedule of all personnel for approval on a regular basis as determined by a designated SBBC representative.

12. VENDOR shall follow all procedures (including, but not limited to, signing in and out, no telephone calls during treatment time) of individual schools where they are assigned. All therapists must carry a cell phone for critical communication throughout the day with SBBC personnel as established. These numbers must be provided to SBBC personnel. There shall be no cost to SBBC to use these communication devices.

13. VENDOR shall prepare time logs, reports, written analysis and other written memoranda in the form and manner deemed appropriate by SBBC.

14. VENDOR shall bill under SBBC's Medicaid provider number, when needed.

15. VENDOR, under this Agreement, shall be required to pass the screening of the of the Broward School's Police, Security Clearance Department prior to placement of assignment as required by SBBC (See General Condition 7.42 of the RFP, SBBC Photo Identification Badge). VENDOR must utilize the STAR system and/or sign-in/out procedures to document attendance at assigned location(s).

16. SBBC reserves the right to interview all therapy candidates prior to placement. K-12 experience is preferred. SBBC reserves the right to refuse to utilize any proposed therapy candidate. SBBC reserves the right to have an individual therapist removed from the assigned position. VENDOR will have five workdays in which to propose a replacement therapist. Should VENDOR be unable to provide an acceptable replacement, all other contracted Awardees will then be notified to submit a candidate to SBBC.

17. VENDOR shall provide proof of services on an original approved voucher form upon initiation of services and up until training is provided on the Accelify Electronic Management System. Once VENDOR has received training, VENDOR shall then submit all invoices electronically.

SCOPE OF SERVICES

18. VENDOR shall have all therapists and assistants and required substitutes or replacements submit to, and pass, the screening of the Special Investigative Unit (SIU), including fingerprinting, prior to working with students as required for all SBBC personnel. All therapists and assistants shall display an SBBC Identification Badge during contracted work hours. VENDOR will be required to pay the required fees for screening, fingerprinting and photo identification. (See General Condition 7.42 of the RFP)

19. VENDOR shall cooperate with SBBC in its partnership with universities and colleges to provide supervision of practicum experience for student therapists and assistants.

20. VENDOR may be evaluated annually in areas to include, but not be limited to, responsiveness, continuity of service, quality of work and professionalism.

21. VENDOR shall not provide private assessments or therapy services to students on their own public school caseload.

22. VENDOR and all therapists and assistants shall attend an orientation workshop of not less than three hours. This orientation workshop will include, but not be limited to, general information on the policies and procedures of the Broward County Special Programs and Procedures, the rights of students with disabilities, and other operational procedures required to carry out the therapy program. Additional workshops may be required during the term of the Agreement.

23. VENDOR will receive, from SBBC, requested materials, equipment and other related items which have been determined to be necessary to carry out the therapy program for students when approved by a designated SBBC representative.

24. VENDOR shall insure that their provider has the necessary technology (eg. Laptop, desktop computer, etc.) needed to carryout job responsibilities.

AGREEMENT

THIS AGREEMENT is made and entered into as of this ____ day of _____, 2016, by and between

THE SCHOOL BOARD OF BROWARD COUNTY, FLORIDA
(hereinafter referred to as "SBBC"),
a body corporate and political subdivision of the State of Florida,
whose principal place of business is
600 Southeast Third Avenue, Fort Lauderdale, Florida 33301

and

DEBRA KIRBY, INC.
(hereinafter referred to as "VENDOR"),
whose principal place of business is
5038 Kensington Circle
Coral Springs, Florida 33076

WHEREAS, SBBC issued a Request for Proposal identified as RFP 17-005V – Occupational and Physical Therapy Services (hereinafter referred to as "RFP"), dated December 11, 2015 and amended by Addendum No. 2, dated January 15, 2016, and Addendum No. 1, dated January 9, 2016 all of which are incorporated by reference herein, for the purpose of receiving proposals for occupational and physical therapy services; and

WHEREAS, VENDOR offered a proposal dated January 19, 2016 (hereinafter referred to as "Proposal") which is incorporated by reference herein, in response to this RFP.

NOW, THEREFORE, in consideration of the premises and of the mutual covenants contained herein and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the Parties hereby agree as follows:

ARTICLE 1 - RECITALS

1.01 **Recitals**. The parties agree that the foregoing recitals are true and correct and that such recitals are incorporated herein by reference.

ARTICLE 2 – SPECIAL CONDITIONS

2.01 **Term of Agreement**. Unless terminated earlier pursuant to Section 3.05 of this Agreement, the term of this Agreement shall commence on **July 1, 2016** and conclude on **June 30, 2019.** The term of the Agreement may, by mutual agreement between SBBC and VENDOR be extended for two additional one-year periods and, if needed, 180 days beyond the expiration date of the renewal period. SBBC's Procurement & Warehousing Services Department, will, if considering renewing, request a letter consenting to renewal from VENDOR, prior to the end of the term. Any renewal period shall be approved by an Amendment to this Agreement executed by both parties

2.02 **Priority of Documents.** In the event of a conflict between documents, the following priority of documents shall govern.

First: This Agreement, then;
Second: Addendum No. 2, then;
Third: Addendum No. 1, then;
Fourth: RFP 17-005V – Occupational and Physical Therapy Services, then;
Fifth: Proposal submitted in response to the RFP by VENDOR.

2.03 **Services**: VENDOR shall provide SBBC with the Scope of Services as proposed in its Proposal and in compliance with this Agreement and the RFP and its Addenda and as specified in **Attachment A – Scope of Services**.

2.04 **Cost of Services**. SBBC shall pay VENDOR for cost of services satisfactorily rendered for:

Occupational Therapy services at $64.00/hour;
Certified Occupational Therapist Assistant (COTA) at $45.00/hr.;
Physical Therapist at $64.00/hr.; and
Licensed Physical Therapist Assistant at $45.00/hr.

Costs shall not exceed the amount as stated on the Purchase Order. VENDOR may offer SBBC a special educational discount for pricing and reduce the cost of services during the term of the Agreement. VENDOR may invoice SBBC at an hourly rate less than their original bid price.

2.05 **M/WBE Participation**. VENDOR is a current Certified MWBE, Caucasian Female, with SBBC, Certificate #7007-3068-98.

2.06 **Inspection of VENDOR's Records by SBBC**. VENDOR shall establish and maintain books, records and documents (including electronic storage media) sufficient to reflect all income and expenditures of funds provided by SBBC under this Agreement. All VENDOR's Records, regardless of the form in which they are kept, shall be open to inspection and subject to audit, inspection, examination, evaluation and/or reproduction, during normal working hours, by SBBC's agent or its authorized representative to permit SBBC to evaluate, analyze and verify the satisfactory performance of the terms and conditions of this Agreement and to evaluate, analyze and verify any and all invoices, billings, payments and/or claims submitted by VENDOR or any of VENDOR's payees pursuant to this Agreement. VENDOR's Records subject to examination shall include, without limitation, those records necessary to evaluate and verify direct and indirect costs (including overhead allocations) as they may apply to costs associated with this Agreement. VENDOR's Records subject to this section shall include any and all documents pertinent to the evaluation, analysis, verification and reconciliation of any and all expenditures under this Agreement without regard to funding sources.

(a) VENDOR's Records Defined. For the purposes of this Agreement, the term "VENDOR's Records" shall include, without limitation, accounting records, payroll time sheets, cancelled payroll checks, W-2 forms, written policies and procedures, computer records, disks and software, videos, photographs, executed subcontracts, subcontract files (including proposals of successful and unsuccessful bidders), original estimates, estimating worksheets, correspondence, change order files (including sufficient supporting documentation and documentation covering negotiated settlements), and any other supporting documents that would substantiate, reconcile or refute any charges and/or expenditures related to this Agreement.

(b) Duration of Right to Inspect. For the purpose of such audits, inspections, examinations, evaluations and/or reproductions, SBBC's agent or authorized representative shall have access to VENDOR's Records from the effective date of this Agreement, for the duration of the term of this Agreement, and until the later of five (5) years after the termination of this Agreement or five (5) years after the date of final payment by SBBC to VENDOR pursuant to this Agreement.

(c) Notice of Inspection. SBBC's agent or its authorized representative shall provide VENDOR reasonable advance notice (not to exceed two (2) weeks) of any intended audit, inspection, examination, evaluation and or reproduction.

(d) Audit Site Conditions. SBBC's agent or its authorized representative shall have access to VENDOR's facilities and to any and all records related to this Agreement, and shall be provided adequate and appropriate work space in order to exercise the rights permitted under this section.

(e) Failure to Permit Inspection. Failure by VENDOR to permit audit, inspection, examination, evaluation and/or reproduction as permitted under this Section shall constitute grounds for termination of this Agreement by SBBC for cause and shall be grounds for the denial of some or all of any VENDOR's claims for payment by SBBC.

(f) Overcharges and Unauthorized Charges. If an audit conducted in accordance with this Section discloses overcharges or unauthorized charges to SBBC by VENDOR in excess of two percent (2%) of the total billings under this Agreement, the actual cost of SBBC's audit shall be paid by VENDOR. If the audit discloses billings or charges to which VENDOR is not contractually entitled, VENDOR shall pay said sum to SBBC within twenty (20) days of receipt of written demand under otherwise agreed to in writing by both parties.

(g) Inspection of Subcontractor's Records. VENDOR shall require any and all subcontractors, insurance agents and material suppliers (hereafter referred to as "Payees") providing services or goods with regard to this Agreement to comply with the requirements of this section by insertion of such requirements in any written subcontract. Failure by VENDOR to include such requirements in any subcontract shall constitute grounds for termination of this Agreement by SBBC for cause and shall be grounds for the exclusion of some or all of any Payee's costs from amounts payable by SBBC to VENDOR pursuant to this Agreement and such excluded costs shall become the liability of VENDOR.

(h) Inspector General Audits. VENDOR shall comply and cooperate immediately with any inspections, reviews, investigations, or audits deemed necessary by the Florida Office of the Inspector General or by any other state or federal officials.

2.07 **Notice**. When any of the parties desire to give notice to the other, such notice must be in writing, sent by U.S. Mail, postage prepaid, addressed to the party for whom it is intended at the place last specified; the place for giving notice shall remain such until it is changed by written notice in compliance with the provisions of this paragraph. For the present, the Parties designate the following as the respective places for giving notice:

To SBBC: Superintendent of Schools
The School Board of Broward County, Florida
600 S.E. 3rd. Avenue
Fort Lauderdale, Florida 33301

With a Copy to: Director, ESE Department
The School Board of Broward County, Florida
Arthur Ashe Campus
1701 NW 23 Avenue
Fort Lauderdale, FL 33311

To VENDOR: Debra Kirby
Debra Kirby, Inc.
5038 Kensington Circle
Coral Springs, Florida 33076

2.08 **Background Screening.** VENDOR agrees to comply with all requirements of Sections 1012.32 and 1012.465, Florida Statutes, and all of its personnel who (1) are to be permitted access to school grounds when students are present, (2) will have direct contact with students, or (3) have access or control of school funds, will successfully complete the background screening required by the referenced statutes and meet the standards established by the statutes. This background screening will be conducted by SBBC in advance of VENDOR or its personnel providing any services under the conditions described in the previous sentence. VENDOR shall bear the cost of acquiring the background screening required by Section 1012.32, Florida Statutes, and any fee imposed by the Florida Department of Law Enforcement to maintain the fingerprints provided with respect to VENDOR and its personnel. The parties agree that the failure of VENDOR to perform any of the duties described in this section shall constitute a material breach of this Agreement entitling SBBC to terminate immediately with no further responsibilities or duties to perform under this Agreement. VENDOR agrees to indemnify and hold harmless SBBC, its officers and employees from any liability in the form of physical or mental injury, death or property damage resulting from VENDOR's failure to comply with the requirements of this Section or with Sections 1012.32 and 1012.465, Florida Statutes.

ARTICLE 3 – GENERAL CONDITIONS

3.01 **No Waiver of Sovereign Immunity**. Nothing herein is intended to serve as a waiver of sovereign immunity by any agency or political subdivision to which sovereign immunity may be applicable or of any rights or limits to liability existing under Section 768.28, Florida Statutes. This section shall survive the termination of all performance or obligations under this Agreement and shall be fully binding until such time as any proceeding brought on account of this Agreement is barred by any applicable statute of limitations.

3.02 **No Third Party Beneficiaries**. The parties expressly acknowledge that it is not their intent to create or confer any rights or obligations in or upon any third person or entity under this Agreement. None of the parties intend to directly or substantially benefit a third party by this Agreement. The parties agree that there are no third party beneficiaries to this Agreement and that no third party shall be entitled to assert a claim against any of the parties based upon this Agreement. Nothing herein shall be construed as consent by an agency or political subdivision of the State of Florida to be sued by third parties in any matter arising out of any contract.

3.03 **Independent Contractor**. The parties to this agreement shall at all times be acting in the capacity of independent contractors and not as an officer, employee or agent of one another. Neither party or its respective agents, employees, subcontractors or assignees shall represent to others that it has the authority to bind the other party unless specifically authorized in writing to do so. No right to SBBC retirement, leave benefits or any other benefits of SBBC employees shall exist as a result of the performance of any duties or responsibilities under this Agreement. SBBC shall not be responsible for social security, withholding taxes, contributions to unemployment compensation funds or insurance for the other party or the other party's officers, employees, agents, subcontractors or assignees.

3.04 **Equal Opportunity Provision**. The parties agree that no person shall be subjected to discrimination because of age, race, color, disability, gender identity, gender expression marital status, national origin, religion, sex or sexual orientation in the performance of the parties' respective duties, responsibilities and obligations under this Agreement.

3.05 **Termination**. This Agreement may be canceled with or without cause by SBBC during the term hereof upon thirty (30) days written notice to the other parties of its desire to terminate this Agreement. SBBC shall have no liability for any property left on SBBC's property by any party to this Agreement after the termination of this Agreement. Any party contracting with SBBC under this Agreement agrees that any of its property placed upon SBBC's facilities pursuant to this Agreement shall be removed within ten (10) business days following the termination, conclusion or cancellation of this Agreement and that any such property remaining upon SBBC's facilities after that time shall be deemed to be abandoned, title to such property shall pass to SBBC, and SBBC may use or dispose of such property as SBBC deems fit and appropriate.

3.06 **Default**. The parties agree that, in the event that either party is in default of its obligations under this Agreement, the non-defaulting party shall provide to the defaulting party (30) days written notice to cure the default. However, in the event said default cannot be cured within said thirty (30) day period and the defaulting party is diligently attempting in good faith to cure same, the time period shall be reasonably extended to allow the defaulting party additional cure time. Upon the occurrence of a default that is not cured during the applicable cure period, this Agreement may be terminated by the non-defaulting party upon thirty (30) days notice. This remedy is not intended to be exclusive of any other remedy, and each and every such remedy shall be cumulative and shall be in addition to every other remedy now or hereafter existing at law or in equity or by statute or otherwise. No single or partial exercise by any party of any right, power, or remedy hereunder shall preclude any other or future exercise thereof. Nothing in this section shall be construed to preclude termination for convenience pursuant to Section 3.05.

3.07 **Annual Appropriation.** The performance and obligations of SBBC under this Agreement shall be contingent upon an annual budgetary appropriation by its governing body. If SBBC does not allocate funds for the payment of services or products to be provided under this Agreement, this Agreement may be terminated by SBBC at the end of the period for which funds have been allocated. SBBC shall notify the other party at the earliest possible time before such termination. No penalty shall accrue to SBBC in the event this provision is exercised, and SBBC shall not be obligated or liable for any future payments due or any damages as a result of termination under this section.

3.08 **Excess Funds**. Any party receiving funds paid by SBBC under this Agreement agrees to promptly notify SBBC of any funds erroneously received from SBBC upon the discovery of such erroneous payment or overpayment. Any such excess funds shall be refunded to SBBC.

3.09 **Public Records**. Pursuant to Section 119.0701, Florida Statutes, any party contracting with SBBC is required to (a) keep and maintain available for public inspection any records that pertain to services rendered under this Agreement; (b) provide the public with access to public records on the same terms and conditions that SBBC would provide such records and 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; and (d) meet all requirements for retaining public records and transfer, at no cost to SBBC, all public records in that party's possession upon termination of its Agreement with SBBC and destroy any duplicate public records that are exempt or confidential and exempt from public records disclosure requirements. All of such party's records stored electronically must be provided to SBBC in a format that is compatible with SBBC's information technology systems. Each party shall maintain its own respective records and documents associated with this Agreement in accordance with the records retention requirements applicable to public records. Each party shall be responsible for compliance with any public documents request served upon it pursuant to Section 119.07, Florida Statutes, and any resultant award of attorney's fees for non-compliance with that law. Each party acknowledges that this Agreement and all attachments thereto are public records and do not constitute trade secrets.

3.10 **Student Records**: Notwithstanding any provision to the contrary within this Agreement, any party contracting with SBBC under this Agreement shall fully comply with the requirements of Sections 1002.22 and 1002.221, Florida Statutes; FERPA, and any other state or federal law or regulation regarding the confidentiality of student information and records. Each such party agrees, for itself, its officers, employees, agents, representatives, contractors or subcontractors, to fully indemnify and hold harmless SBBC and its officers and employees for any violation of this section, including, without limitation, defending SBBC and its officers and employees against any complaint, administrative or judicial proceeding, payment of any penalty imposed upon SBBC, or payment of any and all costs, damages, judgments or losses incurred by or imposed upon SBBC arising out of a breach of this covenant by the party, or an officer, employee, agent, representative, contractor, or sub-contractor of the party to the extent that the party or an officer, employee, agent, representative, contractor, or sub-contractor of the party shall either intentionally or negligently violate the provisions of this section or of Sections 1002.22 and/or 1002.221, Florida Statutes.

3.11 **Compliance with Laws**. Each party shall comply with all applicable federal, state and local laws, SBBC policies, codes, rules and regulations in performing its duties, responsibilities and obligations pursuant to this Agreement.

3.12 **Place of Performance**. All obligations of SBBC under the terms of this Agreement are reasonably susceptible of being performed in Broward County, Florida and shall be payable and performable in Broward County, Florida.

3.13 **Governing Law and Venue**. This Agreement shall be interpreted and construed in accordance with and governed by the laws of the State of Florida. Any controversies or legal problems arising out of this Agreement and any action involving the enforcement or interpretation of any rights hereunder shall be submitted to the jurisdiction of the State courts of the Seventeenth Judicial Circuit of Broward County, Florida.

3.14 **Entirety of Agreement**. This document incorporates and includes all prior negotiations, correspondence, conversations, agreements and understandings applicable to the matters contained herein and the parties agree that there are no commitments, agreements or understandings concerning the subject matter of this Agreement that are not contained in this document. Accordingly, the parties agree that no deviation from the terms hereof shall be predicated upon any prior representations or agreements, whether oral or written.

3.15 **Binding Effect**. This Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective successors and assigns.

3.16 **Assignment**. Neither this Agreement nor any interest herein may be assigned, transferred or encumbered by any party without the prior written consent of the other party. There shall be no partial assignments of this Agreement including, without limitation, the partial assignment of any right to receive payments from SBBC.

3.17 **Incorporation by Reference**. **Attachment A** attached hereto and referenced herein shall be deemed to be incorporated into this Agreement by reference.

3.18 **Captions**. The captions, section designations, section numbers, article numbers, titles and headings appearing in this Agreement are inserted only as a matter of convenience, have no substantive meaning, and in no way define, limit, construe or describe the scope or intent of such articles or sections of this Agreement, nor in any way affect this Agreement and shall not be construed to create a conflict with the provisions of this Agreement.

3.19 **Severability**. In the event that any one or more of the sections, paragraphs, sentences, clauses or provisions contained in this Agreement is held by a court of competent jurisdiction to be invalid, illegal, unlawful, unenforceable or void in any respect, such shall not affect the remaining portions of this Agreement and the same shall remain in full force and effect as if such invalid, illegal, unlawful, unenforceable or void sections, paragraphs, sentences, clauses or provisions had never been included herein.

3.20 **Preparation of Agreement**. The parties acknowledge that they have sought and obtained whatever competent advice and counsel as was necessary for them to form a full and complete understanding of all rights and obligations herein and that the preparation of this Agreement has been their joint effort. The language agreed to herein expresses their mutual intent and the resulting document shall not, solely as a matter of judicial construction, be construed more severely against one of the parties than the other.

3.21 **Amendments**. No modification, amendment, or alteration in the terms or conditions contained herein shall be effective unless contained in a written document prepared with the same or similar formality as this Agreement and executed by each party hereto.

3.22 **Waiver**. The parties agree that each requirement, duty and obligation set forth herein is substantial and important to the formation of this Agreement and, therefore, is a material term hereof. Any party's failure to enforce any provision of this Agreement shall not be deemed a waiver of such provision or modification of this Agreement unless the waiver is in writing and signed by the party waiving such provision. A written waiver shall only be effective as to the specific instance for which it is obtained and shall not be deemed a continuing or future waiver.

3.23 **Force Majeure**. Neither party shall be obligated to perform any duty, requirement or obligation under this Agreement if such performance is prevented by fire, hurricane, earthquake, explosion, wars, sabotage, accident, flood, acts of God, strikes, or other labor disputes, riot or civil commotions, or by reason of any other matter or condition beyond the control of either party, and which cannot be overcome by reasonable diligence and without unusual expense ("Force Majeure"). In no event shall a lack of funds on the part of either party be deemed Force Majeure.

3.24 **Survival**. All representations and warranties made herein, indemnification obligations, obligations to reimburse SBBC, obligations to maintain and allow inspection and audit of records and property, obligations to maintain the confidentiality of records, reporting requirements, and obligations to return public funds shall survive the termination of this Agreement.

3.25 **Contract Administration.** SBBC has delegated authority to the Superintendent of Schools or his/her designee to take any actions necessary to implement and administer this Agreement.

3.26. **Liability**. This section shall survive the termination of all performance or obligations under this Agreement and shall be fully binding until such time as any proceeding brought on account of this Agreement is barred by any applicable statute of limitations.

A. By SBBC: SBBC agrees to be fully responsible up to the limits of Section 768.28, Florida Statutes, for its acts of negligence, or its employees' acts of negligence when acting within the scope of their employment and agrees to be liable for any damages resulting from said negligence.

B. By VENDOR: VENDOR agrees to indemnify, hold harmless and defend SBBC, its agents, servants and employees from any and all claims, judgments, costs, and expenses including, but not limited to, reasonable attorney's fees, reasonable investigative and discovery costs, court costs and all other sums which SBBC, its agents, servants and employees may pay or become obligated to pay on account of any, all and every claim or demand, or assertion of liability, or any claim or action founded thereon, arising or alleged to have arisen out of the products, goods or services furnished by VENDOR, its agents, servants or employees; the equipment of VENDOR, its agents, servants or employees while such equipment is on premises owned or controlled by SBBC; or the negligence of VENDOR or the negligence of VENDOR's agents when acting within the scope of their employment, whether such claims, judgments, costs and expenses be for damages, damage to property including SBBC's property, and injury or death of any person whether employed by VENDOR, SBBC or otherwise.

3.27 **Authority**. Each person signing this Agreement on behalf of either party individually warrants that he or she has full legal power to execute this Agreement on behalf of the party for whom he or she is signing, and to bind and obligate such party with respect to all provisions contained in this Agreement.

IN WITNESS WHEREOF, the Parties hereto have made and executed this Agreement on the date first above written.

FOR SBBC

(Corporate Seal)

THE SCHOOL BOARD OF BROWARD COUNTY, FLORIDA

By_____
Dr. Rosalind Osgood, Chair

ATTEST:

_____
Robert W. Runcie, Superintendent of Schools

Approved as to Form and Legal Content:

Kathelyn Jacques-Adams

Digitally signed by Kathelyn Jacques-Adams
DN: cn=Kathelyn Jacques-Adams, o=The School District of Broward County, Florida, ou=The Office of the General Counsel, email=kathelyn.jacques-adams@browardschools.com, c=US
Date: 2016.05.25 21:42:52 -04'00'

_____
Office of the General Counsel

FOR VENDOR

(Corporate Seal)

DEBRA KIRBY, INC.

ATTEST:

By _____

_____, Secretary

-or-

_____

Witness Derek McDonnell

_____

Witness Sheena Williams

The Following Notarization is Required for Every Agreement Without Regard to Whether the Party Chose to Use a Secretary's Attestation or Two (2) Witnesses.

STATE OF Florida

COUNTY OF Broward

The foregoing instrument was acknowledged before me this 5 day of May, 2019 by Debra Kirby (Name of Person) of Debra Kirby Inc (Name of Corporation or Agency), on behalf of the corporation/agency.

He/She is personally known to me or produced FLDL (Type of Identification) as identification and did/did not first take an oath.

My Commission Expires:
Nov. 1, 2019

_____
Signature – Notary Public

Antonia Fontanazza
Printed Name of Notary

(SEAL)

ANTONIA FONTANAZZA
Notary Public, State of Florida
Commission# FF 916099
My comm. expires Nov. 1, 2019

FF 916099
Notary's Commission No.

ATTACHMENT A

SCOPE OF SERVICES

1. VENDOR shall provide occupational and physical therapy services in accordance with Broward County Schools Special Programs and Procedures. A copy of these procedures may be obtained on Exceptional Student Education's website at http://www.broward.k12.fl.us/studentsupport/ese/pdf/SP&P.pdf or as updated by SBBC.

2. VENDOR shall provide current licensed occupational and physical therapists under this Agreement. **Award of this Agreement shall not be a guarantee of business, a guarantee of specified volume of service or minimum dollar revenue to be received under this Agreement.**

3. VENDOR shall report to the Program Specialist and/or Curriculum Supervisor regarding services under this Agreement.

4. VENDOR shall be compensated for direct student services and student related activities only. VENDOR shall not be compensated/reimbursed for travel under this Agreement.

5. VENDOR shall provide the following services, but not limited to, initial student evaluations, small group or individual therapy with students, record-keeping for student attendance, supervising assistants, preparing progress reports and therapy notes, preparing a therapy plan of care, participating in the development of Individual Education Plans (IEP), attendance at required eligibility, IEP and dismissal staffings, attending in-service meetings as requested and providing consultation with parents, school area, district staff and physicians, as needed. For Certified Occupational Therapy Assistants (COTA) and Licensed Physical Therapy Assistant (LPTA), service shall be provided under supervision in accordance with the OT/PT Practice ACT. VENDOR will complete all appropriate documentation for Medicaid Reimbursement.

6. VENDOR shall provide services consistent with the professional standards of care and comply with all the medical and ethical requirements imposed by the State of Florida, Board of Medicine, the Department of Professional Regulations, the Florida State Department of Education and any other applicable federal, state or local regulatory agency.

7. VENDOR shall provide the requested level of service(s), in accordance with and/or changes for services requested by SBBC, within five (5) calendar days of notice, unless otherwise mutually agreed upon. Excessive failure to meet the needs as requested will result in cancellation of VENDOR's Agreement.

8. VENDOR will maintain normal working hours of 8:00 a.m. to 4:00 p.m. Hours may occasionally be extended from 7:00 a.m. to 4:30 p.m. There will be no reimbursement for a thirty (30) minute lunch period. SBBC may only be invoiced for up to 7.5 hours per day unless prior approval has been granted by SBBC staff for extended service time. Awardee(s) may provide a maximum of four (4) hours of service as needed on each scheduled employee planning day. Invoices not complying with this will be rejected and returned for correction and failure to invoice correctly will result in a delay of payment. Any VENDOR who consistently submits invoices that are not correct may be found in default of Agreement.

SCOPE OF SERVICES

9. VENDOR shall respond to requested services within five (5) school days of the request by submitting to an interview by a designated SBBC representative. Firms can also offer these services and interviews as required.

10. VENDOR shall provide uninterrupted services based upon the current school calendar to students by providing qualified substitutes or replacements in the event of an anticipated or unanticipated lapse of service. A qualified substitute is defined to be a therapist for a therapist or a therapist assistant for an assistant. All qualified substitutes must display an SBBC identification badge. (See General Condition 7.42) Any lapse of service to SBBC for five student attendance days during any school year will result in default of Agreement. VENDOR may be responsible to provide compensatory services or payments to SBBC for lapse of service.

11. VENDOR shall provide a service schedule of all personnel for approval on a regular basis as determined by a designated SBBC representative.

12. VENDOR shall follow all procedures (including, but not limited to, signing in and out, no telephone calls during treatment time) of individual schools where they are assigned. All therapists must carry a cell phone for critical communication throughout the day with SBBC personnel as established. These numbers must be provided to SBBC personnel. There shall be no cost to SBBC to use these communication devices.

13. VENDOR shall prepare time logs, reports, written analysis and other written memoranda in the form and manner deemed appropriate by SBBC.

14. VENDOR shall bill under SBBC's Medicaid provider number, when needed.

15. VENDOR, under this Agreement, shall be required to pass the screening of the of the Broward School's Police, Security Clearance Department prior to placement of assignment as required by SBBC (See General Condition 7.42 of the RFP, SBBC Photo Identification Badge). VENDOR must utilize the STAR system and/or sign-in/out procedures to document attendance at assigned location(s).

16. SBBC reserves the right to interview all therapy candidates prior to placement. K-12 experience is preferred. SBBC reserves the right to refuse to utilize any proposed therapy candidate. SBBC reserves the right to have an individual therapist removed from the assigned position. VENDOR will have five workdays in which to propose a replacement therapist. Should VENDOR be unable to provide an acceptable replacement, all other contracted Awardees will then be notified to submit a candidate to SBBC.

17. VENDOR shall provide proof of services on an original approved voucher form upon initiation of services and up until training is provided on the Accelify Electronic Management System. Once VENDOR has received training, VENDOR shall then submit all invoices electronically.

SCOPE OF SERVICES

18. VENDOR shall have all therapists and assistants and required substitutes or replacements submit to, and pass, the screening of the Special Investigative Unit (SIU), including fingerprinting, prior to working with students as required for all SBBC personnel. All therapists and assistants shall display an SBBC Identification Badge during contracted work hours. VENDOR will be required to pay the required fees for screening, fingerprinting and photo identification. (See General Condition 7.42 of the RFP)

19. VENDOR shall cooperate with SBBC in its partnership with universities and colleges to provide supervision of practicum experience for student therapists and assistants.

20. VENDOR may be evaluated annually in areas to include, but not be limited to, responsiveness, continuity of service, quality of work and professionalism.

21. VENDOR shall not provide private assessments or therapy services to students on their own public school caseload.

22. VENDOR and all therapists and assistants shall attend an orientation workshop of not less than three hours. This orientation workshop will include, but not be limited to, general information on the policies and procedures of the Broward County Special Programs and Procedures, the rights of students with disabilities, and other operational procedures required to carry out the therapy program. Additional workshops may be required during the term of the Agreement.

23. VENDOR will receive, from SBBC, requested materials, equipment and other related items which have been determined to be necessary to carry out the therapy program for students when approved by a designated SBBC representative.

24. VENDOR shall insure that their provider has the necessary technology (eg. Laptop, desktop computer, etc.) needed to carryout job responsibilities.

AGREEMENT

THIS AGREEMENT is made and entered into as of this ____ day of _____, 2016, by and between

THE SCHOOL BOARD OF BROWARD COUNTY, FLORIDA
(hereinafter referred to as "SBBC"),
a body corporate and political subdivision of the State of Florida,
whose principal place of business is
600 Southeast Third Avenue, Fort Lauderdale, Florida 33301

and

DENISE GOLDSTEIN, PTA, INC.
(hereinafter referred to as "VENDOR"),
whose principal place of business is
10902 NW 18th Place
Plantation, Florida 33322

WHEREAS, SBBC issued a Request for Proposal identified as RFP 17-005V – Occupational and Physical Therapy Services (hereinafter referred to as "RFP"), dated December 11, 2015 and amended by Addendum No. 2, dated January 15, 2016, and Addendum No. 1, dated January 9, 2016 all of which are incorporated by reference herein, for the purpose of receiving proposals for occupational and physical therapy services; and

WHEREAS, VENDOR offered a proposal dated January 18, 2016 (hereinafter referred to as "Proposal") which is incorporated by reference herein, in response to this RFP; and

NOW, THEREFORE, in consideration of the premises and of the mutual covenants contained herein and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the Parties hereby agree as follows:

ARTICLE 1 - RECITALS

1.01 **Recitals**. The parties agree that the foregoing recitals are true and correct and that such recitals are incorporated herein by reference.

ARTICLE 2 – SPECIAL CONDITIONS

2.01 **Term of Agreement**. Unless terminated earlier pursuant to Section 3.05 of this Agreement, the term of this Agreement shall commence on **July 1, 2016** and conclude on **June 30, 2019.** The term of the Agreement may, by mutual agreement between SBBC and VENDOR be extended for two additional one-year periods and, if needed, 180 days beyond the expiration date of the renewal period. SBBC's Procurement & Warehousing Services Department, will, if considering renewing, request a letter consenting to renewal from VENDOR, prior to the end of the term. Any renewal period shall be approved by an Amendment to this Agreement executed by both parties

2.02 **Priority of Documents.** In the event of a conflict between documents, the following priority of documents shall govern.

First: This Agreement, then;
Second: Addendum No. 2, then;
Third: Addendum No. 1, then;
Fourth: RFP 17-005V – Occupational and Physical Therapy Services, then;
Fifth: Proposal submitted in response to the RFP by VENDOR.

2.03 **Services**: VENDOR shall provide SBBC with services as proposed in its Proposal and in compliance with this Agreement and the RFP and its Addenda and as specified in **Attachment A**.

2.04 **Cost of Services**. SBBC shall pay VENDOR for cost of services satisfactorily rendered for:

Licensed Physical Therapist Assistant (LPTA) at $45.00/hr.

Costs shall not exceed the amount as stated on the Purchase Order. VENDOR may offer SBBC a special educational discount for pricing and reduce the cost of services during the term of the Agreement. VENDOR may invoice SBBC at an hourly rate less than their original bid price.

2.05 **M/WBE Participation**. VENDOR is a current Certified MWBE, Caucasian Female, with SBBC, Certificate #7007-5546.

2.06 **Inspection of VENDOR's Records by SBBC**. VENDOR shall establish and maintain books, records and documents (including electronic storage media) sufficient to reflect all income and expenditures of funds provided by SBBC under this Agreement. All VENDOR's Records, regardless of the form in which they are kept, shall be open to inspection and subject to audit, inspection, examination, evaluation and/or reproduction, during normal working hours, by SBBC's agent or its authorized representative to permit SBBC to evaluate, analyze and verify the satisfactory performance of the terms and conditions of this Agreement and to evaluate, analyze and verify any and all invoices, billings, payments and/or claims submitted by VENDOR or any of VENDOR's payees pursuant to this Agreement. VENDOR's Records subject to examination shall include, without limitation, those records necessary to evaluate and verify direct and indirect costs (including overhead allocations) as they may apply to costs associated with this Agreement. VENDOR's Records subject to this section shall include any and all documents pertinent to the evaluation, analysis, verification and reconciliation of any and all expenditures under this Agreement without regard to funding sources.

(a) VENDOR's Records Defined. For the purposes of this Agreement, the term "VENDOR's Records" shall include, without limitation, accounting records, payroll time sheets, cancelled payroll checks, W-2 forms, written policies and procedures, computer records, disks and software, videos, photographs, executed subcontracts, subcontract files (including proposals of successful and unsuccessful bidders), original estimates, estimating worksheets, correspondence, change order files (including sufficient supporting documentation and documentation covering negotiated settlements), and any other supporting documents that would substantiate, reconcile or refute any charges and/or expenditures related to this Agreement.

(b) Duration of Right to Inspect. For the purpose of such audits, inspections, examinations, evaluations and/or reproductions, SBBC's agent or authorized representative shall have access to VENDOR's Records from the effective date of this Agreement, for the duration of the term of this Agreement, and until the later of five (5) years after the termination of this Agreement or five (5) years after the date of final payment by SBBC to VENDOR pursuant to this Agreement.

(c) Notice of Inspection. SBBC's agent or its authorized representative shall provide VENDOR reasonable advance notice (not to exceed two (2) weeks) of any intended audit, inspection, examination, evaluation and or reproduction.

(d) Audit Site Conditions. SBBC's agent or its authorized representative shall have access to VENDOR's facilities and to any and all records related to this Agreement, and shall be provided adequate and appropriate work space in order to exercise the rights permitted under this section.

(e) Failure to Permit Inspection. Failure by VENDOR to permit audit, inspection, examination, evaluation and/or reproduction as permitted under this Section shall constitute grounds for termination of this Agreement by SBBC for cause and shall be grounds for the denial of some or all of any VENDOR's claims for payment by SBBC.

(f) Overcharges and Unauthorized Charges. If an audit conducted in accordance with this Section discloses overcharges or unauthorized charges to SBBC by VENDOR in excess of two percent (2%) of the total billings under this Agreement, the actual cost of SBBC's audit shall be paid by VENDOR. If the audit discloses billings or charges to which VENDOR is not contractually entitled, VENDOR shall pay said sum to SBBC within twenty (20) days of receipt of written demand under otherwise agreed to in writing by both parties.

(g) Inspection of Subcontractor's Records. VENDOR shall require any and all subcontractors, insurance agents and material suppliers (hereafter referred to as "Payees") providing services or goods with regard to this Agreement to comply with the requirements of this section by insertion of such requirements in any written subcontract. Failure by VENDOR to include such requirements in any subcontract shall constitute grounds for termination of this Agreement by SBBC for cause and shall be grounds for the exclusion of some or all of any Payee's costs from amounts payable by SBBC to VENDOR pursuant to this Agreement and such excluded costs shall become the liability of VENDOR.

(h) Inspector General Audits. VENDOR shall comply and cooperate immediately with any inspections, reviews, investigations, or audits deemed necessary by the Florida Office of the Inspector General or by any other state or federal officials.

2.07 **Notice**. When any of the parties desire to give notice to the other, such notice must be in writing, sent by U.S. Mail, postage prepaid, addressed to the party for whom it is intended at the place last specified; the place for giving notice shall remain such until it is changed by written notice in compliance with the provisions of this paragraph. For the present, the Parties designate the following as the respective places for giving notice:

To SBBC:
Superintendent of Schools
The School Board of Broward County, Florida
600 S.E. 3rd. Avenue
Fort Lauderdale, Florida 33301

With a Copy to: Director, ESE Department
The School Board of Broward County, Florida
Arthur Ashe Campus
1701 NW 23 Avenue
Fort Lauderdale, FL 33311

To VENDOR: Denise Goldstein, PTA, Inc.
10902 NW 18th Place
Plantation, Florida 33322

2.08 **Background Screening.** VENDOR agrees to comply with all requirements of Sections 1012.32 and 1012.465, Florida Statutes, and all of its personnel who (1) are to be permitted access to school grounds when students are present, (2) will have direct contact with students, or (3) have access or control of school funds, will successfully complete the background screening required by the referenced statutes and meet the standards established by the statutes. This background screening will be conducted by SBBC in advance of VENDOR or its personnel providing any services under the conditions described in the previous sentence. VENDOR shall bear the cost of acquiring the background screening required by Section 1012.32, Florida Statutes, and any fee imposed by the Florida Department of Law Enforcement to maintain the fingerprints provided with respect to VENDOR and its personnel. The parties agree that the failure of VENDOR to perform any of the duties described in this section shall constitute a material breach of this Agreement entitling SBBC to terminate immediately with no further responsibilities or duties to perform under this Agreement. VENDOR agrees to indemnify and hold harmless SBBC, its officers and employees from any liability in the form of physical or mental injury, death or property damage resulting from VENDOR's failure to comply with the requirements of this Section or with Sections 1012.32 and 1012.465, Florida Statutes.

ARTICLE 3 – GENERAL CONDITIONS

3.01 **No Waiver of Sovereign Immunity**. Nothing herein is intended to serve as a waiver of sovereign immunity by any agency or political subdivision to which sovereign immunity may be applicable or of any rights or limits to liability existing under Section 768.28, Florida Statutes. This section shall survive the termination of all performance or obligations under this Agreement and shall be fully binding until such time as any proceeding brought on account of this Agreement is barred by any applicable statute of limitations.

3.02 **No Third Party Beneficiaries**. The parties expressly acknowledge that it is not their intent to create or confer any rights or obligations in or upon any third person or entity under this Agreement. None of the parties intend to directly or substantially benefit a third party by this Agreement. The parties agree that there are no third party beneficiaries to this Agreement and that no third party shall be entitled to assert a claim against any of the parties based upon this Agreement. Nothing herein shall be construed as consent by an agency or political subdivision of the State of Florida to be sued by third parties in any matter arising out of any contract.

3.03 **Independent Contractor**. The parties to this agreement shall at all times be acting in the capacity of independent contractors and not as an officer, employee or agent of one another. Neither party or its respective agents, employees, subcontractors or assignees shall represent to others that it has the authority to bind the other party unless specifically authorized in writing to do so. No right to SBBC retirement, leave benefits or any other benefits of SBBC employees shall exist as a result of the performance of any duties or responsibilities under this Agreement. SBBC shall not be responsible for social security, withholding taxes, contributions to unemployment compensation funds or insurance for the other party or the other party's officers, employees, agents, subcontractors or assignees.

3.04 **Equal Opportunity Provision**. The parties agree that no person shall be subjected to discrimination because of age, race, color, disability, gender identity, gender expression marital status, national origin, religion, sex or sexual orientation in the performance of the parties' respective duties, responsibilities and obligations under this Agreement.

3.05 **Termination**. This Agreement may be canceled with or without cause by SBBC during the term hereof upon thirty (30) days written notice to the other parties of its desire to terminate this Agreement. SBBC shall have no liability for any property left on SBBC's property by any party to this Agreement after the termination of this Agreement. Any party contracting with SBBC under this Agreement agrees that any of its property placed upon SBBC's facilities pursuant to this Agreement shall be removed within ten (10) business days following the termination, conclusion or cancellation of this Agreement and that any such property remaining upon SBBC's facilities after that time shall be deemed to be abandoned, title to such property shall pass to SBBC, and SBBC may use or dispose of such property as SBBC deems fit and appropriate.

3.06 **Default**. The parties agree that, in the event that either party is in default of its obligations under this Agreement, the non-defaulting party shall provide to the defaulting party (30) days written notice to cure the default. However, in the event said default cannot be cured within said thirty (30) day period and the defaulting party is diligently attempting in good faith to cure same, the time period shall be reasonably extended to allow the defaulting party additional cure time. Upon the occurrence of a default that is not cured during the applicable cure period, this Agreement may be terminated by the non-defaulting party upon thirty (30) days notice. This remedy is not intended to be exclusive of any other remedy, and each and every such remedy shall be cumulative and shall be in addition to every other remedy now or hereafter existing at law or in equity or by statute or otherwise. No single or partial exercise by any party of any right, power, or remedy hereunder shall preclude any other or future exercise thereof. Nothing in this section shall be construed to preclude termination for convenience pursuant to Section 3.05.

3.07 **Annual Appropriation.** The performance and obligations of SBBC under this Agreement shall be contingent upon an annual budgetary appropriation by its governing body. If SBBC does not allocate funds for the payment of services or products to be provided under this Agreement, this Agreement may be terminated by SBBC at the end of the period for which funds have been allocated. SBBC shall notify the other party at the earliest possible time before such termination. No penalty shall accrue to SBBC in the event this provision is exercised, and SBBC shall not be obligated or liable for any future payments due or any damages as a result of termination under this section.

3.08 **Excess Funds**. Any party receiving funds paid by SBBC under this Agreement agrees to promptly notify SBBC of any funds erroneously received from SBBC upon the discovery of such erroneous payment or overpayment. Any such excess funds shall be refunded to SBBC.

3.09 **Public Records**. Pursuant to Section 119.0701, Florida Statutes, any party contracting with SBBC is required to (a) keep and maintain available for public inspection any records that pertain to services rendered under this Agreement; (b) provide the public with access to public records on the same terms and conditions that SBBC would provide such records and 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; and (d) meet all requirements for retaining public records and transfer, at no cost to SBBC, all public records in that party's possession upon termination of its Agreement with SBBC and destroy any duplicate public records that are exempt or confidential and exempt from public records disclosure requirements. All of such party's records stored electronically must be provided to SBBC in a format that is compatible with SBBC's information technology systems. Each party shall maintain its own respective records and documents associated with this Agreement in accordance with the records retention requirements applicable to public records. Each party shall be responsible for compliance with any public documents request served upon it pursuant to Section 119.07, Florida Statutes, and any resultant award of attorney's fees for non-compliance with that law. Each party acknowledges that this Agreement and all attachments thereto are public records and do not constitute trade secrets.

3.10 **Student Records**: Notwithstanding any provision to the contrary within this Agreement, any party contracting with SBBC under this Agreement shall fully comply with the requirements of Sections 1002.22 and 1002.221, Florida Statutes; FERPA, and any other state or federal law or regulation regarding the confidentiality of student information and records. Each such party agrees, for itself, its officers, employees, agents, representatives, contractors or subcontractors, to fully indemnify and hold harmless SBBC and its officers and employees for any violation of this section, including, without limitation, defending SBBC and its officers and employees against any complaint, administrative or judicial proceeding, payment of any penalty imposed upon SBBC, or payment of any and all costs, damages, judgments or losses incurred by or imposed upon SBBC arising out of a breach of this covenant by the party, or an officer, employee, agent, representative, contractor, or sub-contractor of the party to the extent that the party or an officer, employee, agent, representative, contractor, or sub-contractor of the party shall either intentionally or negligently violate the provisions of this section or of Sections 1002.22 and/or 1002.221, Florida Statutes.

3.11 **Compliance with Laws**. Each party shall comply with all applicable federal, state and local laws, SBBC policies, codes, rules and regulations in performing its duties, responsibilities and obligations pursuant to this Agreement.

3.12 **Place of Performance**. All obligations of SBBC under the terms of this Agreement are reasonably susceptible of being performed in Broward County, Florida and shall be payable and performable in Broward County, Florida.

3.13 **Governing Law and Venue**. This Agreement shall be interpreted and construed in accordance with and governed by the laws of the State of Florida. Any controversies or legal problems arising out of this Agreement and any action involving the enforcement or interpretation of any rights hereunder shall be submitted to the jurisdiction of the State courts of the Seventeenth Judicial Circuit of Broward County, Florida.

3.14 **Entirety of Agreement**. This document incorporates and includes all prior negotiations, correspondence, conversations, agreements and understandings applicable to the matters contained herein and the parties agree that there are no commitments, agreements or understandings concerning the subject matter of this Agreement that are not contained in this document. Accordingly, the parties agree that no deviation from the terms hereof shall be predicated upon any prior representations or agreements, whether oral or written.

3.15 **Binding Effect**. This Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective successors and assigns.

3.16 **Assignment**. Neither this Agreement nor any interest herein may be assigned, transferred or encumbered by any party without the prior written consent of the other party. There shall be no partial assignments of this Agreement including, without limitation, the partial assignment of any right to receive payments from SBBC.

3.17 **Incorporation by Reference**. **Attachment A** attached hereto and referenced herein shall be deemed to be incorporated into this Agreement by reference.

3.18 **Captions**. The captions, section designations, section numbers, article numbers, titles and headings appearing in this Agreement are inserted only as a matter of convenience, have no substantive meaning, and in no way define, limit, construe or describe the scope or intent of such articles or sections of this Agreement, nor in any way affect this Agreement and shall not be construed to create a conflict with the provisions of this Agreement.

3.19 **Severability**. In the event that any one or more of the sections, paragraphs, sentences, clauses or provisions contained in this Agreement is held by a court of competent jurisdiction to be invalid, illegal, unlawful, unenforceable or void in any respect, such shall not affect the remaining portions of this Agreement and the same shall remain in full force and effect as if such invalid, illegal, unlawful, unenforceable or void sections, paragraphs, sentences, clauses or provisions had never been included herein.

3.20 **Preparation of Agreement**. The parties acknowledge that they have sought and obtained whatever competent advice and counsel as was necessary for them to form a full and complete understanding of all rights and obligations herein and that the preparation of this Agreement has been their joint effort. The language agreed to herein expresses their mutual intent and the resulting document shall not, solely as a matter of judicial construction, be construed more severely against one of the parties than the other.

3.21 **Amendments**. No modification, amendment, or alteration in the terms or conditions contained herein shall be effective unless contained in a written document prepared with the same or similar formality as this Agreement and executed by each party hereto.

3.22 **Waiver**. The parties agree that each requirement, duty and obligation set forth herein is substantial and important to the formation of this Agreement and, therefore, is a material term hereof. Any party's failure to enforce any provision of this Agreement shall not be deemed a waiver of such provision or modification of this Agreement unless the waiver is in writing and signed by the party waiving such provision. A written waiver shall only be effective as to the specific instance for which it is obtained and shall not be deemed a continuing or future waiver.

3.23 **Force Majeure**. Neither party shall be obligated to perform any duty, requirement or obligation under this Agreement if such performance is prevented by fire, hurricane, earthquake, explosion, wars, sabotage, accident, flood, acts of God, strikes, or other labor disputes, riot or civil commotions, or by reason of any other matter or condition beyond the control of either party, and which cannot be overcome by reasonable diligence and without unusual expense ("Force Majeure"). In no event shall a lack of funds on the part of either party be deemed Force Majeure.

3.24 **Survival**. All representations and warranties made herein, indemnification obligations, obligations to reimburse SBBC, obligations to maintain and allow inspection and audit of records and property, obligations to maintain the confidentiality of records, reporting requirements, and obligations to return public funds shall survive the termination of this Agreement.

3.25 **Contract Administration.** SBBC has delegated authority to the Superintendent of Schools or his/her designee to take any actions necessary to implement and administer this Agreement.

3.26. **Liability**. This section shall survive the termination of all performance or obligations under this Agreement and shall be fully binding until such time as any proceeding brought on account of this Agreement is barred by any applicable statute of limitations.

A. By SBBC: SBBC agrees to be fully responsible up to the limits of Section 768.28, Florida Statutes, for its acts of negligence, or its employees' acts of negligence when acting within the scope of their employment and agrees to be liable for any damages resulting from said negligence.

B. By VENDOR: VENDOR agrees to indemnify, hold harmless and defend SBBC, its agents, servants and employees from any and all claims, judgments, costs, and expenses including, but not limited to, reasonable attorney's fees, reasonable investigative and discovery costs, court costs and all other sums which SBBC, its agents, servants and employees may pay or become obligated to pay on account of any, all and every claim or demand, or assertion of liability, or any claim or action founded thereon, arising or alleged to have arisen out of the products, goods or services furnished by VENDOR, its agents, servants or employees; the equipment of VENDOR, its agents, servants or employees while such equipment is on premises owned or controlled by SBBC; or the negligence of VENDOR or the negligence of VENDOR's agents when acting within the scope of their employment, whether such claims, judgments, costs and expenses be for damages, damage to property including SBBC's property, and injury or death of any person whether employed by VENDOR, SBBC or otherwise.

3.27 **Authority**. Each person signing this Agreement on behalf of either party individually warrants that he or she has full legal power to execute this Agreement on behalf of the party for whom he or she is signing, and to bind and obligate such party with respect to all provisions contained in this Agreement.

IN WITNESS WHEREOF, the Parties hereto have made and executed this Agreement on the date first above written.

FOR SBBC

(Corporate Seal)

THE SCHOOL BOARD OF BROWARD COUNTY, FLORIDA

By_____
Dr. Rosalind Osgood, Chair

ATTEST:

_____
Robert W. Runcie, Superintendent of Schools

Approved as to Form and Legal Content:

Kathelyn Jacques-Adams

Digitally signed by Kathelyn Jacques-Adams
DN: cn=Kathelyn Jacques-Adams, o=The School District of Broward County, Florida, ou=The Office of the General Counsel, email=kathelyn.jacques-adams@browardschools.com, c=US
Date: 2016.05.25 12:40:50 -04'00'

_____
Office of the General Counsel

FOR VENDOR

(Corporate Seal)

DENISE GOLDSTEIN, PTA, INC.

ATTEST:

By Denise Goldstein

_____
, Secretary

-or-

_____
Witness

_____
Witness

The Following Notarization is Required for Every Agreement Without Regard to Whether the Party Chose to Use a Secretary's Attestation or Two (2) Witnesses.

STATE OF Florida

COUNTY OF Broward

The foregoing instrument was acknowledged before me this 6th day of May, 2016 by Denise Goldstein of
Name of Person
Denise Goldstein PTA Inc, on behalf of the corporation/agency.
Name of Corporation or Agency

He/She is personally known to me or produced _____ as identification and did/did not first take an oath.
Type of Identification

My Commission Expires:

MATTHEW B. CERNY
MY COMMISSION #FF079748
EXPIRES December 29, 2017
(407) 398-0153 FloridaNotaryService.com

(SEAL)

_____
Signature – Notary Public

Matthew B. Cerny
Printed Name of Notary

FF079748
Notary's Commission No.

ATTACHMENT A

SCOPE OF SERVICES

1. VENDOR shall provide a Licensed Physical Therapist Assistant (LPTA) services in accordance with Broward County Schools Special Programs and Procedures. A copy of these procedures may be obtained on Exceptional Student Education's website at http://www.broward.k12.fl.us/studentsupport/ese/pdf/SP&P.pdf or as updated by SBBC.

2. VENDOR shall provide a current LPTA under this Agreement. **Award of this Agreement shall not be a guarantee of business, a guarantee of specified volume of service or minimum dollar revenue to be received under this Agreement.**

3. VENDOR shall report to the Program Specialist and/or Curriculum Supervisor regarding services under this Agreement.

4. VENDOR shall be compensated for direct student services and student related activities only. VENDOR shall not be compensated/reimbursed for travel under this Agreement.

5. VENDOR shall provide the following services, but not limited to, initial student evaluations, small group or individual therapy with students, record-keeping for student attendance, supervising assistants, preparing progress reports and therapy notes, preparing a therapy plan of care, participating in the development of Individual Education Plans (IEP), attendance at required eligibility, IEP and dismissal staffings, attending in-service meetings as requested and providing consultation with parents, school area, district staff and physicians, as needed. For Licensed Physical Therapy Assistant (LPTA), service will be provided under supervision in accordance with the OT/PT Practice ACT. VENDOR shall complete all appropriate documentation for Medicaid Reimbursement.

6. VENDOR shall provide services consistent with the professional standards of care and comply with all the medical and ethical requirements imposed by the State of Florida, Board of Medicine, the Department of Professional Regulations, the Florida State Department of Education and any other applicable federal, state or local regulatory agency.

7. VENDOR shall provide the requested level of service(s), in accordance with and/or changes for services requested by SBBC, within five (5) calendar days of notice, unless otherwise mutually agreed upon. Excessive failure to meet the needs as requested will result in cancellation of VENDOR's Agreement.

8. VENDOR shall maintain normal working hours of 8:00 a.m. to 4:00 p.m. Hours may occasionally be extended from 7:00 a.m. to 4:30 p.m. There will be no reimbursement for a thirty (30) minute lunch period. SBBC may only be invoiced for up to 7.5 hours per day unless prior approval has been granted by SBBC staff for extended service time. Awardee(s) may provide a maximum of four (4) hours of service as needed on each scheduled employee planning day. Invoices not complying with this will be rejected and returned for correction and failure to invoice correctly will result in a delay of payment. Any VENDOR who consistently submits invoices that are not correct may be found in default of Agreement.

SCOPE OF SERVICES

9. VENDOR shall respond to requested services within five (5) school days of the request by submitting to an interview by a designated SBBC representative. Firms can also offer these services and interviews as required.

10. VENDOR shall provide uninterrupted services based upon the current school calendar to students by providing qualified substitutes or replacements in the event of an anticipated or unanticipated lapse of service. A qualified substitute is defined to be a therapist for a therapist or a therapist assistant for an assistant. All qualified substitutes must display an SBBC identification badge. (See General Condition 7.42) Any lapse of service to SBBC for five student attendance days during any school year will result in default of Agreement. VENDOR may be responsible to provide compensatory services or payments to SBBC for lapse of service.

11. VENDOR shall provide a service schedule of all personnel for approval on a regular basis as determined by a designated SBBC representative.

12. VENDOR shall follow all procedures (including, but not limited to, signing in and out, no telephone calls during treatment time) of individual schools where they are assigned. All therapists must carry a cell phone for critical communication throughout the day with SBBC personnel as established. These numbers must be provided to SBBC personnel. There shall be no cost to SBBC to use these communication devices.

13. VENDOR shall prepare time logs, reports, written analysis and other written memoranda in the form and manner deemed appropriate by SBBC.

14. VENDOR shall bill under SBBC's Medicaid provider number, when needed.

15. VENDOR, under this Agreement, shall be required to pass the screening of the of the Broward School's Police, Security Clearance Department prior to placement of assignment as required by SBBC (See General Condition 7.42 of the RFP, SBBC Photo Identification Badge). VENDOR must utilize the STAR system and/or sign-in/out procedures to document attendance at assigned location(s).

16. SBBC reserves the right to interview all therapy candidates prior to placement. K-12 experience is preferred. SBBC reserves the right to refuse to utilize any proposed therapy candidate. SBBC reserves the right to have an individual therapist removed from the assigned position. VENDOR will have five workdays in which to propose a replacement therapist. Should VENDOR be unable to provide an acceptable replacement, all other contracted Awardees will then be notified to submit a candidate to SBBC.

17. VENDOR shall provide proof of services on an original approved voucher form upon initiation of services and up until training is provided on the Accelify Electronic Management System. Once VENDOR has received training, VENDOR shall then submit all invoices electronically.

SCOPE OF SERVICES

18. VENDOR shall have all therapists and assistants and required substitutes or replacements submit to, and pass, the screening of the Special Investigative Unit (SIU), including fingerprinting, prior to working with students as required for all SBBC personnel. All therapists and assistants shall display an SBBC Identification Badge during contracted work hours. VENDOR will be required to pay the required fees for screening, fingerprinting and photo identification. (See General Condition 7.42 of the RFP)

19. VENDOR shall cooperate with SBBC in its partnership with universities and colleges to provide supervision of practicum experience for student therapists and assistants.

20. VENDOR may be evaluated annually in areas to include, but not be limited to, responsiveness, continuity of service, quality of work and professionalism.

21. VENDOR shall not provide private assessments or therapy services to students on their own public school caseload.

22. VENDOR and all therapists and assistants shall attend an orientation workshop of not less than three hours. This orientation workshop will include, but not be limited to, general information on the policies and procedures of the Broward County Special Programs and Procedures, the rights of students with disabilities, and other operational procedures required to carry out the therapy program. Additional workshops may be required during the term of the Agreement.

23. VENDOR will receive, from SBBC, requested materials, equipment and other related items which have been determined to be necessary to carry out the therapy program for students when approved by a designated SBBC representative.

24. VENDOR shall insure that their provider has the necessary technology (eg. Laptop, desktop computer, etc.) needed to carryout job responsibilities.

AGREEMENT

THIS AGREEMENT is made and entered into as of this ____ day of _____, 2016, by and between

THE SCHOOL BOARD OF BROWARD COUNTY, FLORIDA
(hereinafter referred to as "SBBC"),
a body corporate and political subdivision of the State of Florida,
whose principal place of business is
600 Southeast Third Avenue, Fort Lauderdale, Florida 33301

and

DIANA GONZALEZ
(hereinafter referred to as "VENDOR"),
whose principal place of business is
19265 NW 47th Place
Miami, Florida 33055

WHEREAS, SBBC issued a Request for Proposal identified as RFP 17-005V – Occupational and Physical Therapy Services (hereinafter referred to as "RFP"), dated December 11, 2015 and amended by Addendum No. 2, dated January 15, 2016, and Addendum No. 1, dated January 9, 2016 all of which are incorporated by reference herein, for the purpose of receiving proposals for occupational and physical therapy services; and

WHEREAS, VENDOR offered a proposal dated January 15, 2016 (hereinafter referred to as "Proposal") which is incorporated by reference herein, in response to this RFP.

NOW, THEREFORE, in consideration of the premises and of the mutual covenants contained herein and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the Parties hereby agree as follows:

ARTICLE 1 - RECITALS

1.01 **Recitals**. The parties agree that the foregoing recitals are true and correct and that such recitals are incorporated herein by reference.

ARTICLE 2 – SPECIAL CONDITIONS

2.01 **Term of Agreement**. Unless terminated earlier pursuant to Section 3.05 of this Agreement, the term of this Agreement shall commence on **July 1, 2016** and conclude on **June 30, 2019.** The term of the Agreement may, by mutual agreement between SBBC and VENDOR be extended for two additional one-year periods and, if needed, 180 days beyond the expiration date of the renewal period. SBBC's Procurement & Warehousing Services Department, will, if considering renewing, request a letter consenting to renewal from VENDOR, prior to the end of the term. Any renewal period shall be approved by an Amendment to this Agreement executed by both parties

2.02 **Priority of Documents.** In the event of a conflict between documents, the following priority of documents shall govern.

First: This Agreement, then;
Second: Addendum No. 2, then;
Third: Addendum No. 1, then;
Fourth: RFP 17-005V – Occupational and Physical Therapy Services, then;
Fifth: Proposal submitted in response to the RFP by VENDOR.

2.03 **Services**: VENDOR shall provide SBBC with the Scope of Services as proposed in its Proposal and in compliance with this Agreement and the RFP and its Addenda and as specified in **Attachment A – Scope of Services**.

2.04 **Cost of Services**. SBBC shall pay VENDOR for cost of services rendered for Occupational Therapy services at $64.00/hour. Costs shall not exceed the amount as stated on the Purchase Order. VENDOR may offer SBBC a special educational discount for pricing and reduce the cost of services during the term of the Agreement. VENDOR may invoice SBBC at an hourly rate less than their original bid price.

2.05 **M/WBE Participation**. VENDOR is a current Certified MWBE, Hispanic American, with SBBC, Certificate #7007-6220.

2.06 **Inspection of VENDOR's Records by SBBC**. VENDOR shall establish and maintain books, records and documents (including electronic storage media) sufficient to reflect all income and expenditures of funds provided by SBBC under this Agreement. All VENDOR's Records, regardless of the form in which they are kept, shall be open to inspection and subject to audit, inspection, examination, evaluation and/or reproduction, during normal working hours, by SBBC's agent or its authorized representative to permit SBBC to evaluate, analyze and verify the satisfactory performance of the terms and conditions of this Agreement and to evaluate, analyze and verify any and all invoices, billings, payments and/or claims submitted by VENDOR or any of VENDOR's payees pursuant to this Agreement. VENDOR's Records subject to examination shall include, without limitation, those records necessary to evaluate and verify direct and indirect costs (including overhead allocations) as they may apply to costs associated with this Agreement. VENDOR's Records subject to this section shall include any and all documents pertinent to the evaluation, analysis, verification and reconciliation of any and all expenditures under this Agreement without regard to funding sources.

(a) VENDOR's Records Defined. For the purposes of this Agreement, the term "VENDOR's Records" shall include, without limitation, accounting records, payroll time sheets, cancelled payroll checks, W-2 forms, written policies and procedures, computer records, disks and software, videos, photographs, executed subcontracts, subcontract files (including proposals of successful and unsuccessful bidders), original estimates, estimating worksheets, correspondence, change order files (including sufficient supporting documentation and documentation covering negotiated settlements), and any other supporting documents that would substantiate, reconcile or refute any charges and/or expenditures related to this Agreement.

(b) Duration of Right to Inspect. For the purpose of such audits, inspections, examinations, evaluations and/or reproductions, SBBC's agent or authorized representative shall have access to VENDOR's Records from the effective date of this Agreement, for the duration of the term of this Agreement, and until the later of five (5) years after the termination of this Agreement or five (5) years after the date of final payment by SBBC to VENDOR pursuant to this Agreement.

(c) Notice of Inspection. SBBC's agent or its authorized representative shall provide VENDOR reasonable advance notice (not to exceed two (2) weeks) of any intended audit, inspection, examination, evaluation and or reproduction.

(d) Audit Site Conditions. SBBC's agent or its authorized representative shall have access to VENDOR's facilities and to any and all records related to this Agreement, and shall be provided adequate and appropriate work space in order to exercise the rights permitted under this section.

(e) Failure to Permit Inspection. Failure by VENDOR to permit audit, inspection, examination, evaluation and/or reproduction as permitted under this Section shall constitute grounds for termination of this Agreement by SBBC for cause and shall be grounds for the denial of some or all of any VENDOR's claims for payment by SBBC.

(f) Overcharges and Unauthorized Charges. If an audit conducted in accordance with this Section discloses overcharges or unauthorized charges to SBBC by VENDOR in excess of two percent (2%) of the total billings under this Agreement, the actual cost of SBBC's audit shall be paid by VENDOR. If the audit discloses billings or charges to which VENDOR is not contractually entitled, VENDOR shall pay said sum to SBBC within twenty (20) days of receipt of written demand under otherwise agreed to in writing by both parties.

(g) Inspection of Subcontractor's Records. VENDOR shall require any and all subcontractors, insurance agents and material suppliers (hereafter referred to as "Payees") providing services or goods with regard to this Agreement to comply with the requirements of this section by insertion of such requirements in any written subcontract. Failure by VENDOR to include such requirements in any subcontract shall constitute grounds for termination of this Agreement by SBBC for cause and shall be grounds for the exclusion of some or all of any Payee's costs from amounts payable by SBBC to VENDOR pursuant to this Agreement and such excluded costs shall become the liability of VENDOR.

(h) Inspector General Audits. VENDOR shall comply and cooperate immediately with any inspections, reviews, investigations, or audits deemed necessary by the Florida Office of the Inspector General or by any other state or federal officials.

2.07 **Notice**. When any of the parties desire to give notice to the other, such notice must be in writing, sent by U.S. Mail, postage prepaid, addressed to the party for whom it is intended at the place last specified; the place for giving notice shall remain such until it is changed by written notice in compliance with the provisions of this paragraph. For the present, the Parties designate the following as the respective places for giving notice:

To SBBC: Superintendent of Schools
The School Board of Broward County, Florida
600 S.E. 3rd. Avenue
Fort Lauderdale, Florida 33301

With a Copy to: Director, ESE Department
The School Board of Broward County, Florida
Arthur Ashe Campus
1701 NW 23 Avenue
Fort Lauderdale, FL 33311

To VENDOR: Diana Gonzalez
19265 NW 47th Place
Miami, Florida 33055

2.08 **Background Screening.** VENDOR agrees to comply with all requirements of Sections 1012.32 and 1012.465, Florida Statutes, and all of its personnel who (1) are to be permitted access to school grounds when students are present, (2) will have direct contact with students, or (3) have access or control of school funds, will successfully complete the background screening required by the referenced statutes and meet the standards established by the statutes. This background screening will be conducted by SBBC in advance of VENDOR or its personnel providing any services under the conditions described in the previous sentence. VENDOR shall bear the cost of acquiring the background screening required by Section 1012.32, Florida Statutes, and any fee imposed by the Florida Department of Law Enforcement to maintain the fingerprints provided with respect to VENDOR and its personnel. The parties agree that the failure of VENDOR to perform any of the duties described in this section shall constitute a material breach of this Agreement entitling SBBC to terminate immediately with no further responsibilities or duties to perform under this Agreement. VENDOR agrees to indemnify and hold harmless SBBC, its officers and employees from any liability in the form of physical or mental injury, death or property damage resulting from VENDOR's failure to comply with the requirements of this Section or with Sections 1012.32 and 1012.465, Florida Statutes.

ARTICLE 3 – GENERAL CONDITIONS

3.01 **No Waiver of Sovereign Immunity**. Nothing herein is intended to serve as a waiver of sovereign immunity by any agency or political subdivision to which sovereign immunity may be applicable or of any rights or limits to liability existing under Section 768.28, Florida Statutes. This section shall survive the termination of all performance or obligations under this Agreement and shall be fully binding until such time as any proceeding brought on account of this Agreement is barred by any applicable statute of limitations.

3.02 **No Third Party Beneficiaries**. The parties expressly acknowledge that it is not their intent to create or confer any rights or obligations in or upon any third person or entity under this Agreement. None of the parties intend to directly or substantially benefit a third party by this Agreement. The parties agree that there are no third party beneficiaries to this Agreement and that no third party shall be entitled to assert a claim against any of the parties based upon this Agreement. Nothing herein shall be construed as consent by an agency or political subdivision of the State of Florida to be sued by third parties in any matter arising out of any contract.

3.03 **Independent Contractor**. The parties to this agreement shall at all times be acting in the capacity of independent contractors and not as an officer, employee or agent of one another. Neither party or its respective agents, employees, subcontractors or assignees shall represent to others that it has the authority to bind the other party unless specifically authorized in writing to do so. No right to SBBC retirement, leave benefits or any other benefits of SBBC employees shall exist as a result of the performance of any duties or responsibilities under this Agreement. SBBC shall not be responsible for social security, withholding taxes, contributions to unemployment compensation funds or insurance for the other party or the other party's officers, employees, agents, subcontractors or assignees.

3.04 **Equal Opportunity Provision**. The parties agree that no person shall be subjected to discrimination because of age, race, color, disability, gender identity, gender expression marital status, national origin, religion, sex or sexual orientation in the performance of the parties' respective duties, responsibilities and obligations under this Agreement.

3.05 **Termination**. This Agreement may be canceled with or without cause by SBBC during the term hereof upon thirty (30) days written notice to the other parties of its desire to terminate this Agreement. SBBC shall have no liability for any property left on SBBC's property by any party to this Agreement after the termination of this Agreement. Any party contracting with SBBC under this Agreement agrees that any of its property placed upon SBBC's facilities pursuant to this Agreement shall be removed within ten (10) business days following the termination, conclusion or cancellation of this Agreement and that any such property remaining upon SBBC's facilities after that time shall be deemed to be abandoned, title to such property shall pass to SBBC, and SBBC may use or dispose of such property as SBBC deems fit and appropriate.

3.06 **Default**. The parties agree that, in the event that either party is in default of its obligations under this Agreement, the non-defaulting party shall provide to the defaulting party (30) days written notice to cure the default. However, in the event said default cannot be cured within said thirty (30) day period and the defaulting party is diligently attempting in good faith to cure same, the time period shall be reasonably extended to allow the defaulting party additional cure time. Upon the occurrence of a default that is not cured during the applicable cure period, this Agreement may be terminated by the non-defaulting party upon thirty (30) days notice. This remedy is not intended to be exclusive of any other remedy, and each and every such remedy shall be cumulative and shall be in addition to every other remedy now or hereafter existing at law or in equity or by statute or otherwise. No single or partial exercise by any party of any right, power, or remedy hereunder shall preclude any other or future exercise thereof. Nothing in this section shall be construed to preclude termination for convenience pursuant to Section 3.05.

3.07 **Annual Appropriation.** The performance and obligations of SBBC under this Agreement shall be contingent upon an annual budgetary appropriation by its governing body. If SBBC does not allocate funds for the payment of services or products to be provided under this Agreement, this Agreement may be terminated by SBBC at the end of the period for which funds have been allocated. SBBC shall notify the other party at the earliest possible time before such termination. No penalty shall accrue to SBBC in the event this provision is exercised, and SBBC shall not be obligated or liable for any future payments due or any damages as a result of termination under this section.

3.08 **Excess Funds**. Any party receiving funds paid by SBBC under this Agreement agrees to promptly notify SBBC of any funds erroneously received from SBBC upon the discovery of such erroneous payment or overpayment. Any such excess funds shall be refunded to SBBC.

3.09 **Public Records**. Pursuant to Section 119.0701, Florida Statutes, any party contracting with SBBC is required to (a) keep and maintain available for public inspection any records that pertain to services rendered under this Agreement; (b) provide the public with access to public records on the same terms and conditions that SBBC would provide such records and 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; and (d) meet all requirements for retaining public records and transfer, at no cost to SBBC, all public records in that party's possession upon termination of its Agreement with SBBC and destroy any duplicate public records that are exempt or confidential and exempt from public records disclosure requirements. All of such party's records stored electronically must be provided to SBBC in a format that is compatible with SBBC's information technology systems. Each party shall maintain its own respective records and documents associated with this Agreement in accordance with the records retention requirements applicable to public records. Each party shall be responsible for compliance with any public documents request served upon it pursuant to Section 119.07, Florida Statutes, and any resultant award of attorney's fees for non-compliance with that law. Each party acknowledges that this Agreement and all attachments thereto are public records and do not constitute trade secrets.

3.10 **Student Records**: Notwithstanding any provision to the contrary within this Agreement, any party contracting with SBBC under this Agreement shall fully comply with the requirements of Sections 1002.22 and 1002.221, Florida Statutes; FERPA, and any other state or federal law or regulation regarding the confidentiality of student information and records. Each such party agrees, for itself, its officers, employees, agents, representatives, contractors or subcontractors, to fully indemnify and hold harmless SBBC and its officers and employees for any violation of this section, including, without limitation, defending SBBC and its officers and employees against any complaint, administrative or judicial proceeding, payment of any penalty imposed upon SBBC, or payment of any and all costs, damages, judgments or losses incurred by or imposed upon SBBC arising out of a breach of this covenant by the party, or an officer, employee, agent, representative, contractor, or sub-contractor of the party to the extent that the party or an officer, employee, agent, representative, contractor, or sub-contractor of the party shall either intentionally or negligently violate the provisions of this section or of Sections 1002.22 and/or 1002.221, Florida Statutes.

3.11 **Compliance with Laws**. Each party shall comply with all applicable federal, state and local laws, SBBC policies, codes, rules and regulations in performing its duties, responsibilities and obligations pursuant to this Agreement.

3.12 **Place of Performance**. All obligations of SBBC under the terms of this Agreement are reasonably susceptible of being performed in Broward County, Florida and shall be payable and performable in Broward County, Florida.

3.13 **Governing Law and Venue**. This Agreement shall be interpreted and construed in accordance with and governed by the laws of the State of Florida. Any controversies or legal problems arising out of this Agreement and any action involving the enforcement or interpretation of any rights hereunder shall be submitted to the jurisdiction of the State courts of the Seventeenth Judicial Circuit of Broward County, Florida.

3.14 **Entirety of Agreement**. This document incorporates and includes all prior negotiations, correspondence, conversations, agreements and understandings applicable to the matters contained herein and the parties agree that there are no commitments, agreements or understandings concerning the subject matter of this Agreement that are not contained in this document. Accordingly, the parties agree that no deviation from the terms hereof shall be predicated upon any prior representations or agreements, whether oral or written.

3.15 **Binding Effect**. This Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective successors and assigns.

3.16 **Assignment**. Neither this Agreement nor any interest herein may be assigned, transferred or encumbered by any party without the prior written consent of the other party. There shall be no partial assignments of this Agreement including, without limitation, the partial assignment of any right to receive payments from SBBC.

3.17 **Incorporation by Reference**. **Attachment A** attached hereto and referenced herein shall be deemed to be incorporated into this Agreement by reference.

3.18 **Captions**. The captions, section designations, section numbers, article numbers, titles and headings appearing in this Agreement are inserted only as a matter of convenience, have no substantive meaning, and in no way define, limit, construe or describe the scope or intent of such articles or sections of this Agreement, nor in any way affect this Agreement and shall not be construed to create a conflict with the provisions of this Agreement.

3.19 **Severability**. In the event that any one or more of the sections, paragraphs, sentences, clauses or provisions contained in this Agreement is held by a court of competent jurisdiction to be invalid, illegal, unlawful, unenforceable or void in any respect, such shall not affect the remaining portions of this Agreement and the same shall remain in full force and effect as if such invalid, illegal, unlawful, unenforceable or void sections, paragraphs, sentences, clauses or provisions had never been included herein.

3.20 **Preparation of Agreement**. The parties acknowledge that they have sought and obtained whatever competent advice and counsel as was necessary for them to form a full and complete understanding of all rights and obligations herein and that the preparation of this Agreement has been their joint effort. The language agreed to herein expresses their mutual intent and the resulting document shall not, solely as a matter of judicial construction, be construed more severely against one of the parties than the other.

3.21 **Amendments**. No modification, amendment, or alteration in the terms or conditions contained herein shall be effective unless contained in a written document prepared with the same or similar formality as this Agreement and executed by each party hereto.

3.22 **Waiver**. The parties agree that each requirement, duty and obligation set forth herein is substantial and important to the formation of this Agreement and, therefore, is a material term hereof. Any party's failure to enforce any provision of this Agreement shall not be deemed a waiver of such provision or modification of this Agreement unless the waiver is in writing and signed by the party waiving such provision. A written waiver shall only be effective as to the specific instance for which it is obtained and shall not be deemed a continuing or future waiver.

3.23 **Force Majeure**. Neither party shall be obligated to perform any duty, requirement or obligation under this Agreement if such performance is prevented by fire, hurricane, earthquake, explosion, wars, sabotage, accident, flood, acts of God, strikes, or other labor disputes, riot or civil commotions, or by reason of any other matter or condition beyond the control of either party, and which cannot be overcome by reasonable diligence and without unusual expense ("Force Majeure"). In no event shall a lack of funds on the part of either party be deemed Force Majeure.

3.24 **Survival**. All representations and warranties made herein, indemnification obligations, obligations to reimburse SBBC, obligations to maintain and allow inspection and audit of records and property, obligations to maintain the confidentiality of records, reporting requirements, and obligations to return public funds shall survive the termination of this Agreement.

3.25 **Contract Administration.** SBBC has delegated authority to the Superintendent of Schools or his/her designee to take any actions necessary to implement and administer this Agreement.

3.26. **Liability**. This section shall survive the termination of all performance or obligations under this Agreement and shall be fully binding until such time as any proceeding brought on account of this Agreement is barred by any applicable statute of limitations.

A. By SBBC: SBBC agrees to be fully responsible up to the limits of Section 768.28, Florida Statutes, for its acts of negligence, or its employees' acts of negligence when acting within the scope of their employment and agrees to be liable for any damages resulting from said negligence.

B. By VENDOR: VENDOR agrees to indemnify, hold harmless and defend SBBC, its agents, servants and employees from any and all claims, judgments, costs, and expenses including, but not limited to, reasonable attorney's fees, reasonable investigative and discovery costs, court costs and all other sums which SBBC, its agents, servants and employees may pay or become obligated to pay on account of any, all and every claim or demand, or assertion of liability, or any claim or action founded thereon, arising or alleged to have arisen out of the products, goods or services furnished by VENDOR, its agents, servants or employees; the equipment of VENDOR, its agents, servants or employees while such equipment is on premises owned or controlled by SBBC; or the negligence of VENDOR or the negligence of VENDOR's agents when acting within the scope of their employment, whether such claims, judgments, costs and expenses be for damages, damage to property including SBBC's property, and injury or death of any person whether employed by VENDOR, SBBC or otherwise.

3.27 **Authority**. Each person signing this Agreement on behalf of either party individually warrants that he or she has full legal power to execute this Agreement on behalf of the party for whom he or she is signing, and to bind and obligate such party with respect to all provisions contained in this Agreement.

IN WITNESS WHEREOF, the Parties hereto have made and executed this Agreement on the date first above written.

FOR SBBC

(Corporate Seal)

THE SCHOOL BOARD OF BROWARD COUNTY, FLORIDA

By_____
Dr. Rosalind Osgood, Chair

ATTEST:

_____
Robert W. Runcie, Superintendent of Schools

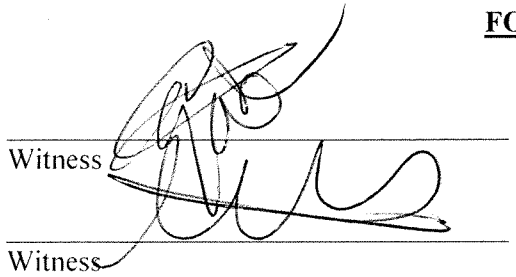
Approved as to Form and Legal Content:

Kathelyn Jacques-Adams

Digitally signed by Kathelyn Jacques-Adams
DN: cn=Kathelyn Jacques-Adams, o=The School District of Broward County, Florida, ou=The Office of the General Counsel, email=kathelyn.jacques-adams@browardschools.com, c=US
Date: 2016.05.25 12:41:39 -04'00'

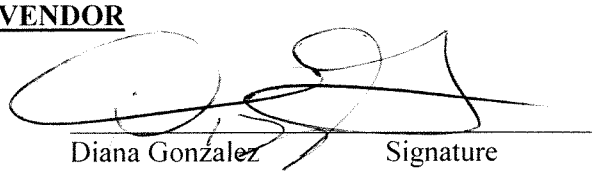
_____
Office of the General Counsel

FOR VENDOR



Witness

Witness



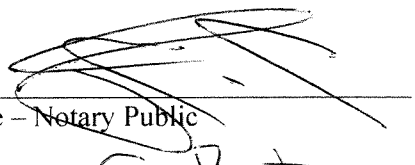
Diana Gonzalez Signature

STATE OF Florida

COUNTY OF Broward

The foregoing instrument was acknowledged before me by Diana Gonzalez
Insert Name Here
who is personally known to me or who produced Florida Drive. license as
Type of Identification
identification and who did/did not first take an oath this 18 day of May,
20 16.

My Commission Expires: oct 17 2016

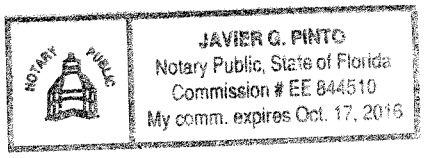


Signature – Notary Public

James G Pinto

Notary's Printed Name

(SEAL)



EE 844510

Notary's Commission No.

ATTACHMENT A

SCOPE OF SERVICES

1. VENDOR shall provide occupational therapy services in accordance with Broward County Schools Special Programs and Procedures. A copy of these procedures may be obtained on Exceptional Student Education's website at http://www.broward.k12.fl.us/studentsupport/ese/pdf/SP&P.pdf or as updated by SBBC.

2. VENDOR shall provide current licensed occupational therapist under this Agreement. **Award of this Agreement shall not be a guarantee of business, a guarantee of specified volume of service or minimum dollar revenue to be received under this Agreement.**

3. VENDOR shall report to the Program Specialist and/or Curriculum Supervisor regarding services under this Agreement.

4. VENDOR shall be compensated for direct student services and student related activities. VENDOR shall not be compensated/reimbursed for travel under this Agreement.

5. VENDOR shall provide the following services, but not limited to, initial student evaluations, small group or individual therapy with students, record-keeping for student attendance, supervising assistants, preparing progress reports and therapy notes, preparing a therapy plan of care, participating in the development of Individual Education Plans (IEP), attendance at required eligibility, IEP and dismissal staffings, attending in-service meetings as requested and providing consultation with parents, school area, district staff and physicians, as needed. VENDOR will complete all appropriate documentation for Medicaid Reimbursement. Awardees will be compensated for direct student services and student related activities only.

6. VENDOR shall provide services consistent with the professional standards of care and comply with all the medical and ethical requirements imposed by the State of Florida, Board of Medicine, the Department of Professional Regulations, the Florida State Department of Education and any other applicable federal, state or local regulatory agency.

7. VENDOR shall provide the requested level of service(s), in accordance with and/or changes for services requested by SBBC, within five (5) calendar days of notice, unless otherwise mutually agreed upon. Excessive failure to meet the needs as requested will result in cancellation of VENDOR's Agreement.

8. VENDOR shall maintain normal working hours of 8:00 a.m. to 4:00 p.m. Hours may occasionally be extended from 7:00 a.m. to 4:30 p.m. There will be no reimbursement for a thirty (30) minute lunch period. SBBC may only be invoiced for up to 7.5 hours per day unless prior approval has been granted by SBBC staff for extended service time. Awardee(s) may provide a maximum of four (4) hours of service as needed on each scheduled employee planning day. Invoices not complying with this will be rejected and returned for correction and failure to invoice correctly will result in a delay of payment. Any VENDOR who consistently submits invoices that are not correct may be found in default of Agreement.

SCOPE OF SERVICES

9. VENDOR shall respond to requested services within five (5) school days of the request by submitting to an interview by a designated SBBC representative. Firms can also offer these services and interviews as required.

10. VENDOR shall provide uninterrupted services based upon the current school calendar to students by providing qualified substitutes or replacements in the event of an anticipated or unanticipated lapse of service. A qualified substitute is defined to be a therapist for a therapist or a therapist assistant for an assistant. All qualified substitutes must display an SBBC identification badge. (See General Condition 7.42) Any lapse of service to SBBC for five student attendance days during any school year will result in default of Agreement. VENDOR may be responsible to provide compensatory services or payments to SBBC for lapse of service.

11. VENDOR shall provide a service schedule of all personnel for approval on a regular basis as determined by a designated SBBC representative.

12. VENDOR shall follow all procedures (including, but not limited to, signing in and out, no telephone calls during treatment time) of individual schools where they are assigned. All therapists must carry a cell phone for critical communication throughout the day with SBBC personnel as established. These numbers must be provided to SBBC personnel. There shall be no cost to SBBC to use these communication devices.

13. VENDOR shall prepare time logs, reports, written analysis and other written memoranda in the form and manner deemed appropriate by SBBC.

14. VENDOR shall bill under SBBC's Medicaid provider number, when needed.

15. VENDOR, under this Agreement, shall be required to pass the screening of the of the Broward School's Police, Security Clearance Department prior to placement of assignment as required by SBBC (See General Condition 7.42 of the RFP, SBBC Photo Identification Badge). VENDOR must utilize the STAR system and/or sign-in/out procedures to document attendance at assigned location(s).

16. SBBC reserves the right to interview all therapy candidates prior to placement. K-12 experience is preferred. SBBC reserves the right to refuse to utilize any proposed therapy candidate. SBBC reserves the right to have an individual therapist removed from the assigned position. VENDOR will have five workdays in which to propose a replacement therapist. Should VENDOR be unable to provide an acceptable replacement, all other contracted Awardees will then be notified to submit a candidate to SBBC.

17. VENDOR shall provide proof of services on an original approved voucher form upon initiation of services and up until training is provided on the Accelify Electronic Management System. Once VENDOR has received training, VENDOR shall then submit all invoices electronically.

SCOPE OF SERVICES

18. VENDOR shall have all therapists and assistants and required substitutes or replacements submit to, and pass, the screening of the Special Investigative Unit (SIU), including fingerprinting, prior to working with students as required for all SBBC personnel. All therapists and assistants shall display an SBBC Identification Badge during contracted work hours. VENDOR will be required to pay the required fees for screening, fingerprinting and photo identification. (See General Condition 7.42 of the RFP)

19. VENDOR shall cooperate with SBBC in its partnership with universities and colleges to provide supervision of practicum experience for student therapists and assistants.

20. VENDOR may be evaluated annually in areas to include, but not be limited to, responsiveness, continuity of service, quality of work and professionalism.

21. VENDOR shall not provide private assessments or therapy services to students on their own public school caseload.

22. VENDOR and all therapists and assistants shall attend an orientation workshop of not less than three hours. This orientation workshop will include, but not be limited to, general information on the policies and procedures of the Broward County Special Programs and Procedures, the rights of students with disabilities, and other operational procedures required to carry out the therapy program. Additional workshops may be required during the term of the Agreement.

23. VENDOR will receive, from SBBC, requested materials, equipment and other related items which have been determined to be necessary to carry out the therapy program for students when approved by a designated SBBC representative.

24. VENDOR shall insure that their provider has the necessary technology (eg. Laptop, desktop computer, etc.) needed to carryout job responsibilities.

AGREEMENT

THIS AGREEMENT is made and entered into as of this ____ day of _____, 2016, by and between

THE SCHOOL BOARD OF BROWARD COUNTY, FLORIDA
(hereinafter referred to as "SBBC"),
a body corporate and political subdivision of the State of Florida,
whose principal place of business is
600 Southeast Third Avenue, Fort Lauderdale, Florida 33301

and

EDUCATIONAL THERAPY ASSOCIATES, INC.
(hereinafter referred to as "VENDOR"),
whose principal place of business is
10870 NW 73rd Court
Parkland, Florida 33076

WHEREAS, SBBC issued a Request for Proposal identified as RFP 17-005V – Occupational and Physical Therapy Services (hereinafter referred to as "RFP"), dated December 11, 2015 and amended by Addendum No. 2, dated January 15, 2016, and Addendum No. 1, dated January 9, 2016 all of which are incorporated by reference herein, for the purpose of receiving proposals for occupational and physical therapy services; and

WHEREAS, VENDOR offered a proposal dated January 4, 2016 (hereinafter referred to as "Proposal") which is incorporated by reference herein, in response to this RFP.

NOW, THEREFORE, in consideration of the premises and of the mutual covenants contained herein and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the Parties hereby agree as follows:

ARTICLE 1 - RECITALS

1.01 **Recitals**. The parties agree that the foregoing recitals are true and correct and that such recitals are incorporated herein by reference.

ARTICLE 2 – SPECIAL CONDITIONS

2.01 **Term of Agreement**. Unless terminated earlier pursuant to Section 3.05 of this Agreement, the term of this Agreement shall commence on **July 1, 2016** and conclude on **June 30, 2019.** The term of the Agreement may, by mutual agreement between SBBC and VENDOR be extended for two additional one-year periods and, if needed, 180 days beyond the expiration date of the renewal period. SBBC's Procurement & Warehousing Services Department, will, if considering renewing, request a letter consenting to renewal from VENDOR, prior to the end of the term. Any renewal period shall be approved by an Amendment to this Agreement executed by both parties

2.02 **Priority of Documents.** In the event of a conflict between documents, the following priority of documents shall govern.

First: This Agreement, then;
Second: Addendum No. 2, then;
Third: Addendum No. 1, then;
Fourth: RFP 17-005V – Occupational and Physical Therapy Services, then;
Fifth: Proposal submitted in response to the RFP by VENDOR.

2.03 **Services**: VENDOR shall provide SBBC with the Scope of Services as proposed in its Proposal and in compliance with this Agreement and the RFP and its Addenda and as specified in **Attachment A – Scope of Services**.

2.04 **Cost of Services**. SBBC shall pay VENDOR for cost of services satisfactorily rendered for:

Occupational Therapy services at $64.00/hour;
Certified Occupational Therapist Assistant (COTA) at $45.00/hr.;
Physical Therapist at $64.00/hr.; and
Licensed Physical Therapist Assistant at $45.00/hr.

Costs shall not exceed the amount as stated on the Purchase Order. VENDOR may offer SBBC a special educational discount for pricing and reduce the cost of services during the term of the Agreement. VENDOR may invoice SBBC at an hourly rate less than their original bid price.

2.05 **M/WBE Participation**. VENDOR is a current Certified MWBE, Caucasian Female, with SBBC, Certificate #7007-3081.

2.06 **Inspection of VENDOR's Records by SBBC**. VENDOR shall establish and maintain books, records and documents (including electronic storage media) sufficient to reflect all income and expenditures of funds provided by SBBC under this Agreement. All VENDOR's Records, regardless of the form in which they are kept, shall be open to inspection and subject to audit, inspection, examination, evaluation and/or reproduction, during normal working hours, by SBBC's agent or its authorized representative to permit SBBC to evaluate, analyze and verify the satisfactory performance of the terms and conditions of this Agreement and to evaluate, analyze and verify any and all invoices, billings, payments and/or claims submitted by VENDOR or any of VENDOR's payees pursuant to this Agreement. VENDOR's Records subject to examination shall include, without limitation, those records necessary to evaluate and verify direct and indirect costs (including overhead allocations) as they may apply to costs associated with this Agreement. VENDOR's Records subject to this section shall include any and all documents pertinent to the evaluation, analysis, verification and reconciliation of any and all expenditures under this Agreement without regard to funding sources.

(a) VENDOR's Records Defined. For the purposes of this Agreement, the term "VENDOR's Records" shall include, without limitation, accounting records, payroll time sheets, cancelled payroll checks, W-2 forms, written policies and procedures, computer records, disks and software, videos, photographs, executed subcontracts, subcontract files (including proposals of successful and unsuccessful bidders), original estimates, estimating worksheets, correspondence, change order files (including sufficient supporting documentation and documentation covering negotiated settlements), and any other supporting documents that would substantiate, reconcile or refute any charges and/or expenditures related to this Agreement.

(b) Duration of Right to Inspect. For the purpose of such audits, inspections, examinations, evaluations and/or reproductions, SBBC's agent or authorized representative shall have access to VENDOR's Records from the effective date of this Agreement, for the duration of the term of this Agreement, and until the later of five (5) years after the termination of this Agreement or five (5) years after the date of final payment by SBBC to VENDOR pursuant to this Agreement.

(c) Notice of Inspection. SBBC's agent or its authorized representative shall provide VENDOR reasonable advance notice (not to exceed two (2) weeks) of any intended audit, inspection, examination, evaluation and or reproduction.

(d) Audit Site Conditions. SBBC's agent or its authorized representative shall have access to VENDOR's facilities and to any and all records related to this Agreement, and shall be provided adequate and appropriate work space in order to exercise the rights permitted under this section.

(e) Failure to Permit Inspection. Failure by VENDOR to permit audit, inspection, examination, evaluation and/or reproduction as permitted under this Section shall constitute grounds for termination of this Agreement by SBBC for cause and shall be grounds for the denial of some or all of any VENDOR's claims for payment by SBBC.

(f) Overcharges and Unauthorized Charges. If an audit conducted in accordance with this Section discloses overcharges or unauthorized charges to SBBC by VENDOR in excess of two percent (2%) of the total billings under this Agreement, the actual cost of SBBC's audit shall be paid by VENDOR. If the audit discloses billings or charges to which VENDOR is not contractually entitled, VENDOR shall pay said sum to SBBC within twenty (20) days of receipt of written demand under otherwise agreed to in writing by both parties.

(g) Inspection of Subcontractor's Records. VENDOR shall require any and all subcontractors, insurance agents and material suppliers (hereafter referred to as "Payees") providing services or goods with regard to this Agreement to comply with the requirements of this section by insertion of such requirements in any written subcontract. Failure by VENDOR to include such requirements in any subcontract shall constitute grounds for termination of this Agreement by SBBC for cause and shall be grounds for the exclusion of some or all of any Payee's costs from amounts payable by SBBC to VENDOR pursuant to this Agreement and such excluded costs shall become the liability of VENDOR.

(h) Inspector General Audits. VENDOR shall comply and cooperate immediately with any inspections, reviews, investigations, or audits deemed necessary by the Florida Office of the Inspector General or by any other state or federal officials.

2.07 **Notice**. When any of the parties desire to give notice to the other, such notice must be in writing, sent by U.S. Mail, postage prepaid, addressed to the party for whom it is intended at the place last specified; the place for giving notice shall remain such until it is changed by written notice in compliance with the provisions of this paragraph. For the present, the Parties designate the following as the respective places for giving notice:

To SBBC:
Superintendent of Schools
The School Board of Broward County, Florida
600 S.E. 3rd. Avenue
Fort Lauderdale, Florida 33301

With a Copy to:	Director, ESE Department The School Board of Broward County, Florida Arthur Ashe Campus 1701 NW 23 Avenue Fort Lauderdale, FL 33311
To VENDOR:	Educational Therapy Associates, Inc. 10870 NW 73rd Court Parkland, Florida 33076
With a Copy to:	Susan Hewlett, President 1113C Old Mobile Highway Lucedale, MS 39452

2.08 **Background Screening.** VENDOR agrees to comply with all requirements of Sections 1012.32 and 1012.465, Florida Statutes, and all of its personnel who (1) are to be permitted access to school grounds when students are present, (2) will have direct contact with students, or (3) have access or control of school funds, will successfully complete the background screening required by the referenced statutes and meet the standards established by the statutes. This background screening will be conducted by SBBC in advance of VENDOR or its personnel providing any services under the conditions described in the previous sentence. VENDOR shall bear the cost of acquiring the background screening required by Section 1012.32, Florida Statutes, and any fee imposed by the Florida Department of Law Enforcement to maintain the fingerprints provided with respect to VENDOR and its personnel. The parties agree that the failure of VENDOR to perform any of the duties described in this section shall constitute a material breach of this Agreement entitling SBBC to terminate immediately with no further responsibilities or duties to perform under this Agreement. VENDOR agrees to indemnify and hold harmless SBBC, its officers and employees from any liability in the form of physical or mental injury, death or property damage resulting from VENDOR's failure to comply with the requirements of this Section or with Sections 1012.32 and 1012.465, Florida Statutes.

ARTICLE 3 – GENERAL CONDITIONS

3.01 **No Waiver of Sovereign Immunity**. Nothing herein is intended to serve as a waiver of sovereign immunity by any agency or political subdivision to which sovereign immunity may be applicable or of any rights or limits to liability existing under Section 768.28, Florida Statutes. This section shall survive the termination of all performance or obligations under this Agreement and shall be fully binding until such time as any proceeding brought on account of this Agreement is barred by any applicable statute of limitations.

3.02 **No Third Party Beneficiaries**. The parties expressly acknowledge that it is not their intent to create or confer any rights or obligations in or upon any third person or entity under this Agreement. None of the parties intend to directly or substantially benefit a third party by this Agreement. The parties agree that there are no third party beneficiaries to this Agreement and that no third party shall be entitled to assert a claim against any of the parties based upon this Agreement. Nothing herein shall be construed as consent by an agency or political subdivision of the State of Florida to be sued by third parties in any matter arising out of any contract.

3.03 **Independent Contractor**. The parties to this agreement shall at all times be acting in the capacity of independent contractors and not as an officer, employee or agent of one another. Neither party or its respective agents, employees, subcontractors or assignees shall represent to others that it has the authority to bind the other party unless specifically authorized in writing to do so. No right to SBBC retirement, leave benefits or any other benefits of SBBC employees shall exist as a result of the performance of any duties or responsibilities under this Agreement. SBBC shall not be responsible for social security, withholding taxes, contributions to unemployment compensation funds or insurance for the other party or the other party's officers, employees, agents, subcontractors or assignees.

3.04 **Equal Opportunity Provision**. The parties agree that no person shall be subjected to discrimination because of age, race, color, disability, gender identity, gender expression marital status, national origin, religion, sex or sexual orientation in the performance of the parties' respective duties, responsibilities and obligations under this Agreement.

3.05 **Termination**. This Agreement may be canceled with or without cause by SBBC during the term hereof upon thirty (30) days written notice to the other parties of its desire to terminate this Agreement. SBBC shall have no liability for any property left on SBBC's property by any party to this Agreement after the termination of this Agreement. Any party contracting with SBBC under this Agreement agrees that any of its property placed upon SBBC's facilities pursuant to this Agreement shall be removed within ten (10) business days following the termination, conclusion or cancellation of this Agreement and that any such property remaining upon SBBC's facilities after that time shall be deemed to be abandoned, title to such property shall pass to SBBC, and SBBC may use or dispose of such property as SBBC deems fit and appropriate.

3.06 **Default**. The parties agree that, in the event that either party is in default of its obligations under this Agreement, the non-defaulting party shall provide to the defaulting party (30) days written notice to cure the default. However, in the event said default cannot be cured within said thirty (30) day period and the defaulting party is diligently attempting in good faith to cure same, the time period shall be reasonably extended to allow the defaulting party additional cure time. Upon the occurrence of a default that is not cured during the applicable cure period, this Agreement may be terminated by the non-defaulting party upon thirty (30) days notice. This remedy is not intended to be exclusive of any other remedy, and each and every such remedy shall be cumulative and shall be in addition to every other remedy now or hereafter existing at law or in equity or by statute or otherwise. No single or partial exercise by any party of any right, power, or remedy hereunder shall preclude any other or future exercise thereof. Nothing in this section shall be construed to preclude termination for convenience pursuant to Section 3.05.

3.07 **Annual Appropriation.** The performance and obligations of SBBC under this Agreement shall be contingent upon an annual budgetary appropriation by its governing body. If SBBC does not allocate funds for the payment of services or products to be provided under this Agreement, this Agreement may be terminated by SBBC at the end of the period for which funds have been allocated. SBBC shall notify the other party at the earliest possible time before such termination. No penalty shall accrue to SBBC in the event this provision is exercised, and SBBC shall not be obligated or liable for any future payments due or any damages as a result of termination under this section.

3.08 **Excess Funds**. Any party receiving funds paid by SBBC under this Agreement agrees to promptly notify SBBC of any funds erroneously received from SBBC upon the discovery of such erroneous payment or overpayment. Any such excess funds shall be refunded to SBBC.

3.09 **Public Records**. Pursuant to Section 119.0701, Florida Statutes, any party contracting with SBBC is required to (a) keep and maintain available for public inspection any records that pertain to services rendered under this Agreement; (b) provide the public with access to public records on the same terms and conditions that SBBC would provide such records and 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; and (d) meet all requirements for retaining public records and transfer, at no cost to SBBC, all public records in that party's possession upon termination of its Agreement with SBBC and destroy any duplicate public records that are exempt or confidential and exempt from public records disclosure requirements. All of such party's records stored electronically must be provided to SBBC in a format that is compatible with SBBC's information technology systems. Each party shall maintain its own respective records and documents associated with this Agreement in accordance with the records retention requirements applicable to public records. Each party shall be responsible for compliance with any public documents request served upon it pursuant to Section 119.07, Florida Statutes, and any resultant award of attorney's fees for non-compliance with that law. Each party acknowledges that this Agreement and all attachments thereto are public records and do not constitute trade secrets.

3.10 **Student Records**: Notwithstanding any provision to the contrary within this Agreement, any party contracting with SBBC under this Agreement shall fully comply with the requirements of Sections 1002.22 and 1002.221, Florida Statutes; FERPA, and any other state or federal law or regulation regarding the confidentiality of student information and records. Each such party agrees, for itself, its officers, employees, agents, representatives, contractors or subcontractors, to fully indemnify and hold harmless SBBC and its officers and employees for any violation of this section, including, without limitation, defending SBBC and its officers and employees against any complaint, administrative or judicial proceeding, payment of any penalty imposed upon SBBC, or payment of any and all costs, damages, judgments or losses incurred by or imposed upon SBBC arising out of a breach of this covenant by the party, or an officer, employee, agent, representative, contractor, or sub-contractor of the party to the extent that the party or an officer, employee, agent, representative, contractor, or sub-contractor of the party shall either intentionally or negligently violate the provisions of this section or of Sections 1002.22 and/or 1002.221, Florida Statutes.

3.11 **Compliance with Laws**. Each party shall comply with all applicable federal, state and local laws, SBBC policies, codes, rules and regulations in performing its duties, responsibilities and obligations pursuant to this Agreement.

3.12 **Place of Performance**. All obligations of SBBC under the terms of this Agreement are reasonably susceptible of being performed in Broward County, Florida and shall be payable and performable in Broward County, Florida.

3.13 **Governing Law and Venue**. This Agreement shall be interpreted and construed in accordance with and governed by the laws of the State of Florida. Any controversies or legal problems arising out of this Agreement and any action involving the enforcement or interpretation of any rights hereunder shall be submitted to the jurisdiction of the State courts of the Seventeenth Judicial Circuit of Broward County, Florida.

3.14 **Entirety of Agreement**. This document incorporates and includes all prior negotiations, correspondence, conversations, agreements and understandings applicable to the matters contained herein and the parties agree that there are no commitments, agreements or understandings concerning the subject matter of this Agreement that are not contained in this document. Accordingly, the parties agree that no deviation from the terms hereof shall be predicated upon any prior representations or agreements, whether oral or written.

3.15 **Binding Effect**. This Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective successors and assigns.

3.16 **Assignment**. Neither this Agreement nor any interest herein may be assigned, transferred or encumbered by any party without the prior written consent of the other party. There shall be no partial assignments of this Agreement including, without limitation, the partial assignment of any right to receive payments from SBBC.

3.17 **Incorporation by Reference**. **Attachment A** attached hereto and referenced herein shall be deemed to be incorporated into this Agreement by reference.

3.18 **Captions**. The captions, section designations, section numbers, article numbers, titles and headings appearing in this Agreement are inserted only as a matter of convenience, have no substantive meaning, and in no way define, limit, construe or describe the scope or intent of such articles or sections of this Agreement, nor in any way affect this Agreement and shall not be construed to create a conflict with the provisions of this Agreement.

3.19 **Severability**. In the event that any one or more of the sections, paragraphs, sentences, clauses or provisions contained in this Agreement is held by a court of competent jurisdiction to be invalid, illegal, unlawful, unenforceable or void in any respect, such shall not affect the remaining portions of this Agreement and the same shall remain in full force and effect as if such invalid, illegal, unlawful, unenforceable or void sections, paragraphs, sentences, clauses or provisions had never been included herein.

3.20 **Preparation of Agreement**. The parties acknowledge that they have sought and obtained whatever competent advice and counsel as was necessary for them to form a full and complete understanding of all rights and obligations herein and that the preparation of this Agreement has been their joint effort. The language agreed to herein expresses their mutual intent and the resulting document shall not, solely as a matter of judicial construction, be construed more severely against one of the parties than the other.

3.21 **Amendments**. No modification, amendment, or alteration in the terms or conditions contained herein shall be effective unless contained in a written document prepared with the same or similar formality as this Agreement and executed by each party hereto.

3.22 **Waiver**. The parties agree that each requirement, duty and obligation set forth herein is substantial and important to the formation of this Agreement and, therefore, is a material term hereof. Any party's failure to enforce any provision of this Agreement shall not be deemed a waiver of such provision or modification of this Agreement unless the waiver is in writing and signed by the party waiving such provision. A written waiver shall only be effective as to the specific instance for which it is obtained and shall not be deemed a continuing or future waiver.

3.23 **Force Majeure**. Neither party shall be obligated to perform any duty, requirement or obligation under this Agreement if such performance is prevented by fire, hurricane, earthquake, explosion, wars, sabotage, accident, flood, acts of God, strikes, or other labor disputes, riot or civil commotions, or by reason of any other matter or condition beyond the control of either party, and which cannot be overcome by reasonable diligence and without unusual expense ("Force Majeure"). In no event shall a lack of funds on the part of either party be deemed Force Majeure.

3.24 **Survival**. All representations and warranties made herein, indemnification obligations, obligations to reimburse SBBC, obligations to maintain and allow inspection and audit of records and property, obligations to maintain the confidentiality of records, reporting requirements, and obligations to return public funds shall survive the termination of this Agreement.

3.25 **Contract Administration.** SBBC has delegated authority to the Superintendent of Schools or his/her designee to take any actions necessary to implement and administer this Agreement.

3.26. **Liability**. This section shall survive the termination of all performance or obligations under this Agreement and shall be fully binding until such time as any proceeding brought on account of this Agreement is barred by any applicable statute of limitations.

A. By SBBC: SBBC agrees to be fully responsible up to the limits of Section 768.28, Florida Statutes, for its acts of negligence, or its employees' acts of negligence when acting within the scope of their employment and agrees to be liable for any damages resulting from said negligence.

B. By VENDOR: VENDOR agrees to indemnify, hold harmless and defend SBBC, its agents, servants and employees from any and all claims, judgments, costs, and expenses including, but not limited to, reasonable attorney's fees, reasonable investigative and discovery costs, court costs and all other sums which SBBC, its agents, servants and employees may pay or become obligated to pay on account of any, all and every claim or demand, or assertion of liability, or any claim or action founded thereon, arising or alleged to have arisen out of the products, goods or services furnished by VENDOR, its agents, servants or employees; the equipment of VENDOR, its agents, servants or employees while such equipment is on premises owned or controlled by SBBC; or the negligence of VENDOR or the negligence of VENDOR's agents when acting within the scope of their employment, whether such claims, judgments, costs and expenses be for damages, damage to property including SBBC's property, and injury or death of any person whether employed by VENDOR, SBBC or otherwise.

3.27 **Authority**. Each person signing this Agreement on behalf of either party individually warrants that he or she has full legal power to execute this Agreement on behalf of the party for whom he or she is signing, and to bind and obligate such party with respect to all provisions contained in this Agreement.

IN WITNESS WHEREOF, the Parties hereto have made and executed this Agreement on the date first above written.

FOR SBBC

(Corporate Seal)

THE SCHOOL BOARD OF BROWARD COUNTY, FLORIDA

By_____
Dr. Rosalind Osgood, Chair

ATTEST:

_____
Robert W. Runcie, Superintendent of Schools

Approved as to Form and Legal Content:

Kathelyn Jacques-Adams

Digitally signed by Kathelyn Jacques-Adams
DN: cn=Kathelyn Jacques-Adams, o=The School District of Broward County, Florida, ou=The Office of the General Counsel, email=kathelyn.jacques-adams@browardschools.com, c=US
Date: 2016.05.25 12:42:15 -04'00'

_____
Office of the General Counsel

FOR VENDOR

(Corporate Seal)

EDUCATIONAL THERAPY ASSOCIATES, INC.

ATTEST:

Susan Hewlett

, Secretary

By Susan Hewlett

-or-

_____

Witness

_____

Witness

The Following Notarization is Required for Every Agreement Without Regard to Whether the Party Chose to Use a Secretary's Attestation or Two (2) Witnesses.

STATE OF MS

COUNTY OF George

The foregoing instrument was acknowledged before me this 3rd day of May, 2016 by Susan Hewlett of
Name of Person
Educational Therapy Associates, Inc., on behalf of the corporation/agency.
Name of Corporation or Agency
He/She is personally known to me or produced MS Drivers license as identification and did/did not first take an oath.
Type of Identification

My Commission Expires: 11/2/2018

(SEAL)

STATE OF MISSISSIPPI NOTARY PUBLIC ID # 110635 ASHLEIGH GIBSON Commission Expires Nov. 2, 2018 GEORGE COUNTY

Ashleigh Gibson

Signature – Notary Public

Ashleigh Gibson

Printed Name of Notary

110635

Notary's Commission No.

ATTACHMENT A

SCOPE OF SERVICES

1. VENDOR shall provide occupational and physical therapy services in accordance with Broward County Schools Special Programs and Procedures. A copy of these procedures may be obtained on Exceptional Student Education's website at http://www.broward.k12.fl.us/studentsupport/ese/pdf/SP&P.pdf or as updated by SBBC.

2. VENDOR shall provide current licensed occupational and physical therapists under this Agreement. **Award of this Agreement shall not be a guarantee of business, a guarantee of specified volume of service or minimum dollar revenue to be received under this Agreement.**

3. VENDOR shall report to the Program Specialist and/or Curriculum Supervisor regarding services under this Agreement.

4. VENDOR shall be compensated for direct student services and student related activities only. VENDOR shall not be compensated/reimbursed for travel under this Agreement.

5. VENDOR shall provide the following services, but not limited to, initial student evaluations, small group or individual therapy with students, record-keeping for student attendance, supervising assistants, preparing progress reports and therapy notes, preparing a therapy plan of care, participating in the development of Individual Education Plans (IEP), attendance at required eligibility, IEP and dismissal staffings, attending in-service meetings as requested and providing consultation with parents, school area, district staff and physicians, as needed. For Certified Occupational Therapy Assistants (COTA) and Licensed Physical Therapy Assistant (LPTA), service will be provided under supervision in accordance with the OT/PT Practice ACT. VENDOR shall complete all appropriate documentation for Medicaid Reimbursement.

6. VENDOR shall provide services consistent with the professional standards of care and comply with all the medical and ethical requirements imposed by the State of Florida, Board of Medicine, the Department of Professional Regulations, the Florida State Department of Education and any other applicable federal, state or local regulatory agency.

7. VENDOR shall provide the requested level of service(s), in accordance with and/or changes for services requested by SBBC, within five (5) calendar days of notice, unless otherwise mutually agreed upon. Excessive failure to meet the needs as requested will result in cancellation of VENDOR's Agreement.

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11. VENDOR shall provide a service schedule of all personnel for approval on a regular basis as determined by a designated SBBC representative.

12. VENDOR shall follow all procedures (including, but not limited to, signing in and out, no telephone calls during treatment time) of individual schools where they are assigned. All therapists must carry a cell phone for critical communication throughout the day with SBBC personnel as established. These numbers must be provided to SBBC personnel. There shall be no cost to SBBC to use these communication devices.

13. VENDOR shall prepare time logs, reports, written analysis and other written memoranda in the form and manner deemed appropriate by SBBC.

14. VENDOR shall bill under SBBC's Medicaid provider number, when needed.

15. VENDOR, under this Agreement, shall be required to pass the screening of the of the Broward School's Police, Security Clearance Department prior to placement of assignment as required by SBBC (See General Condition 7.42 of the RFP, SBBC Photo Identification Badge). VENDOR must utilize the STAR system and/or sign-in/out procedures to document attendance at assigned location(s).

16. SBBC reserves the right to interview all therapy candidates prior to placement. K-12 experience is preferred. SBBC reserves the right to refuse to utilize any proposed therapy candidate. SBBC reserves the right to have an individual therapist removed from the assigned position. VENDOR will have five workdays in which to propose a replacement therapist. Should VENDOR be unable to provide an acceptable replacement, all other contracted Awardees will then be notified to submit a candidate to SBBC.

17. VENDOR shall provide proof of services on an original approved voucher form upon initiation of services and up until training is provided on the Accelify Electronic Management System. Once VENDOR has received training, VENDOR shall then submit all invoices electronically.

SCOPE OF SERVICES

18. VENDOR shall have all therapists and assistants and required substitutes or replacements submit to, and pass, the screening of the Special Investigative Unit (SIU), including fingerprinting, prior to working with students as required for all SBBC personnel. All therapists and assistants shall display an SBBC Identification Badge during contracted work hours. VENDOR will be required to pay the required fees for screening, fingerprinting and photo identification. (See General Condition 7.42 of the RFP)

19. VENDOR shall cooperate with SBBC in its partnership with universities and colleges to provide supervision of practicum experience for student therapists and assistants.

20. VENDOR may be evaluated annually in areas to include, but not be limited to, responsiveness, continuity of service, quality of work and professionalism.

21. VENDOR shall not provide private assessments or therapy services to students on their own public school caseload.

22. VENDOR and all therapists and assistants shall attend an orientation workshop of not less than three hours. This orientation workshop will include, but not be limited to, general information on the policies and procedures of the Broward County Special Programs and Procedures, the rights of students with disabilities, and other operational procedures required to carry out the therapy program. Additional workshops may be required during the term of the Agreement.

23. VENDOR will receive, from SBBC, requested materials, equipment and other related items which have been determined to be necessary to carry out the therapy program for students when approved by a designated SBBC representative.

24. VENDOR shall insure that their provider has the necessary technology (eg. Laptop, desktop computer, etc.) needed to carryout job responsibilities.

AGREEMENT

THIS AGREEMENT is made and entered into as of this ____ day of _____, 2016, by and between

THE SCHOOL BOARD OF BROWARD COUNTY, FLORIDA
(hereinafter referred to as "SBBC"),
a body corporate and political subdivision of the State of Florida,
whose principal place of business is
600 Southeast Third Avenue, Fort Lauderdale, Florida 33301

and

THE EXECU/SEARCH GROUP, INC.
(hereinafter referred to as "VENDOR"),
whose principal place of business is
675 Third Avenue, 5th Floor
New York, NY 10017

WHEREAS, SBBC issued a Request for Proposal identified as RFP 17-005V – Occupational and Physical Therapy Services (hereinafter referred to as "RFP"), dated December 11, 2015 and amended by Addendum No. 2, dated January 15, 2016, and Addendum No. 1, dated January 9, 2016 all of which are incorporated by reference herein, for the purpose of receiving proposals for occupational and physical therapy services; and

WHEREAS, VENDOR offered a proposal dated January 7, 2016 (hereinafter referred to as "Proposal") which is incorporated by reference herein, in response to this RFP.

NOW, THEREFORE, in consideration of the premises and of the mutual covenants contained herein and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the Parties hereby agree as follows:

ARTICLE 1 - RECITALS

1.01 **Recitals**. The parties agree that the foregoing recitals are true and correct and that such recitals are incorporated herein by reference.

ARTICLE 2 – SPECIAL CONDITIONS

2.01 **Term of Agreement**. Unless terminated earlier pursuant to Section 3.05 of this Agreement, the term of this Agreement shall commence on **July 1, 2016** and conclude on **June 30, 2019.** The term of the Agreement may, by mutual agreement between SBBC and VENDOR be extended for two additional one-year periods and, if needed, 180 days beyond the expiration date of the renewal period. SBBC's Procurement & Warehousing Services Department, will, if considering renewing, request a letter consenting to renewal from VENDOR, prior to the end of the term. Any renewal period shall be approved by an Amendment to this Agreement executed by both parties

2.02 **Priority of Documents.** In the event of a conflict between documents, the following priority of documents shall govern.

First: This Agreement, then;
Second: Addendum No. 2, then;
Third: Addendum No. 1, then;
Fourth: RFP 17-005V – Occupational and Physical Therapy Services, then;
Fifth: Proposal submitted in response to the RFP by VENDOR.

2.03 **Services**: VENDOR shall provide SBBC with the Scope of Services as proposed in its Proposal and in compliance with this Agreement and the RFP and its Addenda and as specified in **Attachment A – Scope of Services**.

2.04 **Cost of Services**. SBBC shall pay VENDOR for cost of services satisfactorily rendered for:

Occupational Therapy services at $62.00/hour;
Certified Occupational Therapist Assistant (COTA) at $44.00/hr.;
Physical Therapist at $62.00/hr.; and
Licensed Physical Therapist Assistant at $44.00/hr.

Costs shall not exceed the amount as stated on the Purchase Order. VENDOR may offer SBBC a special educational discount for pricing and reduce the cost of services during the term of the Agreement. VENDOR may invoice SBBC at an hourly rate less than their original bid price.

2.05 **M/WBE Commitment**. Throughout the term of the Agreement, VENDOR shall take commercially reasonable steps and use commercially reasonable resources to identify SBBC-certified M/WBE vendors who may be engaged to fulfill various aspects of the Agreement, including, for instance, without limitation, M/WBE vendors to provide office supplies, travel, printing, janitorial supplies/services, consulting services, trade services, installation and repair services, medical supplies, where feasible. VENDOR agrees to provide monthly reports and to conduct quarterly meetings with SBBC to discuss progress in meeting the SBBC's objectives regarding M/WBE participation, including dollars spent on M/WBE vendors for the quarter; and to continue to assess throughout the term of the Agreement new possibilities for M/WBE vendor participation suggested by SBBC. If at any time during the term the parties agree that it is reasonably feasible to include a specific dollar figure for M/WBE participation, the Agreement shall be amended to include the dollar participation objective.

2.06 **Inspection of VENDOR's Records by SBBC**. VENDOR shall establish and maintain books, records and documents (including electronic storage media) sufficient to reflect all income and expenditures of funds provided by SBBC under this Agreement. All VENDOR's Records, regardless of the form in which they are kept, shall be open to inspection and subject to audit, inspection, examination, evaluation and/or reproduction, during normal working hours, by SBBC's agent or its authorized representative to permit SBBC to evaluate, analyze and verify the satisfactory performance of the terms and conditions of this Agreement and to evaluate, analyze and verify any and all invoices, billings, payments and/or claims submitted by VENDOR or any of VENDOR's payees pursuant to this Agreement. VENDOR's Records subject to examination shall include, without limitation, those records necessary to evaluate and verify direct and indirect costs (including overhead allocations) as they may apply to costs associated with this Agreement. VENDOR's Records subject to this section shall include any and all documents pertinent to the evaluation, analysis, verification and reconciliation of any and all expenditures under this Agreement without regard to funding sources.

(a) VENDOR's Records Defined. For the purposes of this Agreement, the term "VENDOR's Records" shall include, without limitation, accounting records, payroll time sheets, cancelled payroll checks, W-2 forms, written policies and procedures, computer records, disks and software, videos, photographs, executed subcontracts, subcontract files (including proposals of successful and unsuccessful bidders), original estimates, estimating worksheets, correspondence, change order files (including sufficient supporting documentation and documentation covering negotiated settlements), and any other supporting documents that would substantiate, reconcile or refute any charges and/or expenditures related to this Agreement.

(b) Duration of Right to Inspect. For the purpose of such audits, inspections, examinations, evaluations and/or reproductions, SBBC's agent or authorized representative shall have access to VENDOR's Records from the effective date of this Agreement, for the duration of the term of this Agreement, and until the later of five (5) years after the termination of this Agreement or five (5) years after the date of final payment by SBBC to VENDOR pursuant to this Agreement.

(c) Notice of Inspection. SBBC's agent or its authorized representative shall provide VENDOR reasonable advance notice (not to exceed two (2) weeks) of any intended audit, inspection, examination, evaluation and or reproduction.

(d) Audit Site Conditions. SBBC's agent or its authorized representative shall have access to VENDOR's facilities and to any and all records related to this Agreement, and shall be provided adequate and appropriate work space in order to exercise the rights permitted under this section.

(e) Failure to Permit Inspection. Failure by VENDOR to permit audit, inspection, examination, evaluation and/or reproduction as permitted under this Section shall constitute grounds for termination of this Agreement by SBBC for cause and shall be grounds for the denial of some or all of any VENDOR's claims for payment by SBBC.

(f) Overcharges and Unauthorized Charges. If an audit conducted in accordance with this Section discloses overcharges or unauthorized charges to SBBC by VENDOR in excess of two percent (2%) of the total billings under this Agreement, the actual cost of SBBC's audit shall be paid by VENDOR. If the audit discloses billings or charges to which VENDOR is not contractually entitled, VENDOR shall pay said sum to SBBC within twenty (20) days of receipt of written demand under otherwise agreed to in writing by both parties.

(g) Inspection of Subcontractor's Records. VENDOR shall require any and all subcontractors, insurance agents and material suppliers (hereafter referred to as "Payees") providing services or goods with regard to this Agreement to comply with the requirements of this section by insertion of such requirements in any written subcontract. Failure by VENDOR to include such requirements in any subcontract shall constitute grounds for termination of this Agreement by SBBC for cause and shall be grounds for the exclusion of some or all of any Payee's costs from amounts payable by SBBC to VENDOR pursuant to this Agreement and such excluded costs shall become the liability of VENDOR.

(h) Inspector General Audits. VENDOR shall comply and cooperate immediately with any inspections, reviews, investigations, or audits deemed necessary by the Florida Office of the Inspector General or by any other state or federal officials.

2.07 **Notice**. When any of the parties desire to give notice to the other, such notice must be in writing, sent by U.S. Mail, postage prepaid, addressed to the party for whom it is intended at the place last specified; the place for giving notice shall remain such until it is changed by written notice in compliance with the provisions of this paragraph. For the present, the Parties designate the following as the respective places for giving notice:

To SBBC:	Superintendent of Schools The School Board of Broward County, Florida 600 S.E. 3rd. Avenue Fort Lauderdale, Florida 33301
With a Copy to:	Director, ESE Department The School Board of Broward County, Florida Arthur Ashe Campus 1701 NW 23 Avenue Fort Lauderdale, FL 33311
To VENDOR:	Orly Benaderet The Execu/Search Group 675 Third Avenue, 5th Floor New York, NY 10017

2.08 **Background Screening**. VENDOR agrees to comply with all requirements of Sections 1012.32 and 1012.465, Florida Statutes, and all of its personnel who (1) are to be permitted access to school grounds when students are present, (2) will have direct contact with students, or (3) have access or control of school funds, will successfully complete the background screening required by the referenced statutes and meet the standards established by the statutes. This background screening will be conducted by SBBC in advance of VENDOR or its personnel providing any services under the conditions described in the previous sentence. VENDOR shall bear the cost of acquiring the background screening required by Section 1012.32, Florida Statutes, and any fee imposed by the Florida Department of Law Enforcement to maintain the fingerprints provided with respect to VENDOR and its personnel. The parties agree that the failure of VENDOR to perform any of the duties described in this section shall constitute a material breach of this Agreement entitling SBBC to terminate immediately with no further responsibilities or duties to perform under this Agreement. VENDOR agrees to indemnify and hold harmless SBBC, its officers and employees from any liability in the form of physical or mental injury, death or property damage resulting from VENDOR's failure to comply with the requirements of this Section or with Sections 1012.32 and 1012.465, Florida Statutes.

ARTICLE 3 – GENERAL CONDITIONS

3.01 **No Waiver of Sovereign Immunity**. Nothing herein is intended to serve as a waiver of sovereign immunity by any agency or political subdivision to which sovereign immunity may be applicable or of any rights or limits to liability existing under Section 768.28, Florida Statutes. This section shall survive the termination of all performance or obligations under this Agreement and shall be fully binding until such time as any proceeding brought on account of this Agreement is barred by any applicable statute of limitations.

3.02 **No Third Party Beneficiaries**. The parties expressly acknowledge that it is not their intent to create or confer any rights or obligations in or upon any third person or entity under this Agreement. None of the parties intend to directly or substantially benefit a third party by this Agreement. The parties agree that there are no third party beneficiaries to this Agreement and that no third party shall be entitled to assert a claim against any of the parties based upon this Agreement. Nothing herein shall be construed as consent by an agency or political subdivision of the State of Florida to be sued by third parties in any matter arising out of any contract.

3.03 **Independent Contractor**. The parties to this agreement shall at all times be acting in the capacity of independent contractors and not as an officer, employee or agent of one another. Neither party or its respective agents, employees, subcontractors or assignees shall represent to others that it has the authority to bind the other party unless specifically authorized in writing to do so. No right to SBBC retirement, leave benefits or any other benefits of SBBC employees shall exist as a result of the performance of any duties or responsibilities under this Agreement. SBBC shall not be responsible for social security, withholding taxes, contributions to unemployment compensation funds or insurance for the other party or the other party's officers, employees, agents, subcontractors or assignees.

3.04 **Equal Opportunity Provision**. The parties agree that no person shall be subjected to discrimination because of age, race, color, disability, gender identity, gender expression marital status, national origin, religion, sex or sexual orientation in the performance of the parties' respective duties, responsibilities and obligations under this Agreement.

3.05 **Termination**. This Agreement may be canceled with or without cause by SBBC during the term hereof upon thirty (30) days written notice to the other parties of its desire to terminate this Agreement. SBBC shall have no liability for any property left on SBBC's property by any party to this Agreement after the termination of this Agreement. Any party contracting with SBBC under this Agreement agrees that any of its property placed upon SBBC's facilities pursuant to this Agreement shall be removed within ten (10) business days following the termination, conclusion or cancellation of this Agreement and that any such property remaining upon SBBC's facilities after that time shall be deemed to be abandoned, title to such property shall pass to SBBC, and SBBC may use or dispose of such property as SBBC deems fit and appropriate.

3.06 **Default**. The parties agree that, in the event that either party is in default of its obligations under this Agreement, the non-defaulting party shall provide to the defaulting party (30) days written notice to cure the default. However, in the event said default cannot be cured within said thirty (30) day period and the defaulting party is diligently attempting in good faith to cure same, the time period shall be reasonably extended to allow the defaulting party additional cure time. Upon the occurrence of a default that is not cured during the applicable cure period, this Agreement may be terminated by the non-defaulting party upon thirty (30) days notice. This remedy is not intended to be exclusive of any other remedy, and each and every such remedy shall be cumulative and shall be in addition to every other remedy now or hereafter existing at law or in equity or by statute or otherwise. No single or partial exercise by any party of any right, power, or remedy hereunder shall preclude any other or future exercise thereof. Nothing in this section shall be construed to preclude termination for convenience pursuant to Section 3.05.

3.07 **Annual Appropriation.** The performance and obligations of SBBC under this Agreement shall be contingent upon an annual budgetary appropriation by its governing body. If SBBC does not allocate funds for the payment of services or products to be provided under this Agreement, this Agreement may be terminated by SBBC at the end of the period for which funds have been allocated. SBBC shall notify the other party at the earliest possible time before such termination. No penalty shall accrue to SBBC in the event this provision is exercised, and SBBC shall not be obligated or liable for any future payments due or any damages as a result of termination under this section.

3.08 **Excess Funds**. Any party receiving funds paid by SBBC under this Agreement agrees to promptly notify SBBC of any funds erroneously received from SBBC upon the discovery of such erroneous payment or overpayment. Any such excess funds shall be refunded to SBBC.

3.09 **Public Records**. Pursuant to Section 119.0701, Florida Statutes, any party contracting with SBBC is required to (a) keep and maintain available for public inspection any records that pertain to services rendered under this Agreement; (b) provide the public with access to public records on the same terms and conditions that SBBC would provide such records and 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; and (d) meet all requirements for retaining public records and transfer, at no cost to SBBC, all public records in that party's possession upon termination of its Agreement with SBBC and destroy any duplicate public records that are exempt or confidential and exempt from public records disclosure requirements. All of such party's records stored electronically must be provided to SBBC in a format that is compatible with SBBC's information technology systems. Each party shall maintain its own respective records and documents associated with this Agreement in accordance with the records retention requirements applicable to public records. Each party shall be responsible for compliance with any public documents request served upon it pursuant to Section 119.07, Florida Statutes, and any resultant award of attorney's fees for non-compliance with that law. Each party acknowledges that this Agreement and all attachments thereto are public records and do not constitute trade secrets.

3.10 **Student Records**: Notwithstanding any provision to the contrary within this Agreement, any party contracting with SBBC under this Agreement shall fully comply with the requirements of Sections 1002.22 and 1002.221, Florida Statutes; FERPA, and any other state or federal law or regulation regarding the confidentiality of student information and records. Each such party agrees, for itself, its officers, employees, agents, representatives, contractors or subcontractors, to fully indemnify and hold harmless SBBC and its officers and employees for any violation of this section, including, without limitation, defending SBBC and its officers and employees against any complaint, administrative or judicial proceeding, payment of any penalty imposed upon SBBC, or payment of any and all costs, damages, judgments or losses incurred by or imposed upon SBBC arising out of a breach of this covenant by the party, or an officer, employee, agent, representative, contractor, or sub-contractor of the party to the extent that the party or an officer, employee, agent, representative, contractor, or sub-contractor of the party shall either intentionally or negligently violate the provisions of this section or of Sections 1002.22 and/or 1002.221, Florida Statutes.

3.11 **Compliance with Laws**. Each party shall comply with all applicable federal, state and local laws, SBBC policies, codes, rules and regulations in performing its duties, responsibilities and obligations pursuant to this Agreement.

3.12 **Place of Performance**. All obligations of SBBC under the terms of this Agreement are reasonably susceptible of being performed in Broward County, Florida and shall be payable and performable in Broward County, Florida.

3.13 **Governing Law and Venue**. This Agreement shall be interpreted and construed in accordance with and governed by the laws of the State of Florida. Any controversies or legal problems arising out of this Agreement and any action involving the enforcement or interpretation of any rights hereunder shall be submitted to the jurisdiction of the State courts of the Seventeenth Judicial Circuit of Broward County, Florida.

3.14 **Entirety of Agreement**. This document incorporates and includes all prior negotiations, correspondence, conversations, agreements and understandings applicable to the matters contained herein and the parties agree that there are no commitments, agreements or understandings concerning the subject matter of this Agreement that are not contained in this document. Accordingly, the parties agree that no deviation from the terms hereof shall be predicated upon any prior representations or agreements, whether oral or written.

3.15 **Binding Effect**. This Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective successors and assigns.

3.16 **Assignment**. Neither this Agreement nor any interest herein may be assigned, transferred or encumbered by any party without the prior written consent of the other party. There shall be no partial assignments of this Agreement including, without limitation, the partial assignment of any right to receive payments from SBBC.

3.17 **Incorporation by Reference**. **Attachment A** attached hereto and referenced herein shall be deemed to be incorporated into this Agreement by reference.

3.18 **Captions**. The captions, section designations, section numbers, article numbers, titles and headings appearing in this Agreement are inserted only as a matter of convenience, have no substantive meaning, and in no way define, limit, construe or describe the scope or intent of such articles or sections of this Agreement, nor in any way affect this Agreement and shall not be construed to create a conflict with the provisions of this Agreement.

3.19 **Severability**. In the event that any one or more of the sections, paragraphs, sentences, clauses or provisions contained in this Agreement is held by a court of competent jurisdiction to be invalid, illegal, unlawful, unenforceable or void in any respect, such shall not affect the remaining portions of this Agreement and the same shall remain in full force and effect as if such invalid, illegal, unlawful, unenforceable or void sections, paragraphs, sentences, clauses or provisions had never been included herein.

3.20 **Preparation of Agreement**. The parties acknowledge that they have sought and obtained whatever competent advice and counsel as was necessary for them to form a full and complete understanding of all rights and obligations herein and that the preparation of this Agreement has been their joint effort. The language agreed to herein expresses their mutual intent and the resulting document shall not, solely as a matter of judicial construction, be construed more severely against one of the parties than the other.

3.21 **Amendments**. No modification, amendment, or alteration in the terms or conditions contained herein shall be effective unless contained in a written document prepared with the same or similar formality as this Agreement and executed by each party hereto.

3.22 **Waiver**. The parties agree that each requirement, duty and obligation set forth herein is substantial and important to the formation of this Agreement and, therefore, is a material term hereof. Any party's failure to enforce any provision of this Agreement shall not be deemed a waiver of such provision or modification of this Agreement unless the waiver is in writing and signed by the party waiving such provision. A written waiver shall only be effective as to the specific instance for which it is obtained and shall not be deemed a continuing or future waiver.

3.23 **Force Majeure**. Neither party shall be obligated to perform any duty, requirement or obligation under this Agreement if such performance is prevented by fire, hurricane, earthquake, explosion, wars, sabotage, accident, flood, acts of God, strikes, or other labor disputes, riot or civil commotions, or by reason of any other matter or condition beyond the control of either party, and which cannot be overcome by reasonable diligence and without unusual expense ("Force Majeure"). In no event shall a lack of funds on the part of either party be deemed Force Majeure.

3.24 **Survival**. All representations and warranties made herein, indemnification obligations, obligations to reimburse SBBC, obligations to maintain and allow inspection and audit of records and property, obligations to maintain the confidentiality of records, reporting requirements, and obligations to return public funds shall survive the termination of this Agreement.

3.25 **Contract Administration.** SBBC has delegated authority to the Superintendent of Schools or his/her designee to take any actions necessary to implement and administer this Agreement.

3.26. **Liability**. This section shall survive the termination of all performance or obligations under this Agreement and shall be fully binding until such time as any proceeding brought on account of this Agreement is barred by any applicable statute of limitations.

A. By SBBC: SBBC agrees to be fully responsible up to the limits of Section 768.28, Florida Statutes, for its acts of negligence, or its employees' acts of negligence when acting within the scope of their employment and agrees to be liable for any damages resulting from said negligence.

B. By VENDOR: VENDOR agrees to indemnify, hold harmless and defend SBBC, its agents, servants and employees from any and all claims, judgments, costs, and expenses including, but not limited to, reasonable attorney's fees, reasonable investigative and discovery costs, court costs and all other sums which SBBC, its agents, servants and employees may pay or become obligated to pay on account of any, all and every claim or demand, or assertion of liability, or any claim or action founded thereon, arising or alleged to have arisen out of the products, goods or services furnished by VENDOR, its agents, servants or employees; the equipment of VENDOR, its agents, servants or employees while such equipment is on premises owned or controlled by SBBC; or the negligence of VENDOR or the negligence of VENDOR's agents when acting within the scope of their employment, whether such claims, judgments, costs and expenses be for damages, damage to property including SBBC's property, and injury or death of any person whether employed by VENDOR, SBBC or otherwise.

3.27 **Authority**. Each person signing this Agreement on behalf of either party individually warrants that he or she has full legal power to execute this Agreement on behalf of the party for whom he or she is signing, and to bind and obligate such party with respect to all provisions contained in this Agreement.

IN WITNESS WHEREOF, the Parties hereto have made and executed this Agreement on the date first above written.

FOR SBBC

(Corporate Seal)

THE SCHOOL BOARD OF BROWARD COUNTY, FLORIDA

By_____
Dr. Rosalind Osgood, Chair

ATTEST:

_____
Robert W. Runcie, Superintendent of Schools

Approved as to Form and Legal Content:

Kathelyn Jacques-Adams

Digitally signed by Kathelyn Jacques-Adams
DN: cn=Kathelyn Jacques-Adams, o=The School District of Broward County, Florida, ou=The Office of the General Counsel, email=kathelyn.jacques-adams@browardschools.com, c=US
Date: 2016.05.25 12:42:50 -04'00'

Office of the General Counsel

FOR VENDOR

(Corporate Seal)

THE EXECU/SEARCH GROUP, INC.

ATTEST:

By _____

_____, Secretary

-or-

_____
Witness

_____
Witness

The Following Notarization is Required for Every Agreement Without Regard to Whether the Party Chose to Use a Secretary's Attestation or Two (2) Witnesses.

STATE OF Florida

COUNTY OF Broward

The foregoing instrument was acknowledged before me this 16 day of May, 2016 by Jason Neal of
Name of Person
The Execu|search Group, on behalf of the corporation/agency.
Name of Corporation or Agency
He/She is personally known to me or produced FLDL as identification and did/did not first take an oath.
Type of Identification

My Commission Expires:

_____
Signature – Notary Public

(SEAL)

DOUGLAS A. BRZUCHALSKI
MY COMMISSION # FF 914492
EXPIRES: August 31, 2019
Bonded Thru Notary Public Underwriters

Douglas A Brzuchalski
Printed Name of Notary

FF914492
Notary's Commission No.

ATTACHMENT A

SCOPE OF SERVICES

1. VENDOR shall provide occupational and physical therapy services in accordance with Broward County Schools Special Programs and Procedures. A copy of these procedures may be obtained on Exceptional Student Education's website at http://www.broward.k12.fl.us/studentsupport/ese/pdf/SP&P.pdf or as updated by SBBC.

2. VENDOR shall provide current licensed occupational and physical therapists under this Agreement. **Award of this Agreement shall not be a guarantee of business, a guarantee of specified volume of service or minimum dollar revenue to be received under this Agreement.**

3. VENDOR shall report to the Program Specialist and/or Curriculum Supervisor regarding services under this Agreement.

4. VENDOR shall be compensated for direct student services and student related activities only. VENDOR shall not be compensated/reimbursed for travel under this Agreement.

5. VENDOR shall provide the following services, but not limited to, initial student evaluations, small group or individual therapy with students, record-keeping for student attendance, supervising assistants, preparing progress reports and therapy notes, preparing a therapy plan of care, participating in the development of Individual Education Plans (IEP), attendance at required eligibility, IEP and dismissal staffings, attending in-service meetings as requested and providing consultation with parents, school area, district staff and physicians, as needed. For Certified Occupational Therapy Assistants (COTA) and Licensed Physical Therapy Assistant (LPTA), service will be provided under supervision in accordance with the OT/PT Practice ACT. VENDOR shall complete all appropriate documentation for Medicaid Reimbursement.

6. VENDOR shall provide services consistent with the professional standards of care and comply with all the medical and ethical requirements imposed by the State of Florida, Board of Medicine, the Department of Professional Regulations, the Florida State Department of Education and any other applicable federal, state or local regulatory agency.

7. VENDOR shall provide the requested level of service(s), in accordance with and/or changes for services requested by SBBC, within five (5) calendar days of notice, unless otherwise mutually agreed upon. Excessive failure to meet the needs as requested will result in cancellation of VENDOR's Agreement.

8. VENDOR shall maintain normal working hours of 8:00 a.m. to 4:00 p.m. Hours may occasionally be extended from 7:00 a.m. to 4:30 p.m. There will be no reimbursement for a thirty (30) minute lunch period. SBBC may only be invoiced for up to 7.5 hours per day unless prior approval has been granted by SBBC staff for extended service time. Awardee(s) may provide a maximum of four (4) hours of service as needed on each scheduled employee planning day. Invoices not complying with this will be rejected and returned for correction and failure to invoice correctly will result in a delay of payment. Any VENDOR who consistently submits invoices that are not correct may be found in default of Agreement.

SCOPE OF SERVICES

9. VENDOR shall respond to requested services within five (5) school days of the request by submitting to an interview by a designated SBBC representative. Firms can also offer these services and interviews as required.

10. VENDOR shall provide uninterrupted services based upon the current school calendar to students by providing qualified substitutes or replacements in the event of an anticipated or unanticipated lapse of service. A qualified substitute is defined to be a therapist for a therapist or a therapist assistant for an assistant. All qualified substitutes must display an SBBC identification badge. (See General Condition 7.42) Any lapse of service to SBBC for five student attendance days during any school year will result in default of Agreement. VENDOR may be responsible to provide compensatory services or payments to SBBC for lapse of service.

11. VENDOR shall provide a service schedule of all personnel for approval on a regular basis as determined by a designated SBBC representative.

12. VENDOR shall follow all procedures (including, but not limited to, signing in and out, no telephone calls during treatment time) of individual schools where they are assigned. All therapists must carry a cell phone for critical communication throughout the day with SBBC personnel as established. These numbers must be provided to SBBC personnel. There shall be no cost to SBBC to use these communication devices.

13. VENDOR shall prepare time logs, reports, written analysis and other written memoranda in the form and manner deemed appropriate by SBBC.

14. VENDOR shall bill under SBBC's Medicaid provider number, when needed.

15. VENDOR, under this Agreement, shall be required to pass the screening of the of the Broward School's Police, Security Clearance Department prior to placement of assignment as required by SBBC (See General Condition 7.42 of the RFP, SBBC Photo Identification Badge). VENDOR must utilize the STAR system and/or sign-in/out procedures to document attendance at assigned location(s).

16. SBBC reserves the right to interview all therapy candidates prior to placement. K-12 experience is preferred. SBBC reserves the right to refuse to utilize any proposed therapy candidate. SBBC reserves the right to have an individual therapist removed from the assigned position. VENDOR will have five workdays in which to propose a replacement therapist. Should VENDOR be unable to provide an acceptable replacement, all other contracted Awardees will then be notified to submit a candidate to SBBC.

17. VENDOR shall provide proof of services on an original approved voucher form upon initiation of services and up until training is provided on the Accelify Electronic Management System. Once VENDOR has received training, VENDOR shall then submit all invoices electronically.

SCOPE OF SERVICES

18. VENDOR shall have all therapists and assistants and required substitutes or replacements submit to, and pass, the screening of the Special Investigative Unit (SIU), including fingerprinting, prior to working with students as required for all SBBC personnel. All therapists and assistants shall display an SBBC Identification Badge during contracted work hours. VENDOR will be required to pay the required fees for screening, fingerprinting and photo identification. (See General Condition 7.42 of the RFP)

19. VENDOR shall cooperate with SBBC in its partnership with universities and colleges to provide supervision of practicum experience for student therapists and assistants.

20. VENDOR may be evaluated annually in areas to include, but not be limited to, responsiveness, continuity of service, quality of work and professionalism.

21. VENDOR shall not provide private assessments or therapy services to students on their own public school caseload.

22. VENDOR and all therapists and assistants shall attend an orientation workshop of not less than three hours. This orientation workshop will include, but not be limited to, general information on the policies and procedures of the Broward County Special Programs and Procedures, the rights of students with disabilities, and other operational procedures required to carry out the therapy program. Additional workshops may be required during the term of the Agreement.

23. VENDOR will receive, from SBBC, requested materials, equipment and other related items which have been determined to be necessary to carry out the therapy program for students when approved by a designated SBBC representative.

24. VENDOR shall insure that their provider has the necessary technology (eg. Laptop, desktop computer, etc.) needed to carryout job responsibilities.

AGREEMENT

THIS AGREEMENT is made and entered into as of this ____ day of _____, 2016, by and between

THE SCHOOL BOARD OF BROWARD COUNTY, FLORIDA
(hereinafter referred to as "SBBC"),
a body corporate and political subdivision of the State of Florida,
whose principal place of business is
600 Southeast Third Avenue, Fort Lauderdale, Florida 33301

and

FUN THERAPY SERVICES INC.
(hereinafter referred to as "VENDOR"),
whose principal place of business is
837 Heritage Drive
Weston, Florida 33326

WHEREAS, SBBC issued a Request for Proposal identified as RFP 17-005V – Occupational and Physical Therapy Services (hereinafter referred to as "RFP"), dated December 11, 2015 and amended by Addendum No. 2, dated January 15, 2016, and Addendum No. 1, dated January 9, 2016 all of which are incorporated by reference herein, for the purpose of receiving proposals for occupational and physical therapy services; and

WHEREAS, VENDOR offered a proposal dated January 11, 2016 (hereinafter referred to as "Proposal") which is incorporated by reference herein, in response to this RFP.

NOW, THEREFORE, in consideration of the premises and of the mutual covenants contained herein and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the Parties hereby agree as follows:

ARTICLE 1 - RECITALS

1.01 **Recitals**. The parties agree that the foregoing recitals are true and correct and that such recitals are incorporated herein by reference.

ARTICLE 2 – SPECIAL CONDITIONS

2.01 **Term of Agreement**. Unless terminated earlier pursuant to Section 3.05 of this Agreement, the term of this Agreement shall commence on **July 1, 2016** and conclude on **June 30, 2019.** The term of the Agreement may, by mutual agreement between SBBC and VENDOR be extended for two additional one-year periods and, if needed, 180 days beyond the expiration date of the renewal period. SBBC's Procurement & Warehousing Services Department, will, if considering renewing, request a letter consenting to renewal from VENDOR, prior to the end of the term. Any renewal period shall be approved by an Amendment to this Agreement executed by both parties

2.02 **Priority of Documents.** In the event of a conflict between documents, the following priority of documents shall govern.

First: This Agreement, then;
Second: Addendum No. 2, then;
Third: Addendum No. 1, then;
Fourth: RFP 17-005V – Occupational and Physical Therapy Services, then;
Fifth: Proposal submitted in response to the RFP by VENDOR.

2.03 **Services**: VENDOR shall provide SBBC with services as proposed in its Proposal and in compliance with this Agreement and the RFP and its Addenda and as specified in **Attachment A – Scope of Services**.

2.04 **Cost of Services**. SBBC shall pay VENDOR for cost of services rendered for Occupational Therapy services at $64.00/hour. Costs shall not exceed the amount as stated on the Purchase Order. VENDOR may offer SBBC a special educational discount for pricing and reduce the cost of services during the term of the Agreement. VENDOR may invoice SBBC at an hourly rate less than their original bid price.

2.05 **M/WBE Participation**. VENDOR is a current Certified MWBE, Subcontinent-Asian, with SBBC, Certificate #7007-6861.

2.06 **Inspection of VENDOR's Records by SBBC**. VENDOR shall establish and maintain books, records and documents (including electronic storage media) sufficient to reflect all income and expenditures of funds provided by SBBC under this Agreement. All VENDOR's Records, regardless of the form in which they are kept, shall be open to inspection and subject to audit, inspection, examination, evaluation and/or reproduction, during normal working hours, by SBBC's agent or its authorized representative to permit SBBC to evaluate, analyze and verify the satisfactory performance of the terms and conditions of this Agreement and to evaluate, analyze and verify any and all invoices, billings, payments and/or claims submitted by VENDOR or any of VENDOR's payees pursuant to this Agreement. VENDOR's Records subject to examination shall include, without limitation, those records necessary to evaluate and verify direct and indirect costs (including overhead allocations) as they may apply to costs associated with this Agreement. VENDOR's Records subject to this section shall include any and all documents pertinent to the evaluation, analysis, verification and reconciliation of any and all expenditures under this Agreement without regard to funding sources.

(a) VENDOR's Records Defined. For the purposes of this Agreement, the term "VENDOR's Records" shall include, without limitation, accounting records, payroll time sheets, cancelled payroll checks, W-2 forms, written policies and procedures, computer records, disks and software, videos, photographs, executed subcontracts, subcontract files (including proposals of successful and unsuccessful bidders), original estimates, estimating worksheets, correspondence, change order files (including sufficient supporting documentation and documentation covering negotiated settlements), and any other supporting documents that would substantiate, reconcile or refute any charges and/or expenditures related to this Agreement.

(b) Duration of Right to Inspect. For the purpose of such audits, inspections, examinations, evaluations and/or reproductions, SBBC's agent or authorized representative shall have access to VENDOR's Records from the effective date of this Agreement, for the duration of the term of this Agreement, and until the later of five (5) years after the termination of this Agreement or five (5) years after the date of final payment by SBBC to VENDOR pursuant to this Agreement.

(c) Notice of Inspection. SBBC's agent or its authorized representative shall provide VENDOR reasonable advance notice (not to exceed two (2) weeks) of any intended audit, inspection, examination, evaluation and or reproduction.

(d) Audit Site Conditions. SBBC's agent or its authorized representative shall have access to VENDOR's facilities and to any and all records related to this Agreement, and shall be provided adequate and appropriate work space in order to exercise the rights permitted under this section.

(e) Failure to Permit Inspection. Failure by VENDOR to permit audit, inspection, examination, evaluation and/or reproduction as permitted under this Section shall constitute grounds for termination of this Agreement by SBBC for cause and shall be grounds for the denial of some or all of any VENDOR's claims for payment by SBBC.

(f) Overcharges and Unauthorized Charges. If an audit conducted in accordance with this Section discloses overcharges or unauthorized charges to SBBC by VENDOR in excess of two percent (2%) of the total billings under this Agreement, the actual cost of SBBC's audit shall be paid by VENDOR. If the audit discloses billings or charges to which VENDOR is not contractually entitled, VENDOR shall pay said sum to SBBC within twenty (20) days of receipt of written demand under otherwise agreed to in writing by both parties.

(g) Inspection of Subcontractor's Records. VENDOR shall require any and all subcontractors, insurance agents and material suppliers (hereafter referred to as "Payees") providing services or goods with regard to this Agreement to comply with the requirements of this section by insertion of such requirements in any written subcontract. Failure by VENDOR to include such requirements in any subcontract shall constitute grounds for termination of this Agreement by SBBC for cause and shall be grounds for the exclusion of some or all of any Payee's costs from amounts payable by SBBC to VENDOR pursuant to this Agreement and such excluded costs shall become the liability of VENDOR.

(h) Inspector General Audits. VENDOR shall comply and cooperate immediately with any inspections, reviews, investigations, or audits deemed necessary by the Florida Office of the Inspector General or by any other state or federal officials.

2.07 **Notice**. When any of the parties desire to give notice to the other, such notice must be in writing, sent by U.S. Mail, postage prepaid, addressed to the party for whom it is intended at the place last specified; the place for giving notice shall remain such until it is changed by written notice in compliance with the provisions of this paragraph. For the present, the Parties designate the following as the respective places for giving notice:

To SBBC:
Superintendent of Schools
The School Board of Broward County, Florida
600 S.E. 3rd. Avenue
Fort Lauderdale, Florida 33301

With a Copy to:	Director, ESE Department The School Board of Broward County, Florida Arthur Ashe Campus 1701 NW 23 Avenue Fort Lauderdale, FL 33311
To VENDOR:	Fun Therapy Services, Inc. Dawn Monteiro, OTR/L 837 Heritage Drive Weston, FL 33326

2.08 **Background Screening.** VENDOR agrees to comply with all requirements of Sections 1012.32 and 1012.465, Florida Statutes, and all of its personnel who (1) are to be permitted access to school grounds when students are present, (2) will have direct contact with students, or (3) have access or control of school funds, will successfully complete the background screening required by the referenced statutes and meet the standards established by the statutes. This background screening will be conducted by SBBC in advance of VENDOR or its personnel providing any services under the conditions described in the previous sentence. VENDOR shall bear the cost of acquiring the background screening required by Section 1012.32, Florida Statutes, and any fee imposed by the Florida Department of Law Enforcement to maintain the fingerprints provided with respect to VENDOR and its personnel. The parties agree that the failure of VENDOR to perform any of the duties described in this section shall constitute a material breach of this Agreement entitling SBBC to terminate immediately with no further responsibilities or duties to perform under this Agreement. VENDOR agrees to indemnify and hold harmless SBBC, its officers and employees from any liability in the form of physical or mental injury, death or property damage resulting from VENDOR's failure to comply with the requirements of this Section or with Sections 1012.32 and 1012.465, Florida Statutes.

ARTICLE 3 – GENERAL CONDITIONS

3.01 **No Waiver of Sovereign Immunity.** Nothing herein is intended to serve as a waiver of sovereign immunity by any agency or political subdivision to which sovereign immunity may be applicable or of any rights or limits to liability existing under Section 768.28, Florida Statutes. This section shall survive the termination of all performance or obligations under this Agreement and shall be fully binding until such time as any proceeding brought on account of this Agreement is barred by any applicable statute of limitations.

3.02 **No Third Party Beneficiaries.** The parties expressly acknowledge that it is not their intent to create or confer any rights or obligations in or upon any third person or entity under this Agreement. None of the parties intend to directly or substantially benefit a third party by this Agreement. The parties agree that there are no third party beneficiaries to this Agreement and that no third party shall be entitled to assert a claim against any of the parties based upon this Agreement. Nothing herein shall be construed as consent by an agency or political subdivision of the State of Florida to be sued by third parties in any matter arising out of any contract.

3.03 **Independent Contractor**. The parties to this agreement shall at all times be acting in the capacity of independent contractors and not as an officer, employee or agent of one another. Neither party or its respective agents, employees, subcontractors or assignees shall represent to others that it has the authority to bind the other party unless specifically authorized in writing to do so. No right to SBBC retirement, leave benefits or any other benefits of SBBC employees shall exist as a result of the performance of any duties or responsibilities under this Agreement. SBBC shall not be responsible for social security, withholding taxes, contributions to unemployment compensation funds or insurance for the other party or the other party's officers, employees, agents, subcontractors or assignees.

3.04 **Equal Opportunity Provision**. The parties agree that no person shall be subjected to discrimination because of age, race, color, disability, gender identity, gender expression marital status, national origin, religion, sex or sexual orientation in the performance of the parties' respective duties, responsibilities and obligations under this Agreement.

3.05 **Termination**. This Agreement may be canceled with or without cause by SBBC during the term hereof upon thirty (30) days written notice to the other parties of its desire to terminate this Agreement. SBBC shall have no liability for any property left on SBBC's property by any party to this Agreement after the termination of this Agreement. Any party contracting with SBBC under this Agreement agrees that any of its property placed upon SBBC's facilities pursuant to this Agreement shall be removed within ten (10) business days following the termination, conclusion or cancellation of this Agreement and that any such property remaining upon SBBC's facilities after that time shall be deemed to be abandoned, title to such property shall pass to SBBC, and SBBC may use or dispose of such property as SBBC deems fit and appropriate.

3.06 **Default**. The parties agree that, in the event that either party is in default of its obligations under this Agreement, the non-defaulting party shall provide to the defaulting party (30) days written notice to cure the default. However, in the event said default cannot be cured within said thirty (30) day period and the defaulting party is diligently attempting in good faith to cure same, the time period shall be reasonably extended to allow the defaulting party additional cure time. Upon the occurrence of a default that is not cured during the applicable cure period, this Agreement may be terminated by the non-defaulting party upon thirty (30) days notice. This remedy is not intended to be exclusive of any other remedy, and each and every such remedy shall be cumulative and shall be in addition to every other remedy now or hereafter existing at law or in equity or by statute or otherwise. No single or partial exercise by any party of any right, power, or remedy hereunder shall preclude any other or future exercise thereof. Nothing in this section shall be construed to preclude termination for convenience pursuant to Section 3.05.

3.07 **Annual Appropriation.** The performance and obligations of SBBC under this Agreement shall be contingent upon an annual budgetary appropriation by its governing body. If SBBC does not allocate funds for the payment of services or products to be provided under this Agreement, this Agreement may be terminated by SBBC at the end of the period for which funds have been allocated. SBBC shall notify the other party at the earliest possible time before such termination. No penalty shall accrue to SBBC in the event this provision is exercised, and SBBC shall not be obligated or liable for any future payments due or any damages as a result of termination under this section.

3.08 **Excess Funds**. Any party receiving funds paid by SBBC under this Agreement agrees to promptly notify SBBC of any funds erroneously received from SBBC upon the discovery of such erroneous payment or overpayment. Any such excess funds shall be refunded to SBBC.

3.09 **Public Records**. Pursuant to Section 119.0701, Florida Statutes, any party contracting with SBBC is required to (a) keep and maintain available for public inspection any records that pertain to services rendered under this Agreement; (b) provide the public with access to public records on the same terms and conditions that SBBC would provide such records and 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; and (d) meet all requirements for retaining public records and transfer, at no cost to SBBC, all public records in that party's possession upon termination of its Agreement with SBBC and destroy any duplicate public records that are exempt or confidential and exempt from public records disclosure requirements. All of such party's records stored electronically must be provided to SBBC in a format that is compatible with SBBC's information technology systems. Each party shall maintain its own respective records and documents associated with this Agreement in accordance with the records retention requirements applicable to public records. Each party shall be responsible for compliance with any public documents request served upon it pursuant to Section 119.07, Florida Statutes, and any resultant award of attorney's fees for non-compliance with that law. Each party acknowledges that this Agreement and all attachments thereto are public records and do not constitute trade secrets.

3.10 **Student Records**: Notwithstanding any provision to the contrary within this Agreement, any party contracting with SBBC under this Agreement shall fully comply with the requirements of Sections 1002.22 and 1002.221, Florida Statutes; FERPA, and any other state or federal law or regulation regarding the confidentiality of student information and records. Each such party agrees, for itself, its officers, employees, agents, representatives, contractors or subcontractors, to fully indemnify and hold harmless SBBC and its officers and employees for any violation of this section, including, without limitation, defending SBBC and its officers and employees against any complaint, administrative or judicial proceeding, payment of any penalty imposed upon SBBC, or payment of any and all costs, damages, judgments or losses incurred by or imposed upon SBBC arising out of a breach of this covenant by the party, or an officer, employee, agent, representative, contractor, or sub-contractor of the party to the extent that the party or an officer, employee, agent, representative, contractor, or sub-contractor of the party shall either intentionally or negligently violate the provisions of this section or of Sections 1002.22 and/or 1002.221, Florida Statutes.

3.11 **Compliance with Laws**. Each party shall comply with all applicable federal, state and local laws, SBBC policies, codes, rules and regulations in performing its duties, responsibilities and obligations pursuant to this Agreement.

3.12 **Place of Performance**. All obligations of SBBC under the terms of this Agreement are reasonably susceptible of being performed in Broward County, Florida and shall be payable and performable in Broward County, Florida.

3.13 **Governing Law and Venue**. This Agreement shall be interpreted and construed in accordance with and governed by the laws of the State of Florida. Any controversies or legal problems arising out of this Agreement and any action involving the enforcement or interpretation of any rights hereunder shall be submitted to the jurisdiction of the State courts of the Seventeenth Judicial Circuit of Broward County, Florida.

3.14 **Entirety of Agreement**. This document incorporates and includes all prior negotiations, correspondence, conversations, agreements and understandings applicable to the matters contained herein and the parties agree that there are no commitments, agreements or understandings concerning the subject matter of this Agreement that are not contained in this document. Accordingly, the parties agree that no deviation from the terms hereof shall be predicated upon any prior representations or agreements, whether oral or written.

3.15 **Binding Effect**. This Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective successors and assigns.

3.16 **Assignment**. Neither this Agreement nor any interest herein may be assigned, transferred or encumbered by any party without the prior written consent of the other party. There shall be no partial assignments of this Agreement including, without limitation, the partial assignment of any right to receive payments from SBBC.

3.17 **Incorporation by Reference**. **Attachment A** attached hereto and referenced herein shall be deemed to be incorporated into this Agreement by reference.

3.18 **Captions**. The captions, section designations, section numbers, article numbers, titles and headings appearing in this Agreement are inserted only as a matter of convenience, have no substantive meaning, and in no way define, limit, construe or describe the scope or intent of such articles or sections of this Agreement, nor in any way affect this Agreement and shall not be construed to create a conflict with the provisions of this Agreement.

3.19 **Severability**. In the event that any one or more of the sections, paragraphs, sentences, clauses or provisions contained in this Agreement is held by a court of competent jurisdiction to be invalid, illegal, unlawful, unenforceable or void in any respect, such shall not affect the remaining portions of this Agreement and the same shall remain in full force and effect as if such invalid, illegal, unlawful, unenforceable or void sections, paragraphs, sentences, clauses or provisions had never been included herein.

3.20 **Preparation of Agreement**. The parties acknowledge that they have sought and obtained whatever competent advice and counsel as was necessary for them to form a full and complete understanding of all rights and obligations herein and that the preparation of this Agreement has been their joint effort. The language agreed to herein expresses their mutual intent and the resulting document shall not, solely as a matter of judicial construction, be construed more severely against one of the parties than the other.

3.21 **Amendments**. No modification, amendment, or alteration in the terms or conditions contained herein shall be effective unless contained in a written document prepared with the same or similar formality as this Agreement and executed by each party hereto.

3.22 **Waiver**. The parties agree that each requirement, duty and obligation set forth herein is substantial and important to the formation of this Agreement and, therefore, is a material term hereof. Any party's failure to enforce any provision of this Agreement shall not be deemed a waiver of such provision or modification of this Agreement unless the waiver is in writing and signed by the party waiving such provision. A written waiver shall only be effective as to the specific instance for which it is obtained and shall not be deemed a continuing or future waiver.

3.23 **Force Majeure**. Neither party shall be obligated to perform any duty, requirement or obligation under this Agreement if such performance is prevented by fire, hurricane, earthquake, explosion, wars, sabotage, accident, flood, acts of God, strikes, or other labor disputes, riot or civil commotions, or by reason of any other matter or condition beyond the control of either party, and which cannot be overcome by reasonable diligence and without unusual expense ("Force Majeure"). In no event shall a lack of funds on the part of either party be deemed Force Majeure.

3.24 **Survival**. All representations and warranties made herein, indemnification obligations, obligations to reimburse SBBC, obligations to maintain and allow inspection and audit of records and property, obligations to maintain the confidentiality of records, reporting requirements, and obligations to return public funds shall survive the termination of this Agreement.

3.25 **Contract Administration.** SBBC has delegated authority to the Superintendent of Schools or his/her designee to take any actions necessary to implement and administer this Agreement.

3.26. **Liability**. This section shall survive the termination of all performance or obligations under this Agreement and shall be fully binding until such time as any proceeding brought on account of this Agreement is barred by any applicable statute of limitations.

A. By SBBC: SBBC agrees to be fully responsible up to the limits of Section 768.28, Florida Statutes, for its acts of negligence, or its employees' acts of negligence when acting within the scope of their employment and agrees to be liable for any damages resulting from said negligence.

B. By VENDOR: VENDOR agrees to indemnify, hold harmless and defend SBBC, its agents, servants and employees from any and all claims, judgments, costs, and expenses including, but not limited to, reasonable attorney's fees, reasonable investigative and discovery costs, court costs and all other sums which SBBC, its agents, servants and employees may pay or become obligated to pay on account of any, all and every claim or demand, or assertion of liability, or any claim or action founded thereon, arising or alleged to have arisen out of the products, goods or services furnished by VENDOR, its agents, servants or employees; the equipment of VENDOR, its agents, servants or employees while such equipment is on premises owned or controlled by SBBC; or the negligence of VENDOR or the negligence of VENDOR's agents when acting within the scope of their employment, whether such claims, judgments, costs and expenses be for damages, damage to property including SBBC's property, and injury or death of any person whether employed by VENDOR, SBBC or otherwise.

3.27 **Authority**. Each person signing this Agreement on behalf of either party individually warrants that he or she has full legal power to execute this Agreement on behalf of the party for whom he or she is signing, and to bind and obligate such party with respect to all provisions contained in this Agreement.

IN WITNESS WHEREOF, the Parties hereto have made and executed this Agreement on the date first above written.

FOR SBBC

(Corporate Seal)

THE SCHOOL BOARD OF BROWARD COUNTY, FLORIDA

By_____
Dr. Rosalind Osgood, Chair

ATTEST:

_____
Robert W. Runcie, Superintendent of Schools

Approved as to Form and Legal Content:

Kathelyn Jacques-Adams

Digitally signed by Kathelyn Jacques-Adams
DN: cn=Kathelyn Jacques-Adams, o=The School District of Broward County, Florida, ou=The Office of the General Counsel, email=kathelyn.jacques-adams@browardschools.com, c=US
Date: 2016.05.25 12:43:30 -04'00'

Office of the General Counsel

FOR VENDOR

(Corporate Seal)

FUN THERAPY SERVICES, INC.

ATTEST:

By D Monteiro

_____, Secretary

-or-

Penni J Pelly
Witness

Viviana Alonso
Witness

The Following Notarization is Required for Every Agreement Without Regard to Whether the Party Chose to Use a Secretary's Attestation or Two (2) Witnesses.

STATE OF Florida

COUNTY OF Broward

The foregoing instrument was acknowledged before me this 12th day of May, 2016 by Dawn M. Monteiro of
Name of Person
Fun Therapy Services, Inc, on behalf of the corporation/agency.
Name of Corporation or Agency
He/She is personally known to me or produced Florida Driver License as identification and did/did not first take an oath.
Type of Identification

My Commission Expires: July 7 2017

Signature Notary Public

(SEAL)

ALIZA DE LA ROSA
Notary Public, State of Florida
Commission # FF 34053
My comm. expires July 7, 2017

Aliza DeLaRosa
Printed Name of Notary

FF34053
Notary's Commission No.

ATTACHMENT A

SCOPE OF SERVICES

1. VENDOR shall provide occupational therapy services in accordance with Broward County Schools Special Programs and Procedures. A copy of these procedures may be obtained on Exceptional Student Education's website at http://www.broward.k12.fl.us/studentsupport/ese/pdf/SP&P.pdf or as updated by SBBC.

2. VENDOR shall provide current licensed occupational therapists under this Agreement. **Award of this Agreement shall not be a guarantee of business, a guarantee of specified volume of service or minimum dollar revenue to be received under this Agreement.**

3. VENDOR shall report to the Program Specialist and/or Curriculum Supervisor regarding services under this Agreement.

4. VENDOR shall be compensated for direct student services and student related activities only. VENDOR shall not be compensated/reimbursed for travel under this Agreement.

5. VENDOR shall provide the following services, but not limited to, initial student evaluations, small group or individual therapy with students, record-keeping for student attendance, supervising assistants, preparing progress reports and therapy notes, preparing a therapy plan of care, participating in the development of Individual Education Plans (IEP), attendance at required eligibility, IEP and dismissal staffings, attending in-service meetings as requested and providing consultation with parents, school area, district staff and physicians, as needed. VENDOR shall complete all appropriate documentation for Medicaid Reimbursement.

6. VENDOR shall provide services consistent with the professional standards of care and comply with all the medical and ethical requirements imposed by the State of Florida, Board of Medicine, the Department of Professional Regulations, the Florida State Department of Education and any other applicable federal, state or local regulatory agency.

7. VENDOR shall provide the requested level of service(s), in accordance with and/or changes for services requested by SBBC, within five (5) calendar days of notice, unless otherwise mutually agreed upon. Excessive failure to meet the needs as requested will result in cancellation of VENDOR's Agreement.

8. VENDOR shall maintain normal working hours of 8:00 a.m. to 4:00 p.m. Hours may occasionally be extended from 7:00 a.m. to 4:30 p.m. There will be no reimbursement for a thirty (30) minute lunch period. SBBC may only be invoiced for up to 7.5 hours per day unless prior approval has been granted by SBBC staff for extended service time. Awardee(s) may provide a maximum of four (4) hours of service as needed on each scheduled employee planning day. Invoices not complying with this will be rejected and returned for correction and failure to invoice correctly will result in a delay of payment. Any VENDOR who consistently submits invoices that are not correct may be found in default of Agreement.

SCOPE OF SERVICES

9. VENDOR shall respond to requested services within five (5) school days of the request by submitting to an interview by a designated SBBC representative. Firms can also offer these services and interviews as required.

10. VENDOR shall provide uninterrupted services based upon the current school calendar to students by providing qualified substitutes or replacements in the event of an anticipated or unanticipated lapse of service. A qualified substitute is defined to be a therapist for a therapist or a therapist assistant for an assistant. All qualified substitutes must display an SBBC identification badge. (See General Condition 7.42) Any lapse of service to SBBC for five student attendance days during any school year will result in default of Agreement. VENDOR may be responsible to provide compensatory services or payments to SBBC for lapse of service.

11. VENDOR shall provide a service schedule of all personnel for approval on a regular basis as determined by a designated SBBC representative.

12. VENDOR shall follow all procedures (including, but not limited to, signing in and out, no telephone calls during treatment time) of individual schools where they are assigned. All therapists must carry a cell phone for critical communication throughout the day with SBBC personnel as established. These numbers must be provided to SBBC personnel. There shall be no cost to SBBC to use these communication devices.

13. VENDOR shall prepare time logs, reports, written analysis and other written memoranda in the form and manner deemed appropriate by SBBC.

14. VENDOR shall bill under SBBC's Medicaid provider number, when needed.

15. VENDOR, under this Agreement, shall be required to pass the screening of the of the Broward School's Police, Security Clearance Department prior to placement of assignment as required by SBBC (See General Condition 7.42 of the RFP, SBBC Photo Identification Badge). VENDOR must utilize the STAR system and/or sign-in/out procedures to document attendance at assigned location(s).

16. SBBC reserves the right to interview all therapy candidates prior to placement. K-12 experience is preferred. SBBC reserves the right to refuse to utilize any proposed therapy candidate. SBBC reserves the right to have an individual therapist removed from the assigned position. VENDOR will have five workdays in which to propose a replacement therapist. Should VENDOR be unable to provide an acceptable replacement, all other contracted Awardees will then be notified to submit a candidate to SBBC.

17. VENDOR shall provide proof of services on an original approved voucher form upon initiation of services and up until training is provided on the Accelify Electronic Management System. Once VENDOR has received training, VENDOR shall then submit all invoices electronically.

SCOPE OF SERVICES

18. VENDOR shall have all therapists and assistants and required substitutes or replacements submit to, and pass, the screening of the Special Investigative Unit (SIU), including fingerprinting, prior to working with students as required for all SBBC personnel. All therapists and assistants shall display an SBBC Identification Badge during contracted work hours. VENDOR will be required to pay the required fees for screening, fingerprinting and photo identification. (See General Condition 7.42 of the RFP)

19. VENDOR shall cooperate with SBBC in its partnership with universities and colleges to provide supervision of practicum experience for student therapists and assistants.

20. VENDOR may be evaluated annually in areas to include, but not be limited to, responsiveness, continuity of service, quality of work and professionalism.

21. VENDOR shall not provide private assessments or therapy services to students on their own public school caseload.

22. VENDOR and all therapists and assistants shall attend an orientation workshop of not less than three hours. This orientation workshop will include, but not be limited to, general information on the policies and procedures of the Broward County Special Programs and Procedures, the rights of students with disabilities, and other operational procedures required to carry out the therapy program. Additional workshops may be required during the term of the Agreement.

23. VENDOR will receive, from SBBC, requested materials, equipment and other related items which have been determined to be necessary to carry out the therapy program for students when approved by a designated SBBC representative.

24. VENDOR shall insure that their provider has the necessary technology (eg. Laptop, desktop computer, etc.) needed to carryout job responsibilities.

AGREEMENT

THIS AGREEMENT is made and entered into as of this ____ day of _____, 2016, by and between

THE SCHOOL BOARD OF BROWARD COUNTY, FLORIDA
(hereinafter referred to as "SBBC"),
a body corporate and political subdivision of the State of Florida,
whose principal place of business is
600 Southeast Third Avenue, Fort Lauderdale, Florida 33301

and

HERITAGE HEALTHCARE, LLC
(hereinafter referred to as "VENDOR"),
whose principal place of business is
536 Old Howell Road
Greenville, South Carolina 29615

WHEREAS, SBBC issued a Request for Proposal identified as RFP 17-005V – Occupational and Physical Therapy Services (hereinafter referred to as "RFP"), dated December 11, 2015 and amended by Addendum No. 2, dated January 15, 2016, and Addendum No. 1, dated January 9, 2016 all of which are incorporated by reference herein, for the purpose of receiving proposals for occupational and physical therapy services; and

WHEREAS, VENDOR offered a proposal dated January 15, 2016 (hereinafter referred to as "Proposal") which is incorporated by reference herein, in response to this RFP.

NOW, THEREFORE, in consideration of the premises and of the mutual covenants contained herein and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the Parties hereby agree as follows:

ARTICLE 1 - RECITALS

1.01 **Recitals**. The parties agree that the foregoing recitals are true and correct and that such recitals are incorporated herein by reference.

ARTICLE 2 – SPECIAL CONDITIONS

2.01 **Term of Agreement**. Unless terminated earlier pursuant to Section 3.05 of this Agreement, the term of this Agreement shall commence on **July 1, 2016** and conclude on **June 30, 2019.** The term of the Agreement may, by mutual agreement between SBBC and VENDOR be extended for two additional one-year periods and, if needed, 180 days beyond the expiration date of the renewal period. SBBC's Procurement & Warehousing Services Department, will, if considering renewing, request a letter consenting to renewal from VENDOR, prior to the end of the term. Any renewal period shall be approved by an Amendment to this Agreement executed by both parties

2.02 **Priority of Documents.** In the event of a conflict between documents, the following priority of documents shall govern.

First: This Agreement, then;
Second: Addendum No. 2, then;
Third: Addendum No. 1, then;
Fourth: RFP 17-005V – Occupational and Physical Therapy Services, then;
Fifth: Proposal submitted in response to the RFP by VENDOR.

2.03 **Services**: VENDOR shall provide SBBC with the Scope of Services as proposed in its Proposal and in compliance with this Agreement and the RFP and its Addenda and as specified in **Attachment A – Scope of Services**.

2.04 **Cost of Services**. SBBC shall pay VENDOR for cost of services satisfactorily rendered for:

Occupational Therapy services at $63.50/hour;
Certified Occupational Therapist Assistant (COTA) at $44.50/hr.;
Physical Therapist at $63.50/hr.; and
Licensed Physical Therapist Assistant at $44.50/hr.

Costs shall not exceed the amount as stated on the Purchase Order. VENDOR may offer SBBC a special educational discount for pricing and reduce the cost of services during the term of the Agreement. VENDOR may invoice SBBC at an hourly rate less than their original bid price.

2.05 **M/WBE Commitment**. Throughout the term of the Agreement, VENDOR shall take commercially reasonable steps and use commercially reasonable resources to identify SBBC-certified M/WBE vendors who may be engaged to fulfill various aspects of the Agreement, including, for instance, without limitation, M/WBE vendors to provide office supplies, travel, printing, janitorial supplies/services, consulting services, trade services, installation and repair services, medical supplies, where feasible. VENDOR agrees to provide monthly reports and to conduct quarterly meetings with SBBC to discuss progress in meeting the SBBC's objectives regarding M/WBE participation, including dollars spent on M/WBE vendors for the quarter; and to continue to assess throughout the term of the Agreement new possibilities for M/WBE vendor participation suggested by SBBC. If at any time during the term the parties agree that it is reasonably feasible to include a specific dollar figure for M/WBE participation, the Agreement shall be amended to include the dollar participation objective.

2.06 **Inspection of VENDOR's Records by SBBC**. VENDOR shall establish and maintain books, records and documents (including electronic storage media) sufficient to reflect all income and expenditures of funds provided by SBBC under this Agreement. All VENDOR's Records, regardless of the form in which they are kept, shall be open to inspection and subject to audit, inspection, examination, evaluation and/or reproduction, during normal working hours, by SBBC's agent or its authorized representative to permit SBBC to evaluate, analyze and verify the satisfactory performance of the terms and conditions of this Agreement and to evaluate, analyze and verify any and all invoices, billings, payments and/or claims submitted by VENDOR or any of VENDOR's payees pursuant to this Agreement. VENDOR's Records subject to examination shall include, without limitation, those records necessary to evaluate and verify direct and indirect costs (including overhead allocations) as they may apply to costs associated with this Agreement. VENDOR's Records subject to this section shall include any and all documents pertinent to the evaluation, analysis, verification and reconciliation of any and all expenditures under this Agreement without regard to funding sources.

(a) VENDOR's Records Defined. For the purposes of this Agreement, the term "VENDOR's Records" shall include, without limitation, accounting records, payroll time sheets, cancelled payroll checks, W-2 forms, written policies and procedures, computer records, disks and software, videos, photographs, executed subcontracts, subcontract files (including proposals of successful and unsuccessful bidders), original estimates, estimating worksheets, correspondence, change order files (including sufficient supporting documentation and documentation covering negotiated settlements), and any other supporting documents that would substantiate, reconcile or refute any charges and/or expenditures related to this Agreement.

(b) Duration of Right to Inspect. For the purpose of such audits, inspections, examinations, evaluations and/or reproductions, SBBC's agent or authorized representative shall have access to VENDOR's Records from the effective date of this Agreement, for the duration of the term of this Agreement, and until the later of five (5) years after the termination of this Agreement or five (5) years after the date of final payment by SBBC to VENDOR pursuant to this Agreement.

(c) Notice of Inspection. SBBC's agent or its authorized representative shall provide VENDOR reasonable advance notice (not to exceed two (2) weeks) of any intended audit, inspection, examination, evaluation and or reproduction.

(d) Audit Site Conditions. SBBC's agent or its authorized representative shall have access to VENDOR's facilities and to any and all records related to this Agreement, and shall be provided adequate and appropriate work space in order to exercise the rights permitted under this section.

(e) Failure to Permit Inspection. Failure by VENDOR to permit audit, inspection, examination, evaluation and/or reproduction as permitted under this Section shall constitute grounds for termination of this Agreement by SBBC for cause and shall be grounds for the denial of some or all of any VENDOR's claims for payment by SBBC.

(f) Overcharges and Unauthorized Charges. If an audit conducted in accordance with this Section discloses overcharges or unauthorized charges to SBBC by VENDOR in excess of two percent (2%) of the total billings under this Agreement, the actual cost of SBBC's audit shall be paid by VENDOR. If the audit discloses billings or charges to which VENDOR is not contractually entitled, VENDOR shall pay said sum to SBBC within twenty (20) days of receipt of written demand under otherwise agreed to in writing by both parties.

(g) Inspection of Subcontractor's Records. VENDOR shall require any and all subcontractors, insurance agents and material suppliers (hereafter referred to as "Payees") providing services or goods with regard to this Agreement to comply with the requirements of this section by insertion of such requirements in any written subcontract. Failure by VENDOR to include such requirements in any subcontract shall constitute grounds for termination of this Agreement by SBBC for cause and shall be grounds for the exclusion of some or all of any Payee's costs from amounts payable by SBBC to VENDOR pursuant to this Agreement and such excluded costs shall become the liability of VENDOR.

(h) Inspector General Audits. VENDOR shall comply and cooperate immediately with any inspections, reviews, investigations, or audits deemed necessary by the Florida Office of the Inspector General or by any other state or federal officials.

2.07 **Notice**. When any of the parties desire to give notice to the other, such notice must be in writing, sent by U.S. Mail, postage prepaid, addressed to the party for whom it is intended at the place last specified; the place for giving notice shall remain such until it is changed by written notice in compliance with the provisions of this paragraph. For the present, the Parties designate the following as the respective places for giving notice:

To SBBC:	Superintendent of Schools The School Board of Broward County, Florida 600 S.E. 3rd. Avenue Fort Lauderdale, Florida 33301
With a Copy to:	Director, ESE Department The School Board of Broward County, Florida Arthur Ashe Campus 1701 NW 23 Avenue Fort Lauderdale, FL 33311
To VENDOR:	Heritage Healthcare, Inc. 536 Old Howell Road Greenville, SC 19615
With a Copy to:	Liz Stafford Ajello, Director of Pediatric Services 536 Old Howell Road Greenville, SC 19615

2.08 **Background Screening.** VENDOR agrees to comply with all requirements of Sections 1012.32 and 1012.465, Florida Statutes, and all of its personnel who (1) are to be permitted access to school grounds when students are present, (2) will have direct contact with students, or (3) have access or control of school funds, will successfully complete the background screening required by the referenced statutes and meet the standards established by the statutes. This background screening will be conducted by SBBC in advance of VENDOR or its personnel providing any services under the conditions described in the previous sentence. VENDOR shall bear the cost of acquiring the background screening required by Section 1012.32, Florida Statutes, and any fee imposed by the Florida Department of Law Enforcement to maintain the fingerprints provided with respect to VENDOR and its personnel. The parties agree that the failure of VENDOR to perform any of the duties described in this section shall constitute a material breach of this Agreement entitling SBBC to terminate immediately with no further responsibilities or duties to perform under this Agreement. VENDOR agrees to indemnify and hold harmless SBBC, its officers and employees from any liability in the form of physical or mental injury, death or property damage resulting from VENDOR's failure to comply with the requirements of this Section or with Sections 1012.32 and 1012.465, Florida Statutes.

ARTICLE 3 – GENERAL CONDITIONS

3.01 **No Waiver of Sovereign Immunity**. Nothing herein is intended to serve as a waiver of sovereign immunity by any agency or political subdivision to which sovereign immunity may be applicable or of any rights or limits to liability existing under Section 768.28, Florida Statutes. This section shall survive the termination of all performance or obligations under this Agreement and shall be fully binding until such time as any proceeding brought on account of this Agreement is barred by any applicable statute of limitations.

3.02 **No Third Party Beneficiaries**. The parties expressly acknowledge that it is not their intent to create or confer any rights or obligations in or upon any third person or entity under this Agreement. None of the parties intend to directly or substantially benefit a third party by this Agreement. The parties agree that there are no third party beneficiaries to this Agreement and that no third party shall be entitled to assert a claim against any of the parties based upon this Agreement. Nothing herein shall be construed as consent by an agency or political subdivision of the State of Florida to be sued by third parties in any matter arising out of any contract.

3.03 **Independent Contractor**. The parties to this agreement shall at all times be acting in the capacity of independent contractors and not as an officer, employee or agent of one another. Neither party or its respective agents, employees, subcontractors or assignees shall represent to others that it has the authority to bind the other party unless specifically authorized in writing to do so. No right to SBBC retirement, leave benefits or any other benefits of SBBC employees shall exist as a result of the performance of any duties or responsibilities under this Agreement. SBBC shall not be responsible for social security, withholding taxes, contributions to unemployment compensation funds or insurance for the other party or the other party's officers, employees, agents, subcontractors or assignees.

3.04 **Equal Opportunity Provision**. The parties agree that no person shall be subjected to discrimination because of age, race, color, disability, gender identity, gender expression marital status, national origin, religion, sex or sexual orientation in the performance of the parties' respective duties, responsibilities and obligations under this Agreement.

3.05 **Termination**. This Agreement may be canceled with or without cause by SBBC during the term hereof upon thirty (30) days written notice to the other parties of its desire to terminate this Agreement. SBBC shall have no liability for any property left on SBBC's property by any party to this Agreement after the termination of this Agreement. Any party contracting with SBBC under this Agreement agrees that any of its property placed upon SBBC's facilities pursuant to this Agreement shall be removed within ten (10) business days following the termination, conclusion or cancellation of this Agreement and that any such property remaining upon SBBC's facilities after that time shall be deemed to be abandoned, title to such property shall pass to SBBC, and SBBC may use or dispose of such property as SBBC deems fit and appropriate.

3.06 **Default**. The parties agree that, in the event that either party is in default of its obligations under this Agreement, the non-defaulting party shall provide to the defaulting party (30) days written notice to cure the default. However, in the event said default cannot be cured within said thirty (30) day period and the defaulting party is diligently attempting in good faith to cure same, the time period shall be reasonably extended to allow the defaulting party additional cure time. Upon the occurrence of a default that is not cured during the applicable cure period, this Agreement may be terminated by the non-defaulting party upon thirty (30) days notice. This remedy is not intended to be exclusive of any other remedy, and each and every such remedy shall be cumulative and shall be in addition to every other remedy now or hereafter existing at law or in equity or by statute or otherwise. No single or partial exercise by any party of any right, power, or remedy hereunder shall preclude any other or future exercise thereof. Nothing in this section shall be construed to preclude termination for convenience pursuant to Section 3.05.

3.07 **Annual Appropriation.** The performance and obligations of SBBC under this Agreement shall be contingent upon an annual budgetary appropriation by its governing body. If SBBC does not allocate funds for the payment of services or products to be provided under this Agreement, this Agreement may be terminated by SBBC at the end of the period for which funds have been allocated. SBBC shall notify the other party at the earliest possible time before such termination. No penalty shall accrue to SBBC in the event this provision is exercised, and SBBC shall not be obligated or liable for any future payments due or any damages as a result of termination under this section.

3.08 **Excess Funds**. Any party receiving funds paid by SBBC under this Agreement agrees to promptly notify SBBC of any funds erroneously received from SBBC upon the discovery of such erroneous payment or overpayment. Any such excess funds shall be refunded to SBBC.

3.09 **Public Records**. Pursuant to Section 119.0701, Florida Statutes, any party contracting with SBBC is required to (a) keep and maintain available for public inspection any records that pertain to services rendered under this Agreement; (b) provide the public with access to public records on the same terms and conditions that SBBC would provide such records and 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; and (d) meet all requirements for retaining public records and transfer, at no cost to SBBC, all public records in that party's possession upon termination of its Agreement with SBBC and destroy any duplicate public records that are exempt or confidential and exempt from public records disclosure requirements. All of such party's records stored electronically must be provided to SBBC in a format that is compatible with SBBC's information technology systems. Each party shall maintain its own respective records and documents associated with this Agreement in accordance with the records retention requirements applicable to public records. Each party shall be responsible for compliance with any public documents request served upon it pursuant to Section 119.07, Florida Statutes, and any resultant award of attorney's fees for non-compliance with that law. Each party acknowledges that this Agreement and all attachments thereto are public records and do not constitute trade secrets.

3.10 **Student Records**: Notwithstanding any provision to the contrary within this Agreement, any party contracting with SBBC under this Agreement shall fully comply with the requirements of Sections 1002.22 and 1002.221, Florida Statutes; FERPA, and any other state or federal law or regulation regarding the confidentiality of student information and records. Each such party agrees, for itself, its officers, employees, agents, representatives, contractors or subcontractors, to fully indemnify and hold harmless SBBC and its officers and employees for any violation of this section, including, without limitation, defending SBBC and its officers and employees against any complaint, administrative or judicial proceeding, payment of any penalty imposed upon SBBC, or payment of any and all costs, damages, judgments or losses incurred by or imposed upon SBBC arising out of a breach of this covenant by the party, or an officer, employee, agent, representative, contractor, or sub-contractor of the party to the extent that the party or an officer, employee, agent, representative, contractor, or sub-contractor of the party shall either intentionally or negligently violate the provisions of this section or of Sections 1002.22 and/or 1002.221, Florida Statutes.

3.11 **Compliance with Laws**. Each party shall comply with all applicable federal, state and local laws, SBBC policies, codes, rules and regulations in performing its duties, responsibilities and obligations pursuant to this Agreement.

3.12 **Place of Performance**. All obligations of SBBC under the terms of this Agreement are reasonably susceptible of being performed in Broward County, Florida and shall be payable and performable in Broward County, Florida.

3.13 **Governing Law and Venue**. This Agreement shall be interpreted and construed in accordance with and governed by the laws of the State of Florida. Any controversies or legal problems arising out of this Agreement and any action involving the enforcement or interpretation of any rights hereunder shall be submitted to the jurisdiction of the State courts of the Seventeenth Judicial Circuit of Broward County, Florida.

3.14 **Entirety of Agreement**. This document incorporates and includes all prior negotiations, correspondence, conversations, agreements and understandings applicable to the matters contained herein and the parties agree that there are no commitments, agreements or understandings concerning the subject matter of this Agreement that are not contained in this document. Accordingly, the parties agree that no deviation from the terms hereof shall be predicated upon any prior representations or agreements, whether oral or written.

3.15 **Binding Effect**. This Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective successors and assigns.

3.16 **Assignment**. Neither this Agreement nor any interest herein may be assigned, transferred or encumbered by any party without the prior written consent of the other party. There shall be no partial assignments of this Agreement including, without limitation, the partial assignment of any right to receive payments from SBBC.

3.17 **Incorporation by Reference**. **Attachment A** attached hereto and referenced herein shall be deemed to be incorporated into this Agreement by reference.

3.18 **Captions**. The captions, section designations, section numbers, article numbers, titles and headings appearing in this Agreement are inserted only as a matter of convenience, have no substantive meaning, and in no way define, limit, construe or describe the scope or intent of such articles or sections of this Agreement, nor in any way affect this Agreement and shall not be construed to create a conflict with the provisions of this Agreement.

3.19 **Severability**. In the event that any one or more of the sections, paragraphs, sentences, clauses or provisions contained in this Agreement is held by a court of competent jurisdiction to be invalid, illegal, unlawful, unenforceable or void in any respect, such shall not affect the remaining portions of this Agreement and the same shall remain in full force and effect as if such invalid, illegal, unlawful, unenforceable or void sections, paragraphs, sentences, clauses or provisions had never been included herein.

3.20 **Preparation of Agreement**. The parties acknowledge that they have sought and obtained whatever competent advice and counsel as was necessary for them to form a full and complete understanding of all rights and obligations herein and that the preparation of this Agreement has been their joint effort. The language agreed to herein expresses their mutual intent and the resulting document shall not, solely as a matter of judicial construction, be construed more severely against one of the parties than the other.

3.21 **Amendments**. No modification, amendment, or alteration in the terms or conditions contained herein shall be effective unless contained in a written document prepared with the same or similar formality as this Agreement and executed by each party hereto.

3.22 **Waiver**. The parties agree that each requirement, duty and obligation set forth herein is substantial and important to the formation of this Agreement and, therefore, is a material term hereof. Any party's failure to enforce any provision of this Agreement shall not be deemed a waiver of such provision or modification of this Agreement unless the waiver is in writing and signed by the party waiving such provision. A written waiver shall only be effective as to the specific instance for which it is obtained and shall not be deemed a continuing or future waiver.

3.23 **Force Majeure**. Neither party shall be obligated to perform any duty, requirement or obligation under this Agreement if such performance is prevented by fire, hurricane, earthquake, explosion, wars, sabotage, accident, flood, acts of God, strikes, or other labor disputes, riot or civil commotions, or by reason of any other matter or condition beyond the control of either party, and which cannot be overcome by reasonable diligence and without unusual expense ("Force Majeure"). In no event shall a lack of funds on the part of either party be deemed Force Majeure.

3.24 **Survival**. All representations and warranties made herein, indemnification obligations, obligations to reimburse SBBC, obligations to maintain and allow inspection and audit of records and property, obligations to maintain the confidentiality of records, reporting requirements, and obligations to return public funds shall survive the termination of this Agreement.

3.25 **Contract Administration.** SBBC has delegated authority to the Superintendent of Schools or his/her designee to take any actions necessary to implement and administer this Agreement.

3.26. **Liability**. This section shall survive the termination of all performance or obligations under this Agreement and shall be fully binding until such time as any proceeding brought on account of this Agreement is barred by any applicable statute of limitations.

A. By SBBC: SBBC agrees to be fully responsible up to the limits of Section 768.28, Florida Statutes, for its acts of negligence, or its employees' acts of negligence when acting within the scope of their employment and agrees to be liable for any damages resulting from said negligence.

B. By VENDOR: VENDOR agrees to indemnify, hold harmless and defend SBBC, its agents, servants and employees from any and all claims, judgments, costs, and expenses including, but not limited to, reasonable attorney's fees, reasonable investigative and discovery costs, court costs and all other sums which SBBC, its agents, servants and employees may pay or become obligated to pay on account of any, all and every claim or demand, or assertion of

liability, or any claim or action founded thereon, arising or alleged to have arisen out of the products, goods or services furnished by VENDOR, its agents, servants or employees; the equipment of VENDOR, its agents, servants or employees while such equipment is on premises owned or controlled by SBBC; or the negligence of VENDOR or the negligence of VENDOR's agents when acting within the scope of their employment, whether such claims, judgments, costs and expenses be for damages, damage to property including SBBC's property, and injury or death of any person whether employed by VENDOR, SBBC or otherwise.

3.27 **Authority**. Each person signing this Agreement on behalf of either party individually warrants that he or she has full legal power to execute this Agreement on behalf of the party for whom he or she is signing, and to bind and obligate such party with respect to all provisions contained in this Agreement.

IN WITNESS WHEREOF, the Parties hereto have made and executed this Agreement on the date first above written.

FOR SBBC

(Corporate Seal)

THE SCHOOL BOARD OF BROWARD COUNTY, FLORIDA

By_____
Dr. Rosalind Osgood, Chair

ATTEST:

_____
Robert W. Runcie, Superintendent of Schools

Approved as to Form and Legal Content:

Kathelyn Jacques-Adams

Digitally signed by Kathelyn Jacques-Adams
DN: cn=Kathelyn Jacques-Adams, o=The School District of Broward County, Florida, ou=The Office of the General Counsel, email=kathelyn.jacques-adams@browardschools.com, c=US
Date: 2016.05.25 12:44:02 -04'00'

_____
Office of the General Counsel

FOR VENDOR

(Corporate Seal)

HERITAGE HEALTHCARE, LLC

ATTEST:

By _____

_____, Secretary

-or-

Witness

Witness

The Following Notarization is Required for Every Agreement Without Regard to Whether the Party Chose to Use a Secretary's Attestation or Two (2) Witnesses.

STATE OF South Carolina

COUNTY OF Greenville

The foregoing instrument was acknowledged before me this 5th day of May, 20 22 by Don Tesnor (Name of Person) of Heritage Healthcare, LLC (Name of Corporation or Agency), on behalf of the corporation/agency.

He/She is personally known to me or produced _____ (Type of Identification) as identification and did/did not first take an oath.

My Commission Expires: 5/7/22

Signature – Notary Public

Brent Dunlap

Printed Name of Notary

(SEAL)

N/A

Notary's Commission No.

SCOPE OF SERVICES

1. VENDOR shall provide occupational and physical therapy services in accordance with Broward County Schools Special Programs and Procedures. A copy of these procedures may be obtained on Exceptional Student Education's website at http://www.broward.k12.fl.us/studentsupport/ese/pdf/SP&P.pdf or as updated by SBBC.

2. VENDOR shall provide current licensed occupational and physical therapists under this Agreement. **Award of this Agreement shall not be a guarantee of business, a guarantee of specified volume of service or minimum dollar revenue to be received under this Agreement.**

3. VENDOR shall report to the Program Specialist and/or Curriculum Supervisor regarding services under this Agreement.

4. VENDOR shall be compensated for direct student services and student related activities only. VENDOR shall not be compensated/reimbursed for travel under this Agreement.

5. VENDOR shall provide the following services, but not limited to, initial student evaluations, small group or individual therapy with students, record-keeping for student attendance, supervising assistants, preparing progress reports and therapy notes, preparing a therapy plan of care, participating in the development of Individual Education Plans (IEP), attendance at required eligibility, IEP and dismissal staffings, attending in-service meetings as requested and providing consultation with parents, school area, district staff and physicians, as needed. For Certified Occupational Therapy Assistants (COTA) and Licensed Physical Therapy Assistant (LPTA), service will be provided under supervision in accordance with the OT/PT Practice ACT. VENDOR shall complete all appropriate documentation for Medicaid Reimbursement.

6. VENDOR shall provide services consistent with the professional standards of care and comply with all the medical and ethical requirements imposed by the State of Florida, Board of Medicine, the Department of Professional Regulations, the Florida State Department of Education and any other applicable federal, state or local regulatory agency.

7. VENDOR shall provide the requested level of service(s), in accordance with and/or changes for services requested by SBBC, within five (5) calendar days of notice, unless otherwise mutually agreed upon. Excessive failure to meet the needs as requested will result in cancellation of VENDOR's Agreement.

8. VENDOR shall maintain normal working hours of 8:00 a.m. to 4:00 p.m. Hours may occasionally be extended from 7:00 a.m. to 4:30 p.m. There will be no reimbursement for a thirty (30) minute lunch period. SBBC may only be invoiced for up to 7.5 hours per day unless prior approval has been granted by SBBC staff for extended service time. Awardee(s) may provide a maximum of four (4) hours of service as needed on each scheduled employee planning day. Invoices not complying with this will be rejected and returned for correction and failure to invoice correctly will result in a delay of payment. Any VENDOR who consistently submits invoices that are not correct may be found in default of Agreement.

SCOPE OF SERVICES

9. VENDOR shall respond to requested services within five (5) school days of the request by submitting to an interview by a designated SBBC representative. Firms can also offer these services and interviews as required.

10. VENDOR shall provide uninterrupted services based upon the current school calendar to students by providing qualified substitutes or replacements in the event of an anticipated or unanticipated lapse of service. A qualified substitute is defined to be a therapist for a therapist or a therapist assistant for an assistant. All qualified substitutes must display an SBBC identification badge. (See General Condition 7.42) Any lapse of service to SBBC for five student attendance days during any school year will result in default of Agreement. VENDOR may be responsible to provide compensatory services or payments to SBBC for lapse of service.

11. VENDOR shall provide a service schedule of all personnel for approval on a regular basis as determined by a designated SBBC representative.

12. VENDOR shall follow all procedures (including, but not limited to, signing in and out, no telephone calls during treatment time) of individual schools where they are assigned. All therapists must carry a cell phone for critical communication throughout the day with SBBC personnel as established. These numbers must be provided to SBBC personnel. There shall be no cost to SBBC to use these communication devices.

13. VENDOR shall prepare time logs, reports, written analysis and other written memoranda in the form and manner deemed appropriate by SBBC.

14. VENDOR shall bill under SBBC's Medicaid provider number, when needed.

15. VENDOR, under this Agreement, shall be required to pass the screening of the of the Broward School's Police, Security Clearance Department prior to placement of assignment as required by SBBC (See General Condition 7.42 of the RFP, SBBC Photo Identification Badge). VENDOR must utilize the STAR system and/or sign-in/out procedures to document attendance at assigned location(s).

16. SBBC reserves the right to interview all therapy candidates prior to placement. K-12 experience is preferred. SBBC reserves the right to refuse to utilize any proposed therapy candidate. SBBC reserves the right to have an individual therapist removed from the assigned position. VENDOR will have five workdays in which to propose a replacement therapist. Should VENDOR be unable to provide an acceptable replacement, all other contracted Awardees will then be notified to submit a candidate to SBBC.

17. VENDOR shall provide proof of services on an original approved voucher form upon initiation of services and up until training is provided on the Accelify Electronic Management System. Once VENDOR has received training, VENDOR shall then submit all invoices electronically.

SCOPE OF SERVICES

18. VENDOR shall have all therapists and assistants and required substitutes or replacements submit to, and pass, the screening of the Special Investigative Unit (SIU), including fingerprinting, prior to working with students as required for all SBBC personnel. All therapists and assistants shall display an SBBC Identification Badge during contracted work hours. VENDOR will be required to pay the required fees for screening, fingerprinting and photo identification. (See General Condition 7.42 of the RFP)

19. VENDOR shall cooperate with SBBC in its partnership with universities and colleges to provide supervision of practicum experience for student therapists and assistants.

20. VENDOR may be evaluated annually in areas to include, but not be limited to, responsiveness, continuity of service, quality of work and professionalism.

21. VENDOR shall not provide private assessments or therapy services to students on their own public school caseload.

22. VENDOR and all therapists and assistants shall attend an orientation workshop of not less than three hours. This orientation workshop will include, but not be limited to, general information on the policies and procedures of the Broward County Special Programs and Procedures, the rights of students with disabilities, and other operational procedures required to carry out the therapy program. Additional workshops may be required during the term of the Agreement.

23. VENDOR will receive, from SBBC, requested materials, equipment and other related items which have been determined to be necessary to carry out the therapy program for students when approved by a designated SBBC representative.

24. VENDOR shall insure that their provider has the necessary technology (eg. Laptop, desktop computer, etc.) needed to carryout job responsibilities.

AGREEMENT

THIS AGREEMENT is made and entered into as of this ____ day of _____, 2016, by and between

THE SCHOOL BOARD OF BROWARD COUNTY, FLORIDA
(hereinafter referred to as "SBBC"),
a body corporate and political subdivision of the State of Florida,
whose principal place of business is
600 Southeast Third Avenue, Fort Lauderdale, Florida 33301

and

INVO HEALTHCARE ASSOCIATES, LLC
(hereinafter referred to as "VENDOR"),
whose principal place of business is
1780 Kendarbren Drive
Jamison, Pennsylvania 18929

WHEREAS, SBBC issued a Request for Proposal identified as RFP 17-005V – Occupational and Physical Therapy Services (hereinafter referred to as "RFP"), dated December 11, 2015 and amended by Addendum No. 2, dated January 15, 2016, and Addendum No. 1, dated January 9, 2016 all of which are incorporated by reference herein, for the purpose of receiving proposals for occupational and physical therapy services; and

WHEREAS, VENDOR offered a proposal dated January 15, 2016 (hereinafter referred to as "Proposal") which is incorporated by reference herein, in response to this RFP.

NOW, THEREFORE, in consideration of the premises and of the mutual covenants contained herein and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the Parties hereby agree as follows:

ARTICLE 1 - RECITALS

1.01 **Recitals**. The parties agree that the foregoing recitals are true and correct and that such recitals are incorporated herein by reference.

ARTICLE 2 – SPECIAL CONDITIONS

2.01 **Term of Agreement**. Unless terminated earlier pursuant to Section 3.05 of this Agreement, the term of this Agreement shall commence on **July 1, 2016** and conclude on **June 30, 2019.** The term of the Agreement may, by mutual agreement between SBBC and VENDOR be extended for two additional one-year periods and, if needed, 180 days beyond the expiration date of the renewal period. SBBC's Procurement & Warehousing Services Department, will, if considering renewing, request a letter consenting to renewal from VENDOR, prior to the end of the term. Any renewal period shall be approved by an Amendment to this Agreement executed by both parties

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Third: Addendum No. 1, then;
Fourth: RFP 17-005V – Occupational and Physical Therapy Services, then;
Fifth: Proposal submitted in response to the RFP by VENDOR.

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Occupational Therapy services at $62.00/hour;
Certified Occupational Therapist Assistant (COTA) at $44.50/hr.;
Physical Therapist at $62.00/hr.; and
Licensed Physical Therapist Assistant at $44.50/hr.

Costs shall not exceed the amount as stated on the Purchase Order. VENDOR may offer SBBC a special educational discount for pricing and reduce the cost of services during the term of the Agreement. VENDOR may invoice SBBC at an hourly rate less than their original bid price.

2.05 **M/WBE Commitment**. Throughout the term of the Agreement, VENDOR shall take commercially reasonable steps and use commercially reasonable resources to identify SBBC-certified M/WBE vendors who may be engaged to fulfill various aspects of the Agreement, including, for instance, without limitation, M/WBE vendors to provide office supplies, travel, printing, janitorial supplies/services, consulting services, trade services, installation and repair services, medical supplies, where feasible. VENDOR agrees to provide monthly reports and to conduct quarterly meetings with SBBC to discuss progress in meeting the SBBC's objectives regarding M/WBE participation, including dollars spent on M/WBE vendors for the quarter; and to continue to assess throughout the term of the Agreement new possibilities for M/WBE vendor participation suggested by SBBC. If at any time during the term the parties agree that it is reasonably feasible to include a specific dollar figure for M/WBE participation, the Agreement shall be amended to include the dollar participation objective.

2.06 **Inspection of VENDOR's Records by SBBC**. VENDOR shall establish and maintain books, records and documents (including electronic storage media) sufficient to reflect all income and expenditures of funds provided by SBBC under this Agreement. All VENDOR's Records, regardless of the form in which they are kept, shall be open to inspection and subject to audit, inspection, examination, evaluation and/or reproduction, during normal working hours, by SBBC's agent or its authorized representative to permit SBBC to evaluate, analyze and verify the satisfactory performance of the terms and conditions of this Agreement and to evaluate, analyze and verify any and all invoices, billings, payments and/or claims submitted by VENDOR or any of VENDOR's payees pursuant to this Agreement. VENDOR's Records subject to examination shall include, without limitation, those records necessary to evaluate and verify direct and indirect costs (including overhead allocations) as they may apply to costs associated with this

Agreement. VENDOR's Records subject to this section shall include any and all documents pertinent to the evaluation, analysis, verification and reconciliation of any and all expenditures under this Agreement without regard to funding sources.

(a) VENDOR's Records Defined. For the purposes of this Agreement, the term "VENDOR's Records" shall include, without limitation, accounting records, payroll time sheets, cancelled payroll checks, W-2 forms, written policies and procedures, computer records, disks and software, videos, photographs, executed subcontracts, subcontract files (including proposals of successful and unsuccessful bidders), original estimates, estimating worksheets, correspondence, change order files (including sufficient supporting documentation and documentation covering negotiated settlements), and any other supporting documents that would substantiate, reconcile or refute any charges and/or expenditures related to this Agreement.

(b) Duration of Right to Inspect. For the purpose of such audits, inspections, examinations, evaluations and/or reproductions, SBBC's agent or authorized representative shall have access to VENDOR's Records from the effective date of this Agreement, for the duration of the term of this Agreement, and until the later of five (5) years after the termination of this Agreement or five (5) years after the date of final payment by SBBC to VENDOR pursuant to this Agreement.

(c) Notice of Inspection. SBBC's agent or its authorized representative shall provide VENDOR reasonable advance notice (not to exceed two (2) weeks) of any intended audit, inspection, examination, evaluation and or reproduction.

(d) Audit Site Conditions. SBBC's agent or its authorized representative shall have access to VENDOR's facilities and to any and all records related to this Agreement, and shall be provided adequate and appropriate work space in order to exercise the rights permitted under this section.

(e) Failure to Permit Inspection. Failure by VENDOR to permit audit, inspection, examination, evaluation and/or reproduction as permitted under this Section shall constitute grounds for termination of this Agreement by SBBC for cause and shall be grounds for the denial of some or all of any VENDOR's claims for payment by SBBC.

(f) Overcharges and Unauthorized Charges. If an audit conducted in accordance with this Section discloses overcharges or unauthorized charges to SBBC by VENDOR in excess of two percent (2%) of the total billings under this Agreement, the actual cost of SBBC's audit shall be paid by VENDOR. If the audit discloses billings or charges to which VENDOR is not contractually entitled, VENDOR shall pay said sum to SBBC within twenty (20) days of receipt of written demand under otherwise agreed to in writing by both parties.

(g) Inspection of Subcontractor's Records. VENDOR shall require any and all subcontractors, insurance agents and material suppliers (hereafter referred to as "Payees") providing services or goods with regard to this Agreement to comply with the requirements of this section by insertion of such requirements in any written subcontract. Failure by VENDOR to include such requirements in any subcontract shall constitute grounds for termination of this Agreement by SBBC for cause and shall be grounds for the exclusion of some or all of any Payee's costs from amounts payable by SBBC to VENDOR pursuant to this Agreement and such excluded costs shall become the liability of VENDOR.

(h) Inspector General Audits. VENDOR shall comply and cooperate immediately with any inspections, reviews, investigations, or audits deemed necessary by the Florida Office of the Inspector General or by any other state or federal officials.

2.07 **Notice**. When any of the parties desire to give notice to the other, such notice must be in writing, sent by U.S. Mail, postage prepaid, addressed to the party for whom it is intended at the place last specified; the place for giving notice shall remain such until it is changed by written notice in compliance with the provisions of this paragraph. For the present, the Parties designate the following as the respective places for giving notice:

To SBBC:	Superintendent of Schools The School Board of Broward County, Florida 600 S.E. 3rd. Avenue Fort Lauderdale, Florida 33301
With a Copy to:	Director, ESE Department The School Board of Broward County, Florida Arthur Ashe Campus 1701 NW 23 Avenue Fort Lauderdale, FL 33311
To VENDOR:	Jason T. Ralph, COO Invo Healthcare Associates, LLC 1780 Kendarbren Drive Jamison, PA 18929

2.08 **Background Screening.** VENDOR agrees to comply with all requirements of Sections 1012.32 and 1012.465, Florida Statutes, and all of its personnel who (1) are to be permitted access to school grounds when students are present, (2) will have direct contact with students, or (3) have access or control of school funds, will successfully complete the background screening required by the referenced statutes and meet the standards established by the statutes. This background screening will be conducted by SBBC in advance of VENDOR or its personnel providing any services under the conditions described in the previous sentence. VENDOR shall bear the cost of acquiring the background screening required by Section 1012.32, Florida Statutes, and any fee imposed by the Florida Department of Law Enforcement to maintain the fingerprints provided with respect to VENDOR and its personnel. The parties agree that the failure of VENDOR to perform any of the duties described in this section shall constitute a material breach of this Agreement entitling SBBC to terminate immediately with no further responsibilities or duties to perform under this Agreement. VENDOR agrees to indemnify and hold harmless SBBC, its officers and employees from any liability in the form of physical or mental injury, death or property damage resulting from VENDOR's failure to comply with the requirements of this Section or with Sections 1012.32 and 1012.465, Florida Statutes.

ARTICLE 3 – GENERAL CONDITIONS

3.01 **No Waiver of Sovereign Immunity**. Nothing herein is intended to serve as a waiver of sovereign immunity by any agency or political subdivision to which sovereign immunity may be applicable or of any rights or limits to liability existing under Section 768.28, Florida Statutes. This section shall survive the termination of all performance or obligations under this Agreement and shall be fully binding until such time as any proceeding brought on account of this Agreement is barred by any applicable statute of limitations.

3.02 **No Third Party Beneficiaries**. The parties expressly acknowledge that it is not their intent to create or confer any rights or obligations in or upon any third person or entity under this Agreement. None of the parties intend to directly or substantially benefit a third party by this Agreement. The parties agree that there are no third party beneficiaries to this Agreement and that no third party shall be entitled to assert a claim against any of the parties based upon this Agreement. Nothing herein shall be construed as consent by an agency or political subdivision of the State of Florida to be sued by third parties in any matter arising out of any contract.

3.03 **Independent Contractor**. The parties to this agreement shall at all times be acting in the capacity of independent contractors and not as an officer, employee or agent of one another. Neither party or its respective agents, employees, subcontractors or assignees shall represent to others that it has the authority to bind the other party unless specifically authorized in writing to do so. No right to SBBC retirement, leave benefits or any other benefits of SBBC employees shall exist as a result of the performance of any duties or responsibilities under this Agreement. SBBC shall not be responsible for social security, withholding taxes, contributions to unemployment compensation funds or insurance for the other party or the other party's officers, employees, agents, subcontractors or assignees.

3.04 **Equal Opportunity Provision**. The parties agree that no person shall be subjected to discrimination because of age, race, color, disability, gender identity, gender expression marital status, national origin, religion, sex or sexual orientation in the performance of the parties' respective duties, responsibilities and obligations under this Agreement.

3.05 **Termination**. This Agreement may be canceled with or without cause by SBBC during the term hereof upon thirty (30) days written notice to the other parties of its desire to terminate this Agreement. SBBC shall have no liability for any property left on SBBC's property by any party to this Agreement after the termination of this Agreement. Any party contracting with SBBC under this Agreement agrees that any of its property placed upon SBBC's facilities pursuant to this Agreement shall be removed within ten (10) business days following the termination, conclusion or cancellation of this Agreement and that any such property remaining upon SBBC's facilities after that time shall be deemed to be abandoned, title to such property shall pass to SBBC, and SBBC may use or dispose of such property as SBBC deems fit and appropriate.

3.06 **Default**. The parties agree that, in the event that either party is in default of its obligations under this Agreement, the non-defaulting party shall provide to the defaulting party (30) days written notice to cure the default. However, in the event said default cannot be cured within said thirty (30) day period and the defaulting party is diligently attempting in good faith to cure same, the time period shall be reasonably extended to allow the defaulting party additional cure time. Upon the occurrence of a default that is not cured during the applicable cure period, this Agreement may be terminated by the non-defaulting party upon thirty (30) days notice. This remedy is not intended to be exclusive of any other remedy, and each and every such remedy shall be cumulative and shall be in addition to every other remedy now or hereafter existing at law or in equity or by statute or otherwise. No single or partial exercise by any party of any right, power, or remedy hereunder shall preclude any other or future exercise thereof. Nothing in this section shall be construed to preclude termination for convenience pursuant to Section 3.05.

3.07 **Annual Appropriation.** The performance and obligations of SBBC under this Agreement shall be contingent upon an annual budgetary appropriation by its governing body. If SBBC does not allocate funds for the payment of services or products to be provided under this Agreement, this Agreement may be terminated by SBBC at the end of the period for which funds have been allocated. SBBC shall notify the other party at the earliest possible time before such termination. No penalty shall accrue to SBBC in the event this provision is exercised, and SBBC shall not be obligated or liable for any future payments due or any damages as a result of termination under this section.

3.08 **Excess Funds**. Any party receiving funds paid by SBBC under this Agreement agrees to promptly notify SBBC of any funds erroneously received from SBBC upon the discovery of such erroneous payment or overpayment.

3.09 **Public Records**. Pursuant to Section 119.0701, Florida Statutes, any party contracting with SBBC is required to (a) keep and maintain available for public inspection any records that pertain to services rendered under this Agreement; (b) provide the public with access to public records on the same terms and conditions that SBBC would provide such records and 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; and (d) meet all requirements for retaining public records and transfer, at no cost to SBBC, all public records in that party's possession upon termination of its Agreement with SBBC and destroy any duplicate public records that are exempt or confidential and exempt from public records disclosure requirements. All of such party's records stored electronically must be provided to SBBC in a format that is compatible with SBBC's information technology systems. Each party shall maintain its own respective records and documents associated with this Agreement in accordance with the records retention requirements applicable to public records. Each party shall be responsible for compliance with any public documents request served upon it pursuant to Section 119.07, Florida Statutes, and any resultant award of attorney's fees for non-compliance with that law. Each party acknowledges that this Agreement and all attachments thereto are public records and do not constitute trade secrets.

3.10 **Student Records**: Notwithstanding any provision to the contrary within this Agreement, any party contracting with SBBC under this Agreement shall fully comply with the requirements of Sections 1002.22 and 1002.221, Florida Statutes; FERPA, and any other state or federal law or regulation regarding the confidentiality of student information and records. Each such party agrees, for itself, its officers, employees, agents, representatives, contractors or subcontractors, to fully indemnify and hold harmless SBBC and its officers and employees for any violation of this section, including, without limitation, defending SBBC and its officers and employees against any complaint, administrative or judicial proceeding, payment of any penalty imposed upon SBBC, or payment of any and all costs, damages, judgments or losses incurred by or imposed upon SBBC arising out of a breach of this covenant by the party, or an officer, employee, agent, representative, contractor, or sub-contractor of the party to the extent that the party or an officer, employee, agent, representative, contractor, or sub-contractor of the party shall either intentionally or negligently violate the provisions of this section or of Sections 1002.22 and/or 1002.221, Florida Statutes.

3.11 **Compliance with Laws**. Each party shall comply with all applicable federal, state and local laws, SBBC policies, codes, rules and regulations in performing its duties, responsibilities and obligations pursuant to this Agreement.

3.12 **Place of Performance**. All obligations of SBBC under the terms of this Agreement are reasonably susceptible of being performed in Broward County, Florida and shall be payable and performable in Broward County, Florida.

3.13 **Governing Law and Venue**. This Agreement shall be interpreted and construed in accordance with and governed by the laws of the State of Florida. Any controversies or legal problems arising out of this Agreement and any action involving the enforcement or interpretation of any rights hereunder shall be submitted to the jurisdiction of the State courts of the Seventeenth Judicial Circuit of Broward County, Florida.

3.14 **Entirety of Agreement**. This document incorporates and includes all prior negotiations, correspondence, conversations, agreements and understandings applicable to the matters contained herein and the parties agree that there are no commitments, agreements or understandings concerning the subject matter of this Agreement that are not contained in this document. Accordingly, the parties agree that no deviation from the terms hereof shall be predicated upon any prior representations or agreements, whether oral or written.

3.15 **Binding Effect**. This Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective successors and assigns.

3.16 **Assignment**. Neither this Agreement nor any interest herein may be assigned, transferred or encumbered by any party without the prior written consent of the other party. There shall be no partial assignments of this Agreement including, without limitation, the partial assignment of any right to receive payments from SBBC.

3.17 **Incorporation by Reference**. **Attachment A** attached hereto and referenced herein shall be deemed to be incorporated into this Agreement by reference.

3.18 **Captions**. The captions, section designations, section numbers, article numbers, titles and headings appearing in this Agreement are inserted only as a matter of convenience, have no substantive meaning, and in no way define, limit, construe or describe the scope or intent of such articles or sections of this Agreement, nor in any way affect this Agreement and shall not be construed to create a conflict with the provisions of this Agreement.

3.19 **Severability**. In the event that any one or more of the sections, paragraphs, sentences, clauses or provisions contained in this Agreement is held by a court of competent jurisdiction to be invalid, illegal, unlawful, unenforceable or void in any respect, such shall not affect the remaining portions of this Agreement and the same shall remain in full force and effect as if such invalid, illegal, unlawful, unenforceable or void sections, paragraphs, sentences, clauses or provisions had never been included herein.

3.20 **Preparation of Agreement**. The parties acknowledge that they have sought and obtained whatever competent advice and counsel as was necessary for them to form a full and complete understanding of all rights and obligations herein and that the preparation of this Agreement has been their joint effort. The language agreed to herein expresses their mutual intent and the resulting document shall not, solely as a matter of judicial construction, be construed more severely against one of the parties than the other.

3.21 **Amendments**. No modification, amendment, or alteration in the terms or conditions contained herein shall be effective unless contained in a written document prepared with the same or similar formality as this Agreement and executed by each party hereto.

3.22 **Waiver**. The parties agree that each requirement, duty and obligation set forth herein is substantial and important to the formation of this Agreement and, therefore, is a material term hereof. Any party's failure to enforce any provision of this Agreement shall not be deemed a waiver of such provision or modification of this Agreement unless the waiver is in writing and signed by the party waiving such provision. A written waiver shall only be effective as to the specific instance for which it is obtained and shall not be deemed a continuing or future waiver.

3.23 **Force Majeure**. Neither party shall be obligated to perform any duty, requirement or obligation under this Agreement if such performance is prevented by fire, hurricane, earthquake, explosion, wars, sabotage, accident, flood, acts of God, strikes, or other labor disputes, riot or civil commotions, or by reason of any other matter or condition beyond the control of either party, and which cannot be overcome by reasonable diligence and without unusual expense ("Force Majeure"). In no event shall a lack of funds on the part of either party be deemed Force Majeure.

3.24 **Survival**. All representations and warranties made herein, indemnification obligations, obligations to reimburse SBBC, obligations to maintain and allow inspection and audit of records and property, obligations to maintain the confidentiality of records, reporting requirements, and obligations to return public funds shall survive the termination of this Agreement.

3.25 **Contract Administration.** SBBC has delegated authority to the Superintendent of Schools or his/her designee to take any actions necessary to implement and administer this Agreement.

3.26. **Liability**. This section shall survive the termination of all performance or obligations under this Agreement and shall be fully binding until such time as any proceeding brought on account of this Agreement is barred by any applicable statute of limitations.

A. By SBBC: SBBC agrees to be fully responsible up to the limits of Section 768.28, Florida Statutes, for its acts of negligence, or its employees' acts of negligence when acting within the scope of their employment and agrees to be liable for any damages resulting from said negligence.

B. By VENDOR: VENDOR agrees to indemnify, hold harmless and defend SBBC, its agents, servants and employees from any and all claims, judgments, costs, and expenses including, but not limited to, reasonable attorney's fees, reasonable investigative and discovery costs, court costs and all other sums which SBBC, its agents, servants and employees may pay or become obligated to pay on account of any, all and every claim or demand, or assertion of liability, or any claim or action founded thereon, arising or alleged to have arisen out of the products, goods or services furnished by VENDOR, its agents, servants or employees; the equipment of VENDOR, its agents, servants or employees while such equipment is on premises owned or controlled by SBBC; or the negligence of VENDOR or the negligence of VENDOR's agents when acting within the scope of their employment, whether such claims, judgments, costs and expenses be for damages, damage to property including SBBC's property, and injury or death of any person whether employed by VENDOR, SBBC or otherwise.

3.27 **Authority**. Each person signing this Agreement on behalf of either party individually warrants that he or she has full legal power to execute this Agreement on behalf of the party for whom he or she is signing, and to bind and obligate such party with respect to all provisions contained in this Agreement.

IN WITNESS WHEREOF, the Parties hereto have made and executed this Agreement on the date first above written.

FOR SBBC

(Corporate Seal)

THE SCHOOL BOARD OF BROWARD COUNTY, FLORIDA

By_____
Dr. Rosalind Osgood, Chair

ATTEST:

_____
Robert W. Runcie, Superintendent of Schools

Approved as to Form and Legal Content:

Kathelyn Jacques-Adams

Digitally signed by Kathelyn Jacques-Adams
DN: cn=Kathelyn Jacques-Adams, o=The School District of Broward County, Florida, ou=The Office of the General Counsel, email=kathelyn.jacques-adams@browardschools.com, c=US
Date: 2016.05.25 12:44:34 -04'00'

_____
Office of the General Counsel

FOR VENDOR

(Corporate Seal)

INVO HEALTHCARE ASSOCIATES, LLC

ATTEST:

By _____

_____, Secretary

Jason T. Ralph, COO

-or-

_____
Witness

_____
Witness

The Following Notarization is Required for Every Agreement Without Regard to Whether the Party Chose to Use a Secretary's Attestation or Two (2) Witnesses.

STATE OF _____

COUNTY OF _____

The foregoing instrument was acknowledged before me this ____ day of _____, 20__ by _____ of
Name of Person
_____, on behalf of the corporation/agency.
Name of Corporation or Agency
He/She is personally known to me or produced _____ as identification and did/did not first take an oath.
Type of Identification

My Commission Expires:
February 22, 2020

_____
Signature – Notary Public

(SEAL)

_____
Printed Name of Notary

_____
Notary's Commission No.

COMMONWEALTH OF PENNSYLVANIA
NOTARIAL SEAL
MORGAN DOOLEY, Notary Public
Warwick Township, Bucks County
My Commission Expires February 22, 2020

ATTACHMENT A

SCOPE OF SERVICES

1. VENDOR shall provide occupational and physical therapy services in accordance with Broward County Schools Special Programs and Procedures. A copy of these procedures may be obtained on Exceptional Student Education's website at http://www.broward.k12.fl.us/studentsupport/ese/pdf/SP&P.pdf or as updated by SBBC.

2. VENDOR shall provide current licensed occupational and physical therapists under this Agreement. **Award of this Agreement shall not be a guarantee of business, a guarantee of specified volume of service or minimum dollar revenue to be received under this Agreement.**

3. VENDOR shall report to the Program Specialist and/or Curriculum Supervisor regarding services under this Agreement.

4. VENDOR shall be compensated for direct student services and student related activities only. VENDOR shall not be compensated/reimbursed for travel under this Agreement.

5. VENDOR shall provide the following services, but not limited to, initial student evaluations, small group or individual therapy with students, record-keeping for student attendance, supervising assistants, preparing progress reports and therapy notes, preparing a therapy plan of care, participating in the development of Individual Education Plans (IEP), attendance at required eligibility, IEP and dismissal staffings, attending in-service meetings as requested and providing consultation with parents, school area, district staff and physicians, as needed. For Certified Occupational Therapy Assistants (COTA) and Licensed Physical Therapy Assistant (LPTA), service will be provided under supervision in accordance with the OT/PT Practice ACT. VENDOR shall complete all appropriate documentation for Medicaid Reimbursement.

6. VENDOR shall provide services consistent with the professional standards of care and comply with all the medical and ethical requirements imposed by the State of Florida, Board of Medicine, the Department of Professional Regulations, the Florida State Department of Education and any other applicable federal, state or local regulatory agency.

7. VENDOR shall provide the requested level of service(s), in accordance with and/or changes for services requested by SBBC, within five (5) calendar days of notice, unless otherwise mutually agreed upon. Excessive failure to meet the needs as requested will result in cancellation of VENDOR's Agreement.

8. VENDOR shall maintain normal working hours of 8:00 a.m. to 4:00 p.m. Hours may occasionally be extended from 7:00 a.m. to 4:30 p.m. There will be no reimbursement for a thirty (30) minute lunch period. SBBC may only be invoiced for up to 7.5 hours per day unless prior approval has been granted by SBBC staff for extended service time. Awardee(s) may provide a maximum of four (4) hours of service as needed on each scheduled employee planning day. Invoices not complying with this will be rejected and returned for correction and failure to invoice correctly will result in a delay of payment. Any VENDOR who consistently submits invoices that are not correct may be found in default of Agreement.

SCOPE OF SERVICES

9. VENDOR shall respond to requested services within five (5) school days of the request by submitting to an interview by a designated SBBC representative. Firms can also offer these services and interviews as required.

10. VENDOR shall provide uninterrupted services based upon the current school calendar to students by providing qualified substitutes or replacements in the event of an anticipated or unanticipated lapse of service. A qualified substitute is defined to be a therapist for a therapist or a therapist assistant for an assistant. All qualified substitutes must display an SBBC identification badge. (See General Condition 7.42) Any lapse of service to SBBC for five student attendance days during any school year will result in default of Agreement. VENDOR may be responsible to provide compensatory services or payments to SBBC for lapse of service.

11. VENDOR shall provide a service schedule of all personnel for approval on a regular basis as determined by a designated SBBC representative.

12. VENDOR shall follow all procedures (including, but not limited to, signing in and out, no telephone calls during treatment time) of individual schools where they are assigned. All therapists must carry a cell phone for critical communication throughout the day with SBBC personnel as established. These numbers must be provided to SBBC personnel. There shall be no cost to SBBC to use these communication devices.

13. VENDOR shall prepare time logs, reports, written analysis and other written memoranda in the form and manner deemed appropriate by SBBC.

14. VENDOR shall bill under SBBC's Medicaid provider number, when needed.

15. VENDOR, under this Agreement, shall be required to pass the screening of the of the Broward School's Police, Security Clearance Department prior to placement of assignment as required by SBBC (See General Condition 7.42 of the RFP, SBBC Photo Identification Badge). VENDOR must utilize the STAR system and/or sign-in/out procedures to document attendance at assigned location(s).

16. SBBC reserves the right to interview all therapy candidates prior to placement. K-12 experience is preferred. SBBC reserves the right to refuse to utilize any proposed therapy candidate. SBBC reserves the right to have an individual therapist removed from the assigned position. VENDOR will have five workdays in which to propose a replacement therapist. Should VENDOR be unable to provide an acceptable replacement, all other contracted Awardees will then be notified to submit a candidate to SBBC.

17. VENDOR shall provide proof of services on an original approved voucher form upon initiation of services and up until training is provided on the Accelify Electronic Management System. Once VENDOR has received training, VENDOR shall then submit all invoices electronically.

SCOPE OF SERVICES

18. VENDOR shall have all therapists and assistants and required substitutes or replacements submit to, and pass, the screening of the Special Investigative Unit (SIU), including fingerprinting, prior to working with students as required for all SBBC personnel. All therapists and assistants shall display an SBBC Identification Badge during contracted work hours. VENDOR will be required to pay the required fees for screening, fingerprinting and photo identification. (See General Condition 7.42 of the RFP)

19. VENDOR shall cooperate with SBBC in its partnership with universities and colleges to provide supervision of practicum experience for student therapists and assistants.

20. VENDOR may be evaluated annually in areas to include, but not be limited to, responsiveness, continuity of service, quality of work and professionalism.

21. VENDOR shall not provide private assessments or therapy services to students on their own public school caseload.

22. VENDOR and all therapists and assistants shall attend an orientation workshop of not less than three hours. This orientation workshop will include, but not be limited to, general information on the policies and procedures of the Broward County Special Programs and Procedures, the rights of students with disabilities, and other operational procedures required to carry out the therapy program. Additional workshops may be required during the term of the Agreement.

23. VENDOR will receive, from SBBC, requested materials, equipment and other related items which have been determined to be necessary to carry out the therapy program for students when approved by a designated SBBC representative.

24. VENDOR shall insure that their provider has the necessary technology (eg. Laptop, desktop computer, etc.) needed to carryout job responsibilities.

AGREEMENT

THIS AGREEMENT is made and entered into as of this ____ day of _____, 2016, by and between

THE SCHOOL BOARD OF BROWARD COUNTY, FLORIDA
(hereinafter referred to as "SBBC"),
a body corporate and political subdivision of the State of Florida,
whose principal place of business is
600 Southeast Third Avenue, Fort Lauderdale, Florida 33301

and

JEAN MARIE JASPERSE
(hereinafter referred to as "VENDOR"),
whose principal place of business is
11650 NW 19th Drive
Coral Springs, Florida 33071

WHEREAS, SBBC issued a Request for Proposal identified as RFP 17-005V – Occupational and Physical Therapy Services (hereinafter referred to as "RFP"), dated December 11, 2015 and amended by Addendum No. 2, dated January 15, 2016, and Addendum No. 1, dated January 9, 2016 all of which are incorporated by reference herein, for the purpose of receiving proposals for occupational and physical therapy services; and

WHEREAS, VENDOR offered a proposal dated January 17, 2016 (hereinafter referred to as "Proposal") which is incorporated by reference herein, in response to this RFP.

NOW, THEREFORE, in consideration of the premises and of the mutual covenants contained herein and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the Parties hereby agree as follows:

ARTICLE 1 - RECITALS

1.01 **Recitals**. The parties agree that the foregoing recitals are true and correct and that such recitals are incorporated herein by reference.

ARTICLE 2 – SPECIAL CONDITIONS

2.01 **Term of Agreement**. Unless terminated earlier pursuant to Section 3.05 of this Agreement, the term of this Agreement shall commence on **July 1, 2016** and conclude on **June 30, 2019.** The term of the Agreement may, by mutual agreement between SBBC and VENDOR be extended for two additional one-year periods and, if needed, 180 days beyond the expiration date of the renewal period. SBBC's Procurement & Warehousing Services Department, will, if considering renewing, request a letter consenting to renewal from VENDOR, prior to the end of the term. Any renewal period shall be approved by an Amendment to this Agreement executed by both parties

2.02 **Priority of Documents.** In the event of a conflict between documents, the following priority of documents shall govern.

First: This Agreement, then;
Second: Addendum No. 2, then;
Third: Addendum No. 1, then;
Fourth: RFP 17-005V – Occupational and Physical Therapy Services, then;
Fifth: Proposal submitted in response to the RFP by VENDOR.

2.03 **Services**: VENDOR shall provide SBBC with the Scope of Services as proposed in its Proposal and in compliance with this Agreement and the RFP and its Addenda and as specified in **Attachment A – Scope of Services**.

2.04 **Cost of Services**. SBBC shall pay VENDOR for cost of services satisfactorily rendered for:

Physical Therapist at $64.00/hr.

Costs shall not exceed the amount as stated on the Purchase Order. VENDOR may offer SBBC a special educational discount for pricing and reduce the cost of services during the term of the Agreement. VENDOR may invoice SBBC at an hourly rate less than their original bid price.

2.05 **M/WBE Participation**. VENDOR is a current Certified MWBE, Caucasian Female, with SBBC, Certificate #7007-6864.

2.06 **Inspection of VENDOR's Records by SBBC**. VENDOR shall establish and maintain books, records and documents (including electronic storage media) sufficient to reflect all income and expenditures of funds provided by SBBC under this Agreement. All VENDOR's Records, regardless of the form in which they are kept, shall be open to inspection and subject to audit, inspection, examination, evaluation and/or reproduction, during normal working hours, by SBBC's agent or its authorized representative to permit SBBC to evaluate, analyze and verify the satisfactory performance of the terms and conditions of this Agreement and to evaluate, analyze and verify any and all invoices, billings, payments and/or claims submitted by VENDOR or any of VENDOR's payees pursuant to this Agreement. VENDOR's Records subject to examination shall include, without limitation, those records necessary to evaluate and verify direct and indirect costs (including overhead allocations) as they may apply to costs associated with this Agreement. VENDOR's Records subject to this section shall include any and all documents pertinent to the evaluation, analysis, verification and reconciliation of any and all expenditures under this Agreement without regard to funding sources.

(a) VENDOR's Records Defined. For the purposes of this Agreement, the term "VENDOR's Records" shall include, without limitation, accounting records, payroll time sheets, cancelled payroll checks, W-2 forms, written policies and procedures, computer records, disks and software, videos, photographs, executed subcontracts, subcontract files (including proposals of successful and unsuccessful bidders), original estimates, estimating worksheets, correspondence, change order files (including sufficient supporting documentation and documentation covering negotiated settlements), and any other supporting documents that would substantiate, reconcile or refute any charges and/or expenditures related to this Agreement.

(b) Duration of Right to Inspect. For the purpose of such audits, inspections, examinations, evaluations and/or reproductions, SBBC's agent or authorized representative shall have access to VENDOR's Records from the effective date of this Agreement, for the duration of the term of this Agreement, and until the later of five (5) years after the termination of this Agreement or five (5) years after the date of final payment by SBBC to VENDOR pursuant to this Agreement.

(c) Notice of Inspection. SBBC's agent or its authorized representative shall provide VENDOR reasonable advance notice (not to exceed two (2) weeks) of any intended audit, inspection, examination, evaluation and or reproduction.

(d) Audit Site Conditions. SBBC's agent or its authorized representative shall have access to VENDOR's facilities and to any and all records related to this Agreement, and shall be provided adequate and appropriate work space in order to exercise the rights permitted under this section.

(e) Failure to Permit Inspection. Failure by VENDOR to permit audit, inspection, examination, evaluation and/or reproduction as permitted under this Section shall constitute grounds for termination of this Agreement by SBBC for cause and shall be grounds for the denial of some or all of any VENDOR's claims for payment by SBBC.

(f) Overcharges and Unauthorized Charges. If an audit conducted in accordance with this Section discloses overcharges or unauthorized charges to SBBC by VENDOR in excess of two percent (2%) of the total billings under this Agreement, the actual cost of SBBC's audit shall be paid by VENDOR. If the audit discloses billings or charges to which VENDOR is not contractually entitled, VENDOR shall pay said sum to SBBC within twenty (20) days of receipt of written demand under otherwise agreed to in writing by both parties.

(g) Inspection of Subcontractor's Records. VENDOR shall require any and all subcontractors, insurance agents and material suppliers (hereafter referred to as "Payees") providing services or goods with regard to this Agreement to comply with the requirements of this section by insertion of such requirements in any written subcontract. Failure by VENDOR to include such requirements in any subcontract shall constitute grounds for termination of this Agreement by SBBC for cause and shall be grounds for the exclusion of some or all of any Payee's costs from amounts payable by SBBC to VENDOR pursuant to this Agreement and such excluded costs shall become the liability of VENDOR.

(h) Inspector General Audits. VENDOR shall comply and cooperate immediately with any inspections, reviews, investigations, or audits deemed necessary by the Florida Office of the Inspector General or by any other state or federal officials.

2.07 **Notice**. When any of the parties desire to give notice to the other, such notice must be in writing, sent by U.S. Mail, postage prepaid, addressed to the party for whom it is intended at the place last specified; the place for giving notice shall remain such until it is changed by written notice in compliance with the provisions of this paragraph. For the present, the Parties designate the following as the respective places for giving notice:

To SBBC:

Superintendent of Schools
The School Board of Broward County, Florida
600 S.E. 3rd. Avenue
Fort Lauderdale, Florida 33301

With a Copy to: Director, ESE Department
The School Board of Broward County, Florida
Arthur Ashe Campus
1701 NW 23 Avenue
Fort Lauderdale, FL 33311

To VENDOR: Jean Marie Jasperse
11650 NW 19th Drive
Coral Springs, Florida 33071

2.08 **Background Screening.** VENDOR agrees to comply with all requirements of Sections 1012.32 and 1012.465, Florida Statutes, and all of its personnel who (1) are to be permitted access to school grounds when students are present, (2) will have direct contact with students, or (3) have access or control of school funds, will successfully complete the background screening required by the referenced statutes and meet the standards established by the statutes. This background screening will be conducted by SBBC in advance of VENDOR or its personnel providing any services under the conditions described in the previous sentence. VENDOR shall bear the cost of acquiring the background screening required by Section 1012.32, Florida Statutes, and any fee imposed by the Florida Department of Law Enforcement to maintain the fingerprints provided with respect to VENDOR and its personnel. The parties agree that the failure of VENDOR to perform any of the duties described in this section shall constitute a material breach of this Agreement entitling SBBC to terminate immediately with no further responsibilities or duties to perform under this Agreement. VENDOR agrees to indemnify and hold harmless SBBC, its officers and employees from any liability in the form of physical or mental injury, death or property damage resulting from VENDOR's failure to comply with the requirements of this Section or with Sections 1012.32 and 1012.465, Florida Statutes.

ARTICLE 3 – GENERAL CONDITIONS

3.01 **No Waiver of Sovereign Immunity**. Nothing herein is intended to serve as a waiver of sovereign immunity by any agency or political subdivision to which sovereign immunity may be applicable or of any rights or limits to liability existing under Section 768.28, Florida Statutes. This section shall survive the termination of all performance or obligations under this Agreement and shall be fully binding until such time as any proceeding brought on account of this Agreement is barred by any applicable statute of limitations.

3.02 **No Third Party Beneficiaries**. The parties expressly acknowledge that it is not their intent to create or confer any rights or obligations in or upon any third person or entity under this Agreement. None of the parties intend to directly or substantially benefit a third party by this Agreement. The parties agree that there are no third party beneficiaries to this Agreement and that no third party shall be entitled to assert a claim against any of the parties based upon this Agreement. Nothing herein shall be construed as consent by an agency or political subdivision of the State of Florida to be sued by third parties in any matter arising out of any contract.

3.03 **Independent Contractor**. The parties to this agreement shall at all times be acting in the capacity of independent contractors and not as an officer, employee or agent of one another. Neither party or its respective agents, employees, subcontractors or assignees shall represent to others that it has the authority to bind the other party unless specifically authorized in writing to do so. No right to SBBC retirement, leave benefits or any other benefits of SBBC employees shall exist as a result of the performance of any duties or responsibilities under this Agreement. SBBC shall not be responsible for social security, withholding taxes, contributions to unemployment compensation funds or insurance for the other party or the other party's officers, employees, agents, subcontractors or assignees.

3.04 **Equal Opportunity Provision**. The parties agree that no person shall be subjected to discrimination because of age, race, color, disability, gender identity, gender expression marital status, national origin, religion, sex or sexual orientation in the performance of the parties' respective duties, responsibilities and obligations under this Agreement.

3.05 **Termination**. This Agreement may be canceled with or without cause by SBBC during the term hereof upon thirty (30) days written notice to the other parties of its desire to terminate this Agreement. SBBC shall have no liability for any property left on SBBC's property by any party to this Agreement after the termination of this Agreement. Any party contracting with SBBC under this Agreement agrees that any of its property placed upon SBBC's facilities pursuant to this Agreement shall be removed within ten (10) business days following the termination, conclusion or cancellation of this Agreement and that any such property remaining upon SBBC's facilities after that time shall be deemed to be abandoned, title to such property shall pass to SBBC, and SBBC may use or dispose of such property as SBBC deems fit and appropriate.

3.06 **Default**. The parties agree that, in the event that either party is in default of its obligations under this Agreement, the non-defaulting party shall provide to the defaulting party (30) days written notice to cure the default. However, in the event said default cannot be cured within said thirty (30) day period and the defaulting party is diligently attempting in good faith to cure same, the time period shall be reasonably extended to allow the defaulting party additional cure time. Upon the occurrence of a default that is not cured during the applicable cure period, this Agreement may be terminated by the non-defaulting party upon thirty (30) days notice. This remedy is not intended to be exclusive of any other remedy, and each and every such remedy shall be cumulative and shall be in addition to every other remedy now or hereafter existing at law or in equity or by statute or otherwise. No single or partial exercise by any party of any right, power, or remedy hereunder shall preclude any other or future exercise thereof. Nothing in this section shall be construed to preclude termination for convenience pursuant to Section 3.05.

3.07 **Annual Appropriation.** The performance and obligations of SBBC under this Agreement shall be contingent upon an annual budgetary appropriation by its governing body. If SBBC does not allocate funds for the payment of services or products to be provided under this Agreement, this Agreement may be terminated by SBBC at the end of the period for which funds have been allocated. SBBC shall notify the other party at the earliest possible time before such termination. No penalty shall accrue to SBBC in the event this provision is exercised, and SBBC shall not be obligated or liable for any future payments due or any damages as a result of termination under this section.

3.08 **Excess Funds**. Any party receiving funds paid by SBBC under this Agreement agrees to promptly notify SBBC of any funds erroneously received from SBBC upon the discovery of such erroneous payment or overpayment. Any such excess funds shall be refunded to SBBC.

3.09 **Public Records**. Pursuant to Section 119.0701, Florida Statutes, any party contracting with SBBC is required to (a) keep and maintain available for public inspection any records that pertain to services rendered under this Agreement; (b) provide the public with access to public records on the same terms and conditions that SBBC would provide such records and 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; and (d) meet all requirements for retaining public records and transfer, at no cost to SBBC, all public records in that party's possession upon termination of its Agreement with SBBC and destroy any duplicate public records that are exempt or confidential and exempt from public records disclosure requirements. All of such party's records stored electronically must be provided to SBBC in a format that is compatible with SBBC's information technology systems. Each party shall maintain its own respective records and documents associated with this Agreement in accordance with the records retention requirements applicable to public records. Each party shall be responsible for compliance with any public documents request served upon it pursuant to Section 119.07, Florida Statutes, and any resultant award of attorney's fees for non-compliance with that law. Each party acknowledges that this Agreement and all attachments thereto are public records and do not constitute trade secrets.

3.10 **Student Records**: Notwithstanding any provision to the contrary within this Agreement, any party contracting with SBBC under this Agreement shall fully comply with the requirements of Sections 1002.22 and 1002.221, Florida Statutes; FERPA, and any other state or federal law or regulation regarding the confidentiality of student information and records. Each such party agrees, for itself, its officers, employees, agents, representatives, contractors or subcontractors, to fully indemnify and hold harmless SBBC and its officers and employees for any violation of this section, including, without limitation, defending SBBC and its officers and employees against any complaint, administrative or judicial proceeding, payment of any penalty imposed upon SBBC, or payment of any and all costs, damages, judgments or losses incurred by or imposed upon SBBC arising out of a breach of this covenant by the party, or an officer, employee, agent, representative, contractor, or sub-contractor of the party to the extent that the party or an officer, employee, agent, representative, contractor, or sub-contractor of the party shall either intentionally or negligently violate the provisions of this section or of Sections 1002.22 and/or 1002.221, Florida Statutes.

3.11 **Compliance with Laws**. Each party shall comply with all applicable federal, state and local laws, SBBC policies, codes, rules and regulations in performing its duties, responsibilities and obligations pursuant to this Agreement.

3.12 **Place of Performance**. All obligations of SBBC under the terms of this Agreement are reasonably susceptible of being performed in Broward County, Florida and shall be payable and performable in Broward County, Florida.

3.13 **Governing Law and Venue**. This Agreement shall be interpreted and construed in accordance with and governed by the laws of the State of Florida. Any controversies or legal problems arising out of this Agreement and any action involving the enforcement or interpretation of any rights hereunder shall be submitted to the jurisdiction of the State courts of the Seventeenth Judicial Circuit of Broward County, Florida.

3.14 **Entirety of Agreement**. This document incorporates and includes all prior negotiations, correspondence, conversations, agreements and understandings applicable to the matters contained herein and the parties agree that there are no commitments, agreements or understandings concerning the subject matter of this Agreement that are not contained in this document. Accordingly, the parties agree that no deviation from the terms hereof shall be predicated upon any prior representations or agreements, whether oral or written.

3.15 **Binding Effect**. This Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective successors and assigns.

3.16 **Assignment**. Neither this Agreement nor any interest herein may be assigned, transferred or encumbered by any party without the prior written consent of the other party. There shall be no partial assignments of this Agreement including, without limitation, the partial assignment of any right to receive payments from SBBC.

3.17 **Incorporation by Reference**. **Attachment A** attached hereto and referenced herein shall be deemed to be incorporated into this Agreement by reference.

3.18 **Captions**. The captions, section designations, section numbers, article numbers, titles and headings appearing in this Agreement are inserted only as a matter of convenience, have no substantive meaning, and in no way define, limit, construe or describe the scope or intent of such articles or sections of this Agreement, nor in any way affect this Agreement and shall not be construed to create a conflict with the provisions of this Agreement.

3.19 **Severability**. In the event that any one or more of the sections, paragraphs, sentences, clauses or provisions contained in this Agreement is held by a court of competent jurisdiction to be invalid, illegal, unlawful, unenforceable or void in any respect, such shall not affect the remaining portions of this Agreement and the same shall remain in full force and effect as if such invalid, illegal, unlawful, unenforceable or void sections, paragraphs, sentences, clauses or provisions had never been included herein.

3.20 **Preparation of Agreement**. The parties acknowledge that they have sought and obtained whatever competent advice and counsel as was necessary for them to form a full and complete understanding of all rights and obligations herein and that the preparation of this Agreement has been their joint effort. The language agreed to herein expresses their mutual intent and the resulting document shall not, solely as a matter of judicial construction, be construed more severely against one of the parties than the other.

3.21 **Amendments**. No modification, amendment, or alteration in the terms or conditions contained herein shall be effective unless contained in a written document prepared with the same or similar formality as this Agreement and executed by each party hereto.

3.22 **Waiver**. The parties agree that each requirement, duty and obligation set forth herein is substantial and important to the formation of this Agreement and, therefore, is a material term hereof. Any party's failure to enforce any provision of this Agreement shall not be deemed a waiver of such provision or modification of this Agreement unless the waiver is in writing and signed by the party waiving such provision. A written waiver shall only be effective as to the specific instance for which it is obtained and shall not be deemed a continuing or future waiver.

3.23 **Force Majeure**. Neither party shall be obligated to perform any duty, requirement or obligation under this Agreement if such performance is prevented by fire, hurricane, earthquake, explosion, wars, sabotage, accident, flood, acts of God, strikes, or other labor disputes, riot or civil commotions, or by reason of any other matter or condition beyond the control of either party, and which cannot be overcome by reasonable diligence and without unusual expense ("Force Majeure"). In no event shall a lack of funds on the part of either party be deemed Force Majeure.

3.24 **Survival**. All representations and warranties made herein, indemnification obligations, obligations to reimburse SBBC, obligations to maintain and allow inspection and audit of records and property, obligations to maintain the confidentiality of records, reporting requirements, and obligations to return public funds shall survive the termination of this Agreement.

3.25 **Contract Administration.** SBBC has delegated authority to the Superintendent of Schools or his/her designee to take any actions necessary to implement and administer this Agreement.

3.26. **Liability**. This section shall survive the termination of all performance or obligations under this Agreement and shall be fully binding until such time as any proceeding brought on account of this Agreement is barred by any applicable statute of limitations.

A. By SBBC: SBBC agrees to be fully responsible up to the limits of Section 768.28, Florida Statutes, for its acts of negligence, or its employees' acts of negligence when acting within the scope of their employment and agrees to be liable for any damages resulting from said negligence.

B. By VENDOR: VENDOR agrees to indemnify, hold harmless and defend SBBC, its agents, servants and employees from any and all claims, judgments, costs, and expenses including, but not limited to, reasonable attorney's fees, reasonable investigative and discovery costs, court costs and all other sums which SBBC, its agents, servants and employees may pay or become obligated to pay on account of any, all and every claim or demand, or assertion of liability, or any claim or action founded thereon, arising or alleged to have arisen out of the products, goods or services furnished by VENDOR, its agents, servants or employees; the equipment of VENDOR, its agents, servants or employees while such equipment is on premises owned or controlled by SBBC; or the negligence of VENDOR or the negligence of VENDOR's agents when acting within the scope of their employment, whether such claims, judgments, costs and expenses be for damages, damage to property including SBBC's property, and injury or death of any person whether employed by VENDOR, SBBC or otherwise.

3.27 **Authority**. Each person signing this Agreement on behalf of either party individually warrants that he or she has full legal power to execute this Agreement on behalf of the party for whom he or she is signing, and to bind and obligate such party with respect to all provisions contained in this Agreement.

IN WITNESS WHEREOF, the Parties hereto have made and executed this Agreement on the date first above written.

FOR SBBC

(Corporate Seal)

THE SCHOOL BOARD OF BROWARD COUNTY, FLORIDA

By_____
Dr. Rosalind Osgood, Chair

ATTEST:

_____
Robert W. Runcie, Superintendent of Schools

Approved as to Form and Legal Content:

Kathelyn Jacques-Adams

Digitally signed by Kathelyn Jacques-Adams
DN: cn=Kathelyn Jacques-Adams, o=The School District of Broward County, Florida, ou=The Office of the General Counsel, email=kathelyn.jacques-adams@browardschools.com, c=US
Date: 2016.05.25 12:45:08 -04'00'

_____
Office of the General Counsel

FOR VENDOR

B Scott Everett B Scott Everett
Witness

Jean Marie Jasperse
Signature

Scott P Baker
Witness

Jean Marie Jasperse

STATE OF Florida

COUNTY OF Broward

The foregoing instrument was acknowledged before me by Jean Marie Jasperse
Insert Name Here
who is personally known to me or who produced Florida Driver License as
Type of Identification
identification and who did/did not first take an oath this 6th day of May,
20 16.

My Commission Expires: April 27, 2017

B. Scott Everett
Signature – Notary Public

B SCOTT EVERETT
MY COMMISSION # EE867022
EXPIRES April 27, 2017
(407) 398-0153 FloridaNotaryService.com

(SEAL)

B. Scott Everett
Notary's Printed Name

EE867022
Notary's Commission No.

ATTACHMENT A

SCOPE OF SERVICES

1. VENDOR shall provide physical therapy services in accordance with Broward County Schools Special Programs and Procedures. A copy of these procedures may be obtained on Exceptional Student Education's website at http://www.broward.k12.fl.us/studentsupport/ese/pdf/SP&P.pdf or as updated by SBBC.

2. VENDOR shall provide current licensed physical therapist under this Agreement. **Award of this Agreement shall not be a guarantee of business, a guarantee of specified volume of service or minimum dollar revenue to be received under this Agreement.**

3. VENDOR will report to the Program Specialist and/or Curriculum Supervisor regarding services under this Agreement.

4. VENDOR will be compensated for direct student services and student related activities only. VENDOR shall not be compensated/reimbursed for travel under this Agreement.

5. VENDOR shall provide the following services, but not limited to, initial student evaluations, small group or individual therapy with students, record-keeping for student attendance, supervising assistants, preparing progress reports and therapy notes, preparing a therapy plan of care, participating in the development of Individual Education Plans (IEP), attendance at required eligibility, IEP and dismissal staffings, attending in-service meetings as requested and providing consultation with parents, school area, district staff and physicians, as needed. VENDOR shall complete all appropriate documentation for Medicaid Reimbursement.

6. VENDOR shall provide services consistent with the professional standards of care and comply with all the medical and ethical requirements imposed by the State of Florida, Board of Medicine, the Department of Professional Regulations, the Florida State Department of Education and any other applicable federal, state or local regulatory agency.

7. VENDOR shall provide the requested level of service(s), in accordance with and/or changes for services requested by SBBC, within five (5) calendar days of notice, unless otherwise mutually agreed upon. Excessive failure to meet the needs as requested will result in cancellation of VENDOR's Agreement.

8. VENDOR shall maintain normal working hours of 8:00 a.m. to 4:00 p.m. Hours may occasionally be extended from 7:00 a.m. to 4:30 p.m. There will be no reimbursement for a thirty (30) minute lunch period. SBBC may only be invoiced for up to 7.5 hours per day unless prior approval has been granted by SBBC staff for extended service time. Awardee(s) may provide a maximum of four (4) hours of service as needed on each scheduled employee planning day. Invoices not complying with this will be rejected and returned for correction and failure to invoice correctly will result in a delay of payment. Any VENDOR who consistently submits invoices that are not correct may be found in default of Agreement.

SCOPE OF SERVICES

9. VENDOR shall respond to requested services within five (5) school days of the request by submitting to an interview by a designated SBBC representative. Firms can also offer these services and interviews as required.

10. VENDOR shall provide uninterrupted services based upon the current school calendar to students by providing qualified substitutes or replacements in the event of an anticipated or unanticipated lapse of service. A qualified substitute is defined to be a therapist for a therapist or a therapist assistant for an assistant. All qualified substitutes must display an SBBC identification badge. (See General Condition 7.42) Any lapse of service to SBBC for five student attendance days during any school year will result in default of Agreement. VENDOR may be responsible to provide compensatory services or payments to SBBC for lapse of service.

11. VENDOR shall provide a service schedule of all personnel for approval on a regular basis as determined by a designated SBBC representative.

12. VENDOR shall follow all procedures (including, but not limited to, signing in and out, no telephone calls during treatment time) of individual schools where they are assigned. All therapists must carry a cell phone for critical communication throughout the day with SBBC personnel as established. These numbers must be provided to SBBC personnel. There shall be no cost to SBBC to use these communication devices.

13. VENDOR shall prepare time logs, reports, written analysis and other written memoranda in the form and manner deemed appropriate by SBBC.

14. VENDOR shall bill under SBBC's Medicaid provider number, when needed.

15. VENDOR, under this Agreement, shall be required to pass the screening of the of the Broward School's Police, Security Clearance Department prior to placement of assignment as required by SBBC (See General Condition 7.42 of the RFP, SBBC Photo Identification Badge). VENDOR must utilize the STAR system and/or sign-in/out procedures to document attendance at assigned location(s).

16. SBBC reserves the right to interview all therapy candidates prior to placement. K-12 experience is preferred. SBBC reserves the right to refuse to utilize any proposed therapy candidate. SBBC reserves the right to have an individual therapist removed from the assigned position. VENDOR will have five workdays in which to propose a replacement therapist. Should VENDOR be unable to provide an acceptable replacement, all other contracted Awardees will then be notified to submit a candidate to SBBC.

17. VENDOR shall provide proof of services on an original approved voucher form upon initiation of services and up until training is provided on the Accelify Electronic Management System. Once VENDOR has received training, VENDOR shall then submit all invoices electronically.

SCOPE OF SERVICES

18. VENDOR shall have all therapists and assistants and required substitutes or replacements submit to, and pass, the screening of the Special Investigative Unit (SIU), including fingerprinting, prior to working with students as required for all SBBC personnel. All therapists and assistants shall display an SBBC Identification Badge during contracted work hours. VENDOR will be required to pay the required fees for screening, fingerprinting and photo identification. (See General Condition 7.42 of the RFP)

19. VENDOR shall cooperate with SBBC in its partnership with universities and colleges to provide supervision of practicum experience for student therapists and assistants.

20. VENDOR may be evaluated annually in areas to include, but not be limited to, responsiveness, continuity of service, quality of work and professionalism.

21. VENDOR shall not provide private assessments or therapy services to students on their own public school caseload.

22. VENDOR and all therapists and assistants shall attend an orientation workshop of not less than three hours. This orientation workshop will include, but not be limited to, general information on the policies and procedures of the Broward County Special Programs and Procedures, the rights of students with disabilities, and other operational procedures required to carry out the therapy program. Additional workshops may be required during the term of the Agreement.

23. VENDOR will receive, from SBBC, requested materials, equipment and other related items which have been determined to be necessary to carry out the therapy program for students when approved by a designated SBBC representative.

24. VENDOR shall insure that their provider has the necessary technology (eg. Laptop, desktop computer, etc.) needed to carryout job responsibilities.

AGREEMENT

THIS AGREEMENT is made and entered into as of this ____ day of _____, 2016, by and between

THE SCHOOL BOARD OF BROWARD COUNTY, FLORIDA
(hereinafter referred to as "SBBC"),
a body corporate and political subdivision of the State of Florida,
whose principal place of business is
600 Southeast Third Avenue, Fort Lauderdale, Florida 33301

and

KAREN KOHLER FORTUNE
(hereinafter referred to as "VENDOR"),
whose principal place of business is
6181 Laurel Lane, Unit A
Tamarac, Florida 33319

WHEREAS, SBBC issued a Request for Proposal identified as RFP 17-005V – Occupational and Physical Therapy Services (hereinafter referred to as "RFP"), dated December 11, 2015 and amended by Addendum No. 2, dated January 15, 2016, and Addendum No. 1, dated January 9, 2016 all of which are incorporated by reference herein, for the purpose of receiving proposals for occupational and physical therapy services; and

WHEREAS, VENDOR offered a proposal dated January 16, 2016 (hereinafter referred to as "Proposal") which is incorporated by reference herein, in response to this RFP.

NOW, THEREFORE, in consideration of the premises and of the mutual covenants contained herein and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the Parties hereby agree as follows:

ARTICLE 1 - RECITALS

1.01 **Recitals**. The parties agree that the foregoing recitals are true and correct and that such recitals are incorporated herein by reference.

ARTICLE 2 – SPECIAL CONDITIONS

2.01 **Term of Agreement**. Unless terminated earlier pursuant to Section 3.05 of this Agreement, the term of this Agreement shall commence on **July 1, 2016** and conclude on **June 30, 2019.** The term of the Agreement may, by mutual agreement between SBBC and VENDOR be extended for two additional one-year periods and, if needed, 180 days beyond the expiration date of the renewal period. SBBC's Procurement & Warehousing Services Department, will, if considering renewing, request a letter consenting to renewal from VENDOR, prior to the end of the term. Any renewal period shall be approved by an Amendment to this Agreement executed by both parties

2.02 **Priority of Documents.** In the event of a conflict between documents, the following priority of documents shall govern.

First: This Agreement, then;
Second: Addendum No. 2, then;
Third: Addendum No. 1, then;
Fourth: RFP 17-005V – Occupational and Physical Therapy Services, then;
Fifth: Proposal submitted in response to the RFP by VENDOR.

2.03 **Services**: VENDOR shall provide SBBC with the Scope of Services as proposed in its Proposal and in compliance with this Agreement and the RFP and its Addenda and as specified in **Attachment A – Scope of Services**.

2.04 **Cost of Services**. SBBC shall pay VENDOR for cost of services rendered for Occupational Therapy services at $64.00/hour. Costs shall not exceed the amount as stated on the Purchase Order. VENDOR may offer SBBC a special educational discount for pricing and reduce the cost of services during the term of the Agreement. VENDOR may invoice SBBC at an hourly rate less than their original bid price.

2.05 **M/WBE Participation**. VENDOR is a current Certified MWBE, Caucasian Female, with SBBC, Certificate #7007-7139.

2.06 **Inspection of VENDOR's Records by SBBC**. VENDOR shall establish and maintain books, records and documents (including electronic storage media) sufficient to reflect all income and expenditures of funds provided by SBBC under this Agreement. All VENDOR's Records, regardless of the form in which they are kept, shall be open to inspection and subject to audit, inspection, examination, evaluation and/or reproduction, during normal working hours, by SBBC's agent or its authorized representative to permit SBBC to evaluate, analyze and verify the satisfactory performance of the terms and conditions of this Agreement and to evaluate, analyze and verify any and all invoices, billings, payments and/or claims submitted by VENDOR or any of VENDOR's payees pursuant to this Agreement. VENDOR's Records subject to examination shall include, without limitation, those records necessary to evaluate and verify direct and indirect costs (including overhead allocations) as they may apply to costs associated with this Agreement. VENDOR's Records subject to this section shall include any and all documents pertinent to the evaluation, analysis, verification and reconciliation of any and all expenditures under this Agreement without regard to funding sources.

(a) VENDOR's Records Defined. For the purposes of this Agreement, the term "VENDOR's Records" shall include, without limitation, accounting records, payroll time sheets, cancelled payroll checks, W-2 forms, written policies and procedures, computer records, disks and software, videos, photographs, executed subcontracts, subcontract files (including proposals of successful and unsuccessful bidders), original estimates, estimating worksheets, correspondence, change order files (including sufficient supporting documentation and documentation covering negotiated settlements), and any other supporting documents that would substantiate, reconcile or refute any charges and/or expenditures related to this Agreement.

(b) Duration of Right to Inspect. For the purpose of such audits, inspections, examinations, evaluations and/or reproductions, SBBC's agent or authorized representative shall have access to VENDOR's Records from the effective date of this Agreement, for the duration of the term of this Agreement, and until the later of five (5) years after the termination of this Agreement or five (5) years after the date of final payment by SBBC to VENDOR pursuant to this Agreement.

(c) Notice of Inspection. SBBC's agent or its authorized representative shall provide VENDOR reasonable advance notice (not to exceed two (2) weeks) of any intended audit, inspection, examination, evaluation and or reproduction.

(d) Audit Site Conditions. SBBC's agent or its authorized representative shall have access to VENDOR's facilities and to any and all records related to this Agreement, and shall be provided adequate and appropriate work space in order to exercise the rights permitted under this section.

(e) Failure to Permit Inspection. Failure by VENDOR to permit audit, inspection, examination, evaluation and/or reproduction as permitted under this Section shall constitute grounds for termination of this Agreement by SBBC for cause and shall be grounds for the denial of some or all of any VENDOR's claims for payment by SBBC.

(f) Overcharges and Unauthorized Charges. If an audit conducted in accordance with this Section discloses overcharges or unauthorized charges to SBBC by VENDOR in excess of two percent (2%) of the total billings under this Agreement, the actual cost of SBBC's audit shall be paid by VENDOR. If the audit discloses billings or charges to which VENDOR is not contractually entitled, VENDOR shall pay said sum to SBBC within twenty (20) days of receipt of written demand under otherwise agreed to in writing by both parties.

(g) Inspection of Subcontractor's Records. VENDOR shall require any and all subcontractors, insurance agents and material suppliers (hereafter referred to as "Payees") providing services or goods with regard to this Agreement to comply with the requirements of this section by insertion of such requirements in any written subcontract. Failure by VENDOR to include such requirements in any subcontract shall constitute grounds for termination of this Agreement by SBBC for cause and shall be grounds for the exclusion of some or all of any Payee's costs from amounts payable by SBBC to VENDOR pursuant to this Agreement and such excluded costs shall become the liability of VENDOR.

(h) Inspector General Audits. VENDOR shall comply and cooperate immediately with any inspections, reviews, investigations, or audits deemed necessary by the Florida Office of the Inspector General or by any other state or federal officials.

2.07 **Notice**. When any of the parties desire to give notice to the other, such notice must be in writing, sent by U.S. Mail, postage prepaid, addressed to the party for whom it is intended at the place last specified; the place for giving notice shall remain such until it is changed by written notice in compliance with the provisions of this paragraph. For the present, the Parties designate the following as the respective places for giving notice:

To SBBC:
Superintendent of Schools
The School Board of Broward County, Florida
600 S.E. 3rd. Avenue
Fort Lauderdale, Florida 33301

With a Copy to: Director, ESE Department
The School Board of Broward County, Florida
Arthur Ashe Campus
1701 NW 23 Avenue
Fort Lauderdale, FL 33311

To VENDOR: Karen Kohler Fortune
6181 Laurel Lane, Unit A
Tamarac, FL 33319

2.08 **Background Screening.** VENDOR agrees to comply with all requirements of Sections 1012.32 and 1012.465, Florida Statutes, and all of its personnel who (1) are to be permitted access to school grounds when students are present, (2) will have direct contact with students, or (3) have access or control of school funds, will successfully complete the background screening required by the referenced statutes and meet the standards established by the statutes. This background screening will be conducted by SBBC in advance of VENDOR or its personnel providing any services under the conditions described in the previous sentence. VENDOR shall bear the cost of acquiring the background screening required by Section 1012.32, Florida Statutes, and any fee imposed by the Florida Department of Law Enforcement to maintain the fingerprints provided with respect to VENDOR and its personnel. The parties agree that the failure of VENDOR to perform any of the duties described in this section shall constitute a material breach of this Agreement entitling SBBC to terminate immediately with no further responsibilities or duties to perform under this Agreement. VENDOR agrees to indemnify and hold harmless SBBC, its officers and employees from any liability in the form of physical or mental injury, death or property damage resulting from VENDOR's failure to comply with the requirements of this Section or with Sections 1012.32 and 1012.465, Florida Statutes.

ARTICLE 3 – GENERAL CONDITIONS

3.01 **No Waiver of Sovereign Immunity**. Nothing herein is intended to serve as a waiver of sovereign immunity by any agency or political subdivision to which sovereign immunity may be applicable or of any rights or limits to liability existing under Section 768.28, Florida Statutes. This section shall survive the termination of all performance or obligations under this Agreement and shall be fully binding until such time as any proceeding brought on account of this Agreement is barred by any applicable statute of limitations.

3.02 **No Third Party Beneficiaries**. The parties expressly acknowledge that it is not their intent to create or confer any rights or obligations in or upon any third person or entity under this Agreement. None of the parties intend to directly or substantially benefit a third party by this Agreement. The parties agree that there are no third party beneficiaries to this Agreement and that no third party shall be entitled to assert a claim against any of the parties based upon this Agreement. Nothing herein shall be construed as consent by an agency or political subdivision of the State of Florida to be sued by third parties in any matter arising out of any contract.

3.03 **Independent Contractor**. The parties to this agreement shall at all times be acting in the capacity of independent contractors and not as an officer, employee or agent of one another. Neither party or its respective agents, employees, subcontractors or assignees shall represent to others that it has the authority to bind the other party unless specifically authorized in writing to do so. No right to SBBC retirement, leave benefits or any other benefits of SBBC employees shall exist as a result of the performance of any duties or responsibilities under this Agreement. SBBC shall not be responsible for social security, withholding taxes, contributions to unemployment compensation funds or insurance for the other party or the other party's officers, employees, agents, subcontractors or assignees.

3.04 **Equal Opportunity Provision**. The parties agree that no person shall be subjected to discrimination because of age, race, color, disability, gender identity, gender expression marital status, national origin, religion, sex or sexual orientation in the performance of the parties' respective duties, responsibilities and obligations under this Agreement.

3.05 **Termination**. This Agreement may be canceled with or without cause by SBBC during the term hereof upon thirty (30) days written notice to the other parties of its desire to terminate this Agreement. SBBC shall have no liability for any property left on SBBC's property by any party to this Agreement after the termination of this Agreement. Any party contracting with SBBC under this Agreement agrees that any of its property placed upon SBBC's facilities pursuant to this Agreement shall be removed within ten (10) business days following the termination, conclusion or cancellation of this Agreement and that any such property remaining upon SBBC's facilities after that time shall be deemed to be abandoned, title to such property shall pass to SBBC, and SBBC may use or dispose of such property as SBBC deems fit and appropriate.

3.06 **Default**. The parties agree that, in the event that either party is in default of its obligations under this Agreement, the non-defaulting party shall provide to the defaulting party (30) days written notice to cure the default. However, in the event said default cannot be cured within said thirty (30) day period and the defaulting party is diligently attempting in good faith to cure same, the time period shall be reasonably extended to allow the defaulting party additional cure time. Upon the occurrence of a default that is not cured during the applicable cure period, this Agreement may be terminated by the non-defaulting party upon thirty (30) days notice. This remedy is not intended to be exclusive of any other remedy, and each and every such remedy shall be cumulative and shall be in addition to every other remedy now or hereafter existing at law or in equity or by statute or otherwise. No single or partial exercise by any party of any right, power, or remedy hereunder shall preclude any other or future exercise thereof. Nothing in this section shall be construed to preclude termination for convenience pursuant to Section 3.05.

3.07 **Annual Appropriation.** The performance and obligations of SBBC under this Agreement shall be contingent upon an annual budgetary appropriation by its governing body. If SBBC does not allocate funds for the payment of services or products to be provided under this Agreement, this Agreement may be terminated by SBBC at the end of the period for which funds have been allocated. SBBC shall notify the other party at the earliest possible time before such termination. No penalty shall accrue to SBBC in the event this provision is exercised, and SBBC shall not be obligated or liable for any future payments due or any damages as a result of termination under this section.

3.08 **Excess Funds**. Any party receiving funds paid by SBBC under this Agreement agrees to promptly notify SBBC of any funds erroneously received from SBBC upon the discovery of such erroneous payment or overpayment. Any such excess funds shall be refunded to SBBC.

3.09 **Public Records**. Pursuant to Section 119.0701, Florida Statutes, any party contracting with SBBC is required to (a) keep and maintain available for public inspection any records that pertain to services rendered under this Agreement; (b) provide the public with access to public records on the same terms and conditions that SBBC would provide such records and 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; and (d) meet all requirements for retaining public records and transfer, at no cost to SBBC, all public records in that party's possession upon termination of its Agreement with SBBC and destroy any duplicate public records that are exempt or confidential and exempt from public records disclosure requirements. All of such party's records stored electronically must be provided to SBBC in a format that is compatible with SBBC's information technology systems. Each party shall maintain its own respective records and documents associated with this Agreement in accordance with the records retention requirements applicable to public records. Each party shall be responsible for compliance with any public documents request served upon it pursuant to Section 119.07, Florida Statutes, and any resultant award of attorney's fees for non-compliance with that law. Each party acknowledges that this Agreement and all attachments thereto are public records and do not constitute trade secrets.

3.10 **Student Records**: Notwithstanding any provision to the contrary within this Agreement, any party contracting with SBBC under this Agreement shall fully comply with the requirements of Sections 1002.22 and 1002.221, Florida Statutes; FERPA, and any other state or federal law or regulation regarding the confidentiality of student information and records. Each such party agrees, for itself, its officers, employees, agents, representatives, contractors or subcontractors, to fully indemnify and hold harmless SBBC and its officers and employees for any violation of this section, including, without limitation, defending SBBC and its officers and employees against any complaint, administrative or judicial proceeding, payment of any penalty imposed upon SBBC, or payment of any and all costs, damages, judgments or losses incurred by or imposed upon SBBC arising out of a breach of this covenant by the party, or an officer, employee, agent, representative, contractor, or sub-contractor of the party to the extent that the party or an officer, employee, agent, representative, contractor, or sub-contractor of the party shall either intentionally or negligently violate the provisions of this section or of Sections 1002.22 and/or 1002.221, Florida Statutes.

3.11 **Compliance with Laws**. Each party shall comply with all applicable federal, state and local laws, SBBC policies, codes, rules and regulations in performing its duties, responsibilities and obligations pursuant to this Agreement.

3.12 **Place of Performance**. All obligations of SBBC under the terms of this Agreement are reasonably susceptible of being performed in Broward County, Florida and shall be payable and performable in Broward County, Florida.

3.13 **Governing Law and Venue**. This Agreement shall be interpreted and construed in accordance with and governed by the laws of the State of Florida. Any controversies or legal problems arising out of this Agreement and any action involving the enforcement or interpretation of any rights hereunder shall be submitted to the jurisdiction of the State courts of the Seventeenth Judicial Circuit of Broward County, Florida.

3.14 **Entirety of Agreement**. This document incorporates and includes all prior negotiations, correspondence, conversations, agreements and understandings applicable to the matters contained herein and the parties agree that there are no commitments, agreements or understandings concerning the subject matter of this Agreement that are not contained in this document. Accordingly, the parties agree that no deviation from the terms hereof shall be predicated upon any prior representations or agreements, whether oral or written.

3.15 **Binding Effect**. This Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective successors and assigns.

3.16 **Assignment**. Neither this Agreement nor any interest herein may be assigned, transferred or encumbered by any party without the prior written consent of the other party. There shall be no partial assignments of this Agreement including, without limitation, the partial assignment of any right to receive payments from SBBC.

3.17 **Incorporation by Reference**. **Attachment A** attached hereto and referenced herein shall be deemed to be incorporated into this Agreement by reference.

3.18 **Captions**. The captions, section designations, section numbers, article numbers, titles and headings appearing in this Agreement are inserted only as a matter of convenience, have no substantive meaning, and in no way define, limit, construe or describe the scope or intent of such articles or sections of this Agreement, nor in any way affect this Agreement and shall not be construed to create a conflict with the provisions of this Agreement.

3.19 **Severability**. In the event that any one or more of the sections, paragraphs, sentences, clauses or provisions contained in this Agreement is held by a court of competent jurisdiction to be invalid, illegal, unlawful, unenforceable or void in any respect, such shall not affect the remaining portions of this Agreement and the same shall remain in full force and effect as if such invalid, illegal, unlawful, unenforceable or void sections, paragraphs, sentences, clauses or provisions had never been included herein.

3.20 **Preparation of Agreement**. The parties acknowledge that they have sought and obtained whatever competent advice and counsel as was necessary for them to form a full and complete understanding of all rights and obligations herein and that the preparation of this Agreement has been their joint effort. The language agreed to herein expresses their mutual intent and the resulting document shall not, solely as a matter of judicial construction, be construed more severely against one of the parties than the other.

3.21 **Amendments**. No modification, amendment, or alteration in the terms or conditions contained herein shall be effective unless contained in a written document prepared with the same or similar formality as this Agreement and executed by each party hereto.

3.22 **Waiver**. The parties agree that each requirement, duty and obligation set forth herein is substantial and important to the formation of this Agreement and, therefore, is a material term hereof. Any party's failure to enforce any provision of this Agreement shall not be deemed a waiver of such provision or modification of this Agreement unless the waiver is in writing and signed by the party waiving such provision. A written waiver shall only be effective as to the specific instance for which it is obtained and shall not be deemed a continuing or future waiver.

3.23 **Force Majeure**. Neither party shall be obligated to perform any duty, requirement or obligation under this Agreement if such performance is prevented by fire, hurricane, earthquake, explosion, wars, sabotage, accident, flood, acts of God, strikes, or other labor disputes, riot or civil commotions, or by reason of any other matter or condition beyond the control of either party, and which cannot be overcome by reasonable diligence and without unusual expense ("Force Majeure"). In no event shall a lack of funds on the part of either party be deemed Force Majeure.

3.24 **Survival**. All representations and warranties made herein, indemnification obligations, obligations to reimburse SBBC, obligations to maintain and allow inspection and audit of records and property, obligations to maintain the confidentiality of records, reporting requirements, and obligations to return public funds shall survive the termination of this Agreement.

3.25 **Contract Administration.** SBBC has delegated authority to the Superintendent of Schools or his/her designee to take any actions necessary to implement and administer this Agreement.

3.26. **Liability**. This section shall survive the termination of all performance or obligations under this Agreement and shall be fully binding until such time as any proceeding brought on account of this Agreement is barred by any applicable statute of limitations.

A. By SBBC: SBBC agrees to be fully responsible up to the limits of Section 768.28, Florida Statutes, for its acts of negligence, or its employees' acts of negligence when acting within the scope of their employment and agrees to be liable for any damages resulting from said negligence.

B. By VENDOR: VENDOR agrees to indemnify, hold harmless and defend SBBC, its agents, servants and employees from any and all claims, judgments, costs, and expenses including, but not limited to, reasonable attorney's fees, reasonable investigative and discovery costs, court costs and all other sums which SBBC, its agents, servants and employees may pay or become obligated to pay on account of any, all and every claim or demand, or assertion of liability, or any claim or action founded thereon, arising or alleged to have arisen out of the products, goods or services furnished by VENDOR, its agents, servants or employees; the equipment of VENDOR, its agents, servants or employees while such equipment is on premises owned or controlled by SBBC; or the negligence of VENDOR or the negligence of VENDOR's agents when acting within the scope of their employment, whether such claims, judgments, costs and expenses be for damages, damage to property including SBBC's property, and injury or death of any person whether employed by VENDOR, SBBC or otherwise.

3.27 **Authority**. Each person signing this Agreement on behalf of either party individually warrants that he or she has full legal power to execute this Agreement on behalf of the party for whom he or she is signing, and to bind and obligate such party with respect to all provisions contained in this Agreement.

IN WITNESS WHEREOF, the Parties hereto have made and executed this Agreement on the date first above written.

FOR SBBC

(Corporate Seal)

THE SCHOOL BOARD OF BROWARD COUNTY, FLORIDA

By_____
Dr. Rosalind Osgood, Chair

ATTEST:

_____
Robert W. Runcie, Superintendent of Schools

Approved as to Form and Legal Content:

Kathelyn Jacques-Adams

Digitally signed by Kathelyn Jacques-Adams
DN: cn=Kathelyn Jacques-Adams, o=The School District of Broward County, Florida, ou=The Office of the General Counsel, email=kathelyn.jacques-adams@browardschools.com, c=US
Date: 2016.05.25 12:45:43 -04'00'

_____
Office of the General Counsel

FOR VENDOR

Witness

Witness

Signature

Karen Kohler Fortune

STATE OF Florida

COUNTY OF Broward

The foregoing instrument was acknowledged before me by Karen K Fortune
Insert Name Here
who is personally known to me or who produced FLDL F635 511 74 786 0 as
Type of Identification
identification and who did/did not first take an oath this 5 day of May,
20 16.

My Commission Expires:

Signature – Notary Public

Melody A Cassanova-Brooks

Notary's Printed Name

(SEAL)

FF 170173

Notary's Commission No.

Melody A. Cassanova-Brooks
Notary Public
State of Florida
My Commission Expires 10/20/2018
Commission No. FF 170173

ATTACHMENT A

SCOPE OF SERVICES

1. VENDOR shall provide occupational therapy services in accordance with Broward County Schools Special Programs and Procedures. A copy of these procedures may be obtained on Exceptional Student Education's website at http://www.broward.k12.fl.us/studentsupport/ese/pdf/SP&P.pdf or as updated by SBBC.

2. VENDOR shall provide a current licensed occupational therapist under this Agreement. **Award of this Agreement shall not be a guarantee of business, a guarantee of specified volume of service or minimum dollar revenue to be received under this Agreement.**

3. VENDOR shall report to the Program Specialist and/or Curriculum Supervisor regarding services under this Agreement.

4. VENDOR shall be compensated for direct student services and student related activities only. VENDOR shall not be compensated/reimbursed for travel under this Agreement.

5. VENDOR shall provide the following services, but not limited to, initial student evaluations, small group or individual therapy with students, record-keeping for student attendance, supervising assistants, preparing progress reports and therapy notes, preparing a therapy plan of care, participating in the development of Individual Education Plans (IEP), attendance at required eligibility, IEP and dismissal staffings, attending in-service meetings as requested and providing consultation with parents, school area, district staff and physicians, as needed. VENDOR shall complete all appropriate documentation for Medicaid Reimbursement.

6. VENDOR shall provide services consistent with the professional standards of care and comply with all the medical and ethical requirements imposed by the State of Florida, Board of Medicine, the Department of Professional Regulations, the Florida State Department of Education and any other applicable federal, state or local regulatory agency.

7. VENDOR shall provide the requested level of service(s), in accordance with and/or changes for services requested by SBBC, within five (5) calendar days of notice, unless otherwise mutually agreed upon. Excessive failure to meet the needs as requested will result in cancellation of VENDOR's Agreement.

8. VENDOR shall maintain normal working hours of 8:00 a.m. to 4:00 p.m. Hours may occasionally be extended from 7:00 a.m. to 4:30 p.m. There will be no reimbursement for a thirty (30) minute lunch period. SBBC may only be invoiced for up to 7.5 hours per day unless prior approval has been granted by SBBC staff for extended service time. Awardee(s) may provide a maximum of four (4) hours of service as needed on each scheduled employee planning day. Invoices not complying with this will be rejected and returned for correction and failure to invoice correctly will result in a delay of payment. Any VENDOR who consistently submits invoices that are not correct may be found in default of Agreement.

SCOPE OF SERVICES

9. VENDOR shall respond to requested services within five (5) school days of the request by submitting to an interview by a designated SBBC representative. Firms can also offer these services and interviews as required.

10. VENDOR shall provide uninterrupted services based upon the current school calendar to students by providing qualified substitutes or replacements in the event of an anticipated or unanticipated lapse of service. A qualified substitute is defined to be a therapist for a therapist or a therapist assistant for an assistant. All qualified substitutes must display an SBBC identification badge. (See General Condition 7.42) Any lapse of service to SBBC for five student attendance days during any school year will result in default of Agreement. VENDOR may be responsible to provide compensatory services or payments to SBBC for lapse of service.

11. VENDOR shall provide a service schedule of all personnel for approval on a regular basis as determined by a designated SBBC representative.

12. VENDOR shall follow all procedures (including, but not limited to, signing in and out, no telephone calls during treatment time) of individual schools where they are assigned. All therapists must carry a cell phone for critical communication throughout the day with SBBC personnel as established. These numbers must be provided to SBBC personnel. There shall be no cost to SBBC to use these communication devices.

13. VENDOR shall prepare time logs, reports, written analysis and other written memoranda in the form and manner deemed appropriate by SBBC.

14. VENDOR shall bill under SBBC's Medicaid provider number, when needed.

15. VENDOR, under this Agreement, shall be required to pass the screening of the of the Broward School's Police, Security Clearance Department prior to placement of assignment as required by SBBC (See General Condition 7.42 of the RFP, SBBC Photo Identification Badge). VENDOR must utilize the STAR system and/or sign-in/out procedures to document attendance at assigned location(s).

16. SBBC reserves the right to interview all therapy candidates prior to placement. K-12 experience is preferred. SBBC reserves the right to refuse to utilize any proposed therapy candidate. SBBC reserves the right to have an individual therapist removed from the assigned position. VENDOR will have five workdays in which to propose a replacement therapist. Should VENDOR be unable to provide an acceptable replacement, all other contracted Awardees will then be notified to submit a candidate to SBBC.

17. VENDOR shall provide proof of services on an original approved voucher form upon initiation of services and up until training is provided on the Accelify Electronic Management System. Once VENDOR has received training, VENDOR shall then submit all invoices electronically.

SCOPE OF SERVICES

18. VENDOR shall have all therapists and assistants and required substitutes or replacements submit to, and pass, the screening of the Special Investigative Unit (SIU), including fingerprinting, prior to working with students as required for all SBBC personnel. All therapists and assistants shall display an SBBC Identification Badge during contracted work hours. VENDOR will be required to pay the required fees for screening, fingerprinting and photo identification. (See General Condition 7.42 of the RFP)

19. VENDOR shall cooperate with SBBC in its partnership with universities and colleges to provide supervision of practicum experience for student therapists and assistants.

20. VENDOR may be evaluated annually in areas to include, but not be limited to, responsiveness, continuity of service, quality of work and professionalism.

21. VENDOR shall not provide private assessments or therapy services to students on their own public school caseload.

22. VENDOR and all therapists and assistants shall attend an orientation workshop of not less than three hours. This orientation workshop will include, but not be limited to, general information on the policies and procedures of the Broward County Special Programs and Procedures, the rights of students with disabilities, and other operational procedures required to carry out the therapy program. Additional workshops may be required during the term of the Agreement.

23. VENDOR will receive, from SBBC, requested materials, equipment and other related items which have been determined to be necessary to carry out the therapy program for students when approved by a designated SBBC representative.

24. VENDOR shall insure that their provider has the necessary technology (eg. Laptop, desktop computer, etc.) needed to carryout job responsibilities.