

AGREEMENT

THIS AGREEMENT is made and entered into as of this ____ day of _____, 2020, 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

ALTERNATE EDUCATIONAL SYSTEMS, INC.

(hereinafter referred to as the "AES"),
whose principal place of business is
2251 NW 36th Avenue
Coconut Creek, Florida 33066

WHEREAS, SBBC shall fulfill its constitutional obligation to educate children of compulsory school age; and

WHEREAS, SBBC shall provide Exceptional Student Education (ESE) services, psychological and related services, curriculum support, and administration and district support and supervision on-site at AES location, to all SBBC students; and

WHEREAS, AES accepts, as clients, children who are residents of the State of Florida and who are now enrolled in, or have applied for enrollment in educational programs under the jurisdiction of the SBBC; and

WHEREAS, AES operates a Residential Treatment Program; and

WHEREAS, AES provides residential placement for a small number of students with severe emotionally disturbance (SED) who are unable to attend an exceptional education center due to their mental health status; and

WHEREAS, AES agrees to incorporate an educational component as part of its program.

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, 2020**, and conclude on **June 30, 2021**. The term of this Agreement includes a 180-day school year. A copy of the school year calendar is attached hereto as **Attachment A**. Beyond the 180-day calendar, it is the SBBC's responsibility to conduct ESE staffings, beyond the 180-day school year so that newly enrolled and eligible students shall attend extended school year (ESY). Additionally, ESY shall be ensured on an individual basis if an Individual Education Plan (IEP) committee determines the eligibility, and the need for these services is in accordance with SBBC's ESY criteria.

2.02 **SBBC Disclosure of Education Records.**

(a) SBBC will provide AES with access to the EdPlan (Electronic Records Management System) and additional records contingent upon SBBC receiving the appropriate consent pursuant to FERPA requirements, as listed in this section. EdPlan access will be limited only to records of SBBC students enrolled at AES, and limited only to AES staff involved in developing and implementing the IEP, and providing the services listed in this agreement. EdPlan contains the following records:

- 1) Individual Educational Plan (IEP)
- 2) Consent for Evaluation/Re-evaluation
- 3) Functional Behavior Assessment/Positive Behavior Intervention Plan
- 4) Any other document necessary for the provision of Free Appropriate Public Education (FAPE)
- 5) Additional education records include:
 - i) Social security number,
 - ii) grades,
 - iii) progress notes and
 - iv) any other information necessary to enroll the student.

(b) SBBC will obtain written consent from each student's parent/guardian or student age 18 or older prior to disclosing or providing access to education records to AES. Consent form shall list the types of educational records to be disclosed, purpose(s) and recipient.

2.03 **AES Confidentiality of Education Records.**

(a) Notwithstanding any provision to the contrary within this Agreement, AES shall:

- 1) fully comply with the requirements of Sections 1002.22, 1002.221, and 1002.222, Florida Statutes; the Family Educational Rights and Privacy Act, 20 U.S.C § 1232g (FERPA) and its implementing regulations (34 C.F.R. Part 99), and any other state or federal law or regulation regarding the confidentiality of student information and records;
- 2) hold any education records in strict confidence and not use or re-disclose same except as required by this Agreement or as required or permitted by law unless the parent of each student or a student age 18 or older whose education records are to be shared provides prior written consent for their release;
- 3) ensure that, at all times, all of its employees who have access to any education records during the term of their employment shall abide strictly by its obligations under this Agreement, and that access to education records is limited only to its employees that require the information to carry out the responsibilities under this Agreement and shall provide said list of employees to SBBC upon request;

- 4) safeguard each education record through administrative, physical and technological standards to ensure that adequate controls are in place to protect the education records and information in accordance with FERPA's privacy requirements;
- 5) utilize the education records solely for the purposes of providing products and services as contemplated under this Agreement; and shall not share, publish, sell, distribute, target advertise, or display education records to any third party;
- 6) notify SBBC immediately upon discovery of a breach of confidentiality of education records by telephone at 754-321-0300 (Manager, Information Security), and 754-321-1900 (Privacy Officer), and email at privacy@browardschools.com; and take all necessary notification steps as shall be required by federal and Florida law, including, but not limited to, those required by Section 501.171, Florida Statutes;
- 7) fully cooperate with appropriate SBBC staff, including Privacy Officer and/or Information Technology staff to resolve any privacy investigations and concerns in a timely manner;
- 8) prepare and distribute, at its own cost, any and all required breach notifications, under federal and Florida Law, or reimburse SBBC any direct costs incurred by SBBC for doing so, including, but not limited to, those required by Section 501.171, Florida Statutes;
- 9) be responsible for any fines or penalties for failure to meet breach notice requirements pursuant to federal and/or Florida law;
- 10) provide SBBC with the name and contact information of its employee who shall serve as SBBC's primary security contact and shall be available to assist SBBC in resolving obligations associated with a security breach of confidentiality of education records; and
- 11) securely erase education records from any media once that media equipment is no longer in use or is to be disposed; secure erasure shall be deemed the deletion of the education records using a single pass overwrite Secure Erase (Windows) or Wipe (Unix).

(b) All education records shall remain the property of SBBC, and any party contracting with SBBC serves solely as custodian of such information pursuant to this Agreement and claims no ownership or property rights thereto and, upon termination of this Agreement shall, at SBBC's request, return to SBBC or dispose of the education records in compliance with the applicable Florida Retention Schedules and provide SBBC with a written acknowledgment of said disposition.

(c) AES shall, for itself, its officers, employees, agents, representatives, contractors or subcontractors, 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. This section shall survive the termination of all performance required or conclusion of all obligations existing under this Agreement.

2.04 **HIPAA Compliance.** AES agrees to adhere to all applicable HIPAA guidelines as they relate to SBBC students and to enter into a Business Associate Agreement (BAA) with SBBC regarding HIPAA rules, regulations and procedures. Because AES may access, use, and disclose HIPAA-covered information from SBBC, SBBC is considered the "Covered Entity," and AES is considered the "Business Associate" in the HIPAA agreement. A copy of the HIPAA agreement (Business Associate Agreement - BAA) is attached and incorporated into this Agreement as **Attachment B**.

2.05 **SBBC's Designee.** SBBC's designee for purposes of administering this Agreement shall be the Superintendent of Schools who shall assign a designated administrator for monitoring compliance and educational program administration. Any official written correspondence to or from AES with regard to enforcing provisions of this Agreement shall be with the Superintendent of Schools and sent by United States Postal Service certified mail, return receipts requested. Routine correspondence including, but not limited to, billings, records requests, inquiries, etc. shall be sent directly to the Superintendent's designated administrator.

2.06 **AES's Designee.** AES shall identify one (1) person with whom the SBBC is to communicate on all compliance issues related to this Agreement. AES, at its option, shall designate another person with whom the SBBC is to communicate regarding the operation of its educational program.

2.07 **Teacher Certification.** All AES teachers shall meet the certification requirements as set forth in chapter 6A-4 of the State Board of Education rules and assigned classes in accordance with the Florida Course Code Directory. In the event that AES cannot employ certified instructional personnel for any reason, the SBBC shall provide certified teachers at the expense of AES.

2.08 **Potentially English Proficient Students.** All AES teachers shall be qualified in a manner prescribed by the SBBC to teach potentially English proficient students.

2.09 **Certified ESE Teacher.** AES shall employ a minimum of one ESE certified teacher to develop, implement and determine mastery of the Individualized Education Program (IEP) goals for students with disabilities.

2.10 **Authorization of Release of Information.** An SBBC approved Authorization of Release of Information Form, signed by the student's parent or legal guardian, enabling the SBBC and AES to share written and verbal information, including, but not limited to mental health, substance abuse, and educational records and information; a copy of the Authorization for Release of Information Form is attached and incorporated as **Attachment C**.

2.11 **SBBC Shall Provide.**

- (a) ESE Specialist who shall participate in intake and exiting conferences, IEP preparation and staffing, and maintaining ESE compliance for students with disabilities;
- (b) Staff development for AES teachers in current instructional and behavior management methods;
- (c) Support services as determined by SBBC such as IEP preparation and staffing, and maintaining ESE compliance for students with disabilities;
- (d) The curriculum supports are necessary to provide appropriate education and program for students;
- (e) Approved SBBC registration forms and any ESE documents to be used by AES for new students and the initial review of students' current educational and/or AES's records to determine if an IEP meeting needs to be held;
- (f) Guidance services as deemed necessary to each student upon enrollment to ensure the students are enrolled and earning the appropriate credits towards promotion and / or high school graduation;
- (g) Administrative visitation, support, and oversight of the educational program, and;
- (h) An annual evaluation of student performance and an annual evaluation of the program;

- (i) Annual evaluation of the program; and
- (j) School psychological services for all ESE referrals and reevaluations, as needed.

2.12 **Certified Substitutes.** AES shall employ properly certified substitute teachers for permanent instruction personnel who are temporarily absent due to illness or personal reasons.

2.13 **Staff Training.** AES shall provide its teachers with a minimum of ten (10) paid hours annually during which they shall upgrade skills through participation in SBBC sponsored or Superintendent's Designee approved AES in-service activities. The cost of said activities, if any, shall be AES's responsibility.

2.14 **Professional Orientation.** AES shall assume responsibility for credentialing of its employees including, but not limited to, costs associated with participation in a Professional Orientation Program.

2.15 **Supervision.** Supervision and control of students while in their program shall be the sole responsibility of AES.

2.16 **Consent for Educational Program Participation.** AES shall secure and provide to the SBBC an approved Consent for Educational Program Participation form for each client enrolled in its educational program. This form, reflecting parent/guardian consent, shall be signed and dated prior to educational program enrollment each time a student enters AES's residential program.

2.17 **Eligibility.** Students shall be enrolled in accordance with their current ESE eligibility and/or in accordance with the State Board of Education Rules. In accordance with each individual student IEP, AES shall reimburse SBBC for speech, language, and occupational therapy services and travel required to provide services to students residing at AES.

2.18 **Legal Entitlements.** AES shall comply with the legal entitlements of students with disabilities identified as Exceptional and those who are English proficient.

2.19 **AES Intake Procedures.** AES shall provide the SBBC, with its written procedures governing intake, evaluation, dismissal, and separation of students by July 1, 2020, which shall include documentation that the student is a Florida resident.

2.20 **Code of Conduct.** AES shall provide the SBBC, upon request, its written policies regarding the conduct and disciplining of students while they are enrolled in the educational program. At a minimum, this Code of Student Conduct shall include a listing of rules, what constitutes an infraction of the rules, consequences for violating the rules, student and parent/guardian signatures acknowledging an understanding of the rules and penalties for violating them, and an appeal procedure.

2.21 **Immunization.** AES shall comply with the State of Florida immunization requirements as described in the Code of Student Conduct. Compliance with the current schedule of immunizations is required to be admitted to school or to attend classes. The official document is identified as Form 680. A thirty(30) calendar day waiver to provide for those students who are remanded by the courts to a program in Broward County but whose records shall be requested from another County in the State of Florida.

2.22 **AES Incident Procedures.** AES shall provide the SBBC, its written procedures regarding critical incidents - bomb threats, fires and other such incidences that could put students in jeopardy of bodily injury and/or cause bodily injury by July 1, 2020. Additionally, AES shall inform the SBBC, within 24 hours when a student is involved in a serious incident or is injured as defined by the SBBC. AES shall report seclusions and restraints, during and after school hours, to the SBBC and the parent in the manner prescribed by the Florida Department of Education and Section 1003.573, Florida Statutes.

2.23 **Access to Student Meals.** AES shall provide meals (both breakfast and lunch) to students at no cost to the students.

2.24 **Transition.** The SBBC and AES mutually agree that all students' effective transition, both short and long-term, to the home, community, school and/or the work environment shall be at the program intake stage and continue throughout the program and/or treatment implementation. The transition plan shall include but not be limited to, the following:

- (a) Identification of the student's assessed strengths, competencies, and needs relating to survival/coping independent living skills; crisis intervention/stress management/conflict resolution skills; social skills; employability skills; health/mental health/medical status; legal status, existing support network; and educational progress and status;
- (b) Realistic, meaningful and achievable goals and objectives;
- (c) Strategies to address specific needs; and
- (d) Recognition of exemplary progress, achievement, or demonstration of leadership.

AES shall schedule a meeting with school personnel to establish a transition plan before the student is withdrawn from the program, with recommendations for the student's discharge and aftercare. AES shall provide the SBBC with a copy of each student's transition plan.

2.25 **Attendance.** AES agrees to comply with the SBBC's attendance policy as described in the Code of Student Conduct in order to prevent truancy and promote school attendance.

2.26 **Program Completion.** AES shall inform the SBBC of a student's program completion date a minimum of thirty (30) calendar days prior to dismissal to the fullest extent possible to ensure an IEP meeting can be held to determine continued ESE eligibility, ongoing educational needs and the completion of the educational transition process. If notice is not possible due to individual student needs, the SBBC shall not be able to complete all aforementioned processes.

2.27 **Curriculum.** The responsibility for the administration of the instructional program rests with AES and it shall provide a school day that is no more than three hundred (300) student contact minutes in length.

2.28 **Academic Placement.** AES shall conduct an academic assessment of each student upon intake. The results of this assessment combined with the student's previous class schedule and educational goals shall determine the instructional strategies employed while the student is enrolled in AES's educational program. The SBBC shall provide AES with a student schedule outlining a course of study that the student is to follow. For students with disabilities, the ESE teacher shall provide accommodations, and if appropriate, modify the curriculum as stated on the IEP.

2.29 **Materials and Supplies.** AES shall provide age/ability-appropriate classroom furniture, equipment, and instructional materials. Upon request, the SBBC shall provide AES with a list of state-adopted textbooks, recommended instructional materials, and suggested vendors from whom these items shall be purchased or place an order on behalf of AES. Any currently adopted materials or textbooks provided to AES are the property of the SBBC.

2.30 **SBBC Standards of Service.** AES shall meet the minimum instructional requirements of the Florida Standards for student achievement, and the SBBC's standards of service.

2.31 **Academic Records.** AES shall maintain individual achievement records in a form prescribed by the SBBC for each student. Included therein shall be a record specifying which competencies have been mastered, the date on which mastery was achieved, and the signature of the certified teacher verifying mastery.

2.32 **Student Evaluation.** AES shall evaluate the progress of students enrolled in its educational program. Term reports and/or grades-in-progress shall be issued based upon students' work while enrolled in AES's program. Upon program exit, all student records shall be transmitted to the Superintendent's designee.

2.33 **Academic Climate.** AES's curriculum shall be challenging, provoke critical thinking, and incorporate survival skills, goal setting, and the achievement of socially acceptable behavioral patterns. Instruction shall facilitate learning and build self-esteem by incorporating a variety of modalities.

2.34 **Instructional Staff Ration.** AES classes shall not exceed an average daily attendance pupil/instructional staff ration of 10:1.

2.35 **Standardized Testing.** SBBC shall provide testing materials as required by state and district guidelines. AES shall initiate testing in accordance with the district's testing calendar and procedures.

2.36 **Facilities.** The facilities shall be provided and maintained by AES and shall be located at 5925 McKinley Street, Hollywood, FL 33021, or at another site approved by the Superintendent's designee.

2.37 **Safety Requirements.** AES shall comply with the facility safety requirements embodied in the State Uniform Building Code for Public Educational Facilities and the Florida Department of Education's State Requirements for Educational Facilities (SREF) 2014, especially those pertaining to fire safety, storage of hazardous materials, exit marking, lighting, ventilation, evacuation and occupancy loads. Student classrooms shall provide a minimum of twenty-five usable square feet per pupil. Instructional personnel shall be provided adequate space for a desk, file cabinets, instructional materials, and secure storage of SBBC-owned equipment and confidential documents, such as student tests and records.

2.38 **Certificates.** AES shall maintain current sanitation, health, and fire inspection certificates for all buildings used as part of its educational program. AES shall conduct monthly fire drills and submit documentation of these drills to the Superintendent or designee.

2.39 **Building.** AES shall maintain buildings used to house students in a state of clean and good repair and submit to SBBC inspections upon request.

2.40 **Testing and Staffing Room.** AES shall make available a quiet, private room for SBBC sponsored psychological evaluations and ESE and/or ESOL staffings.

2.41 **Initial Payment.** The SBBC shall make an initial payment to AES upon final Budget Adoption by the SBBC. The initial payment shall cover all invoices received to date. From that time equal payments shall be monthly provided AES has invoiced the SBBC for the agreed-upon amount at least twenty (20) calendar days prior to the payment due date.

2.42 **Monthly Distribution.** AES payments shall be based upon an equal monthly distribution generated by full-time equivalent students enrolled in AES's educational program, not to exceed forty (40) unweighted full-time equivalent (UFTE) students. The rate of pay for each UFTE student shall be 80% of the state-based student allocation (BSA), including the district cost differential (DCD) multiplied by the district's cost factor. Shortfall reimbursements from AES shall be made by **June 30, 2021**, to the SBBC.

2.43 **Changes to Funding Formula.** If, at any time during the term of this Agreement, the State Department of Education changes the SBBC's formula allocation of funds, said increase or decrease shall be passed along AES on a pro-rata basis.

2.44 **Funding Loss.** In the event AES violates any state law, Board of Education rule, School Board policy, and/or other covenant set forth herein, and said violation results in a loss of funding to the SBBC, AES shall reimburse the SBBC for the full amount of the loss. This provision shall remain in force, even if this Agreement is terminated.

2.45 **FTE Membership Collection.** AES full-time equivalent membership shall be counted during the official FTE survey weeks in July (for Extended School Year), October, February. Failure by AES to meet targeted projections during these established weeks shall result in a reduction of funds and an appropriate adjustment in monthly payments.

2.46 **Student Membership.** A student is in membership when he/she is officially assigned (not withdrawn) to a course or program by the SBBC. To be reported for funding, each student shall be enrolled and scheduled appropriately in the state automated data system. All course identification information shall be accurate such as state-approved course number, section number, period number, days per week, and class minutes.

2.47 **FTE Attendance Collection.** The student shall be in attendance in class at least one (1) day during the FTE survey week or one (1) of the six (6) days/classes proceeding the survey week. The presence, absence or tardiness of each student shall be checked each day and recorded daily in the Automated Student Attendance Recordkeeping System. To comply with the rules, a pupil is in attendance if actually present at the school site or away from school on an approved field trip.

2.48 **Attendance Collection Procedures.** AES is required to take attendance on a daily basis. Attendance reports shall be transmitted by telephone facsimile to the Superintendent's Designee no later than 11:00 a.m. Eastern Time each day during the school year. This report shall also include any students who arrived tardy the previous day. (AES shall provide a telephone line, at no cost to the SBBC, for an SBBC provided telephone facsimile machine for SBBC use only.) Attendance records shall be maintained in a manner prescribed by the SBBC, which includes but not limited to designated student attendance cards which reflect "homerom" (once a day), attendance status and the Teachers' grade books which reflect attendance in each class period on the student's schedule, until such time AES is authorized by the SBBC to dispose of said records, or until the expiration of this Agreement when all such records shall be surrendered to the SBBC.

2.49 **Annual School Calendar.** The academic program shall operate a minimum of 180 days for the regular term and shall operate on a flexible calendar, which differs from the approved SBBC calendar. This flexible calendar shall coincide with the fiscal year calendar. See **Attachment A**. Failure to be in operation on designated school days (SBBC calendar or flexible calendar) shall be considered a default.

2.50 **Distribution of Funds.** One hundred percent (100%) of the funds paid by the SBBC shall be used to support AES's educational program. Eighty percent (80%) of the funds paid by the SBBC shall be used for direct classroom expenses limited to instructional personnel (with student contact) salaries and benefits, classroom materials and supplies, and classroom equipment.

2.51 **Student Performance.** The SBBC shall annually evaluate the quality of AES's educational program at the SBBC's expense. The Superintendent of Schools shall give AES ten (10) calendar days prior notice by United States Postal Service certified mail, return receipt requested. AES shall cooperate with the SBBC employees, appointees, and/or agents as they attend to their assigned task. Upon development of a final

report, AES shall be given twenty (20) calendar days to react and draft a response which shall be included in the report to the SBBC.

2.52 **Financial Record Maintenance.** AES shall maintain all financial records related to the educational component of the program.

2.53 **Quarterly Financial Reports.** AES shall provide a financial accounting of all expenditures toward the educational component of the program on a quarterly basis. The accounting report shall be in accordance with forms provided by the Superintendent's designee and shall be delivered to the Superintendent's Designee within ten (10) calendar days after the close of each quarter.

2.54 **Independent Audits.** The SBBC, at its option, shall desire to account for funds paid to AES through an independent audit at the SBBC's expense. If the SBBC elects to exercise this option, the Superintendent of Schools shall give AES ten (10) calendar days prior notice by United States Postal Service certified mail, return receipt requested. AES shall cooperate with the SBBC's employees, appointees, and/or agents as they attend to their assigned task. Upon development of a final report, AES shall be given twenty (20) calendar days to react and draft a response which shall be included in the report to the SBBC.

2.55 **Grievance Procedure.** If a dispute arises under this Agreement, the parties agree, but is not limited to, the following dispute resolution measures:

- (a) Step 1: Resolution of the dispute at the ESLS Director level.
- (b) Step 2: Resolution of the dispute at the Chief Academic Office level or designee.
- (c) Step 3: Resolution of the dispute by the Superintendent of Schools or designee.
- (d) In the event such efforts do not resolve the dispute, the aggrieved party may take such action as it deems appropriate.

2.56 **Inspection of AES's Records by SBBC.** AES 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 AES's applicable 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 the applicable business records of AES directly relating to this Agreement in order to verify the accuracy of invoices provided to SBBC. Such audit shall be no more than one (1) time per calendar year.

(a) **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 AES'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 AES pursuant to this Agreement.

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

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

(d) Failure to Permit Inspection. Failure by AES 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 SBBC's denial of some or all of any AES's claims for payment.

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

(f) Inspection of Subcontractor's Records. If applicable, AES 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 AES 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 Payees' costs from amounts payable by SBBC to AES pursuant to this Agreement and such excluded costs shall become the liability of AES.

(g) Inspector General Audits. AES 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.

2.57 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 Southeast Third Avenue
Fort Lauderdale, Florida 33301

With a Copy to: Executive Director
Exceptional Student Learning Support
The School Board of Broward County, Florida
Arthur Ashe Campus
1701 NW 23rd Avenue, Room 277
Fort Lauderdale, FL 33311

To AES: David Ferguson, Vice President
Alternate Educational Systems, Inc.
10001 West Oakland Park Boulevard
Sunrise, FL 33351

With a Copy to: Site Administrator
Alternate Educational Systems, Inc.
5925 McKinley Street
Hollywood, FL 33021

2.58 **Background Screening.** AES shall comply with all requirements of Sections 1012.32, 1012.465, 1012.467, and 1012.468 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 AES or its personnel providing any services under the conditions described in the previous sentence. AES 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 AES and its personnel. The parties agree that the failure of AES 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. AES 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 AES's failure to comply with the requirements of this section or with Sections 1012.32, 1012.465, 1012.467, and 1012.468, Florida Statutes.

2.59 **Public Records.** The following provisions are required by Section 119.0701, Florida Statutes, and may not be amended. AES 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, AES 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. AES 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 AES does not transfer the public records to SBBC. Upon completion of the Agreement, AES shall transfer, at no cost, to SBBC all public records in possession of AES or keep and maintain public records required by SBBC to perform the services required under the Agreement. If AES transfers all public records to SBBC upon completion of the Agreement, AES shall destroy any duplicate public records that are exempt or confidential and exempt from public records disclosure requirements. If AES keeps and maintains public records upon completion of the Agreement, AES 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, RECORDREQUESTS@BROWARDSCHOOLS.COM, RISK MANAGEMENT DEPARTMENT, PUBLIC RECORDS DIVISION, 600 SOUTHEAST THIRD AVENUE, FORT LAUDERDALE, FLORIDA 33301.

2.60 **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, up to the limits of Section 768.28, Florida Statutes, for any damages resulting from said negligence.

(b) By AES. AES 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 AES, its agents, servants or employees; the equipment of AES, its agents, servants or employees while such equipment is on premises owned or controlled by SBBC; or the negligence of AES or the negligence of AES'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 AES, SBBC or otherwise.

2.61 Insurance Requirements. AES shall comply with the following insurance requirements throughout the term of this Agreement:

(a) General Liability. AES shall maintain General Liability insurance during the term of this Agreement with limits not less than \$1,000,000 per occurrence for Bodily Injury/ Property Damage; \$1,000,000 General Aggregate; and limits not less than \$1,000,000 for Products/Completed Operations Aggregate.

(b) Medical Professional Liability/Errors & Omissions. AES shall maintain Professional Liability/Errors & Omissions insurance during the term of this Agreement with a limit of not less than \$1,000,000 per occurrence covering services provided under this Agreement.

(c) Workers' Compensation. AES shall maintain Workers' Compensation insurance during the term of this Agreement in compliance with the limits specified in Chapter 440, Florida Statutes, and Employer's Liability limits shall not be less than \$100,000/\$100,000/\$500,000 (each accident/disease-each employee/disease-policy limit).

(d) Auto Liability. AES shall maintain Owned, Non-Owned and Hired Auto Liability insurance with Bodily Injury and Property Damage limits of not less than \$1,000,000 Combined Single Limit.

(e) Acceptability of Insurance Carriers. The insurance policies required under this Agreement shall be issued by companies qualified to do business in the State of Florida and has a rating of at least A- VI by AM Best or Aa3 by Moody's Investor Service.

(f) Verification of Coverage. Proof of the required insurance must be furnished by AES to SBBC's Risk Management Department by Certificate of Insurance within fifteen (15) calendar days of the date of this Agreement. To streamline this process, SBBC has partnered with EXIGIS Risk Management Services to collect and verify insurance documentation. All certificates (and any required documents) must be received and approved by SBBC's Risk Management Department before any work commences to permit AES to remedy any deficiencies. AES must verify its account information and provide contact details for its Insurance Agent via the link provided to it by email.

(g) Required Conditions. Liability policies must include the following terms on the Certificate of Insurance:

- 1) The School Board of Broward County, Florida, its members, officers, employees, and agents are added as additional insured.
- 2) All liability policies are primary of all other valid and collectible coverage maintained by The School Board of Broward County, Florida.

3) Certificate Holder: The School Board of Broward County, Florida, c/o EXIGIS Risk Management Services, P.O. Box 4668-ECM, New York, New York 10163-4668.

(h) **Cancellation of Insurance.** AES is prohibited from providing services under this Agreement with SBBC without the minimum required insurance coverage and must notify SBBC within two (2) business days if required insurance is canceled.

(i) SBBC reserves the right to review, reject or accept any required policies of insurance, including limits, coverage or endorsements, herein throughout the term of this Agreement.

2.62 **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.

2.63 **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.

2.64 **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.

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

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 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,

contributions to unemployment compensation funds or insurance for the other party or the other party's officers, employees, agents, subcontractors or assignees.

3.04 **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) calendar days written notice to cure the default. However, in the event said default cannot be cured within said thirty (30) calendar days period and the defaulting party is diligently attempting in good faith to cure the 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) calendar 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.

3.05 **Termination.** This Agreement may be canceled with or without cause by SBBC during the term hereof upon thirty (30) calendar days written notice to the other parties of its desire to terminate this Agreement. In the event of such termination, SBBC shall be entitled to a *pro-rata* refund of any pre-paid amounts for any services scheduled to be delivered after the effective date of such termination. 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 **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.

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

3.08 **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 exclusively to the jurisdiction of the State courts of the Seventeenth Judicial Circuit of Broward County, Florida or to the jurisdiction of the United States District Court for the Southern District of Florida. Each party agrees and admits that the state courts of the Seventeenth Judicial Circuit of Broward County, Florida or the United States District Court for the Southern District of Florida shall have jurisdiction over it for any dispute arising under this Agreement.

3.09 **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.

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

3.11 **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.

3.12 **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.

3.13 **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.

3.14 **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.

3.15 **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.

3.16 **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.

3.17 **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.

3.18 **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.

3.19 **Agreement 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.

3.20 **Counterparts and Multiple Originals.** This Agreement may be executed in multiple originals and may be executed in counterparts, each of which shall be deemed to be an original, but all of which, taken together, shall constitute one and the same Agreement.

3.21 **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)

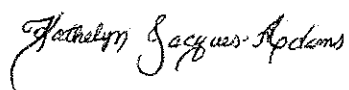
THE SCHOOL BOARD OF BROWARD
COUNTY, FLORIDA

ATTEST:

By _____
Donna P. Korn, 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: Alternate Educational Systems, Inc. - ESE Services
Date: 2020.06.11 09:11:05 -04'00'

Office of the General Counsel

[THIS SPACE IS INTENTIONALLY LEFT BLANK; SIGNATURE PAGE TO FOLLOW]

FOR AES:

(Corporate Seal)

ALTERNATE EDUCATIONAL SYSTEMS, INC.

ATTEST:

By

Print Name

Title

[Signature]
DAVID FERGUSON
Vice President

, 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 by means of physical presence or online notarization, this 5/29/2020 (date) by David Ferguson (name of officer or agent, title of officer or agent) of Alternate Educational Systems (name of corporation acknowledging), a Florida (state or place of incorporation) corporation, on behalf of the corporation. He/she is personally known to me or has produced _____ (type of identification) as identification and who did/ did not first take an oath this 29 day of May, 2020.

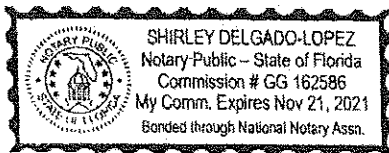
My Commission Expires:

Signature - Notary Public

[Signature]
Shirley Delgado Lopez
Notary's Printed Name

(SEAL)

EA 162586
Notary's Commission No.



ATTACHMENT A



2020 – 2021 SCHOOL CALENDAR

August 2020

Wednesday, August 12, 2020 through Tuesday, August 18, 2020 – No School for Students
Wednesday, August 19, 2020 – First Day of School

September 2020

Monday, September 7, 2020 – Schools and Administrative Offices Closed
Friday, September 11, 2020 – Interim Reports Issued
Monday, September 28, 2020 - Schools and Administrative Offices Closed

October 2020

Friday, October 16, 2020 - Early Release Day
Monday, October 19, 2020 - Employee Planning (no school for students)

November 2020

Tuesday, November 3, 2020- Employee Planning (no school for students)
Wednesday, November 11, 2020 - Schools and Administrative Offices Closed
Thursday, November 12, 2020 - Report Cards Issued
Tuesday, November 17, 2020- Interim Reports Issued
Monday, November 23 through Friday, November 27, 2020 - School Thanksgiving Break

December 2020

Monday, December 21, 2020 through January 1, 2021 - School Winter Break

January 2021

Thursday, January 7, 2021 - Early Release Day
Friday, January 8, 2021 - Employee Planning (no school for students)
Monday, January 18, 2021 - Schools and Administrative Offices Closed

February 2021

Wednesday, February 3, 2021 - Report Cards Issued
Tuesday, February 9, 2021 - Interim Reports Issued
Monday, February 15, 2021 - Schools and Administrative Offices Closed
Thursday, February 18, 2021 - Early Release Day

ATTACHMENT A



2020 – 2021 SCHOOL CALENDAR

March 2021

Thursday, March 18, 2021 - Early Release Day

Friday, March 19, 2021 - Employee Planning (no school for students)

Monday, March 22, 2021, through Friday, March 26, 2021 - School Spring Break

April 2021

Friday, April 2, 2021 - Schools and Administrative Offices Closed

Thursday, April 8, 2021 - Early Release Day

Wednesday, April 14, 2021 - Report Cards Issued

Thursday, April 29, 2021 - Interim Reports Issued

May 2021

Monday, May 31, 2021 - Schools and Administrative Offices Closed

June 2021

Wednesday, June 9, 2021 - Last Day of School

Wednesday, June 9, 2021 - Early Release Day

Thursday, June 10, 2021 - Employee Planning (no school for students)

Wednesday, June 30, 2021 - Report Cards Issued

Hurricane makeup days in order of preference:

Friday, October 16, 2020

Thursday, January 7, 2021

Thursday, February 18, 2021

Thursday, March 18, 2021

Thursday, April 8, 2021

Wednesday, June 9, 2021

ATTACHMENT B
HIPAA BUSINESS ASSOCIATE AGREEMENT

This Business Associate Agreement ("*Agreement*") is made and entered into as of this _____ day of _____, 2020 the "*Effective Date*", by and between

THE SCHOOL BOARD OF BROWARD COUNTY, FLORIDA
(hereinafter referred to as "*SBBC*" or "*Covered Entity*"),
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

ALTERNATE EDUCATIONAL SYSTEMS, INC.
(hereinafter referred to as "*Business Associate*"),
whose principal place of business is
2251 NW 36th Avenue
Coconut Creek, Florida 33066

WHEREAS, by virtue of some of the services that Business Associate performs for SBBC, Business Associate may be a "business associate," as that term is defined in 45 C.F.R. §160.103; and

WHEREAS, SBBC and Business Associate may share Protected Health Information ("*PHI*") (as defined below) in the course of their relationship; and

WHEREAS, SBBC and Business Associate understand that, with respect to coverages subject to regulation under the Health Insurance Portability and Accountability Act of 1996 ("*HIPAA*"), they are subject to the requirements governing business associates, including but not limited to the Privacy Rule and the Security Rule (both defined below) of HIPAA, the Health Information Technology for Economic and Clinical Health Act of 2009 ("*HITECH*"), the Omnibus Rule of 2013, and applicable Florida law, any of which may be amended from time to time or supplemented by new legislation or guidance (hereinafter collectively referred to as "*Business Associate Requirements*"); and

WHEREAS, SBBC and Business Associate intend to fully comply with current and future Business Associate requirements and mutually desire to outline their individual responsibilities with respect to Protected Health Information ("*PHI*") as mandated by the "Privacy Rule", the "Security Rule", and the HITECH Act; and

WHEREAS, SBBC and Business Associate understand and agree that the Business Associate requirements require SBBC and Business Associate to enter into a Business Associate Agreement which shall govern the use and/or disclosure of PHI and the security of Electronic PHI ("*ePHI*").

NOW, THEREFORE, the parties hereto agree as follows:

ARTICLE 1 – RECITALS

1. **Definitions.** When used in this Agreement and capitalized, the following terms have the following meanings:
 - (a) "**Breach**" has the same meaning as that term is defined in §13400 of the HITECH Act and shall include the unauthorized acquisition, access, use, or disclosure of PHI that compromises the security or privacy of such information.

ARTICLE 1 – RECITALS

- (b) "**Business Associate**" shall mean Business Associate named above and shall include all successors, assigns, affiliates, subsidiaries, and related companies.
- (c) "**Designated Record Set**" has the same meaning as the term "designated record set" in 45 CFR §164.501, which includes enrollment, payment, billing, claims adjudication and case or medical management record systems maintained by or for a health plan, or other information used in whole or part by or for the Plan to make decisions about individuals.
- (d) "**EDI Rule**" shall mean the Standards for Electronic Transactions as set forth at 45 CFR Parts 160, Subpart A and 162, Subpart A and I through R.
- (e) "**Electronic PHI**" or "ePHI", shall mean PHI that is transmitted by or maintained in electronic media.
- (f) "**HIPAA**" means the Health Insurance Portability and Accountability Act of 1996.
- (g) "**HITECH Act**" means the Health Information Technology for Economic and Clinical Health Act of 2009.
- (h) "**Individual**" shall have the same meaning as the term "Individual" in 45 C.F.R. §160.103 and shall include a person who qualifies as a personal representative in accordance with 45 C.F.R. §164.502(g).
- (i) "**Minimum Necessary**" means the least amount of PHI needed to accomplish the intended purpose of the use or disclosure.
- (j) "**Omnibus Rule**" means the HIPAA Omnibus Rule of 2013.
- (k) "**Privacy Rule**" shall mean the Standards for Privacy of Individually Identifiable Health Information as set forth in 45 C.F.R. Parts 160 and 164, subparts A and E.
- (l) "**Protected Health Information**" or "**PHI**" shall have the same meaning as the term "protected health information" in 45 C.F.R. §160.103 (as amended by the HITECH Act) limited to the information created or received by Business Associate from or on behalf of SBBC.
- (m) "**Required by Law**" shall have the same meaning as the term "required by law" in 45 C.F.R. §164.103.
- (n) "**Secretary**" shall mean the Secretary of the Department of Health and Human Services or his or her designee.
- (o) "**Security Rule**" shall mean the Standards for Security of ePHI as set forth in 45 C.F.R. Parts 160 and 164 Subpart C.
- (p) "**Unsecured PHI**" shall mean PHI that is not secured through the use of a technology or methodology specified by the Secretary in guidance or as otherwise defined in §13402(h) of the HITECH Act.

Terms used but not defined in this Agreement shall have the same meaning as those terms in 45 C.F.R. §§ 164.103 and 164.501 and the HITECH Act.

ARTICLE 2 – SPECIAL CONDITIONS

2. Obligations and Activities of Business Associate Regarding PHI.

- (a) Business Associate agrees to not use or further disclose PHI other than as permitted or required by this Agreement or as Required by Law.
- (b) Business Associate agrees to comply with the “Minimum Necessary” rule when using, disclosing, or requesting PHI, except when a specific exception applies under HIPAA or the HITECH Act.
- (c) Business Associate agrees to use appropriate safeguards and comply, where applicable, with the HIPAA Security Rule to prevent use or disclosure of the PHI other than as provided for by this Agreement.
- (d) Business Associate agrees to report to SBBC, as soon as reasonably practicable, any impermissible use or disclosure of PHI it becomes aware of, and any use or disclosure of PHI not provided for by this Agreement. Any report of breach should be in substantially the same form as Exhibit A hereto.
- (e) Business associate shall promptly inform SBBC of a Breach of Unsecured PHI within the next business day of when Business Associate knows of such Breach
- (f) For the Breach of Unsecured PHI in its possession:
 - 1. Business Associate will perform a Risk Assessment to determine if there is a low probability that the PHI has been compromised. Business Associate will provide SBBC with documentation showing the results of the Risk Assessment. The Risk Assessment will consider at minimum the following factors:
 - a. The nature and extent of the PHI involved, including the types of identifiers and the likelihood of re-identification;
 - b. The unauthorized person who used the PHI or to whom the disclosure was made;
 - c. Whether the PHI was actually acquired or viewed; and
 - d. The extent to which the risk to the PHI has been mitigated.
 - 2. Business Associate will prepare and distribute, at its own cost, any and all required notifications under Federal and Florida law, or reimburse SBBC any direct costs incurred by SBBC for doing so.
 - 3. Business Associate shall be responsible for all fines or penalties incurred for failure to meet Breach notice requirements pursuant to Federal and/or Florida law.

ARTICLE 2 – SPECIAL CONDITIONS

- (g) Business Associate agrees to ensure that, and obtain assurance from, any and all agents, including sub-contractors (excluding entities that are merely conduits), to whom it provides PHI, to agree to the same restrictions and conditions that apply to Business Associate with respect to such information. All agents and subcontractors engaged by the Business Associate that create, maintain, receive or transmit PHI must comply with the HIPAA Rules, including the rules to extend the requirements to the agent's or subcontractor's subcontractors.
- (h) Business Associate agrees to provide SBBC access, at the request of SBBC, and in the time and manner designated by SBBC, to PHI in a Designated Record Set, in order for SBBC to meet the requirements under 45 C.F.R. § 164.524.
- (i) Business Associate agrees to amend PHI in a Designated Record Set at SBBC's, or an Individual's, direction pursuant to 45 C.F.R. § 164.526, in the time and manner designated by SBBC. Business Associate agrees to make internal practices, policies, books and records relating to the use and disclosure of PHI available to SBBC, or at the request of SBBC to the Secretary, in a time and manner as designated by SBBC or the Secretary, for purposes of the Secretary determining SBBC's compliance with the Privacy Rule. Business Associate shall immediately notify SBBC upon receipt or notice of any and all requests by the Secretary to conduct an investigation with respect to PHI received from SBBC.
- (j) Business Associate agrees to document any and all disclosures of PHI and information related to such disclosures that are not excepted under 45 C.F.R. § 164.528(a)(1) as would be reasonably required for SBBC to respond to a request by an Individual for an accounting of disclosures of PHI in accordance with 45 C.F.R. § 164.528.
- (k) Business Associate agrees to provide to SBBC or an Individual, in a time and manner designated by SBBC, information collected in accordance with paragraph (j) above, to permit SBBC to respond to a request by an Individual for an accounting of disclosures of PHI in accordance with 45 C.F.R. § 164.528.
- (l) Business Associate agrees to use or disclose PHI pursuant to the request of SBBC; provided, however, that SBBC shall not request Business Associate to use or disclose PHI in any manner that would not be permissible under the Privacy Rule if done by SBBC.
- (m) Business Associate agrees to mitigate, to the extent practicable, any and all harmful effects that are known to Business Associate of a use or disclosure of PHI, or a Breach of Unsecured PHI, by Business Associate in violation of the requirements of this Agreement, the Privacy Rule, the Security Rule, the HITECH Act or HIPAA generally.
- (n) Business Associate shall provide SBBC with a copy of any notice of privacy practices it produces in accordance with 45 C.F.R. § 164.520, as well as any and all changes to such notice.
- (o) Business Associate, if performing a function that applies to Covered Entity, agrees to comply with the requirements that apply to the Covered Entity.

ARTICLE 2 – SPECIAL CONDITIONS

3. Permitted Uses and Disclosures of PHI by “Business Associate”.

- (a) Except as otherwise limited by this Agreement, Business Associate may use or disclose PHI to perform functions, activities or services for, or on behalf of, SBBC pursuant to any Agreements for services between the parties provided that such use or disclosure would not violate the Privacy Rule if done by SBBC.
- (b) Except as otherwise limited by this Agreement, Business Associate may use PHI for the proper management and administration of Business Associate and to carry out the legal responsibilities of Business Associate.
- (c) Except as otherwise limited by this Agreement, Business Associate may disclose PHI for the proper management and administration of Business Associate and to carry out the legal responsibilities of Business Associate if: (i) such disclosure is Required by Law, or (ii) Business Associate obtains reasonable assurances from the person to whom the information is disclosed that such information will remain confidential and used or further disclosed only as Required by Law or for the purposes for which it was disclosed to the person, and the person agrees to notify Business Associate of any and all instances of which it is aware that the confidentiality of the information has been breached.
- (d) Except as otherwise limited by this Agreement, Business Associate may use PHI to provide Data Aggregation services to SBBC as permitted by 42 C.F.R. § 164.504(e)(2)(i)(B).

4. Obligations of SBBC Regarding PHI.

- (a) SBBC shall provide Business Associate with the notice of privacy practices that SBBC produces in accordance with 45 C.F.R. § 164.520, as well as any changes to such notice.
- (b) SBBC shall provide Business Associate with any and all changes in, or revocation of, authorization by an Individual to use or disclose PHI, if such changes affect Business Associate’s permitted or required uses and disclosures.
- (c) SBBC shall notify Business Associate of any and all restrictions to the use or disclosure of PHI that SBBC has agreed to in accordance with 45 C.F.R. § 164.522.
- (d) SBBC and its representatives shall be entitled to audit Business Associate from time-to-time to verify Business Associate’s compliance with the terms of this Agreement. SBBC shall provide Business Associate written notice at least ten (10) business days prior to the audit described in this paragraph. SBBC shall be entitled and enabled to inspect the records and other information relevant to Business Associate’s compliance with the terms of this Agreement. SBBC shall conduct its review during the normal business hours of Business Associate, as the case may be, and to the extent feasible without unreasonably interfering with Business Associate’s normal operations.

5. Security of Electronic Protected Health Information.

- (a) Business Associate has implemented policies and procedures to ensure that its receipt, maintenance, or transmission of “electronic protected health information” (as defined in 45 C.F.R. §160.103) (“ePHI”) on behalf of SBBC complies with the applicable administrative, physical, and technical safeguards required for protecting the confidentiality and integrity of ePHI in 45 C.F.R. Part 160 and 164 subpart C.

ARTICLE 2 – SPECIAL CONDITIONS

- (b) Business Associate agrees that it will ensure that its agents or subcontractors agree to implement the applicable administrative, physical, and technical safeguards required to protect the confidentiality and integrity of ePHI pursuant to 45 C.F.R. Part 164.
- (c) Business Associate agrees to report to SBBC all Security Incidents (as defined by 45 C.F.R. Part 164.304 and in accordance with applicable Florida law) of which it becomes aware. Business Associate agrees to report the Security Incident to SBBC as soon as reasonably practicable, but not later than 10 business days from the date the Business Associate becomes aware of the incident.
- (d) SBBC agrees and understands that SBBC is independently responsible for the security of ePHI in its possession or for ePHI that it receives from outside sources including Business Associate.

6. Compliance with EDI Rule.

Business Associate agrees that it will comply with all applicable EDI standards. Business Associate further agrees that it will use its best efforts to comply with all applicable regulatory provisions in addition to the EDI Rule and the Privacy Rule that are promulgated pursuant to the Administrative Simplification Subtitle of HIPAA.

7. Subsequent Legislative or Regulatory Changes.

Any and all amendments to the laws or regulations affecting the Privacy Rule, Security Rule, the HITECH Act, Omnibus Rule, or HIPAA shall be deemed to amend this Agreement and be incorporated without further action of the parties.

8. Amendment.

The parties shall amend this Agreement, as is necessary, so that SBBC remains in compliance with any future changes to the Privacy Rule, the Security Rule, the HITECH Act and HIPAA. The parties may amend this Agreement for any other reasons as they deem appropriate. This Agreement shall not be amended except by written instrument executed by the parties.

9. Term and Termination.

- (a) *Term.* This Agreement shall be effective upon the execution of all parties and shall remain in effect until such time as SBBC exercises its rights of termination under section 9(b) or 9(c) and until the requirements of Section 9(d) below are satisfied. The rights and obligations of Business Associate under Section 9(d) shall survive termination of this Agreement.
- (b) *Termination for Convenience.* This Agreement may be terminated without cause and for convenience by SBBC during the term thereof upon thirty (30) days written notice to Business Associate.
- (c) *Termination for Cause by SBBC.* Upon SBBC's knowledge of a material breach by Business Associate, SBBC shall provide an opportunity for Business Associate to cure the breach. If Business Associate does not cure the breach within thirty (30) days from the date that SBBC provides notice, SBBC shall have the right to terminate this Agreement, the Service Agreement, or both, by providing thirty (30) days advance written notice of such termination to Business Associate.

ARTICLE 2 – SPECIAL CONDITIONS

SBBC may terminate this Agreement without penalty or recourse to SBBC if SBBC determines that Business Associate has violated a material term of this Agreement.

Upon Business Associate knowledge of a material breach by SBBC, Business Associate shall provide an opportunity for SBBC to cure the breach. If SBBC does not cure the breach within thirty (30) days of the date that Business Associate provides notice of such breach to SBBC, Business Associate shall have the right to terminate this Agreement, the Service Agreement, or both, by providing thirty (30) days advance written notice of such termination to SBBC.

- (d) *Effect of Termination.* Upon termination of this Agreement for any reason, Business Associate shall return or destroy all PHI received from SBBC, or created or received by Business Associate on behalf of SBBC. Business Associate shall not retain any copies of the PHI except to the extent that the destruction or return of the PHI is infeasible. Business Associate shall provide to SBBC written notification of the conditions that make return or destruction of the PHI infeasible. If it is determined by SBBC that the return or destruction of PHI is infeasible, Business Associate shall extend the protections of this Agreement to such PHI and limit further uses and disclosures of such PHI to those purposes that SBBC explicitly authorizes in writing for so long as Business Associate maintains such PHI.

10. Indemnification.

- (a) By SBBC: SBBC agrees to be fully responsible for its acts of negligence or its agent's 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 Business Associate: Business Associate 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 cost, court costs and all other sums which SBBC, its agents, servants and employees must 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 Business Associate, its agents, servants or employees; the equipment of Business Associate, its agents, servants or employees while such equipment is on premises owned or controlled by SBBC; or the negligence of Business Associate's agents when acting within the scope of their employment or agency, whether such claims, judgments, costs and expenses be for damages, damage to property including Business Associate's property, and injury or death of any person whether employed by Business Associate, SBBC or otherwise.

11. No Waiver of Sovereign Immunity.

Nothing contained 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 as a waiver of limits to liability or rights existing under Section 768.28, Florida Statutes.

ARTICLE 3 – GENERAL CONDITIONS

12. 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. 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.

13. Non-Discrimination.

The parties shall not discriminate against any employee or participant in the performance of the duties, responsibilities and obligations under this Agreement because of age, color, disability, gender identity, gender expression, national origin, marital status, race, religion, sex or sexual orientation.

14. Records.

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.

15. 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.

16. 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. A waiver of any breach of a provision of this Agreement shall not be deemed a waiver of any subsequent breach and shall not be construed to be a modification of the terms of this Agreement.

17. Compliance with Laws.

Each party shall comply with all applicable federal and state laws, codes, rules and regulations in performing its duties, responsibilities and obligations pursuant to this Agreement.

18. Binding Effect.

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

19. 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.

ARTICLE 3 – GENERAL CONDITIONS

20. 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.

21. 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.

22. Notices.

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 Southeast 3rd Avenue
Fort Lauderdale, Florida 33301

With a Copy to: Executive Director
Exceptional Student Learning Support
The School Board of Broward County, Florida
Arthur Ashe Campus
1701 NW 23rd Avenue, Room 277
Fort Lauderdale, FL 33311

Privacy Officer
Risk Management Department
The School Board of Broward County, Florida
600 S.E. 3rd Avenue, 11th Floor
Ft. Lauderdale, FL 33301

To Business Associate: David Ferguson, Vice President
Alternate Educational Systems, Inc.
10001 West Oakland Park Boulevard
Sunrise, FL 33351

With a Copy to: Site Administrator
Alternate Educational Systems, Inc.
5925 McKinley Street
Hollywood, FL 33021

ARTICLE 3 – GENERAL CONDITIONS

23. **Severability.**

In case any one or more of the provisions contained in this Agreement shall for any reason be held to be invalid, illegal, unlawful, unenforceable or void in any respect, the invalidity, illegality, unenforceability or unlawful or void nature of that provision shall not affect any other provision and this Agreement shall be considered as if such invalid, illegal, unlawful, unenforceable or void provision had never been included herein.

24. **Captions.**

The captions, section numbers, title and headings appearing in this Agreement are inserted only as a matter of convenience 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.

25. **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.

26. **No Waiver of Rights, Powers and Remedies.**

The parties agree that each requirement, duty, right 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.

27. **Regulatory References.**

A reference in this Agreement to any part of the Privacy Rule, the Security Rule, the HITECH Act, or HIPAA shall refer to the most current form of legislation, and shall incorporate any future amendments.

28. **Governing Law.**

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.

29. **Entire Agreement.**

This Agreement 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 Agreement. Accordingly, the parties agree that no deviation from the terms hereof shall be predicated upon any prior representations or agreements, whether oral or written.

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

FOR SBBC:

(Corporate Seal)

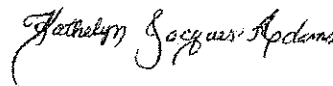
THE SCHOOL BOARD OF BROWARD
COUNTY, FLORIDA

ATTEST:

By _____
Donna P. Korn, 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: Alternate Educational Systems, Inc. -
ESE Services
Date: 2020.06.11 09:11:40 -04'00'

Office of the General Counsel

[THIS SPACE IS INTENTIONALLY LEFT BLANK; SIGNATURE PAGE TO FOLLOW]

FOR BUSINESS ASSOCIATE

ALTERNATE EDUCATIONAL SYSTEMS, INC.

[Signature]
Signature

By: David L Ferguson (DR) Vice President
Print Name and Title

[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 Polk

The foregoing instrument was acknowledged before me by means of physical presence or online notarization, this 5/29/2020 (date) by David Ferguson (name of officer or agent, title of officer or agent) of Alternate Educational Systems (name of corporation acknowledging), a Florida (state or place of incorporation) corporation, on behalf of the corporation. He/she is personally known to me or has produced _____ (type of identification) as identification and who did / did not first take an oath this 29 day of May, 2020.

My Commission Expires:

[Signature]
Signature - Notary Public

Shirley Delgado-Lopez
Notary's Printed Name

(SEAL)

GG 162586
Notary's Commission No.

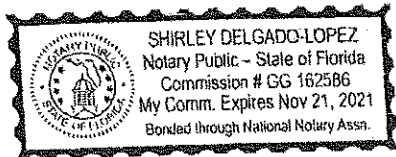


EXHIBIT A

**NOTIFICATION TO THE SCHOOL BOARD OF BROWARD COUNTY,
FLORIDA ABOUT A BREACH OF UNSECURED PROTECTED HEALTH
INFORMATION**

This notification is made pursuant to Section 2(d) of the Business Associate Agreement between THE SCHOOL BOARD OF BROWARD COUNTY, FLORIDA ("SBBC") and _____ (Business Associate).

Business Associate hereby notifies SBBC that there has been a breach of unsecured (unencrypted) protected health information (PHI) that Business Associate has used or has had access to under the terms of the Business Associate Agreement.

Description of the breach: _____

Date or date range of the breach: _____

Date of the discovery of the breach: _____

Number of individuals affected by the breach: _____

The types of unsecured PHI that were involved in the breach (such as full name, Social Security number, date of birth, home address, account number, or disability code): _____

Description of what Business Associate is doing to investigate the breach, to mitigate losses, and to protect against any further breaches: _____

Recommended steps the individuals whose information was breached should take to protect themselves from potential harm resulting from the breach: _____

Contact information to ask questions or learn additional information:

Name: _____

Title: _____

Address: _____

Email Address: _____

Phone Number: _____

ATTACHMENT C

THE SCHOOL BOARD OF BROWARD COUNTY, FLORIDA
AUTHORIZATION FOR RELEASE AND/OR REQUEST
FOR INFORMATION

I hereby request and authorize: (Name of Person, School, or Department) to engage
(Street Address) (City) (State) (Zip) (Telephone #)
in verbal and/or written communication with and release records to: (Name of Person, Job Title and/or School/Agency/Entity)
(Street Address) (City) (State) (Zip) (Telephone #)

regarding the information checked below concerning my child* _____, whose
date of birth is _____. I understand that information concerning psychiatric, psychological, medical diagnosis,
drug or alcohol abuse, economic status, and educational information regarding my child will be released and/or
communicated if indicated below. I further understand that this information might contain information regarding my family,
in addition to my child.

- Treatment Plans
Treatment / Discharge Summaries
Health / Medical Records
Case / Progress / Therapy Notes
Student Identification Number
Academic / School-related Records:
Grades
Test Scores
Attendance
Suspensions / Expulsions
Exceptional Student Education / Section 504 records
Other
Substance Abuse Treatment Records
Social and/or Developmental History
Psychological and/or Psychiatric Evaluations
Restorative Support Services
Social Support Services (Food, Clothing, Shelter)
Medical Services
HIV/AIDS test results or related conditions (to disclose or
receive this information, specific individuals must be named
above)

For the Purpose of: _____

I acknowledge that all information I authorize to be released or requested will be held strictly confidential and cannot
be released by the recipient without an additional written consent. I understand this authorization will expire one
(1) year after the date signed, or on _____, 20____, whichever is earlier. A copy of this authorization is
valid in lieu of the original. I further understand I may withdraw my consent in writing at any time.

Print Name of Parent / Guardian / Eligible Student Signature of Parent / Guardian / Eligible Student Date

Relationship to Child _____

*Eligible students (age 18 or over) may authorize the release of their education records.

(USE THIS SPACE IF CONSENT IS WITHDRAWN)
I hereby withdraw my previous consent to the release of information about my child.

Date Consent Is Withdrawn Signature of Parent / Guardian / Eligible Student

Form #301
REV 07/18
Risk Management

AGREEMENT

THIS AGREEMENT is made and entered into as of this ____ day of _____, 2020, 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

CITRUS HEALTH NETWORK, INC.
(hereinafter referred to as "CITRUS HEALTH"),
a Florida Not For Profit Corporation whose principal place of business is
4175 West 20th Avenue
Hialeah, FL 33102.

WHEREAS, SBBC shall fulfill its constitutional obligation to educate children of compulsory school age; and

WHEREAS, SBBC shall provide teachers for all students (typically ages 12-18), Exceptional Student Education (ESE) services, psychological and related services, curriculum support, and administration and district support and supervision on-site at Citrus Health location, to all SBBC students; and

WHEREAS, CITRUS HEALTH accepts, as clients, children who are residents of the State of Florida and who are now enrolled in, or have applied for enrollment in educational programs under the jurisdiction of SBBC; and

WHEREAS, CITRUS HEALTH provides services to students who need a residential day treatment program with behavioral and psychiatric support; and

WHEREAS, SBBC agrees to provide an educational component as part of CITRUS HEALTH's program; and

WHEREAS, CITRUS HEALTH operates a Residential Treatment Program.

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, 2020**, and conclude on **June 30, 2021**. The term of this Agreement includes the regular 180-day school term. A copy of the school calendar is attached hereto as **Attachment A**. Additionally, extended school year services shall be ensured on an individual basis if an Individualized Educational Plan (IEP) committee determines the eligibility and the need for these services are in accordance with SBBC's extended school year (ESY) criteria.

2.02 **SBBC Disclosure of Educational Records.**

(a) SBBC shall provide the types of education records listed in this section, pursuant to parental consent as listed in this section, for the purpose of CITRUS HEALTH performing their responsibilities as listed in this Agreement.

(b) SBBC shall provide CITRUS HEALTH with psychological records, documented disabilities, social, emotional, behavioral, academic records, Social Security Number, grades, progress notes and any other information necessary to enroll the student that the CITRUS HEALTH serves, as long as the records are limited to the types of information CITRUS HEALTH needs as related to the services CITRUS HEALTH provides pursuant to this Agreement.

(c) SBBC shall obtain written consent from each student's parent/guardian or student age 18 or older prior to disclosing education records to CITRUS HEALTH. Consent form shall list the types of educational records to be disclosed, purpose(s) and recipient.

2.03 **CITRUS HEALTH Confidentiality of Educational Records.**

(a) Notwithstanding any provision to the contrary within this Agreement, CITRUS HEALTH shall:

- 1) fully comply with the requirements of Sections 1002.22, 1002.221, and 1002.222, Florida Statutes; the Family Educational Rights and Privacy Act, 20 U.S.C § 1232g (FERPA) and its implementing regulations (34 C.F.R. Part 99), and any other state or federal law or regulation regarding the confidentiality of student information and records;
- 2) hold any education records in strict confidence and not use or re-disclose same except as required by this Agreement or as required or permitted by law unless the parent of each student or a student age 18 or older whose education records are to be shared provides prior written consent for their release;
- 3) ensure that, at all times, all of its employees who have access to any education records during the term of their employment shall abide strictly by its obligations under this Agreement, and that access to education records is limited only to its employees that require the information to carry out the responsibilities under this Agreement and shall provide said list of employees to SBBC upon request;

- 4) safeguard each education record through administrative, physical and technological standards to ensure that adequate controls are in place to protect the education records and information in accordance with FERPA's privacy requirements;
- 5) utilize the education records solely for the purposes of providing products and services as contemplated under this Agreement; and shall not share, publish, sell, distribute, target advertise, or display education records to any third party;
- 6) notify SBBC immediately upon discovery of a breach of confidentiality of education records by telephone at 754-321-0300 (Manager, Information Security), and 754-321-1900 (Privacy Officer), and email at privacy@browardschools.com; and take all necessary notification steps as shall be required by federal and Florida law, including, but not limited to, those required by Section 501.171, Florida Statutes;
- 7) fully cooperate with appropriate SBBC staff, including Privacy Officer and/or Information Technology staff to resolve any privacy investigations and concerns in a timely manner;
- 8) prepare and distribute, at its own cost, any and all required breach notifications, under federal and Florida Law, or reimburse SBBC any direct costs incurred by SBBC for doing so, including, but not limited to, those required by Section 501.171, Florida Statutes;
- 9) be responsible for any fines or penalties for failure to meet breach notice requirements pursuant to federal and/or Florida law;
- 10) provide SBBC with the name and contact information of its employee who shall serve as SBBC's primary security contact and shall be available to assist SBBC in resolving obligations associated with a security breach of confidentiality of education records; and
- 11) securely erase education records from any media once that media equipment is no longer in use or is to be disposed; secure erasure shall be deemed the deletion of the education records using a single pass overwrite Secure Erase (Windows) or Wipe (Unix).

(b) All education records shall remain the property of SBBC, and any party contracting with SBBC serves solely as custodian of such information pursuant to this Agreement and claims no ownership or property rights thereto and, upon termination of this Agreement shall, at SBBC's request, return to SBBC or dispose of the education records in compliance with the applicable Florida Retention Schedules and provide SBBC with a written acknowledgment of said disposition.

(c) CITRUS HEALTH shall, for itself, its officers, employees, agents, representatives, contractors or subcontractors, 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. This section shall survive the termination of all performance required or conclusion of all obligations existing under this Agreement.

2.04 **HIPAA Compliance.** CITRUS HEALTH agrees to adhere to all applicable HIPAA guidelines as they relate to SBBC students and to enter into a Business Associate Agreement with SBBC regarding HIPAA rules, regulations and procedures. Because CITRUS HEALTH may access, use and disclose HIPAA-covered information from SBBC, SBBC is considered the "Covered Entity" and CITRUS HEALTH is considered the "Business Associate" in the HIPAA agreement. A copy of the HIPAA agreement (Business Associate Agreement) is attached and incorporated into this Agreement as **Attachment B**.

2.05 **SBBC's Designee.** SBBC's designee for purposes of administering this Agreement shall be the Superintendent of Schools who shall assign a designated Administrator for monitoring compliance and educational program administration.

2.06 **Citrus Health's Designee.** CITRUS HEALTH shall identify one (1) person with whom SBBC is to communicate on all compliance issues related to this Agreement.

2.07 **SBBC Personnel Shall Provide.**

- (a) Instructional personnel shall provide instruction for no more than three hundred (300) student contact minutes per school day;
- (b) Instructional personnel, including teachers and substitute teachers, when necessary;
- (c) Textbooks, supplies and other curriculum supplements, including supplies and incentives for student's necessary to provide appropriate education and instructional program for students;
- (d) Approved SBBC forms to be used by CITRUS HEALTH for new students, initial review of students' current education records from SBBC (including ESE records), and/or CITRUS HEALTH records, to determine if an IEP meeting needs to be held;
- (e) Psycho-educational evaluations shall be completed to determine a student's ESE eligibility;
- (f) Review of student evaluations provided by CITRUS HEALTH and a written addendum by an SBBC psychologist;
- (g) Support services as determined by SBBC, including but not limited to, eligibility staffing, IEP development, and maintaining ESE compliance for students with disabilities and exit/dismissal staffing;
- (h) Guidance Services shall be provided to each student to ensure students are earning the appropriate credits toward the promotion and/or high school graduation;
- (i) Staff development for teacher(s) and select CITRUS HEALTH personnel, as mutually-agreed upon;
- (j) Annual evaluation of SBBC teachers and access to the professional orientation program and files;
- (k) Bi-monthly administrative visitation and support; and
- (l) School psychologists are only provided as part of the referral process or for reevaluation purposes. Psycho-educational reports are developed as needed.

2.08 **CITRUS HEALTH Shall Provide.**

(a) An SBBC approved Authorization for Release of Information Form, signed by the student's parent or legal guardian enabling SBBC and CITRUS HEALTH to share written and verbal information, including, but not limited to mental health, substance abuse, and educational records and information; a copy of the Authorization for Release of Information form is attached and incorporated as **Attachment C**.

(b) Referrals of new students on approved SBBC forms; a copy of the Referral form is attached and incorporated as **Attachment D**.

(c) SBBC with previous psychological, psychiatric and mental health records for the purpose of implementing an appropriate educational program;

(d) Annual evaluations to students eligible for Hospital Homebound services. The Physician's Statement for Hospital Homebound services is completed by a program doctor.

(e) A full-time behavior specialist/support staff, trained in crisis management and behavior intervention, in each teacher's classroom at all times for the purpose of monitoring student behavior, addressing therapeutic needs and supervising students during instructional staff's lunch/planning periods;

(f) Additional therapeutic support staff to include psychotherapist, psychologist, and psychiatrist;

(g) A staff member trained in the supervision and administration of all medication to be responsible for the dispensing and monitoring of all student medication;

(h) In emergency situations, updated assessments and evaluations consistent with the Florida State Board of Education; and,

(i) Opportunities for SBBC personnel to participate in CITRUS HEALTH staff training.

2.09 **Eligibility.** Students shall be enrolled in accordance with their current ESE eligibility and/or in accordance with the State Board of Education Rules.

2.10 **Reimbursement.** CITRUS HEALTH shall reimburse SBBC on a per-student pro-rata basis when the average student attendance during the October and February Full-Time Equivalent (FTE) survey period as approved by the Board falls below an average of ten (10) students per class.

2.11 **Student Supervision.** Supervision and control of students while in their program shall be the sole responsibility of CITRUS HEALTH.

2.12 **Code of Student Conduct.** SBBC shall provide CITRUS HEALTH with the Code of Student Conduct, and CITRUS HEALTH shall ensure the parent(s) and guardian(s) and the student acknowledge and sign it as part of the intake process. CITRUS HEALTH shall provide SBBC with a copy of the signed Code of Student Conduct Acknowledgement for each student. The Code of Student Conduct shall be enforced by CITRUS HEALTH. In the event of serious threat or harm to SBBC personnel, the Administrator has the authority to identify alternative disciplinary action to address and resolve the situation, in collaboration with CITRUS HEALTH.

2.13 **Fee Collection.** Any fees collected by CITRUS HEALTH shall not be collected as a condition of student's enrollment in the educational program.

2.14 **Citrus Health Incident Procedures.** CITRUS HEALTH shall provide SBBC with its written procedures detailing the care of students in emergencies and regarding critical incidents - bomb threats, fires and other such incidence(s) that could put students in jeopardy of bodily injury and/or cause bodily injury by July 1, 2020. Additionally, CITRUS HEALTH shall inform SBBC, within 24 hours, when a student is involved in a serious incident or is injured as defined by SBBC. CITRUS HEALTH shall report seclusions and restraints used in the school setting on-site at CITRUS HEALTH to SBBC and the parent in the manner prescribed by the Florida Department of Education and Section 1003.573, Florida Statutes.

2.15 **Citrus Health Intake Procedures.** CITRUS HEALTH shall provide SBBC, with its written procedures governing intake, evaluation, dismissal, and separation of students by July 1, 2020, which shall include documentation the student is a Florida resident.

2.16 **Access to Student Meals.** SBBC shall provide access to breakfast and lunch for free and/or reduced cost for eligible students except as provided in this Section. Non-eligible students shall purchase meals, not in excess of the standard SBBC rate. CITRUS HEALTH shall transport meals from SBBC identified public school to CITRUS HEALTH, at the time established by SBBC, in lieu of the requirements of this Section, CITRUS HEALTH shall provide breakfast and lunch to students at no cost to the students.

2.17. **Transition.** All students' effective transition, both short and long-term, to the home, community, school, and/or the work environment shall begin at the program intake stage and continue throughout the program and/or treatment implementation. The transition plan shall include but not be limited to, the following:

- (a) Identification of the student's assessed strengths, competencies, and needs relating to survival/coping/independent living skills; crisis intervention/stress management/conflict resolution skills; social skills; employability skills; health/mental health/medical status; legal status, existing support network; and educational progress and status;
- (b) Realistic, meaningful and achievable goals and objectives;
- (c) Strategies to address specific needs; and,
- (d) Recognition of exemplary progress, achievement, or demonstration of leadership.

CITRUS HEALTH and school personnel shall schedule a meeting to establish a transition plan before the student is withdrawn from the program, with recommendations for the student's discharge and aftercare. CITRUS HEALTH shall provide SBBC with a copy of each student's transition plan.

2.18 **Program Completion.** CITRUS HEALTH shall inform SBBC of a student's program completion date a minimum of thirty (30) calendar days prior to dismissal to the fullest extent possible to ensure an IEP meeting can be held to determine continued ESE eligibility, ongoing educational needs and the completion of the educational transition process.

2.19 **Curriculum.** The responsibility for the administration of the instructional program rests with SBBC and shall be conducted in accordance with SBBC policies and rules, which include, but shall not be limited to scheduling, staffing patterns, student assessment, and evaluation.

2.20 **Supplemental Efforts.**

(a) CITRUS HEALTH is encouraged to supplement SBBC's efforts to provide an optimal learning environment.

(b) CITRUS HEALTH and SBBC shall collaborate to develop the overall therapeutic/educational program, which shall include each student's IEP.

(c) The informational and/or promotional materials, which CITRUS HEALTH prepares regarding the program, shall indicate SBBC is providing the educational component of the program.

2.21 **Facilities and Safety Requirements.**

(a) The facility shall be provided and maintained by CITRUS HEALTH and shall be located at 8400 South Palm Drive, Pembroke Pines, FL 33025, or at another site approved by the Superintendent's designee.

(b) CITRUS HEALTH facility shall be in compliance with the Americans with Disabilities Act (ADA) requirements for students with disabilities.

(c) CITRUS HEALTH shall comply with the facility safety requirements embodied in the State Uniform Building Code for Public Educational Facilities and the Florida Department of Education's State Requirements for Educational Facilities (SREF) 1999, especially those pertaining to fire safety, storage of hazardous materials, exit marking, lighting, ventilation, evacuation and occupancy loads. Student classrooms shall provide a minimum of twenty-five usable square feet per pupil. Instructional personnel shall be provided adequate space for a desk, file cabinets, instructional materials, and secure storage of SBBC owned equipment and confidential documents, such as student tests and records.

(d) CITRUS HEALTH shall maintain buildings used to house students in a state of good and clean repair and submit to SBBC inspections upon request.

2.22 **Staff Safety and Security.** CITRUS HEALTH shall provide training on procedures for all drills, facility emergencies, fire, lockdown, tornado, and evacuation. Evacuations shall be posted in conspicuous locations throughout the facility. In the event of a serious threat or harm to SBBC personnel, the Superintendent's designee, the SBBC's Supervising Principal, has the authority to suspend educational services for up to ten (10) calendar days to allow for SBBC and CITRUS HEALTH to address and resolve the emergency situation.

2.23 **Furniture and Equipment.** SBBC shall provide teacher and student furniture and equipment, including computers for students, as approved by the Superintendent's designee.

2.24 **Testing and Staffing Room.** CITRUS HEALTH shall make available a quiet, private room, with Internet access, for SBBC-sponsored psychological evaluations and ESE staffings. This room shall be dedicated for SBBC use; however, CITRUS HEALTH shall use it for their purposes when SBBC is not using it.

2.25 **Telephone Service.** CITRUS HEALTH shall provide a dedicated telephone line, at no cost to SBBC, for an SBBC provided telephone facsimile machine for SBBC use only. SBBC personnel shall be afforded unlimited private access to a telephone for official school-related business. In addition, CITRUS HEALTH shall provide telephone lines, at no cost to SBBC, for instructional telecommunications/web-based purposes at mutually agreed-upon locations.

2.26 **Damaged Property.** CITRUS HEALTH shall provide SBBC with adequate facilities to lock SBBC property in each classroom. SBBC is responsible for locking up its property at the close of each school day. In the event SBBC locks up its property and, thereafter damage or loss to such property occurs, CITRUS HEALTH shall reimburse SBBC. CITRUS HEALTH shall be billed by SBBC for repair or replacement cost. CITRUS HEALTH shall make such remuneration within thirty (30) calendar days of billing.

2.27 **Certificates.** CITRUS HEALTH shall maintain current sanitation, health and fire inspection certificates for all buildings as part of its educational program. CITRUS HEALTH shall conduct monthly fire drills and submit documentation of these drills to the Superintendent or his designee.

2.28 **Transportation.** Only SBBC approved vehicles shall be used to transport students during the school day for school-sponsored activities.

2.29 **Attendance.** CITRUS HEALTH shall comply with SBBC's attendance policy as described in the Elementary and Secondary Code of Student Conduct in order to prevent truancy and promote school attendance.

2.30 **Immunization.** CITRUS HEALTH shall comply with the State of Florida immunization requirements as described in the Code of Student Conduct. Compliance with the current schedule of immunizations is required to be admitted to school or to attend classes.

2.31 **Behavior Management.** CITRUS HEALTH shall have a member within each classroom at all times, to provide management of student behavior and to ensure the safety of students and SBBC personnel. CITRUS HEALTH shall, at all times, adhere to the staff/youth population ratio as specified in their operational guidelines. CITRUS HEALTH shall provide to SBBC a copy of their behavior management plan by July 1, 2020.

2.32 **Grievance Procedure.** In the event that a dispute arises under this Agreement, the parties agree, but is not limited to, to the following dispute resolution measures:

- (a) Resolution of the dispute at the Exceptional Student Education Director level.
- (b) Resolution of the dispute at the Chief Academic Office level or designee
- (c) Resolution of the dispute by the Superintendent of Schools or designee.
- (d) In the event such efforts do not resolve the dispute, the aggrieved party may take such action as it deems appropriate.

2.33 **Educational Funding.** Student enrollment shall be reported in the July, October, February, and June FTE surveys. CITRUS HEALTH shall make every effort no to move students out of the facility during FTE survey weeks, except in such cases where moves are mandated by the courts. SBBC shall notify CITRUS HEALTH of FTE survey weeks.

2.34 **Insurance Requirements.** CITRUS HEALTH shall comply with the following insurance requirements throughout the term of this Agreement:

(a) General Liability. CITRUS HEALTH shall maintain General Liability insurance during the term of this Agreement with limits not less than \$1,000,000 per occurrence for Bodily Injury/ Property Damage; \$1,000,000 General Aggregate; and limits not less than \$1,000,000 for Products/Completed Operations Aggregate.

(b) Medical Professional Liability/Errors & Omissions. CITRUS HEALTH shall maintain Professional Liability/Errors & Omissions insurance during the term of this Agreement with a limit of not less than \$1,000,000 per occurrence covering services provided under this Agreement.

(c) Workers' Compensation. CITRUS HEALTH shall maintain Workers' Compensation insurance during the term of this Agreement in compliance with the limits specified in Chapter 440, Florida Statutes, and Employer's Liability limits shall not be less than \$100,000/\$100,000/\$500,000 (each accident/disease-each employee/disease-policy limit).

(d) Auto Liability. CITRUS HEALTH shall maintain Owned, Non-Owned and Hired Auto Liability insurance with Bodily Injury and Property Damage limits of not less than \$1,000,000 Combined Single Limit.

(e) Acceptability of Insurance Carriers. The insurance policies required under this Agreement shall be issued by companies qualified to do business in the State of Florida and has a rating of at least A- VI by AM Best or Aa3 by Moody's Investor Service.

(f) Verification of Coverage. Proof of the required insurance shall be furnished by CITRUS HEALTH to SBBC's Risk Management Department by Certificate of Insurance within fifteen (15) calendar days of the date of this Agreement. To streamline this process, SBBC has partnered with EXIGIS Risk Management Services to collect and verify insurance documentation. All certificates (and any required documents) shall be received and approved by SBBC's Risk Management Department before any work commences to permit CITRUS HEALTH to remedy any deficiencies. CITRUS HEALTH shall verify its account information and provide contact details for its Insurance Agent via the link provided to it by email.

(g) Required Conditions. Liability policies shall include the following terms on the Certificate of Insurance:

- 1) The School Board of Broward County, Florida, its members, officers, employees, and agents are added as additional insured.
- 2) All liability policies are primary of all other valid and collectible coverage maintained by The School Board of Broward County, Florida.
- 3) Certificate Holder: The School Board of Broward County, Florida, c/o EXIGIS Risk Management Services, P.O. Box 4668-ECM, New York, New York 10163-4668.

(h) Cancellation of Insurance. CITRUS HEALTH is prohibited from providing services under this Agreement with SBBC without the minimum required insurance coverage and shall notify SBBC within two (2) business days if required insurance is canceled.

(i) SBBC reserves the right to review, reject or accept any required policies of insurance, including limits, coverage or endorsements, herein throughout the term of this Agreement.

2.35 **Background Screening.** CITRUS HEALTH shall comply with all requirements of Sections 1012.32, 1012.465, 1012.467, and 1012.468 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 CITRUS HEALTH or its personnel providing any services under the conditions described in the previous sentence. CITRUS HEALTH 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 CITRUS HEALTH and its personnel. The parties agree that the failure of CITRUS HEALTH 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. CITRUS HEALTH 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 CITRUS HEALTH's failure to comply with the requirements of this section or with Sections 1012.32, 1012.465, 1012.467, and 1012.468, Florida Statutes.

2.36 **Inspection of CITRUS HEALTH's Records by SBBC.** CITRUS HEALTH 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 CITRUS HEALTH's applicable 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 the applicable business records of CITRUS HEALTH directly relating to this Agreement in order to verify the accuracy of invoices provided to SBBC. Such audit shall be no more than one (1) time per calendar year.

(a) **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 CITRUS HEALTH'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 CITRUS HEALTH pursuant to this Agreement.

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

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

(d) Failure to Permit Inspection. Failure by CITRUS HEALTH 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 SBBC's denial of some or all of any CITRUS HEALTH's claims for payment.

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

(f) Inspection of Subcontractor's Records. If applicable, CITRUS HEALTH 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 CITRUS HEALTH 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 Payees' costs from amounts payable by SBBC to CITRUS HEALTH pursuant to this Agreement and such excluded costs shall become the liability of CITRUS HEALTH.

(g) Inspector General Audits. CITRUS HEALTH 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.

2.37 Notice. When any of the parties desire to give notice to the other, such notice shall 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 Southeast Third Avenue
Fort Lauderdale, Florida 33301

With a Copy to: Executive Director
Exceptional Student Learning Support
The School Board of Broward County, Florida
Arthur Ashe Administrative Center
1701 NW 23rd Avenue, Room 277
Fort Lauderdale, FL 33311

To CITRUS HEALTH: Mario-E. Jardon, President & CEO
Citrus Health Network, Inc.
4175 West 20th Avenue
Hialeah, FL 33012-5875

With a Copy to: Gisela Suarez, Site Administrator
Citrus Health Network, Inc.
8400 South Palm Drive
Pembroke Pines, FL 33025

2.38 **Public Records.** The following provisions are required by Section 119.0701, Florida Statutes, and shall not be amended. CITRUS 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, CITRUS 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. CITRUS 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 CITRUS HEALTH does not transfer the public records to SBBC. Upon completion of the Agreement, CITRUS HEALTH shall transfer, at no cost, to SBBC all public records in possession of CITRUS HEALTH or keep and maintain public records required by SBBC to perform the services required under the Agreement. If CITRUS HEALTH transfer all public records to SBBC upon completion of the Agreement, CITRUS HEALTH shall destroy any duplicate public records that are exempt or confidential and exempt from public records disclosure requirements. If CITRUS HEALTH keeps and maintains public records upon completion of the Agreement, CITRUS HEALTH shall meet all applicable requirements for retaining public records. All records stored electronically shall 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, RECORDREQUESTS@BROWARDSCHOOLS.COM, RISK MANAGEMENT DEPARTMENT, PUBLIC RECORDS DIVISION, 600 SOUTHEAST THIRD AVENUE, FORT LAUDERDALE, FLORIDA 33301

2.39 **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.

2.40 **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, up to the limits of Section 768.28, Florida Statutes, for any damages resulting from said negligence.

(b) By CITRUS HEALTH. CITRUS HEALTH 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 shall 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 CITRUS HEALTH, its agents, servants or employees; the equipment of CITRUS HEALTH, its agents, servants or employees while such equipment is on premises owned or controlled by SBBC; or the negligence of CITRUS HEALTH or the negligence of CITRUS HEALTH'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 CITRUS HEALTH, SBBC or otherwise.

2.41 **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.

2.42 **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.

2.43 **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

2.44 **Incorporation by Reference.** Attachment A, Attachment B, Attachment C, and Attachment D attached hereto and referenced herein shall be deemed to be incorporated into this Agreement by reference.

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 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, contributions to unemployment compensation funds or insurance for the other party or the other party's officers, employees, agents, subcontractors or assignees.

3.04 **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) calendar days written notice to cure the default. However, in the event said default cannot be cured within said thirty (30) calendar 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) calendar 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.

3.05 **Termination.** This Agreement may be canceled with or without cause by SBBC during the term hereof upon thirty (30) calendar days written notice to the other parties of its desire to terminate this Agreement.

3.06 **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.

3.07 **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.

3.08 **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 exclusively to the jurisdiction of the State courts of the Seventeenth Judicial Circuit of Broward County, Florida or to the jurisdiction of the United States District Court for the Southern District of Florida. Each party agrees and admits that the state courts of the Seventeenth Judicial Circuit of Broward County, Florida or the United States District Court for the Southern District of Florida shall have jurisdiction over it for any dispute arising under this Agreement.

3.09 **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.

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

3.11 **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.

3.12 **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.

3.13 **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.

3.14 **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.

3.15 **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.

3.16 **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.

3.17 **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.

3.18 **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.

3.19 **Agreement 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.

3.20 **Counterparts and Multiple Originals.** This Agreement may be executed in multiple originals, and may be executed in counterparts, each of which shall be deemed to be an original, but all of which, taken together, shall constitute one and the same Agreement.

3.21 **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.

[THIS SPACE INTENTIONALLY LEFT BLANK; SIGNATURE PAGES FOLLOW]

FOR SBBC

(Corporate Seal)

THE SCHOOL BOARD OF BROWARD
COUNTY, FLORIDA

ATTEST:

By _____
Donna P. Korn, Chair

Robert W. Runcie, Superintendent of Schools

Approved as to Form and Legal Content:

Kathelyn Jacques-Adams

Digitally signed by Kathelyn Jacques-Adams, Esq. -
kathelyn.jacques-adams@gbrowardschools.com
Reason: Citrus Health Network, Inc. - ESE services
Date: 2020.06.11 11:38:30 -04'00'

Office of the General Counsel

[THIS SPACE INTENTIONALLY LEFT BLANK; SIGNATURE PAGE FOLLOWS]

FOR: CITRUS HEALTH

(Corporate Seal)

CITRUS HEALTH NETWORK, INC.

ATTEST:

By Mario Jardim

Print Name: Mario Jardim

Print Title: President and CEO

_____, 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 Miami Dade

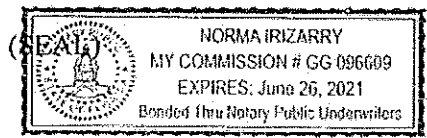
The foregoing instrument was acknowledged before me by means of physical presence or online notarization, this 5 of June 2020 (date) by Mario Jardim (name of officer or agent, title of officer or agent) of Citrus Health Network, Inc. (name of corporation acknowledging), a FLORIDA (state or place of incorporation) corporation, on behalf of the corporation. He/she is personally known to me or has produced [Signature] (type of identification) as identification and who did/ did not first take an oath this 5 day of June, 2020.

My Commission Expires:

[Signature]
Signature - Notary Public

NORMA IRIZARRY
Notary's Printed Name

GG 096609
Notary's Commission No.



ATTACHMENT A



2020 – 2021 SCHOOL CALENDAR

August 2020

Wednesday, August 12, 2020 through Tuesday, August 18, 2020 – No School for Students
Wednesday, August 19, 2020 – First Day of School

September 2020

Monday, September 7, 2020 – Schools and Administrative Offices Closed
Friday, September 11, 2020 – Interim Reports Issued
Monday, September 28, 2020 - Schools and Administrative Offices Closed

October 2020

Friday, October 16, 2020 - Early Release Day
Monday, October 19, 2020 - Employee Planning (no school for students)

November 2020

Tuesday, November 3, 2020- Employee Planning (no school for students)
Wednesday, November 11, 2020 - Schools and Administrative Offices Closed
Thursday, November 12, 2020 - Report Cards Issued
Tuesday, November 17, 2020- Interim Reports Issued
Monday, November 23 through Friday, November 27, 2020 - School Thanksgiving Break

December 2020

Monday, December 21, 2020 through January 1, 2021 - School Winter Break

January 2021

Thursday, January 7, 2021 - Early Release Day
Friday, January 8, 2021 - Employee Planning (no school for students)
Monday, January 18, 2021 - Schools and Administrative Offices Closed

February 2021

Wednesday, February 3, 2021 - Report Cards Issued
Tuesday, February 9, 2021 - Interim Reports Issued
Monday, February 15, 2021 - Schools and Administrative Offices Closed
Thursday, February 18, 2021 - Early Release Day

ATTACHMENT A



2020 – 2021 SCHOOL CALENDAR

March 2021

Thursday, March 18, 2021 - Early Release Day

Friday, March 19, 2021 - Employee Planning (no school for students)

Monday, March 22, 2021, through Friday, March 26, 2021 - School Spring Break

April 2021

Friday, April 2, 2021 - Schools and Administrative Offices Closed

Thursday, April 8, 2021 - Early Release Day

Wednesday, April 14, 2021 - Report Cards Issued

Thursday, April 29, 2021 - Interim Reports Issued

May 2021

Monday, May 31, 2021 - Schools and Administrative Offices Closed

June 2021

Wednesday, June 9, 2021 - Last Day of School

Wednesday, June 9, 2021 - Early Release Day

Thursday, June 10, 2021 - Employee Planning (no school for students)

Wednesday, June 30, 2021 - Report Cards Issued

Hurricane makeup days in order of preference:

Friday, October 16, 2020

Thursday, January 7, 2021

Thursday, February 18, 2021

Thursday, March 18, 2021

Thursday, April 8, 2021

Wednesday, June 9, 2021

ATTACHMENT B
HIPAA BUSINESS ASSOCIATE AGREEMENT

This Business Associate Agreement ("*Agreement*") is made and entered into as of this _____ day of _____, 2020 the "*Effective Date*", by and between

THE SCHOOL BOARD OF BROWARD COUNTY, FLORIDA
(hereinafter referred to as "*SBBC*" or "*Covered Entity*"),
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

CITRUS HEALTH NETWORK, INC.
(hereinafter referred to as "*Business Associate*"),
a Florida Not for Profit Corporation whose principal place of business is
4175 West 20th Avenue
Hialeah, FL 33102.

WHEREAS, by virtue of some of the services that Business Associate performs for SBBC, Business Associate may be a "business associate," as that term is defined in 45 C.F.R. §160.103; and

WHEREAS, SBBC and Business Associate may share Protected Health Information ("*PHI*") (as defined below) in the course of their relationship; and

WHEREAS, SBBC and Business Associate understand that, with respect to coverages subject to regulation under the Health Insurance Portability and Accountability Act of 1996 ("*HIPAA*"), they are subject to the requirements governing business associates, including but not limited to the Privacy Rule and the Security Rule (both defined below) of HIPAA, the Health Information Technology for Economic and Clinical Health Act of 2009 ("*HITECH*"), the Omnibus Rule of 2013, and applicable Florida law, any of which may be amended from time to time or supplemented by new legislation or guidance (hereinafter collectively referred to as "*Business Associate Requirements*"); and

WHEREAS, SBBC and Business Associate intend to fully comply with current and future Business Associate requirements and mutually desire to outline their individual responsibilities with respect to Protected Health Information ("*PHI*") as mandated by the "Privacy Rule", the "Security Rule", and the HITECH Act; and

WHEREAS, SBBC and Business Associate understand and agree that the Business Associate requirements require SBBC and Business Associate to enter into a Business Associate Agreement which shall govern the use and/or disclosure of PHI and the security of Electronic PHI "*ePHI*".

NOW, THEREFORE, the parties hereto agree as follows:

ARTICLE 1 – RECITALS

1. **Definitions**. When used in this Agreement and capitalized, the following terms have the following meanings:
 - (a) "*Breach*" has the same meaning as that term is defined in §13400 of the HITECH Act and shall include the unauthorized acquisition, access, use, or disclosure of PHI that compromises the security or privacy of such information.

ARTICLE 1 – RECITALS

- (b) "**Business Associate**" shall mean Business Associate named above and shall include all successors, assigns, affiliates, subsidiaries, and related companies.
- (c) "**Designated Record Set**" has the same meaning as the term "designated record set" in 45 CFR §164.501, which includes enrollment, payment, billing, claims adjudication and case or medical management record systems maintained by or for a health plan, or other information used in whole or part by or for the Plan to make decisions about individuals.
- (d) "**EDI Rule**" shall mean the Standards for Electronic Transactions as set forth at 45 CFR Parts 160, Subpart A and 162, Subpart A and I through R.
- (e) "**Electronic PHI**" or "ePHI", shall mean PHI that is transmitted by or maintained in electronic media.
- (f) "**HIPAA**" means the Health Insurance Portability and Accountability Act of 1996.
- (g) "**HITECH Act**" means the Health Information Technology for Economic and Clinical Health Act of 2009.
- (h) "**Individual**" shall have the same meaning as the term "Individual" in 45 C.F.R. §160.103 and shall include a person who qualifies as a personal representative in accordance with 45 C.F.R. §164.502(g).
- (i) "**Minimum Necessary**" means the least amount of PHI needed to accomplish the intended purpose of the use or disclosure.
- (j) "**Omnibus Rule**" means the HIPAA Omnibus Rule of 2013.
- (k) "**Privacy Rule**" shall mean the Standards for Privacy of Individually Identifiable Health Information as set forth in 45 C.F.R. Parts 160 and 164, subparts A and E.
- (l) "**Protected Health Information**" or "**PHI**" shall have the same meaning as the term "protected health information" in 45 C.F.R. §160.103 (as amended by the HITECH Act) limited to the information created or received by Business Associate from or on behalf of SBBC.
- (m) "**Required by Law**" shall have the same meaning as the term "required by law" in 45 C.F.R. §164.103.
- (n) "**Secretary**" shall mean the Secretary of the Department of Health and Human Services or his or her designee.
- (o) "**Security Rule**" shall mean the Standards for Security of ePHI as set forth in 45 C.F.R. Parts 160 and 164 Subpart C.
- (p) "**Unsecured PHI**" shall mean PHI that is not secured through the use of a technology or methodology specified by the Secretary in guidance or as otherwise defined in §13402(h) of the HITECH Act.

Terms used but not defined in this Agreement shall have the same meaning as those terms in 45 C.F.R. §§ 164.103 and 164.501 and the HITECH Act.

ARTICLE 2 – SPECIAL CONDITIONS

2. Obligations and Activities of Business Associate Regarding PHI.

- (a) Business Associate agrees to not use or further disclose PHI other than as permitted or required by this Agreement or as Required by Law.
- (b) Business Associate agrees to comply with the “Minimum Necessary” rule when using, disclosing, or requesting PHI, except when a specific exception applies under HIPAA or the HITECH Act.
- (c) Business Associate agrees to use appropriate safeguards and comply, where applicable, with the HIPAA Security Rule to prevent use or disclosure of the PHI other than as provided for by this Agreement.
- (d) Business Associate agrees to report to SBBC, as soon as reasonably practicable, any impermissible use or disclosure of PHI it becomes aware of, and any use or disclosure of PHI not provided for by this Agreement. Any report of breach should be in substantially the same form as Exhibit A hereto.
- (e) Business associate shall promptly inform SBBC of a Breach of Unsecured PHI within the next business day of when Business Associate knows of such Breach
- (f) For the Breach of Unsecured PHI in its possession:
 - 1. Business Associate will perform a Risk Assessment to determine if there is a low probability that the PHI has been compromised. Business Associate will provide SBBC with documentation showing the results of the Risk Assessment. The Risk Assessment will consider at minimum the following factors:
 - a. The nature and extent of the PHI involved, including the types of identifiers and the likelihood of re-identification;
 - b. The unauthorized person who used the PHI or to whom the disclosure was made;
 - c. Whether the PHI was actually acquired or viewed; and
 - d. The extent to which the risk to the PHI has been mitigated.
 - 2. Business Associate will prepare and distribute, at its own cost, any and all required notifications under Federal and Florida law, or reimburse SBBC any direct costs incurred by SBBC for doing so.
 - 3. Business Associate shall be responsible for all fines or penalties incurred for failure to meet Breach notice requirements pursuant to Federal and/or Florida law.

ARTICLE 2 – SPECIAL CONDITIONS

- (g) Business Associate agrees to ensure that, and obtain assurance from, any and all agents, including sub-contractors (excluding entities that are merely conduits), to whom it provides PHI, to agree to the same restrictions and conditions that apply to Business Associate with respect to such information. All agents and subcontractors engaged by the Business Associate that create, maintain, receive or transmit PHI must comply with the HIPAA Rules, including the rules to extend the requirements to the agent's or subcontractor's subcontractors.
- (h) Business Associate agrees to provide SBBC access, at the request of SBBC, and in the time and manner designated by SBBC, to PHI in a Designated Record Set, in order for SBBC to meet the requirements under 45 C.F.R. § 164.524.
- (i) Business Associate agrees to amend PHI in a Designated Record Set at SBBC's, or an Individual's, direction pursuant to 45 C.F.R. § 164.526, in the time and manner designated by SBBC. Business Associate agrees to make internal practices, policies, books and records relating to the use and disclosure of PHI available to SBBC, or at the request of SBBC to the Secretary, in a time and manner as designated by SBBC or the Secretary, for purposes of the Secretary determining SBBC's compliance with the Privacy Rule. Business Associate shall immediately notify SBBC upon receipt or notice of any and all requests by the Secretary to conduct an investigation with respect to PHI received from SBBC.
- (j) Business Associate agrees to document any and all disclosures of PHI and information related to such disclosures that are not excepted under 45 C.F.R. § 164.528(a)(1) as would be reasonably required for SBBC to respond to a request by an Individual for an accounting of disclosures of PHI in accordance with 45 C.F.R. § 164.528.
- (k) Business Associate agrees to provide to SBBC or an Individual, in a time and manner designated by SBBC, information collected in accordance with paragraph (j) above, to permit SBBC to respond to a request by an Individual for an accounting of disclosures of PHI in accordance with 45 C.F.R. § 164.528.
- (l) Business Associate agrees to use or disclose PHI pursuant to the request of SBBC; provided, however, that SBBC shall not request Business Associate to use or disclose PHI in any manner that would not be permissible under the Privacy Rule if done by SBBC.
- (m) Business Associate agrees to mitigate, to the extent practicable, any and all harmful effects that are known to Business Associate of a use or disclosure of PHI, or a Breach of Unsecured PHI, by Business Associate in violation of the requirements of this Agreement, the Privacy Rule, the Security Rule, the HITECH Act or HIPAA generally.
- (n) Business Associate shall provide SBBC with a copy of any notice of privacy practices it produces in accordance with 45 C.F.R. § 164.520, as well as any and all changes to such notice.
- (o) Business Associate, if performing a function that applies to Covered Entity, agrees to comply with the requirements that apply to the Covered Entity.

ARTICLE 2 – SPECIAL CONDITIONS

3. Permitted Uses and Disclosures of PHI by “Business Associate”.

- (a) Except as otherwise limited by this Agreement, Business Associate may use or disclose PHI to perform functions, activities or services for, or on behalf of, SBBC pursuant to any Agreements for services between the parties provided that such use or disclosure would not violate the Privacy Rule if done by SBBC.
- (b) Except as otherwise limited by this Agreement, Business Associate may use PHI for the proper management and administration of Business Associate and to carry out the legal responsibilities of Business Associate.
- (c) Except as otherwise limited by this Agreement, Business Associate may disclose PHI for the proper management and administration of Business Associate and to carry out the legal responsibilities of Business Associate if: (i) such disclosure is Required by Law, or (ii) Business Associate obtains reasonable assurances from the person to whom the information is disclosed that such information will remain confidential and used or further disclosed only as Required by Law or for the purposes for which it was disclosed to the person, and the person agrees to notify Business Associate of any and all instances of which it is aware that the confidentiality of the information has been breached.
- (d) Except as otherwise limited by this Agreement, Business Associate may use PHI to provide Data Aggregation services to SBBC as permitted by 42 C.F.R. § 164.504(e)(2)(i)(B).

4. Obligations of SBBC Regarding PHI.

- (a) SBBC shall provide Business Associate with the notice of privacy practices that SBBC produces in accordance with 45 C.F.R. § 164.520, as well as any changes to such notice.
- (b) SBBC shall provide Business Associate with any and all changes in, or revocation of, authorization by an Individual to use or disclose PHI, if such changes affect Business Associate’s permitted or required uses and disclosures.
- (c) SBBC shall notify Business Associate of any and all restrictions to the use or disclosure of PHI that SBBC has agreed to in accordance with 45 C.F.R. § 164.522.
- (d) SBBC and its representatives shall be entitled to audit Business Associate from time-to-time to verify Business Associate’s compliance with the terms of this Agreement. SBBC shall provide Business Associate written notice at least ten (10) business days prior to the audit described in this paragraph. SBBC shall be entitled and enabled to inspect the records and other information relevant to Business Associate’s compliance with the terms of this Agreement. SBBC shall conduct its review during the normal business hours of Business Associate, as the case may be, and to the extent feasible without unreasonably interfering with Business Associate’s normal operations.

5. Security of Electronic Protected Health Information.

- (a) Business Associate has implemented policies and procedures to ensure that its receipt, maintenance, or transmission of “electronic protected health information” (as defined in 45 C.F.R. §160.103) (“ePHI”) on behalf of SBBC complies with the applicable administrative, physical, and technical safeguards required for protecting the confidentiality and integrity of ePHI in 45 C.F.R. Part 160 and 164 subpart C.

ARTICLE 2 – SPECIAL CONDITIONS

- (b) Business Associate agrees that it will ensure that its agents or subcontractors agree to implement the applicable administrative, physical, and technical safeguards required to protect the confidentiality and integrity of ePHI pursuant to 45 C.F.R. Part 164.
- (c) Business Associate agrees to report to SBBC all Security Incidents (as defined by 45 C.F.R. Part 164.304 and in accordance with applicable Florida law) of which it becomes aware. Business Associate agrees to report the Security Incident to SBBC as soon as reasonably practicable, but not later than 10 business days from the date the Business Associate becomes aware of the incident.
- (d) SBBC agrees and understands that SBBC is independently responsible for the security of ePHI in its possession or for ePHI that it receives from outside sources including Business Associate.

6. Compliance with EDI Rule.

Business Associate agrees that it will comply with all applicable EDI standards. Business Associate further agrees that it will use its best efforts to comply with all applicable regulatory provisions in addition to the EDI Rule and the Privacy Rule that are promulgated pursuant to the Administrative Simplification Subtitle of HIPAA.

7. Subsequent Legislative or Regulatory Changes.

Any and all amendments to the laws or regulations affecting the Privacy Rule, Security Rule, the HITECH Act, Omnibus Rule, or HIPAA shall be deemed to amend this Agreement and be incorporated without further action of the parties.

8. Amendment.

The parties shall amend this Agreement, as is necessary, so that SBBC remains in compliance with any future changes to the Privacy Rule, the Security Rule, the HITECH Act and HIPAA. The parties may amend this Agreement for any other reasons as they deem appropriate. This Agreement shall not be amended except by written instrument executed by the parties.

9. Term and Termination.

- (a) *Term.* This Agreement shall be effective upon the execution of all parties and shall remain in effect until such time as SBBC exercises its rights of termination under section 9(b) or 9(c) and until the requirements of Section 9(d) below are satisfied. The rights and obligations of Business Associate under Section 9(d) shall survive termination of this Agreement.
- (b) *Termination for Convenience.* This Agreement may be terminated without cause and for convenience by SBBC during the term thereof upon thirty (30) days written notice to Business Associate.
- (c) *Termination for Cause by SBBC.* Upon SBBC's knowledge of a material breach by Business Associate, SBBC shall provide an opportunity for Business Associate to cure the breach. If Business Associate does not cure the breach within thirty (30)-days from the date that SBBC provides notice, SBBC shall have the right to terminate this Agreement, the Service Agreement, or both, by providing thirty (30) days advance written notice of such termination to Business Associate.

ARTICLE 2 – SPECIAL CONDITIONS

SBBC may terminate this Agreement without penalty or recourse to SBBC if SBBC determines that Business Associate has violated a material term of this Agreement.

Upon Business Associate knowledge of a material breach by SBBC, Business Associate shall provide an opportunity for SBBC to cure the breach. If SBBC does not cure the breach within thirty (30) days of the date that Business Associate provides notice of such breach to SBBC, Business Associate shall have the right to terminate this Agreement, the Service Agreement, or both, by providing thirty (30) days advance written notice of such termination to SBBC.

- (d) *Effect of Termination.* Upon termination of this Agreement for any reason, Business Associate shall return or destroy all PHI received from SBBC, or created or received by Business Associate on behalf of SBBC. Business Associate shall not retain any copies of the PHI except to the extent that the destruction or return of the PHI is infeasible. Business Associate shall provide to SBBC written notification of the conditions that make return or destruction of the PHI infeasible. If it is determined by SBBC that the return or destruction of PHI is infeasible, Business Associate shall extend the protections of this Agreement to such PHI and limit further uses and disclosures of such PHI to those purposes that SBBC explicitly authorizes in writing for so long as Business Associate maintains such PHI.

10. Indemnification.

- (a) By SBBC: SBBC agrees to be fully responsible for its acts of negligence or its agent's 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 Business Associate: Business Associate 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 cost, court costs and all other sums which SBBC, its agents, servants and employees must 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 Business Associate, its agents, servants or employees; the equipment of Business Associate, its agents, servants or employees while such equipment is on premises owned or controlled by SBBC; or the negligence of Business Associate's agents when acting within the scope of their employment or agency, whether such claims, judgments, costs and expenses be for damages, damage to property including Business Associate's property, and injury or death of any person whether employed by Business Associate, SBBC or otherwise.

11. No Waiver of Sovereign Immunity.

Nothing contained 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 as a waiver of limits to liability or rights existing under Section 768.28, Florida Statutes.

ARTICLE 3 – GENERAL CONDITIONS

12. 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. 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.

13. Non-Discrimination.

The parties shall not discriminate against any employee or participant in the performance of the duties, responsibilities and obligations under this Agreement because of age, color, disability, gender identity, gender expression, national origin, marital status, race, religion, sex or sexual orientation.

14. Records.

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.

15. 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.

16. 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. A waiver of any breach of a provision of this Agreement shall not be deemed a waiver of any subsequent breach and shall not be construed to be a modification of the terms of this Agreement.

17. Compliance with Laws.

Each party shall comply with all applicable federal and state laws, codes, rules and regulations in performing its duties, responsibilities and obligations pursuant to this Agreement.

18. Binding Effect.

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

19. 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.

ARTICLE 3 – GENERAL CONDITIONS

20. 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.

21. 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.

22. Notices.

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 Southeast 3rd Avenue
Fort Lauderdale, Florida 33301

With a Copy to: Executive Director
Exceptional Student Learning Support
The School Board of Broward County, Florida
Arthur Ashe Campus
1701 NW 23rd Avenue, Room 277
Fort Lauderdale, FL 33311

Privacy Officer
Risk Management Department
The School Board of Broward County, Florida
600 S.E. 3rd Avenue, 11th Floor
Ft. Lauderdale, FL 33301

To Business Associate : Mario E. Jardon, President & CEO
Citrus Health Network, Inc.
4175 West 20th Avenue
Hialeah, FL 33012-5875

With a Copy to: Gisela Suarez, Site Administrator
Citrus Health Network, Inc.
8400 South Palm Drive
Pembroke Pines, FL 33025

ARTICLE 3 – GENERAL CONDITIONS

23. Severability.

In case any one or more of the provisions contained in this Agreement shall for any reason be held to be invalid, illegal, unlawful, unenforceable or void in any respect, the invalidity, illegality, unenforceability or unlawful or void nature of that provision shall not affect any other provision and this Agreement shall be considered as if such invalid, illegal, unlawful, unenforceable or void provision had never been included herein.

24. Captions.

The captions, section numbers, title and headings appearing in this Agreement are inserted only as a matter of convenience 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.

25. 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.

26. No Waiver of Rights, Powers and Remedies.

The parties agree that each requirement, duty, right 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.

27. Regulatory References.

A reference in this Agreement to any part of the Privacy Rule, the Security Rule, the HITECH Act, or HIPAA shall refer to the most current form of legislation, and shall incorporate any future amendments.

28. Governing Law.

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.

29. Entire Agreement.

This Agreement 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 Agreement. Accordingly, the parties agree that no deviation from the terms hereof shall be predicated upon any prior representations or agreements, whether oral or written.

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 _____
Donna P. Korn, 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: Citrus Health Network, Inc. - ESE services
Date: 2020.06.11 11:39:00 -04'00'

Office of the General Counsel

[THIS SPACE IS INTENTIONALLY LEFT BLANK; SIGNATURE PAGE TO FOLLOW]

FOR BUSINESS ASSOCIATE

CITRUS HEALTH NETWORK, INC.

Mario Jardon By: Mario Jardon, CEO
Signature Print Name and Title

Malborso COO
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 Miami Dade

The foregoing instrument was acknowledged before me by means of physical presence or online notarization, this 5th June 2020 (date) by Mario Jardon (name of officer or agent, title of officer or agent) of Citrus Health Network, Inc (name of corporation acknowledging), a FLORIDA (state or place of incorporation) corporation, on behalf of the corporation. He/she is personally known to me or has produced _____ (type of identification) as identification and who did/ did not first take an oath this 5 day of June, 2020.

My Commission Expires:

[Signature]
Signature - Notary Public

Norma Trimmery
Notary's Printed Name

GG 096609
Notary's Commission No.

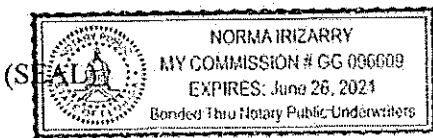


EXHIBIT A

**NOTIFICATION TO THE SCHOOL BOARD OF BROWARD COUNTY,
FLORIDA ABOUT A BREACH OF UNSECURED PROTECTED HEALTH
INFORMATION**

This notification is made pursuant to Section 2(d) of the Business Associate Agreement between THE SCHOOL BOARD OF BROWARD COUNTY, FLORIDA ("SBBC") and _____

(Business Associate).

Business Associate hereby notifies SBBC that there has been a breach of unsecured (unencrypted) protected health information (PHI) that Business Associate has used or has had access to under the terms of the Business Associate Agreement.

Description of the breach: _____

Date or date range of the breach: _____

Date of the discovery of the breach: _____

Number of individuals affected by the breach: _____

The types of unsecured PHI that were involved in the breach (such as full name, Social Security number, date of birth, home address, account number, or disability code): _____

Description of what Business Associate is doing to investigate the breach, to mitigate losses, and to protect against any further breaches: _____

Recommended steps the individuals whose information was breached should take to protect themselves from potential harm resulting from the breach: _____

Contact information to ask questions or learn additional information:

Name: _____

Title: _____

Address: _____

Email Address: _____

Phone Number: _____

ATTACHMENT C

THE SCHOOL BOARD OF BROWARD COUNTY, FLORIDA
AUTHORIZATION FOR RELEASE AND/OR REQUEST
FOR INFORMATION

I hereby request and authorize: _____
(Name of Person, School, or Department)

_____ to engage
(Street Address) (City) (State) (Zip) (Telephone #)

in verbal and/or written communication with and release records to: _____
(Name of Person, Job Title and/or School/Agency/Entity)

(Street Address) (City) (State) (Zip) (Telephone #)

regarding the information checked below concerning my child* _____, whose
date of birth is _____. I understand that information concerning psychiatric, psychological, medical diagnosis,
drug or alcohol abuse, economic status, and educational information regarding my child will be released and/or
communicated if indicated below. I further understand that this information might contain information regarding my family,
in addition to my child.

- ___ Treatment Plans
___ Treatment / Discharge Summaries
___ Health / Medical Records
___ Case / Progress / Therapy Notes
___ Student Identification Number
Academic / School-related Records:
___ Grades
___ Test Scores
___ Attendance
___ Suspensions / Expulsions
___ Exceptional Student Education / Section 504 records
___ Other
___ Substance Abuse Treatment Records
___ Social and/or Developmental History
___ Psychological and/or Psychiatric Evaluations
___ Restorative Support Services
___ Social Support Services (Food, Clothing, Shelter)
___ Medical Services
___ HIV/AIDS test results or related conditions (to disclose or
receive this information, specific individuals must be named
above)

For the Purpose of: _____

I acknowledge that all information I authorize to be released or requested will be held strictly confidential and cannot
be released by the recipient without an additional written consent. I understand this authorization will expire one
(1) year after the date signed, or on _____, 20____, whichever is earlier. A copy of this authorization is
valid in lieu of the original. I further understand I may withdraw my consent in writing at any time.

Print Name of Parent / Guardian / Eligible Student _____ Signature of Parent / Guardian / Eligible Student _____ Date _____

Relationship to Child _____

*Eligible students (age 18 or over) may authorize the release of their education records.

(USE THIS SPACE IF CONSENT IS WITHDRAWN)

I hereby withdraw my previous consent to the release of information about my child.

Date Consent Is Withdrawn _____ Signature of Parent / Guardian / Eligible Student _____

Form #301
REV07/18
Risk Management

ATTACHMENT D

THE SCHOOL BOARD OF BROWARD COUNTY, FLORIDA BEHAVIORAL HEALTH PARTNERSHIP PROGRAM STUDENT REFERRAL FORM

School staff: Please use this form when referring students to approved Behavioral Health Partnership agencies for in-school services. Complete all requested information and forward to the appropriate agency with a signed Release of Information form. A list of the approved agencies is on the Behavioral Health Partnership Database at: http://www.broward.k12.fl.us/student-support/school_social_work_services/html/mhdatabase.htm

DATE of REFERRAL: _____

DATE SW Entered in the LPANEL _____

STUDENT NAME: STUDENT #: _____

D.O.B.: _____ GENDER: _____ RACE: _____

SCHOOL: _____ GRADE: _____

GUARDIAN'S NAME: _____ RELATIONSHIP _____

ADDRESS: _____

HOME PHONE #: _____ OTHER PHONE #: _____

REASON FOR REFERRAL (check all that apply):	Academic Risk	Peer Relationships
Over-age for grade	Conflict Resolution	Social Skills
Anger Management	Desire for Role Model	Drop Out Risk
Sub. Abuse Prevention	Truancy	Teacher Conflict
Suspensions	Family Issues	Violence Prevention
Excessive Referrals	Domestic Violence	Other High Risk Behaviors
Sexuality Issues		

OTHER / ADDITIONAL COMMENTS

LIST INTERVENTIONS ATTEMPTED TO THIS POINT AND THEIR OUTCOME.
(i.e. - calls home, parent conferences, multidisciplinary team referral, referrals for other counseling services, class change, etc.)

REFERRAL SOURCE NAME & POSITION: _____

BEHAVIORAL HEALTH PARTNER REFERRED TO: _____

Please attach signed Release of Information form to this referral.

To be completed by agency:

DATE AGENCY ACCEPTED CASE: _____

AGREEMENT

THIS AGREEMENT is made and entered into as of this ____ day of _____, 2020; 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

CHRISTINA G. SMITH COMMUNITY MENTAL HEALTH FOUNDATION, INC.

(hereinafter referred to as "SMITH COMMUNITY"),

a Florida Not for Profit Corporation whose principal place of business is
601 South State Road 7
Plantation, Florida 33317

WHEREAS, SBBC shall fulfill its constitutional obligation to educate children of compulsory school age; and

WHEREAS, SBBC has determined that some children need alternative settings and/or instructional strategies to achieve their educational goals; and

WHEREAS, SBBC shall provide teachers for all students (Kindergarten – 12th grade), Exceptional Student Education (ESE) services, psychological and related services, curriculum support, and administration and district support and supervision on-site at Smith Community location, to all SBBC students; and

WHEREAS, SMITH COMMUNITY accepts, as clients, children who are residents of the State of Florida and who are now enrolled in, or have applied for enrollment in educational programs under the jurisdiction of the SBBC; and

WHEREAS, SMITH COMMUNITY is designated by the SBBC as an approved deliverer of services to the youth services clients enrolled in or remanded to its program; and

WHEREAS, SBBC desires to provide an educational component as part of SMITH COMMUNITY'S program; and

WHEREAS, SMITH COMMUNITY operates the Day Treatment program.

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, 2020**, and conclude on **June 30, 2021**. The term of this Agreement includes a 180-day school term as approved by SBBC. Services shall be provided in accordance with the approved SBBC calendar, which is attached hereto as **Attachment A**.

2.02 **SBBC Disclosure of Education Records.**

(a) SBBC shall provide the types of education records listed in this section, pursuant to parental consent as listed in this section, for the purpose of SMITH COMMUNITY performing mental health counseling and substance abuse and related services to the students who enroll in their day treatment program.

(b) SBBC shall provide SMITH COMMUNITY with psychological records, documented disabilities, social, emotional, behavioral, academic records, Social Security Number, grades, progress notes and any other information necessary to enroll the student that the SMITH COMMUNITY serves, as long as the records are limited to the types of information SMITH COMMUNITY needs as related to the services SMITH COMMUNITY provides pursuant to this Agreement.

(c) SBBC shall obtain written consent from each student's parent/guardian or student age 18 or older prior to disclosing education records to SMITH COMMUNITY. Consent form shall list the types of educational records to be disclosed, purpose(s), and recipient.

2.03 **SMITH COMMUNITY Confidentiality of Education Records.**

(a) Notwithstanding any provision to the contrary within this Agreement, SMITH COMMUNITY shall:

- 1) fully comply with the requirements of Sections 1002.22, 1002.221, and 1002.222, Florida Statutes; the Family Educational Rights and Privacy Act, 20 U.S.C § 1232g (FERPA) and its implementing regulations (34 C.F.R. Part 99), and any other state or federal law or regulation regarding the confidentiality of student information and records;
- 2) hold any education records in strict confidence and not use or re-disclose same except as required by this Agreement or as required or permitted by law unless the parent of each student or a student age 18 or older whose education records are to be shared provides prior written consent for their release;
- 3) ensure that, at all times, all of its employees who have access to any education records during the term of their employment shall abide strictly be its obligations under this Agreement, and that access to education records is limited only to its employees that require the information to carry out the responsibilities under this Agreement and shall provide said list of employees to SBBC upon request;

- 4) safeguard each education record through administrative, physical and technological standards to ensure that adequate controls are in place to protect the education records and information in accordance with FERPA's privacy requirements;
- 5) utilize the education records solely for the purposes of providing products and services as contemplated under this Agreement; and shall not share, publish, sell, distribute, target advertise, or display education records to any third party;
- 6) notify SBBC immediately upon discovery of a breach of confidentiality of education records by telephone at 754-321-0300 (Manager, Information Security), and 754-321-1900 (Privacy Officer), and email at privacy@browardschools.com; and take all necessary notification steps as shall be required by federal and Florida law, including, but not limited to, those required by Section 501.171, Florida Statutes;
- 7) fully cooperate with appropriate SBBC staff, including Privacy Officer and/or Information Technology staff to resolve any privacy investigations and concerns in a timely manner;
- 8) prepare and distribute, at its own cost, any and all required breach notifications, under federal and Florida Law, or reimburse SBBC any direct costs incurred by SBBC for doing so, including, but not limited to, those required by Section 501.171, Florida Statutes;
- 9) be responsible for any fines or penalties for failure to meet breach notice requirements pursuant to federal and/or Florida law;
- 10) provide SBBC with the name and contact information of its employee who shall serve as SBBC's primary security contact and shall be available to assist SBBC in resolving obligations associated with a security breach of confidentiality of education records; and
- 11) securely erase education records from any media once that media equipment is no longer in use or is to be disposed; secure erasure shall be deemed the deletion of the education records using a single pass overwrite Secure Erase (Windows) or Wipe (Unix).

(b) All education records shall remain the property of SBBC, and any party contracting with SBBC serves solely as custodian of such information pursuant to this Agreement and claims no ownership or property rights thereto and, upon termination of this Agreement shall, at SBBC's request, return to SBBC or dispose of the education records in compliance with the applicable Florida Retention Schedules and provide SBBC with a written acknowledgment of said disposition.

(c) SMITH COMMUNITY shall, for itself, its officers, employees, agents, representatives, contractors or subcontractors, 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. This section shall survive the termination of all performance required or conclusion of all obligations existing under this Agreement.

2.04 HIPAA Compliance. SMITH COMMUNITY shall adhere to all applicable HIPAA guidelines as they relate to SBBC students and to enter into SBBC's HIPAA business associate agreement (**Attachment B**) with the SBBC regarding HIPAA rules, regulations, and procedures. Because SMITH COMMUNITY may access, use and disclose HIPAA-covered information from SBBC, SBBC is considered the "Covered Entity" and SMITH COMMUNITY is considered the "Business Associate" in the HIPAA agreement. A copy of the HIPAA agreement is attached and incorporated as **Attachment B**.

2.05 SBBC Designee. SBBC's designee for purposes of administering this Agreement shall be the Superintendent, who may assign a designated Administrator for monitoring compliance and educational program administration.

2.06 SMITH COMMUNITY Designee. SMITH COMMUNITY shall identify one (1) person with whom the SBBC is to communicate on all compliance issues related to this Agreement.

2.07 SBBC Personnel Shall Provide.

- (a) Instructional personnel shall provide instruction equal to three hundred (300) student contact minutes;
- (b) Instructional personnel, including teachers and paraprofessionals.
- (c) Staff development for teachers in current instructional and behavior management methods;
- (d) Support services as determined by SBBC such as Individual Education Plan (IEP) preparation and staffing, and maintaining ESE compliance for students with disabilities;
- (e) Textbooks, supplies and other curriculum supplements, necessary to provide appropriate education and instructional program for students;
- (f) Approved SBBC registration forms and any ESE documents to be used by SMITH COMMUNITY for new students and the initial review of students' current educational and/or SMITH COMMUNITY's records to determine if an IEP meeting needs to be held;
- (g) Guidance services to each student upon enrollment to ensure the students are enrolled and earning the appropriate credits towards promotion and / or high school graduation;
- (h) Administrative visitation, support, and oversight of the educational program;
- (i) An annual evaluation of student performance and an annual evaluation of the program; and
- (j) Annual evaluation of the program.

2.08 SMITH COMMUNITY Shall Provide.

- (a) An SBBC approved Authorization of Release of Information Form, signed by the student's parent or legal guardian, enabling the SBBC and SMITH COMMUNITY to share written and verbal information, including, but not limited to mental health, substance abuse, and educational records and information; a copy of the Authorization for Release of Information Form is attached and incorporated as **Attachment C**;

(b) Referrals of new students on approved SBBC forms and registration paperwork, a copy of the Referral form is attached and incorporated as **Attachment D**;

(c) The SBBC with previous psychological, psychiatric and mental health records, for the purposes of implementing an appropriate educational program;

(d) A full-time behavioral specialist / support staff trained in crisis management and behavior intervention, in each teacher's classroom at all times for the purpose of monitoring student behavior, addressing therapeutic needs and supervising students during instructional staff's lunch / planning periods;

(e) Additional therapeutic support staff to include a psychotherapist, psychologist, and/or psychiatrist;

(f) A staff member trained in the supervision and administration of all medication to be responsible for the dispensing and monitoring of all student medication;

(g) In emergency situations, updated assessments and evaluations consistent with the Florida State Board of Education; and

(h) Opportunities for SBBC personnel to participate in SMITH COMMUNITY staff training.

2.09 Eligibility. Students shall be enrolled in accordance with their current ESE eligibility if appropriate and/or in accordance with State Board of Education Rules.

2.10 Reimbursement. SMITH COMMUNITY shall reimburse the SBBC on a per-student pro-rata basis when the average ESE student attendance during the October and February Full Time Equivalent (FTE) survey period as approved by SBBC falls below an average of ten (10) students per class.

2.11 Student Supervision. Supervision and control of students while in their program shall be the sole responsibility of SMITH COMMUNITY. SMITH COMMUNITY and SBBC teachers shall support SMITH COMMUNITY Behavioral Management System and establish classroom rules. SMITH COMMUNITY staff shall assist classroom teachers in maintaining classroom control. SMITH COMMUNITY shall directly intercede in all situations of out-of-control students and violent or threatening behaviors. SMITH COMMUNITY staff shall remove out-of-control students from the classroom and immediately notify SMITH COMMUNITY and SBBC administrators. SMITH COMMUNITY shall comply with SBBC policies on restraint and seclusion and the implementation of behavior management plans. Only the SBBC administrator has the authority to suspend students from the school. SMITH COMMUNITY shall inform SBBC when a student is involved in a serious incident or is injured either during or after school hours as defined by SBBC.

2.12 Code of Student Conduct. SBBC shall provide SMITH COMMUNITY with the Code of Student Conduct as part of the intake process, and SMITH COMMUNITY shall ensure that parent(s)/guardian(s) and the student acknowledge and sign it. SMITH COMMUNITY shall provide the SBBC with a signed copy of the Code of Student Conduct Acknowledgement Form for each student. The Code of Student Conduct shall be enforced by SMITH COMMUNITY. In the event of serious threat or harm to SBBC personnel, the Administrative Principal or designee has the authority to identify alternative disciplinary action to address and resolve the situation, in collaboration with SMITH COMMUNITY.

2.13 Fee Collection. Any fees collected by SMITH COMMUNITY shall not be collected as a condition of student's enrollment in the educational program.

2.14 **SMITH COMMUNITY Incident Procedures.** SMITH COMMUNITY shall provide SBBC its written procedures regarding critical incidents - bomb threats, fires and other such incidence(s) that could put students in jeopardy of bodily injury and / or cause bodily injury by July 1, 2019. Additionally, SMITH COMMUNITY shall inform SBBC, within 24 hours, when a student is involved in a serious incident or is injured as defined by the SBBC during academic time.

2.15 **SMITH COMMUNITY Intake Procedures.** SMITH COMMUNITY shall provide SBBC, its written procedures governing intake, evaluation, dismissal, and separation of students by July 1, 2020.

2.16 **Access to Student Meals.** SMITH COMMUNITY has the option of becoming a sponsor of the National School Lunch and Breakfast program and claiming reimbursement from that program for meals, purchasing meals from SBBC or purchasing meals elsewhere. If SMITH COMMUNITY chooses to purchase meals from SBBC, a separate agreement with the Department of Food and Nutrition shall be executed by the parties for such services.

2.17 **Transition.** SBBC and SMITH COMMUNITY mutually agree that all students' effective transition, both short and long-term, to the home, community, school and/or the work environment shall begin at the program intake stage and continue throughout the program and / or treatment implementation. The transition plan shall include, but not be limited to, the following:

(a) Identification of the student's assessed strengths, competencies, and needs relating to survival/coping/independent living skills; crisis intervention/stress management/conflict resolution skill; social skills; employability skills; health/mental health/medical status; legal status, existing support network; and education progress and status;

(b) Realistic, meaningful and achievable goals and objectives and;

(c) Strategies to address specific needs; recognition of exemplary progress, achievement, or demonstration of leadership;

(d) Review and update of a minimum of once per year, and in all cases before exiting from the program; and

(e) Recommendations for the student's discharge and aftercare.

2.18 **Program Completion.** SMITH COMMUNITY shall inform SBBC of a student's program completion date a minimum of thirty (30) calendar days prior to dismissal to the fullest extent possible to ensure the completion of the educational transition process. SBBC administrative designee shall be informed as soon as an unanticipated exit has occurred. At the time of discharge, whether anticipated or unanticipated, SMITH COMMUNITY shall provide SBBC with the student's discharge summary to include, but not limited to; the discharge plan, discharge diagnosis (if applicable), and the reason for discharge.

2.19 **Curriculum.** The responsibility for the administration of the instructional program rests with SBBC and shall be conducted in accordance with SBBC policies and rules, which includes, but may not be limited to, scheduling, staffing patterns, and student assessment and evaluation. SMITH COMMUNITY shall follow this procedure.

2.20 **Supplemental Efforts.**

(a) SMITH COMMUNITY is encouraged to supplement SBBC's efforts to provide an optimal learning environment;

(b) SMITH COMMUNITY and SBBC shall collaborate to develop the overall therapeutic/educational program, which shall include each student's IEP and

(c) The informational and/or promotional materials, which SMITH COMMUNITY prepares regarding the program, shall indicate SBBC is providing the educational component of the program;

2.21 Facilities and Safety Requirements.

(a) The facility shall be provided and maintained by SMITH COMMUNITY and shall be located at 601 South State Road 7, Plantation, FL 33317 or at another site approved by the Superintendent's designee, the Supervising Principal.

(b) SMITH COMMUNITY facility shall be in compliance with the Americans with Disabilities Act (ADA) requirements for students with disabilities.

(c) SMITH COMMUNITY shall comply with the facility safety requirements embodied in the State Uniform Building Code for Public Educational Facilities and the Florida Department of Education's State Requirements for Educational Facilities (SREF) 1999, especially those pertaining to fire safety, storage of hazardous materials, exit marking, lighting, ventilation, evacuation and occupancy loads. Student classrooms shall provide a minimum of twenty-five usable square feet per pupil. Instructional personnel shall be provided adequate space for desk, file cabinets, instructional materials, and secure storage of SBBC owned equipment and confidential documents, such as student tests and records; and

(d) SMITH COMMUNITY shall maintain buildings used to house students in a state of good and clean repair and submit to SBBC inspections upon request.

2.22 Staff Safety and Security. SMITH COMMUNITY shall provide training on procedures for all drills, facility emergencies, fire, lockdown, tornado, and evacuation. Evacuations shall be posted in conspicuous locations throughout the facility. In the event of a serious threat or harm to SBBC personnel, the Superintendent's designee, the Supervising Principal, has the authority to suspend educational services for up to ten (10) calendar days to allow for SBBC and SMITH COMMUNITY to address and resolve the emergency situation.

2.23 Building Maintenance. SMITH COMMUNITY shall maintain buildings used to house students in a state of good repair and submit to SBBC annual safety inspections. Maintenance of the facility shall include daily housekeeping activities, including but not limited to: basic cleaning, sweeping and mopping, garbage collection and removal, etc.

2.24 Testing and Evaluation Room. SMITH COMMUNITY shall make available a quiet, private room, with internet access, for SBBC sponsored psychological evaluations and ESE staffings. This room shall be dedicated for SBBC use; however, SMITH COMMUNITY may use it for their purposes when the SBBC is not using it.

2.25 Telephone Service. SMITH COMMUNITY shall provide a dedicated telephone line, at no cost to SBBC, for an SBBC provided telephone facsimile machine for SBBC use only. SBBC personnel shall be afforded unlimited private access to a telephone for official school-related business. In addition, SMITH COMMUNITY shall provide telephone lines, at no cost to SBBC, for instructional telecommunications/web-based instruction purposes at mutually agreed-upon locations.

2.26 Damaged Property. SMITH COMMUNITY assumes responsibility and shall pay for any damage to, or loss of, SBBC property. SMITH COMMUNITY shall be billed by SBBC for repair or replacement costs. SMITH COMMUNITY shall make such remuneration within thirty (30) calendar days of billing.

2.27 Health Certificates. SMITH COMMUNITY shall maintain current sanitation, and health certificates and submit to annual fire inspections for all buildings as part of its educational program.

2.28 Transportation. Only SBBC approved vehicles shall be used to transport students during the school day for school-sponsored activities.

2.29 Attendance. SMITH COMMUNITY shall comply with SBBC's attendance policy as described in the Elementary and Secondary Code of Student Conduct in order to prevent truancy and promote school attendance.

2.30 Immunization. SMITH COMMUNITY shall comply with the State of Florida immunization requirements as described in the Code of Student Conduct. Compliance with the current schedule of immunizations is required to be admitted to school or to attend classes.

2.31 Behavior Management. SMITH COMMUNITY shall have a staff member within each classroom at all times, to provide management of student behavior and to ensure the safety of students and SBBC personnel. SMITH COMMUNITY shall, at all times, adhere to the staff/youth population ratio as specified in their operational guidelines. SMITH COMMUNITY shall provide to SBBC a copy of their behavior management plan by July 1, 2020.

2.32 Grievance Procedure. In the event that a dispute arises under this Agreement, the parties agree, but is not limited to, the following dispute resolution measures:

- (a) Step 1: Resolution of the dispute at the Exceptional Student Education Director level.
- (b) Step 2: Resolution of the dispute at the Chief Academic Office level or designee.
- (c) Step 3: Resolution of the dispute by the Superintendent of Schools or designee.
- (d) In the event such efforts do not resolve the dispute, the aggrieved party may take such action as it deems appropriate.

2.33 Educational Funding. Student enrollment figures shall be reported in the July, October, February, and June FTE surveys. SMITH COMMUNITY shall make every effort not to move students out of the facility during FTE survey weeks, except in such cases where moves are mandated by the courts. SBBC shall notify SMITH COMMUNITY of FTE survey weeks.

2.34 Insurance Requirements. SMITH COMMUNITY shall comply with the following insurance requirements throughout the term of this Agreement:

- (a) General Liability. SMITH COMMUNITY shall maintain General Liability insurance during the term of this Agreement with limits not less than \$1,000,000 per occurrence for Bodily Injury/ Property Damage; \$1,000,000 General Aggregate; and limits not less than \$1,000,000 for Products/Completed Operations Aggregate.

(b) Medical Professional Liability/Errors & Omissions. SMITH COMMUNITY shall maintain Professional Liability/Errors & Omissions insurance during the term of this Agreement with a limit of not less than \$1,000,000 per occurrence covering services provided under this Agreement.

(c) Workers' Compensation. SMITH COMMUNITY shall maintain Workers' Compensation insurance during the term of this Agreement in compliance with the limits specified in Chapter 440, Florida Statutes, and Employer's Liability limits shall not be less than \$100,000/\$100,000/\$500,000 (each accident/disease-each employee/disease-policy limit).

(d) Auto Liability. SMITH COMMUNITY shall maintain Owned, Non-Owned and Hired Auto Liability insurance with Bodily Injury and Property Damage limits of not less than \$1,000,000 Combined Single Limit.

(e) Acceptability of Insurance Carriers. The insurance policies required under this Agreement shall be issued by companies qualified to do business in the State of Florida and has a rating of at least A- VI by AM Best or Aa3 by Moody's Investor Service.

(f) Verification of Coverage. Proof of the required insurance must be furnished by SMITH COMMUNITY to SBBC's Risk Management Department by Certificate of Insurance within fifteen (15) calendar days of the date of this Agreement. To streamline this process, SBBC has partnered with EXIGIS Risk Management Services to collect and verify insurance documentation. All certificates (and any required documents) must be received and approved by SBBC's Risk Management Department before any work commences to permit SMITH COMMUNITY to remedy any deficiencies. SMITH COMMUNITY must verify its account information and provide contact details for its Insurance Agent via the link provided to it by email.

(g) Required Conditions. Liability policies must include the following terms on the Certificate of Insurance:

- 1) The School Board of Broward County, Florida, its members, officers, employees, and agents are added as additional insured.
- 2) All liability policies are primary of all other valid and collectible coverage maintained by The School Board of Broward County, Florida.
- 3) Certificate Holder: The School Board of Broward County, Florida, c/o EXIGIS Risk Management Services, P.O. Box 4668-ECM, New York, New York 10163-4668.

(h) Cancellation of Insurance. SMITH COMMUNITY is prohibited from providing services under this Agreement with SBBC without the minimum required insurance coverage and must notify SBBC within two (2) business days if required insurance is canceled.

(i) SBBC reserves the right to review, reject or accept any required policies of insurance, including limits, coverage or endorsements, herein throughout the term of this Agreement.

2.35 Inspection of SMITH COMMUNITY's Records by SBBC. SMITH COMMUNITY 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 SMITH COMMUNITY's applicable 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 the applicable business records of SMITH COMMUNITY directly relating to this Agreement in order to verify the accuracy of invoices provided to SBBC. Such audit shall be no more than one (1) time per calendar year.

(a) 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 SMITH COMMUNITY'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 SMITH COMMUNITY pursuant to this Agreement.

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

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

(d) Failure to Permit Inspection. Failure by SMITH COMMUNITY 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 SBBC's denial of some or all of any SMITH COMMUNITY's claims for payment.

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

(f) Inspection of Subcontractor's Records. If applicable, SMITH COMMUNITY 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 SMITH COMMUNITY 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 Payees' costs from amounts payable by SBBC to SMITH

COMMUNITY pursuant to this Agreement and such excluded costs shall become the liability of SMITH COMMUNITY.

(g) Inspector General Audits: SMITH COMMUNITY 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.

2.36 Notice. When any of the parties desire to give notice to the other, such notice shall 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 Southeast Third Avenue
Fort Lauderdale, Florida 33301

With a Copy to: Executive Director
Exceptional Student Learning Support
The School Board of Broward County, Florida
Arthur Ashe Administrative Center
1701 NW 23rd Avenue, Rm 277
Fort Lauderdale, FL 33311

To SMITH COMMUNITY: Joanne Correia-Kent, Co-CEO
Christina G. Smith Community Mental Health Foundation, Inc.
601 South State Road 7
Plantation, FL 33317

With a Copy to: Donna Lavalley, Co-CEO
Christina G. Smith Community Mental Health Foundation, Inc.
601 South State Road 7
Plantation, FL 33317

2.37 Background Screening. SMITH COMMUNITY shall comply with all requirements of Sections 1012.32, 1012.465, 1012.467, and 1012.468 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 SMITH COMMUNITY or its personnel providing any services under the conditions described in the previous sentence. SMITH COMMUNITY 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 SMITH COMMUNITY and its personnel. The parties agree that the failure of SMITH COMMUNITY 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. SMITH COMMUNITY 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 SMITH COMMUNITY's failure to comply with the requirements of this section or with Sections 1012.32, 1012.465, 1012.467, and 1012.468, Florida Statutes.

2.38 **Public Records.** The following provisions are required by Section 119.0701, Florida Statutes, and may not be amended. SMITH COMMUNITY 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, SMITH COMMUNITY 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. SMITH COMMUNITY 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 SMITH COMMUNITY does not transfer the public records to SBBC. Upon completion of the Agreement, SMITH COMMUNITY shall transfer, at no cost, to SBBC all public records in possession of SMITH COMMUNITY or keep and maintain public records required by SBBC to perform the services required under the Agreement. If SMITH COMMUNITY transfers all public records to SBBC upon completion of the Agreement, SMITH COMMUNITY shall destroy any duplicate public records that are exempt or confidential and exempt from public records disclosure requirements. If SMITH COMMUNITY keeps and maintains public records upon completion of the Agreement, SMITH COMMUNITY 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, RECORDREQUESTS@BROWARDSCHOOLS.COM RISK MANAGEMENT DEPARTMENT, PUBLIC RECORDS DIVISION, 600 SOUTHEAST THIRD AVENUE, FORT LAUDERDALE, FLORIDA 33301.

2.39 **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, up to the limits of Section 768.28, Florida Statutes, for any damages resulting from said negligence.

(b) By SMITH COMMUNITY. SMITH COMMUNITY 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 SMITH COMMUNITY, its agents,

servants or employees; the equipment of SMITH COMMUNITY, its agents, servants or employees while such equipment is on premises owned or controlled by SBBC; or the negligence of SMITH COMMUNITY or the negligence of SMITH COMMUNITY'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 SMITH COMMUNITY, SBBC or otherwise.

2.40 **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.

2.41 **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.

2.42 **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.

2.43 **Incorporation by Reference. Attachment A, Attachment B, Attachment C, and Attachment D** attached hereto and referenced herein shall be deemed to be incorporated into this Agreement by reference.

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 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, contributions to unemployment compensation funds or insurance for the other party or the other party's officers, employees, agents, subcontractors or assignees.

3.04 **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) calendar days written notice to cure the default. However, in the event said default cannot be cured within said thirty (30) calendar 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) calendar 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.

3.05 **Termination.** This Agreement may be canceled with or without cause by SBBC during the term hereof upon thirty (30) calendar days written notice to the other parties of its desire to terminate this Agreement.

3.06 **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.

3.07 **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.

3.08 **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 exclusively to the jurisdiction of the State courts of the Seventeenth Judicial Circuit of Broward County, Florida or to the jurisdiction of the United States District Court for the Southern District of Florida. Each party agrees and admits that the state courts of the Seventeenth Judicial Circuit of Broward County, Florida or the United States District Court for the Southern District of Florida shall have jurisdiction over it for any dispute arising under this Agreement.

3.09 **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.

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

3.11 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.

3.12 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.

3.13 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.

3.14 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.

3.15 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.

3.16 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.

3.17 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.

3.18 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.

3.19 Agreement 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.

3.20 Counterparts and Multiple Originals. This Agreement may be executed in multiple originals, and may be executed in counterparts, each of which shall be deemed to be an original, but all of which, taken together, shall constitute one and the same Agreement.

3.21 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 _____
Donna P. Korn, Chair

ATTEST:

Robert W. Runcie, Superintendent of Schools

Approved as to Form and Legal Content:

Kathelyn Jacques-Adams

Digitally signed by Kathelyn Jacques-Adams, Esq. -
kathelyn.jacques-adams@gbrowardschools.com
Reason: Christina G. Smith Community Mental
Health Foundation, Inc.
Date: 2020.06.02 15:18:50 -04'00'

Office of the General Counsel

FOR SMITH COMMUNITY

(Corporate Seal)

CHRISTINA G. SMITH COMMUNITY
MENTAL HEALTH FOUNDATION, INC.

ATTEST:

By [Signature]

Print Name: Donna Lavalle

Title: Co-Director

_____, 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 by means of physical presence or online notarization, this 21st day of May 2020 (*date*) by Donna Lavalle, Co-CEO (*name of officer or agent, title of officer or agent*) of Christina G. Smith Community Mental Health Foundation, Inc. (*name of corporation acknowledging*), a Florida (*state or place of incorporation*) corporation, on behalf of the corporation. He/she is personally known to me or has produced _____ (*type of identification*) as identification and who did/ did not first take an oath this 21st day of May, 2020.

My Commission Expires: 9/11/2020

[Signature]
Signature - Notary Public

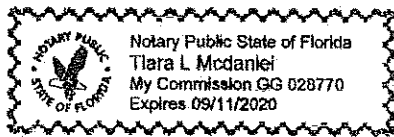
Tiara McDaniel

Notary's Printed Name

GG 028770

Notary's Commission No.

(SEAL)



ATTACHMENT A



2020 – 2021 SCHOOL CALENDAR

August 2020

Wednesday, August 12, 2020 through Tuesday, August 18, 2020 – No School for Students
Wednesday, August 19, 2020 – First Day of School

September 2020

Monday, September 7, 2020 – Schools and Administrative Offices Closed
Friday, September 11, 2020 – Interim Reports Issued
Monday, September 28, 2020 - Schools and Administrative Offices Closed

October 2020

Friday, October 16, 2020 - Early Release Day
Monday, October 19, 2020 - Employee Planning (no school for students)

November 2020

Tuesday, November 3, 2020- Employee Planning (no school for students)
Wednesday, November 11, 2020 - Schools and Administrative Offices Closed
Thursday, November 12, 2020 - Report Cards Issued
Tuesday, November 17, 2020- Interim Reports Issued
Monday, November 23 through Friday, November 27, 2020 - School Thanksgiving Break

December 2020

Monday, December 21, 2020 through January 1, 2021 - School Winter Break

January 2021

Thursday, January 7, 2021 - Early Release Day
Friday, January 8, 2021 - Employee Planning (no school for students)
Monday, January 18, 2021 - Schools and Administrative Offices Closed

February 2021

Wednesday, February 3, 2021 - Report Cards Issued
Tuesday, February 9, 2021 - Interim Reports Issued
Monday, February 15, 2021 - Schools and Administrative Offices Closed
Thursday, February 18, 2021 - Early Release Day

ATTACHMENT A



2020 – 2021 SCHOOL CALENDAR

March 2021

Thursday, March 18, 2021 - Early Release Day

Friday, March 19, 2021 - Employee Planning (no school for students)

Monday, March 22, 2021, through Friday, March 26, 2021 - School Spring Break

April 2021

Friday, April 2, 2021 - Schools and Administrative Offices Closed

Thursday, April 8, 2021 - Early Release Day

Wednesday, April 14, 2021 - Report Cards Issued

Thursday, April 29, 2021 - Interim Reports Issued

May 2021

Monday, May 31, 2021 - Schools and Administrative Offices Closed

June 2021

Wednesday, June 9, 2021 - Last Day of School

Wednesday, June 9, 2021 - Early Release Day

Thursday, June 10, 2021 - Employee Planning (no school for students)

Wednesday, June 30, 2021 - Report Cards Issued

Hurricane makeup days in order of preference:

Friday, October 16, 2020

Thursday, January 7, 2021

Thursday, February 18, 2021

Thursday, March 18, 2021

Thursday, April 8, 2021

Wednesday, June 9, 2021

**ATTACHMENT B
HIPAA BUSINESS ASSOCIATE AGREEMENT**

This Business Associate Agreement ("*Agreement*") is made and entered into as of this _____ day of _____, 2020 the "*Effective Date*", by and between

THE SCHOOL BOARD OF BROWARD COUNTY, FLORIDA
(hereinafter referred to as "*SBBC*" or "*Covered Entity*"),
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

CHRISTINA G. SMITH COMMUNITY MENTAL HEALTH FOUNDATION, INC.
(hereinafter referred to as "*Business Associate*"),
whose principal place of business is
601 South State Road 7
Plantation, Florida 33317

WHEREAS, by virtue of some of the services that Business Associate performs for SBBC, Business Associate may be a "business associate," as that term is defined in 45 C.F.R. §160.103; and

WHEREAS, SBBC and Business Associate may share Protected Health Information ("*PHI*") (as defined below) in the course of their relationship; and

WHEREAS, SBBC and Business Associate understand that, with respect to coverages subject to regulation under the Health Insurance Portability and Accountability Act of 1996 ("*HIPAA*"), they are subject to the requirements governing business associates, including but not limited to the Privacy Rule and the Security Rule (both defined below) of HIPAA, the Health Information Technology for Economic and Clinical Health Act of 2009 ("*HITECH*"), the Omnibus Rule of 2013, and applicable Florida law, any of which may be amended from time to time or supplemented by new legislation or guidance (hereinafter collectively referred to as "*Business Associate Requirements*"); and

WHEREAS, SBBC and Business Associate intend to fully comply with current and future Business Associate requirements and mutually desire to outline their individual responsibilities with respect to Protected Health Information ("*PHI*") as mandated by the "Privacy Rule", the "Security Rule", and the HITECH Act; and

WHEREAS, SBBC and Business Associate understand and agree that the Business Associate requirements require SBBC and Business Associate to enter into a Business Associate Agreement which shall govern the use and/or disclosure of PHI and the security of Electronic PHI "*ePHI*".

NOW, THEREFORE, the parties hereto agree as follows:

ARTICLE I – RECITALS

1. **Definitions.** When used in this Agreement and capitalized, the following terms have the following meanings:

- (a) "*Breach*" has the same meaning as that term is defined in §13400 of the HITECH Act and shall include the unauthorized acquisition, access, use, or disclosure of PHI that compromises the security or privacy of such information.

ARTICLE 1 – RECITALS

- (b) "*Business Associate*" shall mean Business Associate named above and shall include all successors, assigns, affiliates, subsidiaries, and related companies.
- (c) "*Designated Record Set*" has the same meaning as the term "designated record set" in 45 CFR §164.501, which includes enrollment, payment, billing, claims adjudication and case or medical management record systems maintained by or for a health plan, or other information used in whole or part by or for the Plan to make decisions about individuals.
- (d) "*EDI Rule*" shall mean the Standards for Electronic Transactions as set forth at 45 CFR Parts 160, Subpart A and 162, Subpart A and I through R.
- (e) "*Electronic PHI*" or "ePHI", shall mean PHI that is transmitted by or maintained in electronic media.
- (f) "*HIPAA*" means the Health Insurance Portability and Accountability Act of 1996.
- (g) "*HITECH Act*" means the Health Information Technology for Economic and Clinical Health Act of 2009.
- (h) "*Individual*" shall have the same meaning as the term "Individual" in 45 C.F.R. §160.103 and shall include a person who qualifies as a personal representative in accordance with 45 C.F.R. §164.502(g).
- (i) "*Minimum Necessary*" means the least amount of PHI needed to accomplish the intended purpose of the use or disclosure.
- (j) "*Omnibus Rule*" means the HIPAA Omnibus Rule of 2013.
- (k) "*Privacy Rule*" shall mean the Standards for Privacy of Individually Identifiable Health Information as set forth in 45 C.F.R. Parts 160 and 164, subparts A and E.
- (l) "*Protected Health Information*" or "*PHI*" shall have the same meaning as the term "protected health information" in 45 C.F.R. §160.103 (as amended by the HITECH Act) limited to the information created or received by Business Associate from or on behalf of SBBC.
- (m) "*Required by Law*" shall have the same meaning as the term "required by law" in 45 C.F.R. §164.103.
- (n) "*Secretary*" shall mean the Secretary of the Department of Health and Human Services or his or her designee.
- (o) "*Security Rule*" shall mean the Standards for Security of ePHI as set forth in 45 C.F.R. Parts 160 and 164 Subpart C.
- (p) "*Unsecured PHI*" shall mean PHI that is not secured through the use of a technology or methodology specified by the Secretary in guidance or as otherwise defined in §13402(h) of the HITECH Act.

Terms used but not defined in this Agreement shall have the same meaning as those terms in 45 C.F.R. §§ 164.103 and 164.501 and the HITECH Act.

ARTICLE 2 – SPECIAL CONDITIONS

2. Obligations and Activities of Business Associate Regarding PHI.

- (a) Business Associate agrees to not use or further disclose PHI other than as permitted or required by this Agreement or as Required by Law.
- (b) Business Associate agrees to comply with the “Minimum Necessary” rule when using, disclosing, or requesting PHI, except when a specific exception applies under HIPAA or the HITECH Act.
- (c) Business Associate agrees to use appropriate safeguards and comply, where applicable, with the HIPAA Security Rule to prevent use or disclosure of the PHI other than as provided for by this Agreement.
- (d) Business Associate agrees to report to SBBC, as soon as reasonably practicable, any impermissible use or disclosure of PHI it becomes aware of, and any use or disclosure of PHI not provided for by this Agreement. Any report of breach should be in substantially the same form as Exhibit A hereto.
- (e) Business associate shall promptly inform SBBC of a Breach of Unsecured PHI within the next business day of when Business Associate knows of such Breach
- (f) For the Breach of Unsecured PHI in its possession:
 1. Business Associate will perform a Risk Assessment to determine if there is a low probability that the PHI has been compromised. Business Associate will provide SBBC with documentation showing the results of the Risk Assessment. The Risk Assessment will consider at minimum the following factors:
 - a. The nature and extent of the PHI involved, including the types of identifiers and the likelihood of re-identification;
 - b. The unauthorized person who used the PHI or to whom the disclosure was made;
 - c. Whether the PHI was actually acquired or viewed; and
 - d. The extent to which the risk to the PHI has been mitigated.
 2. Business Associate will prepare and distribute, at its own cost, any and all required notifications under Federal and Florida law, or reimburse SBBC any direct costs incurred by SBBC for doing so.
 3. Business Associate shall be responsible for all fines or penalties incurred for failure to meet Breach notice requirements pursuant to Federal and/or Florida law.

ARTICLE 2 – SPECIAL CONDITIONS

- (g) Business Associate agrees to ensure that, and obtain assurance from, any and all agents, including sub-contractors (excluding entities that are merely conduits), to whom it provides PHI, to agree to the same restrictions and conditions that apply to Business Associate with respect to such information. All agents and subcontractors engaged by the Business Associate that create, maintain, receive or transmit PHI must comply with the HIPAA Rules, including the rules to extend the requirements to the agent's or subcontractor's subcontractors.
- (h) Business Associate agrees to provide SBBC access, at the request of SBBC, and in the time and manner designated by SBBC, to PHI in a Designated Record Set, in order for SBBC to meet the requirements under 45 C.F.R. § 164.524.
- (i) Business Associate agrees to amend PHI in a Designated Record Set at SBBC's, or an Individual's, direction pursuant to 45 C.F.R. § 164.526, in the time and manner designated by SBBC. Business Associate agrees to make internal practices, policies, books and records relating to the use and disclosure of PHI available to SBBC, or at the request of SBBC to the Secretary, in a time and manner as designated by SBBC or the Secretary, for purposes of the Secretary determining SBBC's compliance with the Privacy Rule. Business Associate shall immediately notify SBBC upon receipt or notice of any and all requests by the Secretary to conduct an investigation with respect to PHI received from SBBC.
- (j) Business Associate agrees to document any and all disclosures of PHI and information related to such disclosures that are not excepted under 45 C.F.R. § 164.528(a)(1) as would be reasonably required for SBBC to respond to a request by an Individual for an accounting of disclosures of PHI in accordance with 45 C.F.R. § 164.528.
- (k) Business Associate agrees to provide to SBBC or an Individual, in a time and manner designated by SBBC, information collected in accordance with paragraph (j) above, to permit SBBC to respond to a request by an Individual for an accounting of disclosures of PHI in accordance with 45 C.F.R. § 164.528.
- (l) Business Associate agrees to use or disclose PHI pursuant to the request of SBBC; provided, however, that SBBC shall not request Business Associate to use or disclose PHI in any manner that would not be permissible under the Privacy Rule if done by SBBC.
- (m) Business Associate agrees to mitigate, to the extent practicable, any and all harmful effects that are known to Business Associate of a use or disclosure of PHI, or a Breach of Unsecured PHI, by Business Associate in violation of the requirements of this Agreement, the Privacy Rule, the Security Rule, the HITECH Act or HIPAA generally.
- (n) Business Associate shall provide SBBC with a copy of any notice of privacy practices it produces in accordance with 45 C.F.R. § 164.520, as well as any and all changes to such notice.
- (o) Business Associate, if performing a function that applies to Covered Entity, agrees to comply with the requirements that apply to the Covered Entity.

ARTICLE 2 – SPECIAL CONDITIONS

3. Permitted Uses and Disclosures of PHI by “Business Associate”.

- (a) Except as otherwise limited by this Agreement, Business Associate may use or disclose PHI to perform functions, activities or services for, or on behalf of, SBBC pursuant to any Agreements for services between the parties provided that such use or disclosure would not violate the Privacy Rule if done by SBBC.
- (b) Except as otherwise limited by this Agreement, Business Associate may use PHI for the proper management and administration of Business Associate and to carry out the legal responsibilities of Business Associate.
- (c) Except as otherwise limited by this Agreement, Business Associate may disclose PHI for the proper management and administration of Business Associate and to carry out the legal responsibilities of Business Associate if: (i) such disclosure is Required by Law, or (ii) Business Associate obtains reasonable assurances from the person to whom the information is disclosed that such information will remain confidential and used or further disclosed only as Required by Law or for the purposes for which it was disclosed to the person, and the person agrees to notify Business Associate of any and all instances of which it is aware that the confidentiality of the information has been breached.
- (d) Except as otherwise limited by this Agreement, Business Associate may use PHI to provide Data Aggregation services to SBBC as permitted by 42 C.F.R. § 164.504(e)(2)(i)(B).

4. Obligations of SBBC Regarding PHI.

- (a) SBBC shall provide Business Associate with the notice of privacy practices that SBBC produces in accordance with 45 C.F.R. § 164.520, as well as any changes to such notice.
- (b) SBBC shall provide Business Associate with any and all changes in, or revocation of, authorization by an Individual to use or disclose PHI, if such changes affect Business Associate’s permitted or required uses and disclosures.
- (c) SBBC shall notify Business Associate of any and all restrictions to the use or disclosure of PHI that SBBC has agreed to in accordance with 45 C.F.R. § 164.522.
- (d) SBBC and its representatives shall be entitled to audit Business Associate from time-to-time to verify Business Associate’s compliance with the terms of this Agreement. SBBC shall provide Business Associate written notice at least ten (10) business days prior to the audit described in this paragraph. SBBC shall be entitled and enabled to inspect the records and other information relevant to Business Associate’s compliance with the terms of this Agreement. SBBC shall conduct its review during the normal business hours of Business Associate, as the case may be, and to the extent feasible without unreasonably interfering with Business Associate’s normal operations.

5. Security of Electronic Protected Health Information.

- (a) Business Associate has implemented policies and procedures to ensure that its receipt, maintenance, or transmission of “electronic protected health information” (as defined in 45 C.F.R. §160.103) (“ePHI”) on behalf of SBBC complies with the applicable administrative, physical, and technical safeguards required for protecting the confidentiality and integrity of ePHI in 45 C.F.R. Part 160 and 164 subpart C.

ARTICLE 2 – SPECIAL CONDITIONS

- (b) Business Associate agrees that it will ensure that its agents or subcontractors agree to implement the applicable administrative, physical, and technical safeguards required to protect the confidentiality and integrity of ePHI pursuant to 45 C.F.R. Part 164.
- (c) Business Associate agrees to report to SBBC all Security Incidents (as defined by 45 C.F.R. Part 164.304 and in accordance with applicable Florida law) of which it becomes aware. Business Associate agrees to report the Security Incident to SBBC as soon as reasonably practicable, but not later than 10 business days from the date the Business Associate becomes aware of the incident.
- (d) SBBC agrees and understands that SBBC is independently responsible for the security of ePHI in its possession or for ePHI that it receives from outside sources including Business Associate.

6. Compliance with EDI Rule.

Business Associate agrees that it will comply with all applicable EDI standards. Business Associate further agrees that it will use its best efforts to comply with all applicable regulatory provisions in addition to the EDI Rule and the Privacy Rule that are promulgated pursuant to the Administrative Simplification Subtitle of HIPAA.

7. Subsequent Legislative or Regulatory Changes.

Any and all amendments to the laws or regulations affecting the Privacy Rule, Security Rule, the HITECH Act, Omnibus Rule, or HIPAA shall be deemed to amend this Agreement and be incorporated without further action of the parties.

8. Amendment.

The parties shall amend this Agreement, as is necessary, so that SBBC remains in compliance with any future changes to the Privacy Rule, the Security Rule, the HITECH Act and HIPAA. The parties may amend this Agreement for any other reasons as they deem appropriate. This Agreement shall not be amended except by written instrument executed by the parties.

9. Term and Termination.

- (a) *Term.* This Agreement shall be effective upon the execution of all parties and shall remain in effect until such time as SBBC exercises its rights of termination under section 9(b) or 9(c) and until the requirements of Section 9(d) below are satisfied. The rights and obligations of Business Associate under Section 9(d) shall survive termination of this Agreement.
- (b) *Termination for Convenience.* This Agreement may be terminated without cause and for convenience by SBBC during the term thereof upon thirty (30) days written notice to Business Associate.
- (c) *Termination for Cause by SBBC.* Upon SBBC's knowledge of a material breach by Business Associate, SBBC shall provide an opportunity for Business Associate to cure the breach. If Business Associate does not cure the breach within thirty (30) days from the date that SBBC provides notice, SBBC shall have the right to terminate this Agreement, the Service Agreement, or both, by providing thirty (30) days advance written notice of such termination to Business Associate.

ARTICLE 2 – SPECIAL CONDITIONS

SBBC may terminate this Agreement without penalty or recourse to SBBC if SBBC determines that Business Associate has violated a material term of this Agreement.

Upon Business Associate knowledge of a material breach by SBBC, Business Associate shall provide an opportunity for SBBC to cure the breach. If SBBC does not cure the breach within thirty (30) days of the date that Business Associate provides notice of such breach to SBBC, Business Associate shall have the right to terminate this Agreement, the Service Agreement, or both, by providing thirty (30) days advance written notice of such termination to SBBC.

- (d) *Effect of Termination.* Upon termination of this Agreement for any reason, Business Associate shall return or destroy all PHI received from SBBC, or created or received by Business Associate on behalf of SBBC. Business Associate shall not retain any copies of the PHI except to the extent that the destruction or return of the PHI is infeasible. Business Associate shall provide to SBBC written notification of the conditions that make return or destruction of the PHI infeasible. If it is determined by SBBC that the return or destruction of PHI is infeasible, Business Associate shall extend the protections of this Agreement to such PHI and limit further uses and disclosures of such PHI to those purposes that SBBC explicitly authorizes in writing for so long as Business Associate maintains such PHI.

10. Indemnification.

- (a) By SBBC: SBBC agrees to be fully responsible for its acts of negligence or its agent's 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 Business Associate: Business Associate 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 cost, court costs and all other sums which SBBC, its agents, servants and employees must 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 Business Associate, its agents, servants or employees; the equipment of Business Associate, its agents, servants or employees while such equipment is on premises owned or controlled by SBBC; or the negligence of Business Associate's agents when acting within the scope of their employment or agency, whether such claims, judgments, costs and expenses be for damages, damage to property including Business Associate's property, and injury or death of any person whether employed by Business Associate, SBBC or otherwise.

11. No Waiver of Sovereign Immunity.

Nothing contained 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 as a waiver of limits to liability or rights existing under Section 768.28, Florida Statutes.

ARTICLE 3 – GENERAL CONDITIONS

12. 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. 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.

13. Non-Discrimination.

The parties shall not discriminate against any employee or participant in the performance of the duties, responsibilities and obligations under this Agreement because of age, color, disability, gender identity, gender expression, national origin, marital status, race, religion, sex or sexual orientation.

14. Records.

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.

15. 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.

16. 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. A waiver of any breach of a provision of this Agreement shall not be deemed a waiver of any subsequent breach and shall not be construed to be a modification of the terms of this Agreement.

17. Compliance with Laws.

Each party shall comply with all applicable federal and state laws, codes, rules and regulations in performing its duties, responsibilities and obligations pursuant to this Agreement.

18. Binding Effect.

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

19. 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.

ARTICLE 3 – GENERAL CONDITIONS

23. Severability.

In case any one or more of the provisions contained in this Agreement shall for any reason be held to be invalid, illegal, unlawful, unenforceable or void in any respect, the invalidity, illegality, unenforceability or unlawful or void nature of that provision shall not affect any other provision and this Agreement shall be considered as if such invalid, illegal, unlawful, unenforceable or void provision had never been included herein.

24. Captions.

The captions, section numbers, title and headings appearing in this Agreement are inserted only as a matter of convenience 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.

25. 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.

26. No Waiver of Rights, Powers and Remedies.

The parties agree that each requirement, duty, right 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.

27. Regulatory References.

A reference in this Agreement to any part of the Privacy Rule, the Security Rule, the HITECH Act, or HIPAA shall refer to the most current form of legislation, and shall incorporate any future amendments.

28. Governing Law.

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.

29. Entire Agreement.

This Agreement 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 Agreement. Accordingly, the parties agree that no deviation from the terms hereof shall be predicated upon any prior representations or agreements, whether oral or written.

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

FOR SBBC:

(Corporate Seal)

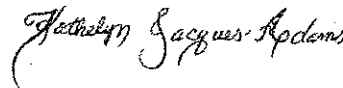
THE SCHOOL BOARD OF BROWARD
COUNTY, FLORIDA

ATTEST:

By _____
Donna P. Korn, 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: Christina G. Smith Community Mental
Health Foundation, Inc.
Date: 2020.06.02 15:19:20 -04'00'

Office of the General Counsel

[THIS SPACE IS INTENTIONALLY LEFT BLANK; SIGNATURE PAGE TO FOLLOW]

FOR BUSINESS ASSOCIATE

CHRISTINA G. SMITH COMMUNITY MENTAL HEALTH FOUNDATION, INC.

[Signature]
Signature

By: Donna Lavalle, Co-Director
Print Name and Title

[Signature]
Witness

[Signature]
Witness

The Following Notarization is Required for this Agreement

STATE OF FLORIDA

COUNTY OF BROWARD

The foregoing instrument was acknowledged before me by means of physical presence or online notarization, this 21st day of May 2020 (date) by Donna Lavalle, Co-CEO (name of officer or agent, title of officer or agent) of Christina G. Smith Community Mental Health Foundation, Inc (name of corporation acknowledging), a Florida (state or place of incorporation) corporation, on behalf of the corporation. He/she is personally known to me or has produced _____ (type of identification) as identification and who did/ did not first take an oath this 21st day of May, 2020.

My Commission Expires: 9/11/2026

[Signature]
Signature - Notary Public

Tiara McDaniel
Notary's Printed Name

GG 028770
Notary's Commission No.

(SEAL)

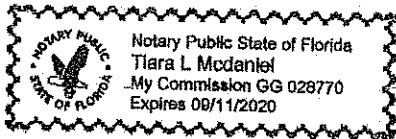


EXHIBIT A

**NOTIFICATION TO THE SCHOOL BOARD OF BROWARD COUNTY,
FLORIDA ABOUT A BREACH OF UNSECURED PROTECTED HEALTH
INFORMATION**

This notification is made pursuant to Section 2(d) of the Business Associate Agreement between THE SCHOOL BOARD OF BROWARD COUNTY, FLORIDA ("SBBC") and _____ (Business Associate).

Business Associate hereby notifies SBBC that there has been a breach of unsecured (unencrypted) protected health information (PHI) that Business Associate has used or has had access to under the terms of the Business Associate Agreement.

Description of the breach: _____

Date or date range of the breach: _____

Date of the discovery of the breach: _____

Number of individuals affected by the breach: _____

The types of unsecured PHI that were involved in the breach (such as full name, Social Security number, date of birth, home address, account number, or disability code): _____

Description of what Business Associate is doing to investigate the breach, to mitigate losses, and to protect against any further breaches: _____

Recommended steps the individuals whose information was breached should take to protect themselves from potential harm resulting from the breach: _____

Contact information to ask questions or learn additional information:

Name: _____

Title: _____

Address: _____

Email Address: _____

Phone Number: _____

ATTACHMENT C

THE SCHOOL BOARD OF BROWARD COUNTY, FLORIDA
AUTHORIZATION FOR RELEASE AND/OR REQUEST
FOR INFORMATION

I hereby request and authorize: (Name of Person, School, or Department) to engage

(Street Address) (City) (State) (Zip) (Telephone #)

in verbal and/or written communication with and release records to: (Name of Person, Job Title and/or School/Agency/Entity)

(Street Address) (City) (State) (Zip) (Telephone #)

regarding the information checked below concerning my child* whose date of birth is I understand that information concerning psychiatric, psychological, medical diagnosis, drug or alcohol abuse, economic status, and educational information regarding my child will be released and/or communicated if indicated below. I further understand that this information might contain information regarding my family, in addition to my child.

- Treatment Plans
Treatment / Discharge Summaries
Health / Medical Records
Case / Progress / Therapy Notes
Student Identification Number
Academic / School-related Records:
Grades
Test Scores
Attendance
Suspensions / Expulsions
Exceptional Student Education / Section 504 records
Other
Substance Abuse Treatment Records
Social and/or Developmental History
Psychological and/or Psychiatric Evaluations
Restorative Support Services
Social Support Services (Food, Clothing, Shelter)
Medical Services
HIV/AIDS test results or related conditions (to disclose or receive this information, specific individuals must be named above)

For the Purpose of:

I acknowledge that all information I authorize to be released or requested will be held strictly confidential and cannot be released by the recipient without an additional written consent. I understand this authorization will expire one (1) year after the date signed, or on 20, whichever is earlier. A copy of this authorization is valid in lieu of the original. I further understand I may withdraw my consent in writing at any time.

Print Name of Parent / Guardian / Eligible Student Signature of Parent / Guardian / Eligible Student Date

Relationship to Child

*Eligible students (age 18 or over) may authorize the release of their education records.

(USE THIS SPACE IF CONSENT IS WITHDRAWN)

I hereby withdraw my previous consent to the release of information about my child.

Date Consent Is Withdrawn Signature of Parent / Guardian / Eligible Student

Form #301
REV 07/18
Risk Management

ATTACHMENT D

THE SCHOOL BOARD OF BROWARD COUNTY, FLORIDA BEHAVIORAL HEALTH PARTNERSHIP PROGRAM STUDENT REFERRAL FORM

School staff: Please use this form when referring students to approved Behavioral Health Partnership agencies for in-school services. Complete all requested information and forward to the appropriate agency with a signed Release of Information form. A list of the approved agencies is on the Behavioral Health Partnership Database at: http://www.broward.k12.fl.us/studentisupport/school_social_work_services/html/mhdatabase.htm

DATE of REFERRAL: _____

DATE SW Entered in the I-PANEL _____

STUDENT NAME: STUDENT #: _____

D.O.B.: _____ GENDER: _____ RACE: _____

SCHOOL: _____ GRADE: _____

GUARDIAN'S NAME: _____ RELATIONSHIP _____

ADDRESS: _____

HOME PHONE #: _____ OTHER PHONE #: _____

REASON FOR REFERRAL (check all that apply). Over age for grade	Academic Risk	Peer Relationships
Anger Management	Conflict Resolution	Social Skills
Sub. Abuse Prevention	Desire for Role Model	Drop Out Risk
Suspension	Truancy	Teacher Conflict
Excessive Referrals	Family Issues	Violence Prevention
Sexuality Issues	Domestic Violence	Other High Risk Behaviors

OTHER / ADDITIONAL COMMENTS
LIST INTERVENTIONS ATTEMPTED TO THIS POINT AND THEIR OUTCOME
(i.e. - calls home, parent conferences, multidisciplinary team referral, referrals for other counseling services, class change, etc.)

REFERRAL SOURCE NAME & POSITION: _____

BEHAVIORAL HEALTH PARTNER REFERRED TO: _____

Please attach signed Release of Information form to this referral.

To be completed by agency:
DATE AGENCY ACCEPTED CASE _____