

**THIS AGREEMENT** is made and entered into as of this \_\_\_\_ day of \_\_\_\_\_, 2017, by and between

**THE SCHOOL BOARD OF BROWARD COUNTY, FLORIDA**

(hereinafter referred to as "SBBC"),  
a body corporate and political subdivision of State of Florida,  
whose principal place of business is  
600 Southeast Third Avenue, Fort Lauderdale, Florida 33301

and

**STATE OF FLORIDA, DEPARTMENT OF HEALTH**

(hereinafter referred to as "State of Florida, Department of Health"),  
whose principal place of business is  
780 SW 24<sup>th</sup> Street  
Fort Lauderdale, Florida 33315-2613

**WHEREAS**, it is necessary that certain Head Start children of preschool age, in number up to but not to exceed, two thousand forty (2,040) of which approximately one thousand twenty-four (1,024) shall be Medicaid children, selected and made available to State of Florida, Department of Health by the SBBC, be examined to ascertain their dental health, and when necessary, treated or referred for treatment when appropriate; and

**WHEREAS**, it is necessary that certain Early Head Start children of toddler nursery age, up to but not to exceed eighty (80) children and Early Head Start pregnant mothers up to but not to exceed ten (10) of which approximately fifty-six (56) shall be Medicaid children and pregnant mothers, selected and made available to State of Florida, Department of Health by the SBBC, be examined to ascertain their dental health, when necessary, treated or referred for treatment when appropriate.

**WHEREAS**, State of Florida, Department of Health will access education records of SBBC students covered by the Family Educational Rights and Privacy Act (FERPA), as well as Protected Health Information covered by the Health Insurance Portability and Accountability Act (HIPAA) in the provision of services. Such information will only be disclosed by SBBC with the proper written consent from the parent/guardian and/or pursuant to federal, state and local laws, SBBC policies.

**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 November 1, 2017 and conclude on October 31, 2018.

2.02 **Transportation.** SBBC shall provide transportation, responsible escorts, and supervision of said children to, on and from the site of examination, treatment and care, in accordance with a written schedule of activities as agreed by designated representatives of the SBBC and State of Florida, Department of Health.

2.03 **Medicaid.** SBBC shall identify and certify Medicaid eligible children and report same, with proper documentation, to State of Florida, Department of Health.

2.04 **Parental Consent.** SBBC shall obtain parental consent for examination and treatment, document parental consent and provide documentation of consent to State of Florida, Department of Health upon request.

2.05 **Dental Services.** State of Florida, Department of Health shall provide preventive dental services and examination and treatment as described in **Attachment A**, in accordance with priority of need and as set forth herein.

2.06 **Health Supplies.** State of Florida, Department of Health shall provide dental health supplies (i.e. toothbrushes, toothpaste, toothbrush covers) for each eligible student during the program year.

2.07 **Emergency Services.** State of Florida, Department of Health shall provide emergency and restorative dental services as described in **Attachment A**, to eligible students as required by State of Florida, Department of Health dental personnel, to the extent of available funds.

2.08 **Patient Additions/Withdrawals.** The addition of children/pregnant mothers needing emergency services is solely at the discretion of State of Florida, Department of Health based upon eligibility and the availability of funds under this Agreement. All services and care under this Agreement shall be completed no later than October 31, 2018, for Head Start students and Early Head Start students/pregnant mothers; where feasible and practical. Services shall be provided in accordance with professional priorities as determined by State of Florida, Department of Health.

2.09 **Reports, Records and Evaluations.** State of Florida, Department of Health shall maintain appropriate dental records for each eligible child that it treats. The dental records are confidential and, except as otherwise provided in Section 440.13(4)c and Section 456.057, Florida Statutes such records may not be furnished to, and the condition of a patient may not be discussed with, any person other than the patient and or patient's legal representative or other health care practitioners and providers involved in the care and treatment of the patient, except upon written authorization of the patient or patient's legal representative. Statistical data shall be made available to the SBBC authorized representative, as provided by law, provided that such data is abstracted in such a way so as to protect the identity of the patient. State of Florida, Department of Health shall assist the SBBC by making financial records and statistical data available for review and audit and for the preparation of financial and administrative reports required to be submitted by the SBBC. State of Florida, Department of Health shall cooperate with the SBBC in conducting evaluations of the project's activities by appropriate personnel duly appointed by the recognized professional associations of the community.

Two (2) progress meetings shall be held between representatives of the SBBC and State of Florida, Department of Health personnel involved in the program. Meetings shall be scheduled in February 2018 and May 2018. Following the February meeting, current procedures shall be reviewed and needed changes and adjustments for the upcoming year discussed.

2.10 **Head Start Schedule of Payments.** A financial report shall be prepared and submitted to the SBBC by State of Florida, Department of Health by the 15<sup>th</sup> of each month, during the term of this Agreement. The financial report shall be considered *prima facie* evidence of expenses incurred in the conduct of the program, not to exceed the sum of one hundred thirty-seven thousand one hundred sixty dollars (\$137,160). The financial report shall suffice for the purpose of audit. Payment of the total not to exceed one hundred thirty-seven thousand one hundred sixty dollars (\$137,160) shall be paid by the SBBC to State of Florida, Department of Health for the program year beginning November 1, 2017 and ending October 31, 2018. State of Florida, Department of Health shall receive payment in the amount of one hundred thirty-five dollars (\$135) per child (non-Medicaid eligible) being provided dental health services by State of Florida, Department of Health dental personnel. In no event shall aggregate expenditures exceed the total sum of one hundred thirty-seven thousand one hundred sixty dollars (\$137,160) paid in accordance with this Agreement.

2.11 **Early Head Start Schedule of Payments.** A financial report shall be prepared and submitted to the SBBC by State of Florida, Department of Health by the 15<sup>th</sup> of each month, during the term of this Agreement. The financial report shall be considered *prima facie* evidence of expenses incurred in the conduct of the program, not to exceed the sum of four thousand five hundred ninety dollars (\$4,590). The financial report shall suffice for the purpose of audit. Payment of the total not to exceed four thousand five hundred ninety dollars (\$4,590) shall be paid by the SBBC to State of Florida, Department of Health for the program year beginning November 1, 2017, and ending October 31, 2018. State of Florida, Department of Health shall receive payment in the amount of one hundred thirty-five dollars (\$135) per child or pregnant mother (non-Medicaid eligible) being provided dental health services by State of Florida, Department of Health dental personnel. In no event shall aggregate expenditures exceed

the total sum of four thousand five hundred ninety dollars (\$4,590) paid in accordance with this Agreement.

2.12 **Dental Health Education Supplies.** State of Florida, Department of Health shall distribute dental health supplies at the beginning of the 2017-2018 school year for eligible students. School program personnel shall distribute dental health supplies midyear to be used during the remainder of the school year.

2.13. **Family Educational Rights and Privacy Act (FERPA) Compliance.** In addition to the requirements under section 3.10, Student Records, State of Florida, Department of Health shall comply with the requirements of **Attachment B**, Safeguarding the Confidentiality of Student Records and Information.

2.14. **Health Insurance Portability and Accountability Act (HIPAA) Compliance.** State of Florida, Department of Health further acknowledges that the federal Health Insurance Portability and Accountability Act of 1996 (“HIPAA”) and the Health Information Technology for Economic and Clinical Health Act of 2009 (“HITECH Act”) (HIPAA and HITECH Act are collectively referred to herein as “HIPAA”) protect the privacy of students’ individually identifiable health information (“PHI”) and may be applicable to student records in certain circumstances. PHI may be used and disclosed only in compliance with HIPAA, where required by law.

State of Florida, Department of Health shall safeguard students’ PHI through administrative, physical and technological safety standards and ensure adequate controls are in place to protect students’ PHI in accordance with HIPAA’s privacy requirements.

SBBC will be responsible for the distribution of all required DOH HIPAA Forms and will obtain the appropriate signatures thereon when needed.

The SBBC shall enter into State of Florida, Department of Health’s BAA substantially in the form attached hereto and incorporated herein as **Attachment C**.

2.15 **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:

Robert W. Runcie  
Superintendent of Schools  
The School Board of Broward County, Florida  
600 Southeast Third Avenue  
Fort Lauderdale, Florida 33301

With a Copy to: Dr. Angela M. Iudica  
Director, Head Start/Early Intervention  
Head Start/Early Intervention Department  
600 SE 3<sup>rd</sup> Avenue  
Fort Lauderdale, Florida 33301

To: STATE OF FLORIDA, DEPARTMENT OF HEALTH:  
Paula M. Thaqi, M.D., Director  
State of State of Florida, Department of Health  
780 SW 24<sup>th</sup> Street  
Fort Lauderdale, Florida 33315-2613

With a Copy to: Marc Parkent, Contract Administrator  
State of Florida, Department of Health  
780 SW 24<sup>th</sup> Street  
Fort Lauderdale, Florida 33315-2613

2.16 **Background Screening.** State of Florida, Department of Health confirms that State of Florida, Department of Health employees providing services under this Agreement are exempt under Section 1012.468, Florida Statutes, from background screening under Sections 1012.32 and 1012.465, Florida Statutes. Such State of Florida, Department of Health employees were required by law to undergo a level 2 background screening pursuant to Section 435.04, Florida Statutes, for licensure, certification or employment. State of Florida, Department of Health shall comply with Section 1012.468(2)(b), Florida Statutes, by providing SBBC with evidence that State of Florida, Department of Health meets the screening standards in Section 435.04, Florida Statutes, and hereby confirms that State of Florida, Department of Health completed a criminal history check of its employees within five (5) years prior to such personnel seeking access to school grounds when students are present.

2.17 **Indemnification.** To the extent permitted by law, each party agrees to be fully responsible for its acts of negligence, or its agents' acts of negligence when acting within the scope of their employment and agrees to be liable for any damages resulting from said negligence. 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.

2.18 **Insurance Requirements**  
State of Florida, Department of Health, a state agency, is self-insured through State of Florida Risk Management Trust Fund, established pursuant to Section 284.30, Florida Statutes, and administered by State of Florida, Department of Financial Services. State of Florida, Department of Health certifies that it maintains, and agrees to continue to maintain, during the term of this Agreement, professional and general liability protection coverage through the Risk Management Trust Fund, and that this protection extends to the Department of Health, its officers, employees, and agents, and covers statutory liability exposure limitations described in Section 768.28, Florida Statutes. State of Florida, Department of Health will convey a copy of its current Certificate of Coverage upon request.

### **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 State of Florida, Department of Health to be sued by third parties in any matter arising out of any Agreement.

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, and 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.** The following provisions are required by Section 119.0701, Florida Statutes, and may not be amended. State of Florida, Department of Health shall keep and maintain public records required by SBBC to perform the services required under this Agreement. Upon request from SBBC's custodian of public records, State of Florida, Department of Health shall provide SBBC with a copy of any requested public records or to allow the requested public records to be inspected or copied within a reasonable time at a cost that does not exceed the cost provided in Chapter 119, Florida Statutes, or as otherwise provided by law. State of Florida, Department of Health shall ensure that public records that are exempt or confidential and exempt from public records disclosure requirements are not disclosed except as authorized by law for the duration of the Agreement's term and following completion of the Agreement if State of Florida, Department of Health does not transfer the public records to SBBC. Upon completion of the Agreement, State of Florida, Department of Health shall transfer, at no cost, to SBBC all public records in possession of State of Florida, Department of Health or keep and maintain public records required by SBBC to perform the services required under the Agreement. If State of Florida, Department of Health transfers all public records to SBBC upon completion of the Agreement, State of Florida, Department of Health shall destroy any duplicate public records that are exempt or confidential and exempt from public records disclosure requirements. If State of Florida, Department of Health keeps and maintains public

records upon completion of the Agreement, State of Florida, Department of Health shall meet all applicable requirements for retaining public records. All records stored electronically must be provided to SBBC, upon request from SBBC's custodian of public records, in a format that is compatible with SBBC's information technology systems.

**IF A PARTY TO THIS AGREEMENT HAS QUESTIONS REGARDING THE APPLICATION OF CHAPTER 119, FLORIDA STATUTES, TO ITS DUTY TO PROVIDE PUBLIC RECORDS RELATING TO THE AGREEMENT, CONTACT THE CUSTODIAN OF PUBLIC RECORDS AT 754-321-1900, REQUEL.BELL@BROWARDSCHOOLS.COM, RISK MANAGEMENT DEPARTMENT, PUBLIC RECORDS DIVISION, 600 SOUTHEAST THIRD AVENUE, FORT LAUDERDALE, FLORIDA 33301.**

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 to the extent permitted by law. Each such party agrees, for itself, its officers, employees, agents, representatives, contractors or subcontractors, to fully indemnify and hold harmless to the extent permitted by law, SBBC and its officers and employees for any violation of this section, including, without limitation 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 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 or 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.** Exhibits A, B, and C 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 **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)

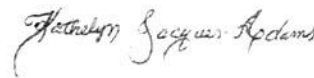
THE SCHOOL BOARD OF BROWARD  
COUNTY, FLORIDA

ATTEST:

By \_\_\_\_\_  
Abby M. Freedman, Chair

\_\_\_\_\_  
Robert W. Runcie, Superintendent of  
Schools

Approved as to Form and Legal Content:



Digitally signed by Kathelyn Jacques-Adams,  
Esq. - kathelyn.jacques-  
adams@gbrowardschools.com  
Reason: State of Florida, Department of Health  
Date: 2017.10.02 13:49:01 -04'00'

\_\_\_\_\_  
Office of the General Counsel

**FOR STATE OF FLORIDA, DEPARTMENT OF HEALTH**

(Corporate Seal)

STATE OF STATE OF FLORIDA,  
DEPARTMENT OF HEALTH

ATTEST:

By Judith Elfont for PMT

\_\_\_\_\_, Secretary

-or-

[Signature]  
Witness

[Signature]  
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 5<sup>th</sup> day of OCTOBER, 20 17 by JUDITH ELFONT of

FL. DEPT OF HEALTH IN BROWARD, 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:

 **CLAUDIA J. LEBEL**  
MY COMMISSION # GG068823  
EXPIRES February 19, 2021

(SEAL)

Claudia Lebel  
Signature – Notary Public

CLAUDIA J. LEBEL  
Printed Name of Notary  **CLAUDIA J. LEBEL**  
MY COMMISSION # GG068823  
EXPIRES February 19, 2021

Notary's Commission No.

GG 068823

**Attachment A**  
**Scope of Services**

**Services to Be Provided**

Department of Health will provide oral health examinations for Head Start students and Early Head Start participants (herein referred to as “participants”) in accordance with EPSDT dental benefit guidelines. Head Start Performance Standards state that an oral health assessment should be provided within the first 90 days of enrollment to determine whether each program participant has an ongoing source of continuous, accessible care (“dental home”). Department of Health will conduct oral health examinations for participants as designated by Head Start, consisting of an oral health assessment and possible treatment plan as needed.

1. All four Department of Health children’s dental sites will be available for Head Start participants during the first 90 days of enrollment. Participants not examined during this time can be seen when Head Start students with greatest priority for treatment are scheduled for follow up care at the Department of Health sites for children. Department of Health Head Start dental schedule will be as follows:
  - a. Oral health assessments: 9:00-11:30 AM M-F exclusive of legal holidays or declared emergencies, at all four sites for 90 days.
  - b. Follow up treatment visits: 9:00-11:30 AM M-F exclusive of legal holidays or declared emergencies, at Mills and FLHC sites only.
2. Examinations will consist of clinical examination and dental radiographs when prescribed by the dentist. Other services that may be provided as part of the examination, but not necessarily at the same appointment include dental prophylaxis, oral hygiene instruction, Caries Risk Assessment, and topical fluoride application. A tentative treatment plan will be created for each child based on the results of their oral health examination. Participants will be prioritized for follow up appointments for care based on the urgency of their treatment needs.
3. Department of Health sites for children will be available to provide services for participants with emergent dental conditions such as pain and infection and non-emergent dental conditions during regular Department of Health business hours. Parents of children who present with emergent oral health conditions, will be contacted by the Department of Health dental practice to schedule an appointment for the child outside of the time reserved for Head Start children. Parents may schedule these appointments at any Department of Health sites for children. Department of Health will provide treatment at follow up visits.
4. Schedules and student rosters of those students who agreed to participate in the Early Head Start and Head Start dental programs will be sent from SBBC to the Department of Health prior to the start of the school year. Students who begin school after the year has started, will be amended to the schedule and the Department notified of the change. Department of Health will send rosters of Head Start children seen to SBBC daily, with notes denoting the services performed and indicating what additional dental services are needed during a return visit.
5. Head Start students requiring follow up visits for treatment will be scheduled at one of the two Department of Health sites for children as specified above. SBBC will ensure that a minimum of 10 participants are brought to each Department of Health children’s dental site for follow up treatment during each scheduled appointment day. If SBBC cannot bring a minimum of 10 children, SBBC will notify the Department of Health at least 24 hours in advance to permit other patients to be scheduled during the available time slots.

## **Attachment B**

### **Safeguarding the Confidentiality of Student Records and Information**

The parties acknowledge that Sections 1002.022, 1002.221 and 1002.222, Fla. Stat. and the Family Educational Rights and Privacy Act (FERPA, 20 U.S.C. § 1232g) and its implementing regulations (34 C.F.R. Part 99), protect the privacy rights of students and their parents with respect to information and records created and/or maintained by public schools. The student personally identifiable information (PII) may be disclosed only in compliance with FERPA. Pursuant to FERPA, the information provided by SBBC shall be limited to that which is necessary to effectively serve the student.

Each party participating in this Agreement further agrees to:

(1) Hold the student records and information in strict confidence and not use or disclose except as required by this Agreement or as required or permitted by law unless the parent of a student provides prior written consent for their release. All shared student records will be disclosed only to those who have a need to access the information in order to perform their assigned duties in the performance of this Agreement. Absent consent from the parent or eligible student, student records and information will not be disclosed except as allowed by the aforementioned laws.

(2) Safeguard the student records through administrative, physical and technological safety standards to ensure adequate controls are in place to protect the student information in accordance with FERPA's privacy requirements.

(3) Continually monitor its operations and take all actions necessary to assure that the student information and records are safeguarded in accordance with the terms of this Agreement, and

(4) Ensure that all employees, appointees or agents of each party to this Agreement who are granted access to shared student records will have successfully completed (a) the background screening requirements under Section 435.04, Florida Statutes, under Level 2 screening standards and (b) a FERPA training webinar, as it may become available, at the U.S. Department of Education, Privacy Technical Assistance Center website:

<http://www2.ed.gov/policy/gen/guid/ptac/index.html>, <http://ptac.ed.gov/> including, but not limited to, <http://www2.ed.gov/policy/gen/guid/ptac/pdf/slides.pdf>

Each party to this Agreement agrees to notify the other party immediately upon discovery of a breach of confidentiality of student information and to take all necessary notification steps as may be required by federal and Florida law. A breach of the confidentiality requirements shall constitute grounds for immediate termination of this Agreement without advance notice. Any provisions within this Agreement concerning the resolution of disputes shall not be applicable to a breach of the requirements stated herein above.

This section shall survive the termination of all performance or obligations under this Agreement and shall be fully binding until such student records are returned to The School Board of Broward County, Florida ("SBBC") or disposed of in compliance with the applicable Florida Retention Schedules and a written acknowledgment of said disposition is provided to SBBC.

## **HIPAA BUSINESS ASSOCIATE AGREEMENT Attachment C**

Combined HIPAA Privacy Business Associate Agreement and Confidentiality Agreement and HIPAA Security Rule Addendum and HI-TECH Act Compliance Agreement and the Florida Information Protection Act of 2014

This Agreement is entered into between the State of Florida, Florida Department of Health ("Covered Entity"), and The School Board of Broward County, Florida ("Business Associate"). The parties have entered into this Agreement for the purpose of satisfying the Business Associate contract requirements in the regulations at 45 CFR 164.502(e) and 164.504(e), issued under the Health Insurance Portability and Accountability Act of 1996 ("HIPAA"), the Security Rule, codified at 45 Code of Federal Regulations ("C.F.R.") Part 164, Subparts A and C; Health Information Technology for Economic and Clinical Health (HITECH) Act, Title XIII of Division A and Title IV of Division B of the American Recovery and Reinvestment Act of 2009 (ARRA), Pub. L. No. 111-5 (Feb. 17, 2009) and related regulations.

### **1.0 Definitions**

Terms used but not otherwise defined in this Agreement shall have the same meaning as those terms in 45 CFR 160.103 and 164.501. Notwithstanding the above, "Covered Entity" shall mean the State of Florida Department of Health. "Individual" shall have the same meaning as the term "individual" in 45 CFR 164.501 and shall include a person who qualifies as a personal representative in accordance with 45 CFR 164.502(g); "Secretary" shall mean the Secretary of the U.S. Department of Health and Human Services or his designee; and "Privacy Rule" shall mean the Standards for Privacy of Individually Identifiable Health Information at 45 CFR part 160 and part 164, subparts A and E.

### **Part I: Privacy Provisions**

#### **2.0 Obligations and Activities of Business Associate**

- (a) Business Associate agrees to not use or further disclose Protected Health Information ("PHI") other than as permitted or required by Sections 3.0 and 5.0 of this Agreement, or as required by Law.
- (b) Business Associate agrees to use appropriate safeguards to prevent use or disclosure of the Protected Health Information other than as provided for by this Agreement.
- (c) Business Associate agrees to take reasonable measures to protect and secure data in electronic form containing personal information as defined by §501.171, Florida Statutes.
- (d) Business Associate agrees to mitigate, to the extent practicable, any harmful effect that is known to Business Associate of a use or disclosure of Protected Health Information by Business Associate in violation of the requirements of this Agreement.
- (e) Business Associate agrees to report to Covered Entity any use or disclosure of the Protected Health Information not provided for by this Agreement of which it becomes aware.
- (f) Business Associate agrees to ensure that any agent, including a subcontractor, to whom it provides Protected Health Information received from, or created or received by Business Associate on behalf of Covered Entity, agrees to the same restrictions and conditions that apply through this Agreement to Business Associate with respect to such information.
- (g) Business Associate agrees to provide access, at the request of Covered Entity or an Individual, and in a prompt and reasonable manner consistent with the HIPAA regulations, to Protected Health Information in a designated record set, to the Covered Entity or directly to an Individual in order to meet the requirements under 45 CFR 164.524.

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- (h) Business Associate agrees to make any Amendment(s) to Protected Health Information in a designated record set that the Covered Entity or an Individual directs or agrees to pursuant to 45 CFR 164.526, in a prompt and reasonable manner consistent with the HIPAA regulations.
- (i) Business Associate agrees to make its internal practices, books, and records, including policies and procedures and Protected Health Information, relating to the use and disclosure of Protected Health Information received from, or created or received by Business Associate on behalf of Covered Entity available to the Covered Entity, or at the request of the Covered Entity, to the Secretary in a time and manner designated by the Covered Entity or the Secretary, for purposes of the Secretary determining Covered Entity's compliance with the Privacy Rule.
- (j) Business Associate agrees to document disclosures of Protected Health Information and information related to such disclosures as would be required for Covered Entity to respond to a request by an Individual for an accounting of disclosures of Protected Health Information in accordance with 45 CFR 164.528.
- (k) Business Associate agrees to provide to Covered Entity or an Individual an accounting of disclosures of Protected Health Information in accordance with 45 CFR 164.528, in a prompt and reasonable manner consistent with the HIPAA regulations.
- (l) Business Associate agrees to satisfy all applicable provisions of HIPAA standards for electronic transactions and code sets, also known as the Electronic Data Interchange (EDI) Standards, at 45 CFR Part 162 no later than October 16, 2003. Business Associate further agrees to ensure that any agent, including a subcontractor, that conducts standard transactions on its behalf, will comply with the EDI Standards.
- (m) Business Associate agrees to determine the Minimum Necessary type and amount of PHI required to perform its services and will comply with 45 CFR 164.502(b) and 514(d).
- (n) Business Associate agrees to comply with all aspects of §501.171, Florida Statutes.

**3.0 Permitted or Required Uses and Disclosures by Business Associate General Use and Disclosure.**

- (a) Except as expressly permitted in writing by Department of Health, Business Associate may use Protected Health Information only to carry out the legal responsibilities of the Business Associate, but shall not disclose information to any third party without the expressed written consent of the Covered Entity.
- (b) Except as otherwise limited in this Agreement, Business Associate may use Protected Health Information to provide data aggregation services to Covered Entity as permitted by 45 CFR 164.504(e)(2)(i)(B).
- (c) Business Associate may use Protected Health Information to report violations of law to appropriate Federal and State authorities, consistent with 45 CFR 164.502(j) (1).

**4.0 Obligations of Covered Entity to Inform Business Associate of Covered Entity's Privacy Practices, and any Authorization or Restrictions.**

- (a) Covered Entity shall provide Business Associate with the notice of privacy practices that Covered Entity produces in accordance with 45 CFR 164.520, as well as any changes to such notice.
- (b) Covered Entity shall provide Business Associate with any changes in, or revocation of, Authorization by Individual or his or her personal representative to use or disclose Protected Health Information, if such changes affect Business Associate's uses or disclosures of Protected Health Information.
- (c) Covered Entity shall notify Business Associate of any restriction to the use or disclosure of Protected Health Information that Covered Entity has agreed to in accordance with 45 CFR



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164.522, if such changes affect Business Associate's uses or disclosures of Protected Health Information.

**5.0 Confidentiality under State Law.**

- (a) In addition to the HIPAA privacy requirements and the data security requirements of §501.171, Florida Statutes, Business Associate agrees to observe any and all applicable Florida Statutes.
- (b) Receipt of a Subpoena. If Business Associate is served with subpoena requiring the production of Department of Health records or information, Business Associate shall immediately contact the Department of Health, Office of the General Counsel, (850) 245-4005. A subpoena is an official summons issued by a court or an administrative tribunal, which requires the recipient to do one or more of the following:
  - 1. Appear at a deposition to give sworn testimony, and may also require that certain records be brought to be examined as evidence.
  - 2. Appear at a hearing or trial to give evidence as a witness, and may also require that certain records be brought to be examined as evidence.
  - 3. Furnish certain records for examination, by mail or by hand-delivery.
- (c) Employees and Agents. Business Associate acknowledges that the confidentiality requirements herein apply to all its employees, agents and representatives. Business Associate assumes responsibility and liability for any damages or claims, including state and federal administrative proceedings and sanctions, against Department of Health, including costs and attorneys' fees, resulting from the breach of the confidentiality requirements of this Agreement.

**6.0 Permissible Requests by Covered Entity.**

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

**7.0 Term and Termination.**

- (a) Term.

The Term of this Agreement shall be effective as of November 1, 2017, and shall terminate on October 31, 2018. Prior to the termination of this Agreement, the Business Associate shall destroy or return to the Covered Entity all of the Protected Health Information provided by Covered Entity to Business Associate, or created or received by Business Associate on behalf of Covered Entity. If it is infeasible or impossible to return or destroy Protected Health Information, the Business Associate shall immediately inform the Covered Entity of that and the parties shall cooperate in securing the destruction of Protected Health Information, or its return to the Covered Entity. Pending the destruction or return of the Protected Health Information to the Covered Entity, protections are extended to such information, in accordance with the termination provisions in this Section.
- (b) Termination for Cause.

Without limiting any other termination rights the parties may have, upon Covered Entity's knowledge of a material breach by Business Associate of a provision under this Agreement, Covered Entity shall provide an opportunity for Business Associate to cure the breach or end the violation. If the Agreement of Business Associate does not cure the breach or end the violation within the time specified by Covered Entity, the Covered Entity shall have the right

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to immediately terminate the Agreement. If neither termination nor cure is feasible, Covered Entity shall report the violation to the Secretary.

(c) Effect of Termination.

1. Within sixty (60) days after termination of the Agreement for any reason, or within such other time period as mutually agreed upon in writing by the parties, Business Associate shall return to Covered Entity or destroy all Protected Health Information maintained by Business Associate in any form and shall retain no copies thereof. Business Associate also shall recover, and shall return or destroy with such time period, any Protected Health Information in the possession of its subcontractors or agents.
2. Within fifteen (15) days after termination of the Agreement for any reason, Business Associate shall notify Covered Entity in writing as to whether Business Associate elects to return or destroy such Protected Health Information. If Business Associate elects to destroy such Protected Health Information, it shall certify to Covered Entity in writing when and that such Protected Health Information has been destroyed. If any subcontractors or agents of the Business Associate elect to destroy the Protected Health Information, Business Associate will require such subcontractors or agents to certify to Business Associate and to Covered Entity in writing when such Protected Health Information has been destroyed. If it is not feasible for Business Associate to return or destroy any of said Protected Health Information, Business Associate shall notify Covered Entity in writing that Business Associate has determined that it is not feasible to return or destroy the Protected Health Information and the specific reasons for such determination. Business
3. Associate further agrees to extend any and all protections, limitations, and restrictions set forth in this Agreement to Business Associate's use or disclosure of any Protected Health Information retained after the termination of this Agreement, and to limit any further uses or disclosures to the purposes that make the return or destruction of the Protected Health Information not feasible.
4. If it is not feasible for Business Associate to obtain, from a subcontractor or agent, any Protected Health Information in the possession of the subcontractor or agent, Business Associate shall provide a written explanation to Covered Entity and require the subcontractors and agents to agree to extend any and all protections, limitations, and restrictions set forth in this Agreement to the subcontractors' or agents' uses or disclosures of any Protected Health Information retained after the termination of this Agreement, and to limit any further uses or disclosures to the purposes that make the return or destruction of the Protected Health Information not feasible.

**Part II: Breaches and Security Incidents**

8.0 Privacy or Security Breach.

Business Associate will report to Covered Entity any successful (A) unauthorized access, use, disclosure of Covered Entity's protected health Information not permitted by the Business Associates Agreement along with any breach of Covered Entity's unsecured protected health information. Business Associate will treat the breach as being discovered in accordance with 45 CFR §164.410. Business Associate will make the report to Covered Entity's Privacy Officer or other department contact within 48 hours after the discovery of the non-permitted use or disclosure. If a delay is requested by a law enforcement official in accordance with 45 CFR §164.412, Business Associate may delay notifying the Covered Entity for the applicable time period. Business Associates report will at a minimum:

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- (a) Identify the nature of the breach or other non-permitted use or disclosure, which will include a brief description of what happened, including the date of any breach and the date of discovery of the breach;
- (b) Identify Covered Entity's Protected Health Information that was subject to the non-permitted use or disclosure or breach (such as whether name, social security number, date of birth, home address, account number or other information was disclosed/accessed) on an individual basis;
- (c) Identify who made the non-permitted use or disclosure and who received it;
- (d) Identify what corrective or investigational action Business Associate took or will take to prevent further non-permitted uses or disclosures, to mitigate harmful effects and to protect against any further breaches;
- (e) Identify what steps the individuals who were subject to a breach should take to protect themselves;
- (f) Provide such other information, including a written report, as Covered Entity may reasonably request.

### 8.1 Security of Electronic Protected Health Information.

WHEREAS, Business Associate and Department of Health agree to also address herein the applicable requirements of the Security Rule, codified at 45 Code of Federal Regulations ("C.F.R.") Part 164, Subparts A and C, issued pursuant to the Administrative Simplification provisions of Title II, Subtitle F of the Health Insurance Portability and Accountability Act of 1996 ("HIPAA-AS"), and the Florida Information Protection Act (FIPA) §501.171, Florida Statutes, so that the Covered Entity may meet compliance obligations under HIPAA-AS and FIPA the parties agree:

- (a) Business Associate will develop, implement, maintain, and use administrative, technical, and physical safeguards that reasonably and appropriately protect the confidentiality, integrity, and availability of Electronic Protected Health Information (as defined in 45 C.F.R. § 160.103) and Personal Information (as defined in §501.171, Florida Statutes) that Business Associate creates, receives, maintains, or transmits on behalf of the Plans consistent with the Security Rule.
- (b) Reporting Security Incidents. Business Associate will report to Covered Entity any successful (A) unauthorized access, use, disclosure, modification, or destruction of Covered Entity's Electronic Protected Health Information or unauthorized access of data in an electronic form containing Personal Information as defined in §501.171, Florida Statute, or (B) interference with Business Associate's system operations in Business Associate's information systems, of which Business Associate becomes aware. Business Associate will make this report monthly, except that if any such security incident resulted in the disclosure not permitted by this Business Associates Agreement or breach of covered entity's unsecured protected health information or Personal Information as defined in §501.171, Florida Statute, business associate will make the report in accordance with the provisions set forth in paragraph 8.0 above.

### 8.2 Corrective Action:

- (a) Business Associate agrees to take prompt corrective action and follow all provisions required in state and federal law to notify all individuals reasonably believed to be potentially affected by the breach.
- (b) Cure: Business Associate agrees to take prompt corrective action to cure any security deficiencies.

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**Part III**

9.0 Miscellaneous

- (a) Regulatory References. A reference in this Agreement to a section in the Privacy Rule or the Security Rule means the section as in effect or as amended, and for which compliance is required.
- (b) Amendment. Upon the enactment of any law or regulation affecting the use or disclosure of Protected Health Information, Personal Information, Standard Transactions, the security of Health Information, or other aspects of HIPAA-AS or FIPA applicable or the publication of any decision of a court of the United States or any state relating to any such law or the publication of any interpretive policy or opinion of any governmental agency charged with the enforcement of any such law or regulation, either party may, by written notice to the other party, amend this Agreement in such manner as such party determines necessary to comply with such law or regulation. If the other party disagrees with such Amendment, it shall so notify the first party in writing within thirty (30) days of the notice. If the parties are unable to agree on an Amendment within thirty (30) days thereafter, then either of the parties may terminate the Agreement on thirty (30) days written notice to the other party.
- (c) Survival. The respective rights and obligations of Business Associate under Section 7.0 of this Agreement shall survive the termination of this Agreement.
- (d) Interpretation. Any ambiguity in this Agreement shall be resolved in favor of a meaning that permits Covered Entity to comply with the Privacy Rule and the confidentiality requirements of the State of Florida.
- (e) No third party beneficiary. Nothing expressed or implied in this Agreement is intended to confer, nor shall anything herein confer, upon any person other than the parties and the respective successors or assignees of the parties, any rights, remedies, obligations, or liabilities whatsoever.
- (f) Governing Law. This Agreement shall be governed by and construed in accordance with the laws of the state of Florida to the extent not preempted by the Privacy Rules or other applicable federal law.
- (g) The laws of the State of Florida shall apply to the interpretation of this Agreement or in case of any disagreement between the parties; the venue of any proceedings shall be the appropriate federal or state court in Leon County, Florida.
- (h) Indemnification and performance guarantees. To the extent permitted by law, each party agrees to be fully responsible for its acts of negligence, or its agents' acts of negligence when acting within the scope of their employment and agrees to be liable for any damages resulting from said negligence. 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.
- (i) Assignment: Business Associate shall not assign either its obligations or benefits under this Agreement without the expressed written consent of the Covered Entity, which shall be at the sole discretion of the Covered Entity. Given the nature of this Agreement, neither subcontracting nor assignment by the Business Associate is anticipated and the use of those terms herein does not indicate that permission to assign or subcontract has been granted.

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For: DEPARTMENT OF HEALTH

By: Judith C. Depina for FMT

Title: Deputy Director

Date: 10/5/2017

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**FOR SBBC (BUSINESS ASSOCIATE)**

(Corporate Seal)

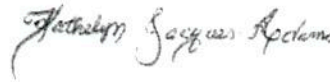
THE SCHOOL BOARD OF BROWARD  
COUNTY, FLORIDA

By \_\_\_\_\_  
Abby M. Freedman, School Board  
Chair

ATTEST:

\_\_\_\_\_  
Robert W. Runcie, Superintendent  
of Schools

Approved as to Form and Legal Content:



Digitally signed by Kathelyn Jacques-Adams,  
Esq. - kathelyn.jacques-  
adams@gbrowardschools.com  
Reason: State of Florida, Department of Health  
Date: 2017.10.02 13:49:28 -04'00'

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Office of the General Counsel