

## 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

**CAREERSTAFF UNLIMITED, LLC**

(hereinafter referred to as "VENDOR"),  
whose principal place of business is  
101 E. State Street  
Kennett Square, Pennsylvania 19348

**WHEREAS**, SBBC issued a Request for Proposal identified as RFP FY20-065 – Student Psychological and Mental Health Services (hereinafter referred to as "RFP"); dated August 13, 2019 and amended by Addendum No. 2, dated September 9, 2019, and Addendum No. 1, dated August 27, 2019 all of which are incorporated by reference herein, for the purpose of receiving proposals for student psychological and mental health services; and

**WHEREAS**, VENDOR offered a proposal dated September 12, 2019 (hereinafter referred to as "Proposal") which is incorporated by reference herein, in response to this RFP.

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

### ARTICLE 1 - RECITALS

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

### ARTICLE 2 – SPECIAL CONDITIONS

2.01 **Term of Agreement.** Unless terminated earlier pursuant to Section 3.05 of this Agreement, the term of this Agreement shall commence upon the execution of all parties conclude on **June 30, 2023**. The term of the Agreement may, by mutual agreement between SBBC and VENDOR, be extended for two (2) additional one-year periods and, if needed, 180 calendar days beyond the expiration date of the renewal period. SBBC's Procurement & Warehousing Services Department, will, if considering renewing, request a letter consenting to renewal from VENDOR, prior to the end of the term. Any renewal period shall be approved by an Amendment to this Agreement executed by both parties.

2.02 **Description of Services Provided.** VENDOR shall provide SBBC with the Scope of Services in its Proposal and in compliance with this Agreement, and the RFP and its Addenda, and as specified in **Attachment A – Scope of Services**.

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

- First: This Agreement, then;
- Second: Addendum No. 2, then;
- Third: Addendum No. 1, then;
- Fourth: RFP FY20-065 – Student Psychological and Mental Health Services, then;
- Fifth: Proposal submitted in response to the RFP by VENDOR.

2.04 **Cost of Services.**

(a) SBBC shall pay VENDOR for the cost of services satisfactorily rendered by a school psychologist at a rate from sixty-six dollars (\$66.00) per hour to a not-to-exceed rate of \$68.00 per hour depending on the experience of the school psychologist. VENDOR shall submit to the Exceptional Student Learning Support (ESLS) Department, Arthur Ashe Campus, 1701 NW 23<sup>rd</sup> Avenue, Fort Lauderdale, Florida 33311, an appropriate invoice to be paid net thirty (30) calendar days after the issuance of the same invoice.

(b) Costs shall not exceed the total amount as stated on the Purchase Order(s). VENDOR may offer, at any time to SBBC, a special educational discount for pricing and/or reduce the cost of services during the term of this Agreement. VENDOR may invoice SBBC at an hourly rate less than its original bid price at any time during the term of this Agreement.

(c) The cost for orientation meeting(s) for a new school psychologist(s) shall be at no charge to SBBC (Refer to **Attachment A**, Item 25). SBBC and VENDOR will determine the duration of orientation, based on the experience and job expectations of the school psychologist, which will not exceed three (3), eight (8) hour workdays. The cost for regularly scheduled meetings shall be billed at either the not-to-exceed rate or at a less rate as deemed appropriate by VENDOR.

2.05 **SBBC Disclosure of Education Records.**

(a) Purposes: School psychologists will be provided with access to selected school district database systems to utilize for the purpose of conducting psychological evaluations, assisting with intervention planning, providing support services to students, and for school-based decision-making. Under this agreement, school psychologists are only entitled to view education records of the students they are working with.

(b) Access will be provided to the following databases for the specific purposes identified below:

- 1) Ed Plan - Access to EdPlan will be provided to school psychologists for the purpose of conducting psychological evaluations, assisting with the development of students' IEPs, EPs, FBAs, PBIPs, reevaluation plans, medical records, and other such documents utilized for educational planning or as a part of the consideration for the ESE program.

- 2) Accelify - Access to Accelify will be utilized for the purpose of Medicaid billing (e.g., logging evaluation activities and direct services to students), logging non-student activities (e.g., crisis response, trainings), and opening/closing referrals for evaluations.
- 3) BASIS: Access to BASIS will be utilized for the purpose of conducting psychological evaluations and participating in school-based decision-making as it pertains to the collaborative problem-solving model and other job functions.

(c) Types: School psychologists will be provided with limited access to the following databases in accordance with the definitions below:

- 1) Ed Plan: EdPlan will be used to upload psychological reports, review a student's documents related to their past participation in the ESE program, including their evaluation history and any medical records shared with the school-based teams. They will access additional EdPlan records, as needed, to provide guidance in the development of interventions, and additional educational planning. Psychologists will also be given access to a student's Behavioral Threat Assessment records when they are involved as mandatory participant on a student's Behavioral Threat Assessment team.
- 2) Accelify: A psychologist will have access to their psych referrals list, with the identifying information of students' cases that were assigned to them individually. They will also have access to the students at their school to document services provided to the students or at the school. This tool will be used for the purpose of Medicaid billing and logging services direct and indirect services provided.
- 3) BASIS: A psychologist will access student details which include, but are not limited to: demographic information, health records, contact information, academic history, test scores, discipline history, attendance history, identified risk factors, assignment history, Rtl referrals, and any educational records needed for the purpose of conducting psychological evaluations, guiding the development of interventions, and additional educational planning.

(d) Consent: SBBC will obtain written consent from each student's parent/guardian or student age 18 or over prior to disclosing or allowing access to the education records listed in this section.

(e) School psychologists will sign Electronic User Agreements and Privacy Policy Statements as defined by The School Board of Broward County, Florida when provided with access to the above-mentioned databases.

2.06 **VENDOR Confidentiality of Education Records.**

(a) Notwithstanding any provision to the contrary within this Agreement, VENDOR and/or its individual school psychologists and personnel 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 redisclose 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 safety 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](mailto:privacy@browardschools.com), and take all necessary notification steps as may 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 any media equipment is no longer in use or is to be disposed; secure erasure will 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) VENDOR 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.

**2.07 HIPAA Compliance.** VENDOR acknowledges that the Health Insurance Portability and Accountability Act ("HIPAA") and the Health Information Technology for Economic and Clinical Health Act of 2009 ("HITECH Act") (HIPAA and HITECH Act are collectively referred to herein as "HIPAA") protect the privacy of protected health information ("PHI") and may be applicable to student records in certain circumstances; and shall enter into SBBC's HIPAA Business Associate Agreement ("BAA") attached as **Attachment B**. PHI may be used and disclosed only in compliance with HIPAA.

**2.08 Inspection of VENDOR's Records by SBBC.** VENDOR shall establish and maintain books, records and documents (including electronic storage media) sufficient to reflect all income and expenditures of funds provided by SBBC under this Agreement. All VENDOR's 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 VENDOR 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 VENDOR's records from the effective date of this Agreement, for the duration of the term of this Agreement, and until the later of five (5) years after the termination of this Agreement or five (5) years after the date of final payment by SBBC to VENDOR pursuant to this Agreement.

(b) Notice of Inspection. SBBC's agent or its authorized representative shall provide VENDOR 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 VENDOR'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 VENDOR to permit audit, inspection, examination, evaluation and/or reproduction as permitted under this section shall constitute grounds for termination of this Agreement by SBBC for cause and shall be grounds for SBBC's denial of some or all of any VENDOR'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 VENDOR in excess of two percent (2%) of the total billings under this Agreement, the actual cost of SBBC's audit shall be paid by VENDOR. If the audit discloses billings or charges to which VENDOR is not contractually entitled, VENDOR shall pay said sum to SBBC within twenty (20) days of receipt of written demand unless otherwise agreed to in writing by both parties.

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

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

2.09 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: Director, Exceptional Student Learning Support Department  
The School Board of Broward County, Florida  
Arthur Ashe Campus  
1701 NW 23<sup>rd</sup> Avenue  
Fort Lauderdale, Florida 33311

To VENDOR: Courtney Verdugo, Area Manager  
CareerStaff Unlimited  
2699 Lee Road, Suite 330  
Winter Park, Florida 32789

With a Copy to: Taylor Corbitt, Staffing Manager  
CareerStaff Unlimited  
2699 Lee Road, Suite 330  
Winter Park, Florida 32789

2.10 **Non-Compete Clause.** The ESLS Department will inform VENDOR at the end of each school year if they are interested in hiring VENDOR's school psychologist(s). At that time the school psychologist will maintain contract status for a duration of twelve (12) months, at a full-time schedule. Upon completion of the twelve-month "non-compete" period, the school psychologist(s) will have the option to be hired by SBBC with no fee to SBBC or the school psychologist.

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

2.12 **Public Records.** The following provisions are required by Section 119.0701, Florida Statutes, and may not be amended. VENDOR 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, VENDOR 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. VENDOR 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 VENDOR does not transfer the public records to SBBC. Upon completion of the Agreement, VENDOR shall transfer, at no cost, to SBBC all public records in possession of VENDOR or keep and maintain public records required by SBBC to perform the services required under the Agreement. If VENDOR transfers all public records to SBBC upon completion of the Agreement, VENDOR shall destroy any duplicate public records that are exempt or confidential and exempt from public records disclosure requirements. If VENDOR keeps and maintains public records upon completion of the Agreement, VENDOR 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.**

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

2.14 **Insurance Requirements.** VENDOR shall comply with the following insurance requirements throughout the term of this Agreement:

(a) General Liability. VENDOR 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) Professional Liability/Errors & Omissions. VENDOR 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. VENDOR 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. VENDOR 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 VENDOR to SBBC's Risk Management Department by Certificate of Insurance within fifteen (15) 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 VENDOR to remedy any deficiencies. VENDOR 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. VENDOR 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.

#### 2.15 **Nondiscrimination.**

(a) As a condition of entering into this Agreement, VENDOR represents and warrants that it will comply with the SBBC's Commercial Nondiscrimination Policy, as described under, Section D.1 of SBBC's Policy No. 3330 – Supplier Diversity Outreach Program.

(b) As part of such compliance, VENDOR shall not discriminate on the basis of race, color, religion, ancestry or national origin, sex, age, marital status, sexual orientation, or on the basis of disability or other unlawful forms of discrimination in the solicitation, selection, hiring, or commercial treatment of subcontractors, vendors, suppliers, or commercial customers, nor shall VENDOR retaliate against any person for reporting instances of such discrimination. VENDOR shall provide equal opportunity for subcontractors, vendors, and suppliers to participate in all of its public sector and private sector subcontracting and supply opportunities, provided that nothing contained in this clause shall prohibit or limit otherwise lawful efforts to remedy the effects of marketplace discrimination that have occurred or are occurring in the SBBC's relevant marketplace. VENDOR understands and agrees that a material violation of this clause shall be considered a material breach of this Agreement and may result in termination of this Agreement, disqualification of the company from participating in SBBC Agreements, or other sanctions. This clause is not enforceable by or for the benefit of, and creates no obligation to, any third party.

2.16 **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.

2.17 **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.

2.18 **Incorporation by Reference.** Attachment A and Attachment B, 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. 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 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.

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**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: Careerstaff Unlimited, LLC  
Date: 2020.02.06 11:26:59 -05'00'

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

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**FOR VENDOR:**

(Corporate Seal)

CAREERSTAFF UNLIMITED, LLC

ATTEST:

By Courtney Verdugo

Print Name: Courtney Verdugo

Title: Area Manager

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

-or-

Jathaniel Primus  
Witness

Bruno  
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 Orange

The foregoing instrument was acknowledged before me by means of ☒ physical presence or ☐ online notarization, this 02/05/2020 (date) by Courtney Verdugo (name of officer or agent, title of officer or agent) of Careerstaff Unlimited (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 driver license (type of identification) as identification and who ☐ did/☒ did not first take an oath this 05 day of February, 2020.

My Commission Expires:

Jathaniel Primus  
Signature— Notary Public

Jathaniel Primus  
Notary's Printed Name

(SEAL)



**Jathaniel Primus**  
Notary Public  
State of Florida  
My Commission Expires 11/22/2023  
Commission No. GG 924018

\_\_\_\_\_  
Notary's Commission No.

SCOPE OF SERVICES

1. VENDOR shall furnish current certified/licensed school psychologist(s) under this contract. If a certificate and/or license is suspended, revoked, or otherwise deemed invalid by the State of Florida, the VENDOR shall notify the Exceptional Student Learning and Support (ESLS) immediately that it is removing the uncertified school psychologist from the school property and shall arrange for a qualified replacement within 48 hours. **Award of this contract shall not be a guarantee of business, a guarantee of a specified volume of service, or minimum dollar revenue to be received under this contract.**
2. School psychologist(s), provided by the VENDOR, shall be responsible for obtaining the necessary contract hours for certificate renewal. SBBC shall not pay for or provide paid time off for attending continuing education activities for license renewal with the exception of trainings offered directly by the ESLS Department.
3. VENDOR's employees and school psychologist(s) shall review and become familiar with federal, state, and District confidentiality requirements for student records, and agrees that access to and use of those records by employees shall be in strict compliance with these requirements as stated in Sections 2.05 and 2.06 of this Agreement.
4. School psychologist(s) shall provide the following services, but not be limited to:
  - (a) Providing consultation with parents, school and district staff, diagnostic testing, observations, and intervention planning;
  - (b) Conducting initial evaluations and re-evaluations of children/adolescents and preparing a multidisciplinary team report or a psychoeducational report of findings in accordance with Broward County Schools' ESE Policies and Procedures;
  - (c) Small group or individual counseling with students, record-keeping for student attendance, preparing a counseling plan of care and preparing progress reports and counseling notes;
  - (d) Participating in the development of Individual Education Plan (IEP), attendance at required eligibility, IEP and dismissal staffings, providing consultation with parents, school district and staff, as needed;
  - (e) Complete all appropriate documentation for Medicaid Reimbursement; and
  - (f) School Psychologists shall be compensated for direct student services and student-related activities only
5. School psychologist(s), provided by VENDOR, shall be fluent in oral and written English. VENDOR shall provide a bi-lingual psychologist as needed.
6. School psychologist(s) under this Agreements shall be required to pass the screening of the Broward School's Police, Security Clearance Department prior to placement of assignment as required by SBBC (Refer to General Condition 7.39, SBBC Photo Identification Badge of the RFP). School psychologist(s) shall utilize the STAR system and/or sign-in/out procedures to document attendance at assigned location(s).

## ATTACHMENT A

7. School psychologist(s) who will be assigned to work for SBBC shall comply with the Jessica Lunsford Act and pass the screenings of the Special Investigative Unit (School Police) including a Level 2 FDLE background check and FBI screening and fingerprinting. The fee is payable directly to Fieldprint.
  - (a) This requirement applies even if the individual has passed similar screening by other governmental agencies.
  - (b) VENDOR is cautioned that it is their responsibility to ensure their staff complies with this requirement in a timely manner.
  - (c) SBBC issued I.D. Badge shall be worn at all times while at the school and other SBBC locations.
8. SBBC reserves the right to interview all VENDOR's school psychologist candidates prior to placement; PreK-12 experience is preferred. SBBC reserves the right to refuse to utilize any proposed school psychologist(s) if it is in their best interest to do so. SBBC reserves the right to have an individual school psychologist removed from the assigned position. VENDOR shall have five (5) workdays in which to propose a replacement school psychologist. Should VENDOR be unable to provide an acceptable replacement, all other contracts other awarded vendors, under this contract, will then be notified to submit a candidate to SBBC.
9. School psychologist(s) shall be expected to attend all district-sponsored professional development activities in relation to this Agreement.
10. School psychologist(s) shall be required to complete original protocols for each assessment administered to be kept in the Psychological Services Records Department. A Psychoeducational Report or a Multidisciplinary Report will be completed by the school psychologist(s) and uploaded to EdPlan.
11. School psychologist(s) shall be required to write clinical notes for each direct counseling service and student-oriented consultation that is provided. For all clinical notes attached to students that have a signed consent form, school psychologist(s) shall submit notes with each weekly log.
12. Any mental health screenings and assessments conducted shall be logged and original documents shall be kept in students' educational record. School psychologist(s) shall also be required to complete a weekly log documenting the hours of service for each student served.
13. School psychologist(s) shall provide services consistent with the professional standards of care and comply with all the medical and ethical requirements imposed by the State of Florida, Board of Medicine, the Department of Professional Regulations, the Florida State Department of Education and any other applicable federal, state or local regulatory agency.

## ATTACHMENT A

14. School psychologist(s) shall adhere to SBBC rules and regulations regarding proper attire (no tank-tops, no open-toe shoes), wearing SBBC issued ID badge, prohibition of smoking, usage of proper language, prohibition of use and possession of controlled substances and alcoholic beverages, prohibition of the possession of firearms, either on their person or in their personal vehicles and any other restrictions or prohibitions as may apply.
15. School psychologist(s) shall follow all procedures (including, but not limited to, utilizing the Star System and no personal calls or emails during treatment time) of individual schools or offices where the school psychologist(s) is assigned. School psychologist(s) must check their SBBC provided email at least twice a day for critical communication throughout the day with SBBC personnel as established.
16. School psychologist(s) shall provide the requested level of service(s), in accordance with and/or changes for services requested by the ESLS Department, within five (5) calendar days of notice, unless otherwise mutually agreed upon. Excessive failure to meet the needs of SBBC, as requested, shall result in termination of the VENDOR's contract.
17. School psychologist(s) shall maintain normal working hours of 7:30 a.m. to 3:00 p.m. or 8:00 a.m. to 3:30 p.m. There will be no reimbursement for a thirty (30) minute lunch period. SBBC may only be invoiced for up to seven (7) hours per day unless prior approval has been granted by SBBC, ESLS staff for extended service time. School psychologist(s) may provide a maximum of four (4) hours of service as needed on each scheduled employee planning day unless prior approval is granted for scheduled evaluations, training or report writing by the ESLS Department. Invoices not complying with this requirement shall be rejected and returned to VENDOR for correction and failure to invoice correctly may result in a delay of payment. If VENDOR consistently submits an invoice that is not in compliance may be found in default of their contract.
18. VENDOR shall provide a service schedule of all personnel for approval, upon request, on a regular basis as determined by a designated SBBC representative. Requests shall be submitted within the established deadline. Failure to comply with requested deadlines may result in a delay in payment of an invoice.
19. VENDOR shall provide uninterrupted services based upon the current school calendar to students by providing qualified substitutes or replacements in the event of an anticipated or unanticipated lapse of service. All qualified substitutes must display an SBBC identification badge and be pre-approved by appropriate SBBC administrator. (Refer to General Condition 7.39 of the RFP) Any lapse of service to SBBC for five (5) student attendance days during any school year shall result in default of their contract. VENDOR may be responsible to provide compensatory services or payments to SBBC for lapse of service as determined by the ESLS Department.
20. School psychologist(s) shall prepare time logs, reports, written analysis, and other written memoranda in the form and manner deemed appropriate by SBBC.
21. VENDOR shall bill under SBBC's Medicaid provider number when needed.

## ATTACHMENT A

22. VENDOR shall provide proof of services on the form provided by SBBC upon initiation of services and up until training is provided on the Accelify Electronic Database. Once the school psychologist(s) have received training, the school psychologist(s) shall then submit all proof of services electronically via the database.
23. VENDOR shall cooperate with SBBC in its partnership with universities and colleges to provide supervision of practicum experience for student local school psychology programs.
24. VENDOR may be evaluated annually in areas to include, but not be limited to, responsiveness, continuity of service, quality of work, and professionalism.
25. School psychologist(s) shall attend an orientation workshop of not more than four hours. This orientation workshop shall include, but not be limited to, general information on the policies and procedures of the Broward County Special Programs and Procedures, the rights of students with disabilities, and other operational procedures required to carry out the assigned school psychology duties. Additional workshops and/or meetings may be required during the term of the contract.
26. School psychologist(s) shall receive, from SBBC, requested materials, equipment, and other related items that have been determined to be necessary to carry out school psychology services and required for the provision of Free Appropriate Public Education (FAPE) when approved by a designated SBBC, ESLS representative.
27. School psychologist(s) shall participate in the 504 and Exceptional Student Education (ESE) eligibility meetings to share evaluation results and recommendations. When appropriate, the school psychologist(s) shall participate in 504 and IEP meetings, and assist in the development of the goals and objectives of the IEPs in collaboration with appropriate school/district personnel.
28. School psychologist(s) shall attend re-evaluation meetings and provide consultation regarding the need for the collection of updated assessment data. Assessment results shall be shared following any re-evaluations conducted by the school psychologist(s).
29. School psychologist(s) shall work only on days when students are in attendance unless a written request is made and approved by the ESLS designee, one week prior to the date requested.
30. SBBC shall provide to VENDOR's approved school psychologist(s) appropriate and necessary technology (i.e. laptop computer, etc.) that will be needed to carry out job responsibilities for this contract. The school psychologist(s) shall be required to sign The School Board of Broward County, Florida's Property Pass, Form 0013 (**Exhibit 1**), issued by ESLS Department and must abide by the conditions stated in School Board Policy 5306 – School and District Technology Usage (**Exhibit 2**). The school psychologist(s) shall be responsible for the technology equipment provided to them. If the technology equipment provided to the school psychologist(s) is lost, stolen or damaged, the school psychologist(s) must report this immediately to the ESLS Department. If requested by SBBC, the school psychologist(s) may be required to replace the equipment provided to them at their cost.

## **ATTACHMENT A**

30. School psychologist(s) shall maintain student evaluation and counseling records as established by the SBBC, ESLS Department. These records contain confidential information and therefore must be kept secure at all times.

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

\_\_\_\_\_  
EMPLOYEE/STUDENT NAME (*Circle One*)      \_\_\_\_\_ DATE      \_\_\_\_\_ LOCATION NO./NAME

The above-named person is authorized to remove from the location above, subject to the conditions established in Board Policy #5306, the tangible personal property described below.

\_\_\_\_\_  
PROPERTY DESCRIPTION      \_\_\_\_\_ PHONE NUMBER      \_\_\_\_\_ SERIAL NUMBER

By signing below the borrower agrees to the following stipulations:

- a. The property remains the property of The School Board of Broward County, Florida, and must be returned by the expected return date indicated below in good condition.
- b. The property shall be used only in connection with borrower's employment/study assignments.
- c. The borrower shall ensure the safety of the property while it is in his possession.
- d. The borrower has read, and understands, the provisions of Board Policy #5306.
- e. In case of loss or damage, the borrower shall adequately compensate The School Board of Broward County, Florida. **(Not applicable to computer borrowing by District staff.)**

\_\_\_\_\_  
EXPECTED RETURN DATE  
(*No later than end of fiscal year*)

\_\_\_\_\_  
EMPLOYEE  
(Circle One)

\_\_\_\_\_  
SIGNATURE OF AUTHORIZING PRINCIPAL/SUPERVISOR

The return of the above-described property in good condition is hereby acknowledged.

\_\_\_\_\_  
DATE PROPERTY RETURNED

\_\_\_\_\_  
SIGNATURE (PRINCIPAL/DIRECTOR/SUPERVISOR)

5306

5306

### SCHOOL AND DISTRICT TECHNOLOGY USAGE

THE SCHOOL BOARD OF BROWARD COUNTY, FLORIDA ADHERES TO THE BELIEF THAT TECHNOLOGY SHOULD PLAY A VITAL ROLE IN MEETING THE NEEDS OF THE BROAD RANGE OF ABILITIES, DISABILITIES, CULTURAL BACKGROUNDS AND ETHNIC POPULATIONS REPRESENTED IN DISTRICT SCHOOLS. TO ASSURE THAT TECHNOLOGY SHALL PLAY A PREDOMINANT ROLE, THIS POLICY PROVIDES GUIDANCE FOR APPROPRIATE TECHNOLOGY UTILIZATION AND INTEGRATION INTO THE CURRICULUM, AS WELL AS INFUSION INTO SCHOOL/DISTRICT ADMINISTRATION AND MANAGEMENT.

#### 1. Definition

**For the purpose of this policy, technology is defined as, but not limited to, the following:**

- a. Instructional and staff workstations (both desktop and portable), tablets, printers, scanners and other peripherals;
- b. Administrative staff workstations (both desktop and portable), tablets, printers, scanners and other peripherals;
- c. Campus and departmental local area networks (both wired and wireless), including wiring, hubs, switches, routers, transmitters/receivers and other devices;
- d. Servers; including instructional lab servers, web servers, video servers, file and print servers, database servers, internet proxy caching servers;
- e. A Wide Area Network linking all School Board of Broward County (SBBC) sites into one countywide Intranet;
- f. Telephone systems; including primary systems, integrated voice response/management systems, automatic dialing systems;
- g. Learning resource management systems, including library automation systems;
- h. Distance learning systems;
- i. Video capturing, broadcast, receiving, and distribution systems;
- j. Teleconferencing systems;
- k. Application software packages which result in the creation and maintenance of an operational database;
- l. Energy management and security monitoring systems;
- m. Radio systems;
- n. Office copier, Printer, image scanners and document management systems;
- o. Cellular phones, PDAs, Smartphones, and similar mobile items;
- p. Paging systems;
- q. Intercom; and
- r. Facsimile systems.

#### 2. Purpose

- a. To foster and support innovation and experimentation in the transformation from a traditional approach to teaching, learning, and education management to a technology-based model meeting the needs of the broad range of abilities, disabilities, cultural backgrounds, and ethnic populations represented in Broward County Public Schools.
- b. To establish and maintain guidelines and procedures for appropriate technology utilization and infusion in the classroom, in the schools, in school and district administration and management, and in planning and evaluation to more effectively

prepare students for the transition from school to work for success in the workplace, and to improve the operations of the school system.

### 3. Technology Guidelines

- a. The primary priority of the technology system is to improve student learning, teaching, and business efficiency.
- b. Designs will be based on vendor-independent open system standards.
- c. The network will integrate voice, data, and video communications systems.
- d. The data architecture will be based on an enterprise-wide network using client-server technology.
- e. Database management software will be relational and able to run on a variety of operating systems and hardware platforms.
- f. A common data dictionary will be established that defines data elements at all levels from the classroom to the federal government.
- g. Information management will be bi-directional, allowing data query, reporting, analysis and entry by authorized users.
- h. Information will be recorded once and validated at the source.
- i. Multi-platforms will be supported where possible.
- j. All mainframe, servers, personal computers and peripherals will be inter-connected through network hardware and software.
- k. Uniform technology support services will be made available at all locations.
- l. All technology resources will be coordinated and integrated with appropriate curriculum and business initiatives.
- m. The system will be accessible to staff, students, parents, and the community for appropriate uses and protected with security measures which prevent and detect/monitor unauthorized and inappropriate use.
- n. Provisions must be made for keeping the technology current, within available resources, including policies on replacement or upgrade based on a life-cycle process.
- o. Appropriate training and professional development must be provided to teachers, staff, and administrators to ensure timely implementation and effective use.
- p. The technology must improve decision making and staff productivity.
- q. A process will be established to monitor the effectiveness of technology project implementations.
- r. Student safety, security, and compliance with all applicable laws governing public records (Florida Statute Section 1002.22 and 1002.221) are of primary concern and must be considered in the implementation of all technologies.
- s. Establishing and maintaining procedures for disabling or otherwise modifying any technology protection measures shall be the sole responsibility of the Superintendent or designee.
- t. All users of the Broward County Public Schools network must adhere to the Information Security Guidelines. The latest version of the Information Security Guidelines will be posted on <http://web.broward.k12.fl.us/techstandards>.
- u. Broward Schools' network and telecommunication services shall be properly monitored and, to the extent technically possible, users of school-sponsored telecommunication services and networks shall be protected from harassment or unsafe, unwanted, or unsolicited contact and from content deemed inappropriate.
- v. To the extent practical, and as specifically required by the Children's Internet Protection Act (CIPA), blocking shall be applied to visual and/or auditory

depictions of material deemed obscene, violent, pornographic (child and otherwise), or any other digital material deemed harmful to minors.

- w. Steps shall be taken to promote the safety and security of the School Board of Broward County's computer and telecommunications network(s) when using electronic mail, instant messaging, blogs (macro/micro), social networks, chat services, and other forms of direct electronic communications.
- x. Staff will be responsible for educating, supervising, and monitoring the appropriate usage of the school district's online computer and telecommunications network(s) and access to the Internet in accordance with this policy, the Children's Internet Protection Act (CIPA), the Neighborhood Children's Internet Protection Act (NCIPA), and the Protecting Children in the 21<sup>st</sup> Century Act.
- y. Upon receipt of specific parent/guardian written permission (electronically or otherwise), students will be eligible to receive electronic communications from District employees in connection with activities outside of classroom/instruction activities. However, communications with students utilizing electronic devices, or otherwise, for fraternization purposes are strictly prohibited, except communications between parent and child. Inappropriate communications, as defined below in section 8.h., shall be prohibited. All contact and communications with students, shall be consistent with School Board policies and the Florida Code of Ethics and the Principles of Professional Conduct of the Education Profession in Florida, State Board of Education Rules 6B-1.001 and 6B-1006, F.A.C., which require, among other things, that the primary concern always be for the well-being of the student and to "exercise the best professional judgment and integrity."
- z. All use of cellular equipment and services provided by SBBC must be in accordance with the provisions of the Public Records Act (Florida Statute Section 119) and Standard Practice Bulletin, A-469, "Cellular Telephone Access and Usage".
- aa. Suitable training shall be provided to students regarding appropriate online behavior, including interacting with other individuals on social networking websites and in chat rooms and cyberbullying awareness and response.
- ab. Access to District Networks, applications, and systems shall be discontinued upon termination of employment except in situations where continued access is required by board-approved agreements, School Board policies, state statutes, or federal laws.

#### 4. **Desired Outcomes**

- a. Technology will be appropriately and equitably integrated into instruction and management processes and used by all students and staff as an integral component of school improvement and student success. Improving student performance and achievement, increasing staff productivity, and ensuring efficiency of the day-to-day operations of the school system are the essential reasons for the use of technology in Broward County Public School System.
- b. Technology will be procured and deployed as needed to meet state and federal legislative mandates.
- c. All school classrooms, media centers, and offices and all district departments and offices will be electronically networked (wired and/or wireless) and equipped, providing all staff, students, and administration equitable and easy access to information technologies for teaching, learning, management, and day-to-day operations.

- d. All high school graduates will be prepared to use multiple technologies upon entrance into the work force and/or higher education.
- e. New and emerging technologies will be evaluated, and if appropriate, incorporated into school curriculum and will be integral elements of school improvement and accountability.
- f. Organizational productivity and efficiency will increase as technology is infused into the workplace.
- g. Student, teacher, staff, and administrative effectiveness will improve concurrently with the infusion of technology into their respective workplaces.
- h. The Broward County community will recognize district schools and departments as resources; and the number and quality of partnerships and cooperative endeavors will increase.
- i. The decision-making process will be improved as technology facilitates the flow of information and the communication process, within the district, the state, and the world.
- j. Improved communication between schools and institutions of higher education will increase the sharing of best practices as well as enhance pre-service and in-service training and emphasize technology integration into the curriculum.
- k. Inter- and intra-departmental collaboration, from planning through evaluation, will be a goal of the District.
- l. All units responsible for technology planning will work collaboratively with county, state, and government groups to investigate current, advanced, and emerging commercial technologies and to identify or develop, if necessary, efficient and cost-effective applications.
- m. The broadest possible access to the School Board of Broward County's web-based educational resources will be promoted, while providing safeguards to ensure the safety of students and that security is maintained. Towards this desired outcome, The School Board of Broward County, Florida, will support programs designed to bridge the Digital Divide.
- n. Technology will be used to build and maintain communications links between SBBC and its parental and community stakeholders. (e.g. Instant Messaging, Social Media, blogs and micro blogs, mobile applications, telephone contact systems, etc.). The use of these media, however, must be in compliance with the Florida Retention Schedules (<http://dlis.dos.state.fl.us/barm/genschedules/GS1-SL.pdf>).

## 5. Implementation

A comprehensive and continuous short and long-range Board technology implementation process will direct, review, evaluate, and improve the effective utilization of all aspects of technology.

- a. The Superintendent will direct staff to:
  - 1. Consult and collaborate on a continuing basis with education, business, community, and government groups locally, regionally, and nationally.
  - 2. Identify student competencies in using technologies to access, analyze, apply, and communicate information and incorporate them into the Standards of Service.
  - 3. Identify staff competencies in integrating and applying information technologies in instruction and management and incorporate these competencies as part of the evaluation process.
  - 4. Identify educational management tools to be acquired and implemented.

4. Establish and continually update an ongoing staff development program to support technology usage and integration.
5. Establish baseline standards to ensure that all schools and offices have adequate, appropriate and up to date hardware, software, and communications capabilities as rapidly as resources permit.
6. Review and/or establish guidelines as needed on copyright, acceptable use, and other ethical use policies.
7. Identify, document, and evaluate core processes that need improvement or re-engineering to maximize the productivity and educational benefits from technology investments.
8. Prepare a viable timeline for task implementation and completion, which will assist in evaluating the progress and effectiveness of the district's technology plan.

## 6. Acceptable use of Computer Network and Online Telecommunications

Individuals who use District-owned or leased technology, applications, networks, or telecommunications infrastructure and systems agree to abide by the terms and tenets of this policy. The School Board of Broward County does not warrant network or telecommunications functionality or accuracy of information, nor does it warrant the effectiveness of Internet filtering. No expectation of privacy is created or intended to be created by this Policy. Users of systems, networks, and telecommunications systems must recognize that all content created or stored utilizing District technology may be subject to monitoring for compliance with School Board policies and applicable laws.

### a. Goals for Technology use and Internet Safety

1. Prevent user access over its computer and telecommunications network(s) to, or transmission of, inappropriate material via Internet, electronic mail, instant messaging systems, social networks, or other forms of direct electronic communications;
2. Prevent unauthorized access or other unlawful online activity including, but not limited to, the "hacking" of systems within and outside of the District's enterprise;
3. Prevent unauthorized online disclosure, use, alteration, or dissemination of personally identifiable information of students or confidential information of staff;
4. Comply with the Children's Internet Protection Act (CIPA); the Neighborhood Children's Internet Protection Act (NCIPA); the Protecting Children in the 21<sup>st</sup> Century Act, the Public Records Act (Florida Statute Section 119), and all applicable laws;
5. Prevent the use of its computer and telecommunications network(s) for the purpose of harassment, unlawful discrimination, cyberbullying, cyberstalking and other unlawful activities; and
6. Protect students and staff from inappropriate (as defined in 8h), unlawful or unauthorized communications from individuals, including School Board employees.

**b. Rules**

1. All use of telecommunication services and networks provided by the District or used in any of its schools or departments shall be consistent with Federal laws, Florida laws, the Florida Department of Education "Code of Ethics of the Education Profession in Florida" (Rule 6B-1), and the "Code of Ethics for Computer, Network and On-line Telecommunications Users" (see next section).
2. Successful participation in a network requires that its users regard it as a shared resource and that members conduct themselves in a responsible, safe, ethical, and legal manner while using the network and all accessible applications and digital resources.
3. Staff and students who are exchanging communication with others inside and outside the District are representing The School Board of Broward County, Florida, and should conduct themselves appropriately.
4. Technology owned or leased by the School Board shall not be used for advertising or otherwise communicating or promoting the interests of any commercial, religious, political or other non-district agency or organization except as permitted through board approved agreements, School Board policies, state statutes, or federal laws.
5. Anyone using personally owned technology devices and/or telecommunications services on property owned by the School Board of Broward County must do so in accordance with the terms and tenets of this policy and the published "Personally Owned Device Guidelines". The latest version of the "Personally Owned Guidelines" will be posted on <http://web.broward.k12.fl.us/techstandards>.
6. To implement the Acceptable Use Provision of this policy, it is necessary that all users read and acknowledge in writing that they understand their obligations and willingness to comply with the "Code of Ethics for Computer Network and Online Telecommunications Users" (see below).
7. Student use of technology shall be consistent with the provisions and tenets of this policy and the "Student Code of Conduct".
8. Use of technology shall be consistent with the tenets and provisions of the District's "Social Media Use Guidelines" and the "Web-Publishing Guidelines".

**c. Code of Ethics for Computer Network and Online Telecommunications Users**

1. All users are expected to read and understand the following privileges, rights, and responsibilities when using the network(s) or telecommunications equipment or systems of Broward County public schools.
  - a. Use of computer network and/or online telecommunications is a privilege and must support teaching, learning, and research.
  - b. Students, parents, faculty, and staff in Broward County Public Schools will have access to web-based educational resources in compliance with local, state and federal laws.
  - c. Authorized users shall be ultimately responsible for all activity under their account and password. Accounts shall be used only by the authorized user and only for the purposes specified.

- d. Use of an identity or password other than the user's own is prohibited.
- e. All network users shall adhere to the rules of copyright regarding software, information, and the attribution of authorship. Posting or re-posting any content or material protected by copyright or other intellectual property laws without the author's permission and/or without proper attribution is prohibited.
- f. Any use of telecommunication services or networks for illegal, inappropriate, obscene, or pornographic purposes shall be prohibited.
- g. The use of the District Technology is provided to assist employees in the efficient delivery of public services to the community. Accordingly, the District Technology must be used for purposes consistent with the District's mission and policies.
- h. Use of School Board technology for or engaging in offensive or inflammatory speech, profanity, or obscene language shall be prohibited.
- i. Hate mail, harassment, discriminatory remarks, and other antisocial behaviors shall be prohibited.
- j. Users shall not intentionally spread computer viruses, vandalize the data, infiltrate systems, damage hardware or software, or in any way degrade, interfere or disrupt the use of the network, applications or telecommunications systems, or those belonging to external entities.
- k. Attempts to interfere, degrade or disrupt system performance will be subject to disciplinary action and/or may be viewed as criminal activity in accordance with applicable state and federal law and, if so, will be reported to law enforcement agencies.
- l. Files, documents, materials, and records generated by District employees using School Board of Broward County property, equipment, facilities, and/or systems are the property of the School Board of Broward County and may be accessed at any time by appropriate authorized system personnel.
- m. Records, as defined in Florida Statute Section 119.011(12), generated by District employees using School Board of Broward County property and made or received in connection with the transaction of official business of the School Board (including emails and text messages) must be retained and maintained as public records in compliance with State Law and Board Policy. All business-related email correspondence must utilize the District's email system. Text messaging is permitted solely for the purpose of exchanging transitory messages.
- n. All e-mails created by District employees using School Board of Broward County property must be in compliance with the District's E-Mail Guidelines, which can be found at [www.web.broward.k12.fl.us/techstandards](http://www.web.broward.k12.fl.us/techstandards).
- o. Equipment, networks or systems owned and/or operated by the School Board of Broward County may not be used for the purpose, intended or otherwise, of harassment, "cyberbullying", "cyberstalking" or Dating Violence or Abuse.



**7. Compliance**

- a. Students, employees, and community members/visitors using School Board equipment, networks, or telecommunications infrastructure or systems, on-site or off-site, must conform to the requirements of this policy.
- b. Failure to adhere to, and conform online activities with, any provisions of this policy may subject users to some or all of the following: warnings, usage restrictions, disciplinary actions, or legal proceedings.

**8. Definition of Terms**

- a. Illegal activities shall be defined as a violation of local, state, and/or federal laws.
- b. Inappropriate use shall be defined as a violation of the intended use of the District's mission, goals, policies, or procedures.
- c. Obscenity and/or pornography shall be defined as a violation of generally accepted social standards for use of a publicly-owned and operated communication vehicle.
- d. Harmful to minors means any picture, image, graphic image file, or other visual depiction that-- (a) taken as a whole and with respect to minors, appeals to a prurient interest in nudity, sex, or excretion; (b) depicts, describes, or represents, in a patently offensive way with respect to what is suitable for minors, an actual or simulated sexual act or sexual contact, actual or simulated normal or perverted sexual acts, or a lewd exhibition of the genitals; and (c) taken as a whole, lacks serious literary, artistic, political, or scientific value as to minors.
- e. Sexual Act; Sexual Contact have the meanings given such terms in section 2246 of title 18, United States Code.
- f. Dating Violence or Abuse is defined in School Board Policy 5010.
- g. Harassment, cyberbullying and cyberstalking are defined in School Board Policy 5.9.
- h. "Inappropriate communication" is defined as:
  - (i) a communication which is harmful to minors,
  - (ii) a communication that is inconsistent with the School Board Policies, federal or state laws, or the Code of Ethics for the Education Profession in Florida (which requires the exercise of the best professional judgment and integrity and the highest degree of ethical conduct), or
  - (iii) a communication with a minor student, through the use of District Technology or the use of personally-owned technology devices and/or telecommunication services, that is not related to school connected activities/assignments and that is made without parental permission to do so.
- i. Transitory messages are not intended to formalize or perpetuate knowledge and do not set policy, establish guidelines or procedures, certify a transaction, or become a receipt. "Transitory" refers to short-term value based upon the content and purpose of the message, not the format or technology used to transmit it. Examples of transitory messages include, but are not limited to, reminders to employees about scheduled meetings or appointments; most telephone messages and announcements of events.

Statutory authority: 1001.41

Laws Implemented: 1001.43 (3) (a), Public Records Act (Florida Statute Section 119), Children's Internet Protection Act (CIPA), the Neighborhood Children's Protection Act (NCIPA), the Protecting Children in the 21<sup>st</sup> Century Act.

Policy adopted: 8/6/96

Policy Amended: 2/17/98, 12/15/98, 5/1/01, 3/4/03, 4/29/03, 1/18/05, 8/3/10, 5/30/12

## 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

**CAREERSTAFF UNLIMITED, LLC**  
 (hereinafter referred to as "Business Associate"),  
 whose principal place of business is  
 101 E. State Street  
 Kennett Square, Pennsylvania 19348

**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 3 <sup>rd</sup> Avenue Fort Lauderdale, Florida 33301
With a Copy to:	Director, Exceptional Student Learning Support Department The School Board of Broward County, Florida Arthur Ashe Campus 1701 NW 23 <sup>rd</sup> Avenue Fort Lauderdale, Florida 33311  Privacy Officer Risk Management Department The School Board of Broward County, Florida 600 S.E. 3 <sup>rd</sup> Avenue, 11 <sup>th</sup> Floor Ft. Lauderdale, FL 33301
To Business Associate:	Courtney Verdugo, Area Manager CareerStaff Unlimited 2699 Lee Road, Suite 330 Winter Park, Florida 32789
With a Copy to:	Taylor Corbitt, Staffing Manager CareerStaff Unlimited 2699 Lee Road, Suite 330 Winter Park, Florida 32789

**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.

ATTACHMENT B

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:

*Kathelyn Jacques-Adams*

Digitally signed by Kathelyn Jacques-  
Adams, Esq. - kathelyn.jacques-  
adams@gbrowardschools.com  
Reason: Careerstaff Unlimited, LLC  
Date: 2020.02.06 11:27:26 -05'00'

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

[THIS SPACE INTENTIONALLY LEFT BLANK; SIGNATURE PAGE FOLLOWS]

FOR BUSINESS ASSOCIATE

Verdugo.  
Signature

By: COURTNEY VERDUGO, AREA MANAGER  
Print Name and Title

Michael Pagan  
Witness

G. Pagan  
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 Orange

The foregoing instrument was acknowledged before me by means of ☒ physical presence or ☐ online notarization, this 11/30/2020 (date) by Courtney Verdugo (name of officer or agent, title of officer or agent) of Career Staff Unlimited, LLC (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 Florida Drivers License (type of identification) as identification and who ☐ did/☒ did not first take an oath this 30th day of January, 2020.

My Commission Expires:

Migdalio Pagan  
Signature – Notary Public

Migdalio Pagan  
Notary's Printed Name

(SEAL)



Migdalio Pagan  
State of Florida  
My Commission Expires 05/21/2021  
Commission No. GG 106818

GG 106818  
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: \_\_\_\_\_

## 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

**COMMUNITY REHAB ASSOCIATES, INC.**

(hereinafter referred to as "VENDOR"),  
whose principal place of business is  
3950 3<sup>rd</sup> Street North, Suite D  
Saint Petersburg, Florida 33703

**WHEREAS**, SBBC issued a Request for Proposal identified as RFP FY20-065 – Student Psychological and Mental Health Services (hereinafter referred to as "RFP"); dated August 13, 2019 and amended by Addendum No. 2, dated September 9, 2019, and Addendum No. 1, dated August 27, 2019 all of which are incorporated by reference herein, for the purpose of receiving proposals for student psychological and mental health services; and

**WHEREAS**, VENDOR offered a proposal dated September 13, 2019 (hereinafter referred to as "Proposal") which is incorporated by reference herein, in response to this RFP.

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

### **ARTICLE 1 - RECITALS**

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

### **ARTICLE 2 – SPECIAL CONDITIONS**

2.01 **Term of Agreement.** Unless terminated earlier pursuant to Section 3.05 of this Agreement, the term of this Agreement shall commence upon the execution of all parties conclude on **June 30, 2023**. The term of the Agreement may, by mutual agreement between SBBC and VENDOR, be extended for two (2) additional one-year periods and, if needed, 180 calendar days beyond the expiration date of the renewal period. SBBC's Procurement & Warehousing Services Department, will, if considering renewing, request a letter consenting to renewal from VENDOR, prior to the end of the term. Any renewal period shall be approved by an Amendment to this Agreement executed by both parties.



2.02 **Description of Services Provided.** VENDOR shall provide SBBC with the Scope of Services in its Proposal and in compliance with this Agreement, the RFP and its Addenda, and as specified in **Attachment A – Scope of Services.**

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

- First: This Agreement, then;
- Second: Addendum No. 2, then;
- Third: Addendum No. 1, then;
- Fourth: RFP FY20-065 – Student Psychological and Mental Health Services, then;
- Fifth: Proposal submitted in response to the RFP by VENDOR.

2.04 **Cost of Services.**

(a) SBBC shall pay VENDOR for the cost of services satisfactorily rendered by a school psychologist at a rate not-to-exceed sixty-eight dollars (\$65.00) per hour. VENDOR shall submit to the Exceptional Student Learning Support (ESLS) Department, Arthur Ashe Campus, 1701 NW 23<sup>rd</sup> Avenue, Fort Lauderdale, Florida 33311, an appropriate invoice to be paid net thirty (30) calendar days after the issuance of the same invoice.

(b) Costs shall not exceed the total amount as stated on the Purchase Order(s). VENDOR may offer, at any time to SBBC, a special educational discount for pricing and/or reduce the cost of services during the term of this Agreement. VENDOR may invoice SBBC at an hourly rate less than its original bid price at any time during the term of this Agreement.

2.05 **SBBC Disclosure of Education Records.**

(a) Purposes: School psychologists will be provided with access to selected school district database systems to utilize for the purpose of conducting psychological evaluations, assisting with intervention planning, providing support services to students, and for school-based decision-making. Under this agreement, school psychologists are only entitled to view education records of the students they are working with.

(b) Access will be provided to the following databases for the specific purposes identified below:

- 1) Ed Plan - Access to EdPlan will be provided to school psychologists for the purpose of conducting psychological evaluations, assisting with the development of students' IEPs, EPs, FBAs, PBIPs, reevaluation plans, medical records, and other such documents utilized for educational planning or as a part of the consideration for the ESE program.
- 2) Accelify - Access to Accelify will be utilized for the purpose of Medicaid billing (e.g., logging evaluation activities and direct services to students), logging non-student activities (e.g., crisis response, trainings), and opening/closing referrals for evaluations.

- 3) BASIS: Access to BASIS will be utilized for the purpose of conducting psychological evaluations and participating in school-based decision-making as it pertains to the collaborative problem-solving model and other job functions.

(c) Types: School psychologists will be provided with limited access to the following databases in accordance with the definitions below:

- 1) Ed Plan: EdPlan will be used to upload psychological reports, review a student's documents related to their past participation in the ESE program, including their evaluation history and any medical records shared with the school-based teams. They will access additional EdPlan records, as needed, to provide guidance in the development of interventions, and additional educational planning. Psychologists will also be given access to a student's Behavioral Threat Assessment records when they are involved as mandatory participant on a student's Behavioral Threat Assessment team.
- 2) Accelify: A psychologist will have access to their psych referrals list, with the identifying information of students' cases that were assigned to them individually. They will also have access to the students at their school to document services provided to the students or at the school. This tool will be used for the purpose of Medicaid billing and logging services direct and indirect services provided.
- 3) BASIS: A psychologist will access student details which include, but are not limited to: demographic information, health records, contact information, academic history, test scores, discipline history, attendance history, identified risk factors, assignment history, Rtl referrals, and any educational records needed for the purpose of conducting psychological evaluations, guiding the development of interventions, and additional educational planning.

(d) Consent: SBBC will obtain written consent from each student's parent / guardian or student age 18 or over prior to disclosing or allowing access to the education records listed in this section.

(e) School psychologists will sign Electronic User Agreements and Privacy Policy Statements as defined by The School Board of Broward County, Florida when provided with access to the above-mentioned databases.

## **2.06 VENDOR Confidentiality of Education Records.**

(a) Notwithstanding any provision to the contrary within this Agreement, VENDOR and/or its individual school psychologists and personnel 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 redisclose 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 safety 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](mailto:privacy@browardschools.com), and take all necessary notification steps as may 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 any media equipment is no longer in use or is to be disposed; secure erasure will 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) VENDOR 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.

**2.07 HIPAA Compliance.** VENDOR acknowledges that the Health Insurance Portability and Accountability Act ("HIPAA") and the Health Information Technology for Economic and Clinical Health Act of 2009 ("HITECH Act") (HIPAA and HITECH Act are collectively referred to herein as "HIPAA") protect the privacy of protected health information ("PHI") and may be applicable to student records in certain circumstances; and shall enter into SBBC's HIPAA Business Associate Agreement ("BAA") attached as **Attachment B**. PHI may be used and disclosed only in compliance with HIPAA.

**2.08 Inspection of VENDOR's Records by SBBC.** VENDOR shall establish and maintain books, records and documents (including electronic storage media) sufficient to reflect all income and expenditures of funds provided by SBBC under this Agreement. All VENDOR's 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 VENDOR 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 VENDOR's records from the effective date of this Agreement, for the duration of the term of this Agreement, and until the later of five (5) years after the termination of this Agreement or five (5) years after the date of final payment by SBBC to VENDOR pursuant to this Agreement.

(b) **Notice of Inspection.** SBBC's agent or its authorized representative shall provide VENDOR 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 VENDOR's facilities and to any and all records related to this Agreement, and shall be provided adequate and appropriate work space in order to exercise the rights permitted under this section.

(d) Failure to Permit Inspection. Failure by VENDOR to permit audit, inspection, examination, evaluation and/or reproduction as permitted under this section shall constitute grounds for termination of this Agreement by SBBC for cause and shall be grounds for SBBC's denial of some or all of any VENDOR'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 VENDOR in excess of two percent (2%) of the total billings under this Agreement, the actual cost of SBBC's audit shall be paid by VENDOR. If the audit discloses billings or charges to which VENDOR is not contractually entitled, VENDOR shall pay said sum to SBBC within twenty (20) days of receipt of written demand unless otherwise agreed to in writing by both parties.

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

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

2.09 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: Director, Exceptional Student Learning Support Department  
The School Board of Broward County, Florida  
Arthur Ashe Campus  
1701 NW 23<sup>rd</sup> Avenue  
Fort Lauderdale, Florida 33311



To VENDOR: Kelly McDonnell, M.S., CCC-SLP, CEO, President  
Director of Therapy Services  
Community Rehab Services, Inc.  
3950 3<sup>rd</sup> Street North, Suite D  
Saint Petersburg, Florida 33703

With a Copy to: Chastity Schaneman, Bookkeeper  
Community Rehab Services, Inc.  
3950 3<sup>rd</sup> Street North, Suite D  
Saint Petersburg, Florida 33703

2.10 **Non-Compete Clause.** The ESLS Department will inform VENDOR at the end of each school year if they are interested in hiring VENDOR's school psychologist(s). At that time the school psychologist will maintain contract status for a duration of twelve (12) months, at a full-time schedule. Upon completion of the twelve-month "non-compete" period, the school psychologist(s) will have the option to be hired by SBBC with no fee to SBBC or the school psychologist.

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

2.12 **Public Records.** The following provisions are required by Section 119.0701, Florida Statutes, and may not be amended. VENDOR 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, VENDOR 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. VENDOR 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 VENDOR does not transfer the public records to SBBC. Upon completion of the Agreement, VENDOR shall transfer, at no cost, to SBBC all public records in possession of VENDOR or keep and maintain public records required by SBBC to perform the services required under the Agreement. If VENDOR transfers all public records to SBBC upon completion of the Agreement, VENDOR shall destroy any duplicate public records that are exempt or confidential

and exempt from public records disclosure requirements. If VENDOR keeps and maintains public records upon completion of the Agreement, VENDOR 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.**

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

2.14 **Insurance Requirements.** VENDOR shall comply with the following insurance requirements throughout the term of this Agreement:

(a) **General Liability.** VENDOR 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) **Professional Liability/Errors & Omissions.** VENDOR 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. VENDOR 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. VENDOR 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 VENDOR to SBBC's Risk Management Department by Certificate of Insurance within fifteen (15) 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 VENDOR to remedy any deficiencies. VENDOR 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. VENDOR 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.

## 2.15 Nondiscrimination.

(a) As a condition of entering into this Agreement, VENDOR represents and warrants that it will comply with the SBBC's Commercial Nondiscrimination Policy, as described under, Section D.1 of SBBC's Policy No. 3330 – Supplier Diversity Outreach Program.

(b) As part of such compliance, VENDOR shall not discriminate on the basis of race, color, religion, ancestry or national origin, sex, age, marital status, sexual orientation, or on the



basis of disability or other unlawful forms of discrimination in the solicitation, selection, hiring, or commercial treatment of subcontractors, vendors, suppliers, or commercial customers, nor shall VENDOR retaliate against any person for reporting instances of such discrimination. VENDOR shall provide equal opportunity for subcontractors, vendors, and suppliers to participate in all of its public sector and private sector subcontracting and supply opportunities, provided that nothing contained in this clause shall prohibit or limit otherwise lawful efforts to remedy the effects of marketplace discrimination that have occurred or are occurring in the SBBC's relevant marketplace. VENDOR understands and agrees that a material violation of this clause shall be considered a material breach of this Agreement and may result in termination of this Agreement, disqualification of the company from participating in SBBC Agreements, or other sanctions. This clause is not enforceable by or for the benefit of, and creates no obligation to, any third party.

2.16 **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.

2.17 **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.

2.18 **Incorporation by Reference.** Attachment A and Attachment B, 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. 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 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: Community Rehab Associates, Inc.  
Date: 2020.02.03 14:39:38 -05'00'

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

**[THIS SPACE INTENTIONALLY LEFT BLANK; SIGNATURE PAGE FOLLOWS]**



**FOR VENDOR:**

(Corporate Seal)

ATTEST:

COMMUNITY REHAB ASSOCIATES, INC.

By

Print Name:

Title:

, Secretary

-or-

Witness

Witness

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

STATE OF

COUNTY OF

The foregoing instrument was acknowledged before me by means of ☒ physical presence or ☐ online notarization, this January 30, 2020 (date) by Kelly McDonnell (name of officer or agent, title of officer or agent) of Community Rehab Associates (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 Personally Known (type of identification) as identification and who ☐ did/☐ did not first take an oath this 30 day of January, 2020.

My Commission Expires:

October 21, 2023

(SEAL)

Stephanie Miranda Torres  
Signature - Notary Public

Stephanie Miranda Torres  
Notary's Printed Name

GG 924564  
Notary's Commission No.



SCOPE OF SERVICES

1. VENDOR shall furnish current certified/licensed school psychologist(s) under this contract. If a certificate and/or license is suspended, revoked, or otherwise deemed invalid by the State of Florida, the VENDOR shall notify the Exceptional Student Learning and Support (ESLS) immediately that it is removing the uncertified school psychologist from the school property and shall arrange for a qualified replacement within 48 hours. **Award of this contract shall not be a guarantee of business, a guarantee of specified volume of service or minimum dollar revenue to be received under this contract.**
2. School psychologist(s), provided by the VENDOR, shall be responsible for obtaining the necessary contract hours for certificate renewal. SBBC shall not pay for or provide paid time off for attending continuing education activities for license renewal with the exception of trainings offered directly by the ESLS Department.
3. VENDOR's employees and school psychologist(s) shall review and become familiar with federal, state, and District confidentiality requirements for student records, and agrees that access to and use of those records by employees shall be in strict compliance with these requirements as stated in Sections 2.05 and 2.06 of this Agreement.
4. School psychologist(s) shall provide the following services, but not be limited to:
  - (a) Providing consultation with parents, school and district staff, diagnostic testing, observations, and intervention planning;
  - (b) Conducting initial evaluations and re-evaluations of children/adolescents and preparing a multidisciplinary team report or a psychoeducational report of findings in accordance with Broward County Schools' ESE Policies and Procedures;
  - (c) Small group or individual counseling with students, record-keeping for student attendance, preparing a counseling plan of care and preparing progress reports and counseling notes;
  - (d) Participating in the development of Individual Education Plan (IEP), attendance at required eligibility, IEP and dismissal staffings, providing consultation with parents, school district and staff, as needed;
  - (e) Complete all appropriate documentation for Medicaid Reimbursement; and
  - (f) School Psychologists shall be compensated for direct student services and student-related activities only
5. School psychologist(s), provided by VENDOR, shall be fluent in oral and written English. VENDOR shall provide a bi-lingual psychologist as needed.
6. School psychologist(s) under this Agreements shall be required to pass the screening of the Broward School's Police, Security Clearance Department prior to placement of assignment as required by SBBC (Refer to General Condition 7.39, SBBC Photo Identification Badge of the RFP). School psychologist(s) shall utilize the STAR system and/or sign-in/out procedures to document attendance at assigned location(s).

## ATTACHMENT A

7. School psychologist(s) who will be assigned to work for SBBC shall comply with the Jessica Lunsford Act and pass the screenings of the Special Investigative Unit (School Police) including a Level 2 FDLE background check and FBI screening and fingerprinting. The fee is payable directly to Fieldprint.
  - (a) This requirement applies even if the individual has passed similar screening by other governmental agencies.
  - (b) VENDOR is cautioned that it is their responsibility to ensure their staff complies with this requirement in a timely manner.
  - (c) SBBC issued I.D. Badge shall be worn at all times while at the school and other SBBC locations.
8. SBBC reserves the right to interview all VENDOR's school psychologist candidates prior to placement; PreK-12 experience is preferred. SBBC reserves the right to refuse to utilize any proposed school psychologist(s) if it is in their best interest to do so. SBBC reserves the right to have an individual school psychologist removed from the assigned position. VENDOR shall have five (5) workdays in which to propose a replacement school psychologist. Should VENDOR be unable to provide an acceptable replacement, all other contract other awarded vendors, under this contract, will then be notified to submit a candidate to SBBC.
9. School psychologist(s) shall be expected to attend all district-sponsored professional development activities in relation to this Agreement.
10. School psychologist(s) shall be required to complete original protocols for each assessment administered to be kept in the Psychological Services Records Department. A Psychoeducational Report or a Multidisciplinary Report will be completed by the school psychologist(s) and uploaded to EdPlan.
11. School psychologist(s) shall be required to write clinical notes for each direct counseling service and student-oriented consultation that is provided. For all clinical notes attached to students that have a signed consent form, school psychologist(s) shall submit notes with each weekly log.
12. Any mental health screenings and assessments conducted shall be logged and original documents shall be kept in students' educational record. School psychologist(s) shall also be required to complete a weekly log documenting the hours of service for each student served.
13. School psychologist(s) shall provide services consistent with the professional standards of care and comply with all the medical and ethical requirements imposed by the State of Florida, Board of Medicine, the Department of Professional Regulations, the Florida State Department of Education and any other applicable federal, state or local regulatory agency.



## ATTACHMENT A

14. School psychologist(s) shall adhere to SBBC rules and regulations regarding proper attire (no tank-tops, no open-toe shoes), wearing SBBC issued ID badge, prohibition of smoking, usage of proper language, prohibition of use and possession of controlled substances and alcoholic beverages, prohibition of the possession of firearms, either on their person or in their personal vehicles and any other restrictions or prohibitions as may apply.
15. School psychologist(s) shall follow all procedures (including, but not limited to, utilizing the Star System and no personal calls or emails during treatment time) of individual schools or offices where the school psychologist(s) is assigned. School psychologist(s) must check their SBBC provided email at least twice a day for critical communication throughout the day with SBBC personnel as established.
16. School psychologist(s) shall provide the requested level of service(s), in accordance with and/or changes for services requested by the ESLS Department, within five (5) calendar days of notice, unless otherwise mutually agreed upon. Excessive failure to meet the needs of SBBC, as requested, shall result in termination of the VENDOR's contract.
17. School psychologist(s) shall maintain normal working hours of 7:30 a.m. to 3:00 p.m. or 8:00 a.m. to 3:30 p.m. There will be no reimbursement for a thirty (30) minute lunch period. SBBC may only be invoiced for up to seven (7) hours per day unless prior approval has been granted by SBBC, ESLS staff for extended service time. School psychologist(s) may provide a maximum of four (4) hours of service as needed on each scheduled employee planning day unless prior approval is granted for scheduled evaluations, training or report writing by the ESLS Department. Invoices not complying with this requirement shall be rejected and returned to VENDOR for correction and failure to invoice correctly may result in a delay of payment. If VENDOR consistently submits an invoice that is not in compliance may be found in default of their contract.
18. VENDOR shall provide a service schedule of all personnel for approval, upon request, on a regular basis as determined by a designated SBBC representative. Requests shall be submitted within the established deadline. Failure to comply with requested deadlines may result in a delay in payment of an invoice.
19. VENDOR shall provide uninterrupted services based upon the current school calendar to students by providing qualified substitutes or replacements in the event of an anticipated or unanticipated lapse of service. All qualified substitutes must display an SBBC identification badge and be pre-approved by appropriate SBBC administrator. (Refer to General Condition 7.39 of the RFP) Any lapse of service to SBBC for five (5) student attendance days during any school year shall result in default of their contract. VENDOR may be responsible to provide compensatory services or payments to SBBC for lapse of service as determined by the ESLS Department.
20. School psychologist(s) shall prepare time logs, reports, written analysis, and other written memoranda in the form and manner deemed appropriate by SBBC.
21. VENDOR shall bill under SBBC's Medicaid provider number when needed.

## ATTACHMENT A

22. VENDOR shall provide proof of services on the form provided by SBBC upon initiation of services and up until training is provided on the Accelify Electronic Database. Once the school psychologist(s) have received training, the school psychologist(s) shall then submit all proof of services electronically via the database.
23. VENDOR shall cooperate with SBBC in its partnership with universities and colleges to provide supervision of practicum experience for student local school psychology programs.
24. VENDOR may be evaluated annually in areas to include, but not be limited to, responsiveness, continuity of service, quality of work, and professionalism.
25. School psychologist(s) shall attend an orientation workshop of not more than four hours. This orientation workshop shall include, but not be limited to, general information on the policies and procedures of the Broward County Special Programs and Procedures, the rights of students with disabilities, and other operational procedures required to carry out the assigned school psychology duties. Additional workshops and/or meetings may be required during the term of the contract.
26. School psychologist(s) shall receive, from SBBC, requested materials, equipment, and other related items that have been determined to be necessary to carry out school psychology services and required for the provision of Free Appropriate Public Education (FAPE) when approved by a designated SBBC, ESLS representative.
27. School psychologist(s) shall participate in the 504 and Exceptional Student Education (ESE) eligibility meetings to share evaluation results and recommendations. When appropriate, the school psychologist(s) shall participate in 504 and IEP meetings, and assist in the development of the goals and objectives of the IEPs in collaboration with appropriate school/district personnel.
28. School psychologist(s) shall attend re-evaluation meetings and provide consultation regarding the need for the collection of updated assessment data. Assessment results shall be shared following any re-evaluations conducted by the school psychologist(s).
29. School psychologist(s) shall work only on days when students are in attendance unless a written request is made and approved by the ESLS designee, one week prior to the date requested.
30. SBBC shall provide to VENDOR's approved school psychologist(s) appropriate and necessary technology (i.e. laptop computer, etc.) that will be needed to carry out job responsibilities for this contract. The school psychologist(s) shall be required to sign The School Board of Broward County, Florida's Property Pass, Form 0013 (**Exhibit 1**), issued by ESLS Department and must abide by the conditions stated in School Board Policy 5306 – School and District Technology Usage (**Exhibit 2**). The school psychologist(s) shall be responsible for the technology equipment provided to them. If the technology equipment provided to the school psychologist(s) is lost, stolen or damaged, the school psychologist(s) must report this immediately to the ESLS Department. If requested by SBBC, the school psychologist(s) may be required to replace the equipment provided to them at their cost.

## ATTACHMENT A

30. School psychologist(s) shall maintain student evaluation and counseling records as established by the SBBC, ESLS Department. These records contain confidential information and therefore must be kept secure at all times.

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

\_\_\_\_\_  
 EMPLOYEE/STUDENT NAME *(Circle One)*

\_\_\_\_\_  
 DATE

\_\_\_\_\_  
 LOCATION NO./NAME

The above-named person is authorized to remove from the location above, subject to the conditions established in Board Policy #5306, the tangible personal property described below.

\_\_\_\_\_  
 PROPERTY DESCRIPTION

\_\_\_\_\_  
 PHONE NUMBER

\_\_\_\_\_  
 SERIAL NUMBER

By signing below the borrower agrees to the following stipulations:

- a. The property remains the property of The School Board of Broward County, Florida, and must be returned by the expected return date indicated below in good condition.
- b. The property shall be used only in connection with borrower's employment/study assignments.
- c. The borrower shall ensure the safety of the property while it is in his possession.
- d. The borrower has read, and understands, the provisions of Board Policy #5306.
- e. In case of loss or damage, the borrower shall adequately compensate The School Board of Broward County, Florida. ***(Not applicable to computer borrowing by District staff.)***

\_\_\_\_\_  
 EXPECTED RETURN DATE  
*(No later than end of fiscal year)*

\_\_\_\_\_  
 EMPLOYEE  
 (Circle One)

\_\_\_\_\_  
 SIGNATURE OF AUTHORIZING PRINCIPAL/SUPERVISOR

The return of the above-described property in good condition is hereby acknowledged.

\_\_\_\_\_  
 DATE PROPERTY RETURNED

\_\_\_\_\_  
 SIGNATURE (PRINCIPAL/DIRECTOR/SUPERVISOR)

Form No. 0013  
 Revised 4/01  
 W18122

5306

5306

### SCHOOL AND DISTRICT TECHNOLOGY USAGE

THE SCHOOL BOARD OF BROWARD COUNTY, FLORIDA ADHERES TO THE BELIEF THAT TECHNOLOGY SHOULD PLAY A VITAL ROLE IN MEETING THE NEEDS OF THE BROAD RANGE OF ABILITIES, DISABILITIES, CULTURAL BACKGROUNDS AND ETHNIC POPULATIONS REPRESENTED IN DISTRICT SCHOOLS. TO ASSURE THAT TECHNOLOGY SHALL PLAY A PREDOMINANT ROLE, THIS POLICY PROVIDES GUIDANCE FOR APPROPRIATE TECHNOLOGY UTILIZATION AND INTEGRATION INTO THE CURRICULUM, AS WELL AS INFUSION INTO SCHOOL/DISTRICT ADMINISTRATION AND MANAGEMENT.

#### 1. Definition

**For the purpose of this policy, technology is defined as, but not limited to, the following:**

- a. Instructional and staff workstations (both desktop and portable), tablets, printers, scanners and other peripherals;
- b. Administrative staff workstations (both desktop and portable), tablets, printers, scanners and other peripherals;
- c. Campus and departmental local area networks (both wired and wireless), including wiring, hubs, switches, routers, transmitters/receivers and other devices;
- d. Servers; including instructional lab servers, web servers, video servers, file and print servers, database servers, internet proxy caching servers;
- e. A Wide Area Network linking all School Board of Broward County (SBBC) sites into one countywide Intranet;
- f. Telephone systems; including primary systems, integrated voice response/management systems, automatic dialing systems;
- g. Learning resource management systems, including library automation systems;
- h. Distance learning systems;
- i. Video capturing, broadcast, receiving, and distribution systems;
- j. Teleconferencing systems;
- k. Application software packages which result in the creation and maintenance of an operational database;
- l. Energy management and security monitoring systems;
- m. Radio systems;
- n. Office copier, Printer, image scanners and document management systems;
- o. Cellular phones, PDAs, Smartphones, and similar mobile items;
- p. Paging systems;
- q. Intercom; and
- r. Facsimile systems.

#### 2. Purpose

- a. To foster and support innovation and experimentation in the transformation from a traditional approach to teaching, learning, and education management to a technology-based model meeting the needs of the broad range of abilities, disabilities, cultural backgrounds, and ethnic populations represented in Broward County Public Schools.
- b. To establish and maintain guidelines and procedures for appropriate technology utilization and infusion in the classroom, in the schools, in school and district administration and management, and in planning and evaluation to more effectively



prepare students for the transition from school to work for success in the workplace, and to improve the operations of the school system.

### 3. Technology Guidelines

- a. The primary priority of the technology system is to improve student learning, teaching, and business efficiency.
- b. Designs will be based on vendor-independent open system standards.
- c. The network will integrate voice, data, and video communications systems.
- d. The data architecture will be based on an enterprise-wide network using client-server technology.
- e. Database management software will be relational and able to run on a variety of operating systems and hardware platforms.
- f. A common data dictionary will be established that defines data elements at all levels from the classroom to the federal government.
- g. Information management will be bi-directional, allowing data query, reporting, analysis and entry by authorized users.
- h. Information will be recorded once and validated at the source.
- i. Multi-platforms will be supported where possible.
- j. All mainframe, servers, personal computers and peripherals will be inter-connected through network hardware and software.
- k. Uniform technology support services will be made available at all locations.
- l. All technology resources will be coordinated and integrated with appropriate curriculum and business initiatives.
- m. The system will be accessible to staff, students, parents, and the community for appropriate uses and protected with security measures which prevent and detect/monitor unauthorized and inappropriate use.
- n. Provisions must be made for keeping the technology current, within available resources, including policies on replacement or upgrade based on a life-cycle process.
- o. Appropriate training and professional development must be provided to teachers, staff, and administrators to ensure timely implementation and effective use.
- p. The technology must improve decision making and staff productivity.
- q. A process will be established to monitor the effectiveness of technology project implementations.
- r. Student safety, security, and compliance with all applicable laws governing public records (Florida Statute Section 1002.22 and 1002.221) are of primary concern and must be considered in the implementation of all technologies.
- s. Establishing and maintaining procedures for disabling or otherwise modifying any technology protection measures shall be the sole responsibility of the Superintendent or designee.
- t. All users of the Broward County Public Schools network must adhere to the Information Security Guidelines. The latest version of the Information Security Guidelines will be posted on <http://web.broward.k12.fl.us/techstandards>.
- u. Broward Schools' network and telecommunication services shall be properly monitored and, to the extent technically possible, users of school-sponsored telecommunication services and networks shall be protected from harassment or unsafe, unwanted, or unsolicited contact and from content deemed inappropriate.
- v. To the extent practical, and as specifically required by the Children's Internet Protection Act (CIPA), blocking shall be applied to visual and/or auditory

depictions of material deemed obscene, violent, pornographic (child and otherwise), or any other digital material deemed harmful to minors.

- w. Steps shall be taken to promote the safety and security of the School Board of Broward County's computer and telecommunications network(s) when using electronic mail, instant messaging, blogs (macro/micro), social networks, chat services, and other forms of direct electronic communications.
- x. Staff will be responsible for educating, supervising, and monitoring the appropriate usage of the school district's online computer and telecommunications network(s) and access to the Internet in accordance with this policy, the Children's Internet Protection Act (CIPA), the Neighborhood Children's Internet Protection Act (NCIPA), and the Protecting Children in the 21<sup>st</sup> Century Act.
- y. Upon receipt of specific parent/guardian written permission (electronically or otherwise), students will be eligible to receive electronic communications from District employees in connection with activities outside of classroom/instruction activities. However, communications with students utilizing electronic devices, or otherwise, for fraternization purposes are strictly prohibited, except communications between parent and child. Inappropriate communications, as defined below in section 8.h., shall be prohibited. All contact and communications with students, shall be consistent with School Board policies and the Florida Code of Ethics and the Principles of Professional Conduct of the Education Profession in Florida, State Board of Education Rules 6B-1.001 and 6B-1006, F.A.C., which require, among other things, that the primary concern always be for the well-being of the student and to "exercise the best professional judgment and integrity."
- z. All use of cellular equipment and services provided by SBBC must be in accordance with the provisions of the Public Records Act (Florida Statute Section 119) and Standard Practice Bulletin, A-469, "Cellular Telephone Access and Usage".
- aa. Suitable training shall be provided to students regarding appropriate online behavior, including interacting with other individuals on social networking websites and in chat rooms and cyberbullying awareness and response.
- ab. Access to District Networks, applications, and systems shall be discontinued upon termination of employment except in situations where continued access is required by board-approved agreements, School Board policies, state statutes, or federal laws.

#### 4. **Desired Outcomes**

- a. Technology will be appropriately and equitably integrated into instruction and management processes and used by all students and staff as an integral component of school improvement and student success. Improving student performance and achievement, increasing staff productivity, and ensuring efficiency of the day-to-day operations of the school system are the essential reasons for the use of technology in Broward County Public School System.
- b. Technology will be procured and deployed as needed to meet state and federal legislative mandates.
- c. All school classrooms, media centers, and offices and all district departments and offices will be electronically networked (wired and/or wireless) and equipped, providing all staff, students, and administration equitable and easy access to information technologies for teaching, learning, management, and day-to-day operations.

- d. All high school graduates will be prepared to use multiple technologies upon entrance into the work force and/or higher education.
- e. New and emerging technologies will be evaluated, and if appropriate, incorporated into school curriculum and will be integral elements of school improvement and accountability.
- f. Organizational productivity and efficiency will increase as technology is infused into the workplace.
- g. Student, teacher, staff, and administrative effectiveness will improve concurrently with the infusion of technology into their respective workplaces.
- h. The Broward County community will recognize district schools and departments as resources; and the number and quality of partnerships and cooperative endeavors will increase.
- i. The decision-making process will be improved as technology facilitates the flow of information and the communication process, within the district, the state, and the world.
- j. Improved communication between schools and institutions of higher education will increase the sharing of best practices as well as enhance pre-service and in-service training and emphasize technology integration into the curriculum.
- k. Inter- and intra-departmental collaboration, from planning through evaluation, will be a goal of the District.
- l. All units responsible for technology planning will work collaboratively with county, state, and government groups to investigate current, advanced, and emerging commercial technologies and to identify or develop, if necessary, efficient and cost-effective applications.
- m. The broadest possible access to the School Board of Broward County's web-based educational resources will be promoted, while providing safeguards to ensure the safety of students and that security is maintained. Towards this desired outcome, The School Board of Broward County, Florida, will support programs designed to bridge the Digital Divide.
- n. Technology will be used to build and maintain communications links between SBBC and its parental and community stakeholders. (e.g. Instant Messaging, Social Media, blogs and micro blogs, mobile applications, telephone contact systems, etc.). The use of these media, however, must be in compliance with the Florida Retention Schedules (<http://dlis.dos.state.fl.us/barm/genschedules/GS1-SL.pdf>).

## 5. Implementation

A comprehensive and continuous short and long-range Board technology implementation process will direct, review, evaluate, and improve the effective utilization of all aspects of technology.

- a. The Superintendent will direct staff to:
  - 1. Consult and collaborate on a continuing basis with education, business, community, and government groups locally, regionally, and nationally.
  - 2. Identify student competencies in using technologies to access, analyze, apply, and communicate information and incorporate them into the Standards of Service.
  - 3. Identify staff competencies in integrating and applying information technologies in instruction and management and incorporate these competencies as part of the evaluation process.
  - 4. Identify educational management tools to be acquired and implemented.



4. Establish and continually update an ongoing staff development program to support technology usage and integration.
5. Establish baseline standards to ensure that all schools and offices have adequate, appropriate and up to date hardware, software, and communications capabilities as rapidly as resources permit.
6. Review and/or establish guidelines as needed on copyright, acceptable use, and other ethical use policies.
7. Identify, document, and evaluate core processes that need improvement or re-engineering to maximize the productivity and educational benefits from technology investments.
8. Prepare a viable timeline for task implementation and completion, which will assist in evaluating the progress and effectiveness of the district's technology plan.

## 6. Acceptable use of Computer Network and Online Telecommunications

Individuals who use District-owned or leased technology, applications, networks, or telecommunications infrastructure and systems agree to abide by the terms and tenets of this policy. The School Board of Broward County does not warrant network or telecommunications functionality or accuracy of information, nor does it warrant the effectiveness of Internet filtering. No expectation of privacy is created or intended to be created by this Policy. Users of systems, networks, and telecommunications systems must recognize that all content created or stored utilizing District technology may be subject to monitoring for compliance with School Board policies and applicable laws.

### a. Goals for Technology use and Internet Safety

1. Prevent user access over its computer and telecommunications network(s) to, or transmission of, inappropriate material via Internet, electronic mail, instant messaging systems, social networks, or other forms of direct electronic communications;
2. Prevent unauthorized access or other unlawful online activity including, but not limited to, the "hacking" of systems within and outside of the District's enterprise;
3. Prevent unauthorized online disclosure, use, alteration, or dissemination of personally identifiable information of students or confidential information of staff;
4. Comply with the Children's Internet Protection Act (CIPA); the Neighborhood Children's Internet Protection Act (NCIPA); the Protecting Children in the 21<sup>st</sup> Century Act, the Public Records Act (Florida Statute Section 119), and all applicable laws;
5. Prevent the use of its computer and telecommunications network(s) for the purpose of harassment, unlawful discrimination, cyberbullying, cyberstalking and other unlawful activities; and
6. Protect students and staff from inappropriate (as defined in 8h), unlawful or unauthorized communications from individuals, including School Board employees.

**b. Rules**

1. All use of telecommunication services and networks provided by the District or used in any of its schools or departments shall be consistent with Federal laws, Florida laws, the Florida Department of Education "Code of Ethics of the Education Profession in Florida" (Rule 6B-1), and the "Code of Ethics for Computer, Network and On-line Telecommunications Users" (see next section).
2. Successful participation in a network requires that its users regard it as a shared resource and that members conduct themselves in a responsible, safe, ethical, and legal manner while using the network and all accessible applications and digital resources.
3. Staff and students who are exchanging communication with others inside and outside the District are representing The School Board of Broward County, Florida, and should conduct themselves appropriately.
4. Technology owned or leased by the School Board shall not be used for advertising or otherwise communicating or promoting the interests of any commercial, religious, political or other non-district agency or organization except as permitted through board approved agreements, School Board policies, state statutes, or federal laws.
5. Anyone using personally owned technology devices and/or telecommunications services on property owned by the School Board of Broward County must do so in accordance with the terms and tenets of this policy and the published "Personally Owned Device Guidelines". The latest version of the "Personally Owned Guidelines" will be posted on <http://web.broward.k12.fl.us/techstandards>.
6. To implement the Acceptable Use Provision of this policy, it is necessary that all users read and acknowledge in writing that they understand their obligations and willingness to comply with the "Code of Ethics for Computer Network and Online Telecommunications Users" (see below).
7. Student use of technology shall be consistent with the provisions and tenets of this policy and the "Student Code of Conduct".
8. Use of technology shall be consistent with the tenets and provisions of the District's "Social Media Use Guidelines" and the "Web-Publishing Guidelines".

**c. Code of Ethics for Computer Network and Online Telecommunications Users**

1. All users are expected to read and understand the following privileges, rights, and responsibilities when using the network(s) or telecommunications equipment or systems of Broward County public schools.
  - a. Use of computer network and/or online telecommunications is a privilege and must support teaching, learning, and research.
  - b. Students, parents, faculty, and staff in Broward County Public Schools will have access to web-based educational resources in compliance with local, state and federal laws.
  - c. Authorized users shall be ultimately responsible for all activity under their account and password. Accounts shall be used only by the authorized user and only for the purposes specified.

- d. Use of an identity or password other than the user's own is prohibited.
- e. All network users shall adhere to the rules of copyright regarding software, information, and the attribution of authorship. Posting or re-posting any content or material protected by copyright or other intellectual property laws without the author's permission and/or without proper attribution is prohibited.
- f. Any use of telecommunication services or networks for illegal, inappropriate, obscene, or pornographic purposes shall be prohibited.
- g. The use of the District Technology is provided to assist employees in the efficient delivery of public services to the community. Accordingly, the District Technology must be used for purposes consistent with the District's mission and policies.
- h. Use of School Board technology for or engaging in offensive or inflammatory speech, profanity, or obscene language shall be prohibited.
- i. Hate mail, harassment, discriminatory remarks, and other antisocial behaviors shall be prohibited.
- j. Users shall not intentionally spread computer viruses, vandalize the data, infiltrate systems, damage hardware or software, or in any way degrade, interfere or disrupt the use of the network, applications or telecommunications systems, or those belonging to external entities.
- k. Attempts to interfere, degrade or disrupt system performance will be subject to disciplinary action and/or may be viewed as criminal activity in accordance with applicable state and federal law and, if so, will be reported to law enforcement agencies.
- l. Files, documents, materials, and records generated by District employees using School Board of Broward County property, equipment, facilities, and/or systems are the property of the School Board of Broward County and may be accessed at any time by appropriate authorized system personnel.
- m. Records, as defined in Florida Statute Section 119.011(12), generated by District employees using School Board of Broward County property and made or received in connection with the transaction of official business of the School Board (including emails and text messages) must be retained and maintained as public records in compliance with State Law and Board Policy. All business-related email correspondence must utilize the District's email system. Text messaging is permitted solely for the purpose of exchanging transitory messages.
- n. All e-mails created by District employees using School Board of Broward County property must be in compliance with the District's E-Mail Guidelines, which can be found at [www.web.broward.k12.fl.us/techstandards](http://www.web.broward.k12.fl.us/techstandards).
- o. Equipment, networks or systems owned and/or operated by the School Board of Broward County may not be used for the purpose, intended or otherwise, of harassment, "cyberbullying", "cyberstalking" or Dating Violence or Abuse.

**7. Compliance**

- a. Students, employees, and community members/visitors using School Board equipment, networks, or telecommunications infrastructure or systems, on-site or off-site, must conform to the requirements of this policy.
- b. Failure to adhere to, and conform online activities with, any provisions of this policy may subject users to some or all of the following: warnings, usage restrictions, disciplinary actions, or legal proceedings.

**8. Definition of Terms**

- a. Illegal activities shall be defined as a violation of local, state, and/or federal laws.
- b. Inappropriate use shall be defined as a violation of the intended use of the District's mission, goals, policies, or procedures.
- c. Obscenity and/or pornography shall be defined as a violation of generally accepted social standards for use of a publicly-owned and operated communication vehicle.
- d. Harmful to minors means any picture, image, graphic image file, or other visual depiction that-- (a) taken as a whole and with respect to minors, appeals to a prurient interest in nudity, sex, or excretion; (b) depicts, describes, or represents, in a patently offensive way with respect to what is suitable for minors, an actual or simulated sexual act or sexual contact, actual or simulated normal or perverted sexual acts, or a lewd exhibition of the genitals; and (c) taken as a whole, lacks serious literary, artistic, political, or scientific value as to minors.
- e. Sexual Act; Sexual Contact have the meanings given such terms in section 2246 of title 18, United States Code.
- f. Dating Violence or Abuse is defined in School Board Policy 5010.
- g. Harassment, cyberbullying and cyberstalking are defined in School Board Policy 5.9.
- h. "Inappropriate communication" is defined as:
  - (i) a communication which is harmful to minors,
  - (ii) a communication that is inconsistent with the School Board Policies, federal or state laws, or the Code of Ethics for the Education Profession in Florida (which requires the exercise of the best professional judgment and integrity and the highest degree of ethical conduct), or
  - (iii) a communication with a minor student, through the use of District Technology or the use of personally-owned technology devices and/or telecommunication services, that is not related to school connected activities/assignments and that is made without parental permission to do so.
- i. Transitory messages are not intended to formalize or perpetuate knowledge and do not set policy, establish guidelines or procedures, certify a transaction, or become a receipt. "Transitory" refers to short-term value based upon the content and purpose of the message, not the format or technology used to transmit it. Examples of transitory messages include, but are not limited to, reminders to employees about scheduled meetings or appointments; most telephone messages and announcements of events.

Statutory authority: 1001.41

Laws Implemented: 1001.43 (3) (a), Public Records Act (Florida Statute Section 119), Children's Internet Protection Act (CIPA), the Neighborhood Children's Protection Act (NCIPA), the Protecting Children in the 21<sup>st</sup> Century Act.

Policy adopted: 8/6/96

Policy Amended: 2/17/98, 12/15/98, 5/1/01, 3/4/03, 4/29/03, 1/18/05, 8/3/10, 5/30/12



## 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

**COMMUNITY REHAB ASSOCIATES, INC.**  
 (hereinafter referred to as "*VENDOR*"),  
 whose principal place of business is  
 3950 3<sup>rd</sup> Street North, Suite D  
 Saint Petersburg, Florida 33703

**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 3<sup>rd</sup> Avenue  
Fort Lauderdale, Florida 33301

With a Copy to:

Director, Exceptional Student Learning Support Department  
The School Board of Broward County, Florida  
Arthur Ashe Campus  
1701 NW 23<sup>rd</sup> Avenue  
Fort Lauderdale, Florida 33311

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

To Business Associate:

Kelly McDonnell, M.S., CCC-SLP, CEO, President  
Director of Therapy Services  
Community Rehab Services, Inc.  
3950 3<sup>rd</sup> Street North, Suite D  
Saint Petersburg, Florida 33703

With a Copy to:

Chastity Schaneman, Bookkeeper  
Community Rehab Services, Inc.  
3950 3<sup>rd</sup> Street North, Suite D  
Saint Petersburg, Florida 33703

**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:

*Kathelyn Jacques-Adams*

Digitally signed by Kathelyn Jacques-Adams, Esq. -  
kathelyn.jacques-adams@gbrowardschools.com  
Reason: Community Rehab Associates, Inc.  
Date: 2020.02.03 14:40:23 -05'00'

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

**[THIS SPACE INTENTIONALLY LEFT BLANK]**

**FOR BUSINESS ASSOCIATE**

COMMUNITY REHAB ASSOCIATES, INC.

Kelly McDonnell  
Signature

By: Kelly McDonnell CEO  
Print Name and Title

[Signature]  
Witness

Megan [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 Pinellas

The foregoing instrument was acknowledged before me by means of ☒ physical presence or ☐ online notarization, this January 30, 2020 (date) by Kelly McDonnell (name of officer or agent, title of officer or agent) of Community Rehab Associates (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 Personally Known (type of identification) as identification and who ☐ did/☐ did not first take an oath this 30 day of January, 2020.

My Commission Expires:

October 21, 2023

Stephanie Miranda Torres  
Signature – Notary Public

Stephanie Miranda Torres  
Notary's Printed Name

GG 924564  
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: \_\_\_\_\_

# 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

**EBS HEALTHCARE STAFFING SERVICES, INC.**

(hereinafter referred to as “VENDOR”),  
whose principal place of business is  
200 Skiles Boulevard  
West Chester, Pennsylvania 19382

**WHEREAS**, SBBC issued a Request for Proposal identified as RFP FY20-065 – Student Psychological and Mental Health Services (hereinafter referred to as “RFP”); dated August 13, 2019 and amended by Addendum No. 2, dated September 9, 2019, and Addendum No. 1, dated August 27, 2019 all of which are incorporated by reference herein, for the purpose of receiving proposals for student psychological and mental health services; and

**WHEREAS**, VENDOR offered a proposal dated September 16, 2019 (hereinafter referred to as “Proposal”) which is incorporated by reference herein, in response to this RFP.

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

## **ARTICLE 1 - RECITALS**

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

## **ARTICLE 2 – SPECIAL CONDITIONS**

2.01 **Term of Agreement.** Unless terminated earlier pursuant to Section 3.05 of this Agreement, the term of this Agreement shall commence upon the execution of all parties conclude on **June 30, 2023**. The term of the Agreement may, by mutual agreement between SBBC and VENDOR, be extended for two (2) additional one-year periods and, if needed, 180 calendar days beyond the expiration date of the renewal period. SBBC’s Procurement & Warehousing Services Department, will, if considering renewing, request a letter consenting to renewal from VENDOR, prior to the end of the term. Any renewal period shall be approved by an Amendment to this Agreement executed by both parties.

2.02 **Description of Services Provided.** VENDOR shall provide SBBC with the Scope of Services in its Proposal and in compliance with this Agreement, the RFP and its Addenda, and as specified in **Attachment A – Scope of Services.**

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

- First: This Agreement, then;
- Second: Addendum No. 2, then;
- Third: Addendum No. 1, then;
- Fourth: RFP FY20-065 – Student Psychological and Mental Health Services, then;
- Fifth: Proposal submitted in response to the RFP by VENDOR.

2.04 **Cost of Services.**

(a) SBBC shall pay VENDOR for the cost of services satisfactorily rendered by a school psychologist at a rate from Sixty-Five Dollars and 85/100 Cents (\$65.85) per hour to a not-to-exceed rate of Sixty-Seven Dollars and 85/100 Cents (\$67.85) per hour depending on the experience of the school psychologist. VENDOR shall submit to the Exceptional Student Learning Support (ESLS) Department, Arthur Ashe Campus, 1701 NW 23<sup>rd</sup> Avenue, Fort Lauderdale, Florida 33311, an appropriate invoice to be paid net thirty (30) calendar days after the issuance of the same invoice.

(b) Costs shall not exceed the total amount as stated on the Purchase Order(s). VENDOR may offer, at any time to SBBC, a special educational discount for pricing and/or reduce the cost of services during the term of this Agreement. VENDOR may invoice SBBC at an hourly rate less than its original bid price at any time during the term of this Agreement.

(c) The hourly rate for orientation meetings or other days when school psychologists are expected to work when students are not in session shall be Thirty-Five Dollars (\$35.00) per hour (Refer to **Attachment A**, Item 25). The cost for regularly scheduled meetings shall be billed at either the not-to-exceed rate or at a rate less than the not-to-exceed rate referenced above.

2.05 **SBBC Disclosure of Education Records.**

(a) Purposes: School psychologists will be provided with access to selected school district database systems to utilize for the purpose of conducting psychological evaluations, assisting with intervention planning, providing support services to students, and for school-based decision-making. Under this agreement, school psychologists are only entitled to view education records of the students they are working with.

(b) Access will be provided to the following databases for the specific purposes identified below:

- 1) Ed Plan - Access to EdPlan will be provided to school psychologists for the purpose of conducting psychological evaluations, assisting with the development of students' IEPs, EPs, FBAs, PBIPs, reevaluation plans, medical records, and other such documents utilized for educational planning or as a part of the consideration for the ESE program.

- 2) Accelify - Access to Accelify will be utilized for the purpose of Medicaid billing (e.g., logging evaluation activities and direct services to students), logging non-student activities (e.g., crisis response, trainings), and opening/closing referrals for evaluations.
- 3) BASIS: Access to BASIS will be utilized for the purpose of conducting psychological evaluations and participating in school-based decision-making as it pertains to the collaborative problem-solving model and other job functions.

(c) Types: School psychologists will be provided with limited access to the following databases in accordance with the definitions below:

- 1) Ed Plan: EdPlan will be used to upload psychological reports, review a student's documents related to their past participation in the ESE program, including their evaluation history and any medical records shared with the school-based teams. They will access additional EdPlan records, as needed, to provide guidance in the development of interventions, and additional educational planning. Psychologists will also be given access to a student's Behavioral Threat Assessment records when they are involved as mandatory participant on a student's Behavioral Threat Assessment team.
- 2) Accelify: A psychologist will have access to their psych referrals list, with the identifying information of students' cases that were assigned to them individually. They will also have access to the students at their school to document services provided to the students or at the school. This tool will be used for the purpose of Medicaid billing and logging services direct and indirect services provided.
- 3) BASIS: A psychologist will access student details which include, but are not limited to: demographic information, health records, contact information, academic history, test scores, discipline history, attendance history, identified risk factors, assignment history, RtI referrals, and any educational records needed for the purpose of conducting psychological evaluations, guiding the development of interventions, and additional educational planning.

(d) Consent: SBBC will obtain written consent from each student's parent / guardian or student age 18 or over prior to disclosing or allowing access to the education records listed in this section.

(e) School psychologists will sign Electronic User Agreements and Privacy Policy Statements as defined by The School Board of Broward County, Florida when provided with access to the above-mentioned databases.

## 2.06 **VENDOR Confidentiality of Education Records.**

(a) Notwithstanding any provision to the contrary within this Agreement, VENDOR and/or its individual school psychologists and personnel 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 redisclose 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 safety 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](mailto:privacy@browardschools.com), and take all necessary notification steps as may 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 any media equipment is no longer in use or is to be disposed; secure erasure will 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) VENDOR 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.

2.07 **HIPAA Compliance.** VENDOR acknowledges that the Health Insurance Portability and Accountability Act ("HIPAA") and the Health Information Technology for Economic and Clinical Health Act of 2009 ("HITECH Act") (HIPAA and HITECH Act are collectively referred to herein as "HIPAA") protect the privacy of protected health information ("PHI") and may be applicable to student records in certain circumstances; and shall enter into SBBC's HIPAA Business Associate Agreement ("BAA") attached as **Attachment B**. PHI may be used and disclosed only in compliance with HIPAA.

2.08 **Inspection of VENDOR's Records by SBBC.** VENDOR shall establish and maintain books, records and documents (including electronic storage media) sufficient to reflect all income and expenditures of funds provided by SBBC under this Agreement. All VENDOR's 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 VENDOR 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 VENDOR's records from the effective date of this Agreement, for the duration of the term of this Agreement, and until the later of five (5) years after the termination of this Agreement or five (5) years after the date of final payment by SBBC to VENDOR pursuant to this Agreement.

(b) Notice of Inspection. SBBC's agent or its authorized representative shall provide VENDOR 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 VENDOR's facilities and to any and all records related to this Agreement, and shall be provided adequate and appropriate work space in order to exercise the rights permitted under this section.

(d) Failure to Permit Inspection. Failure by VENDOR to permit audit, inspection, examination, evaluation and/or reproduction as permitted under this section shall constitute grounds for termination of this Agreement by SBBC for cause and shall be grounds for SBBC's denial of some or all of any VENDOR'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 VENDOR in excess of two percent (2%) of the total billings under this Agreement, the actual cost of SBBC's audit shall be paid by VENDOR. If the audit discloses billings or charges to which VENDOR is not contractually entitled, VENDOR shall pay said sum to SBBC within twenty (20) days of receipt of written demand unless otherwise agreed to in writing by both parties.

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

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

2.09 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: Director, Exceptional Student Learning Support Department  
The School Board of Broward County, Florida  
Arthur Ashe Campus  
1701 NW 23<sup>rd</sup> Avenue  
Fort Lauderdale, Florida 33311

To VENDOR:

John Gumpert, Special Education Coordinator  
EBS Healthcare Staffing Services, Inc.  
200 Skiles Boulevard  
West Chester, Pennsylvania 19382

2.10 **Non-Compete Clause.** At no time during the term hereof, and for a period of one (1) year after termination, SBBC shall not, directly or indirectly, by itself or through any affiliated entity or any other contract companies, solicit or attempt to employ the VENDOR's school psychologist(s) performing services hereunder. With prior approval from VENDOR, SBBC may hire a school psychologist, provided SBBC pays VENDOR a placement fee of fifty percent (50%) of the therapist's total annual compensation package paid by SBBC. Payment is due upon receipt of invoice. If VENDOR's employee chooses to pursue district employment, we will work with SBBC to come up with a timeline for the transition without charging any "buy-out" fees.

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

2.12 **Public Records.** The following provisions are required by Section 119.0701, Florida Statutes, and may not be amended. VENDOR 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, VENDOR 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. VENDOR 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 VENDOR does not transfer the public records to SBBC. Upon completion of the Agreement, VENDOR shall transfer, at no cost, to SBBC all public records in possession of VENDOR or keep and maintain public records required by SBBC to perform the services required under the Agreement. If VENDOR transfers all public records to SBBC upon completion of the Agreement, VENDOR shall destroy any duplicate public records that are exempt or confidential and exempt from public records disclosure requirements. If VENDOR keeps and maintains public records upon completion of the Agreement, VENDOR 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.**

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

2.14 **Insurance Requirements.** VENDOR shall comply with the following insurance requirements throughout the term of this Agreement:

(a) **General Liability.** VENDOR 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) **Professional Liability/Errors & Omissions.** VENDOR 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.** VENDOR 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. VENDOR 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 VENDOR to SBBC's Risk Management Department by Certificate of Insurance within fifteen (15) 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 VENDOR to remedy any deficiencies. VENDOR 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. VENDOR 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.

## 2.15 Nondiscrimination.

(a) As a condition of entering into this Agreement, VENDOR represents and warrants that it will comply with the SBBC's Commercial Nondiscrimination Policy, as described under, Section D.1 of SBBC's Policy No. 3330 – Supplier Diversity Outreach Program.

(b) As part of such compliance, VENDOR shall not discriminate on the basis of race, color, religion, ancestry or national origin, sex, age, marital status, sexual orientation, or on the basis of disability or other unlawful forms of discrimination in the solicitation, selection, hiring, or commercial treatment of subcontractors, vendors, suppliers, or commercial customers, nor shall VENDOR retaliate against any person for reporting instances of such discrimination. VENDOR shall provide equal opportunity for subcontractors, vendors, and suppliers to participate in all of its public sector and private sector subcontracting and supply opportunities, provided that nothing

contained in this clause shall prohibit or limit otherwise lawful efforts to remedy the effects of marketplace discrimination that have occurred or are occurring in the SBBC's relevant marketplace. VENDOR understands and agrees that a material violation of this clause shall be considered a material breach of this Agreement and may result in termination of this Agreement, disqualification of the company from participating in SBBC Agreements, or other sanctions. This clause is not enforceable by or for the benefit of, and creates no obligation to, any third party.

2.16 **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.

2.17 **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.

2.18 **Incorporation by Reference.** Attachment A and Attachment B, 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. 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 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: EBS Healthcare Staffing Services, Inc.  
Date: 2020.02.06 09:46:50 -05'00'

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

**[THIS SPACE INTENTIONALLY LEFT BLANK; SIGNATURE PAGE FOLLOWS]**

**FOR VENDOR:**

(Corporate Seal)

EBS HEALTHCARE STAFFING SERVICES, INC.

ATTEST:

By John Gumpert

Print Name: JOHN GUMPERT

Title: SPECIAL ED- COORDINATOR

\_\_\_\_\_, 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 Pennsylvania

COUNTY OF Chester

The foregoing instrument was acknowledged before me by means of ☒ physical presence or ☐ online notarization, this February 4th, 2020 (date) by John Gumpert (name of officer or agent, title of officer or agent) of EBS Healthcare (name of corporation acknowledging), a Pennsylvania (state or place of incorporation) corporation, on behalf of the corporation. He/she is personally known to me or has produced personal ID (type of identification) as identification and who ☐ did/☐ did not first take an oath this 4th day of February, 2020.

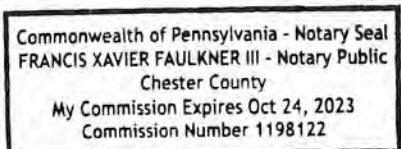
My Commission Expires:

[Signature]  
Signature – Notary Public

Francis Xavier Faulkner, III  
Notary's Printed Name

1198122  
Notary's Commission No.

(SEAL)



SCOPE OF SERVICES

1. VENDOR shall furnish current certified/licensed school psychologist(s) under this contract. If a certificate and/or license is suspended, revoked, or otherwise deemed invalid by the State of Florida, the VENDOR shall notify the Exceptional Student Learning and Support (ESLS) immediately that it is removing the uncertified school psychologist from the school property and shall arrange for a qualified replacement within 48 hours. **Award of this contract shall not be a guarantee of business, a guarantee of specified volume of service or minimum dollar revenue to be received under this contract.**
2. School psychologist(s), provided by the VENDOR, shall be responsible for obtaining the necessary contract hours for certificate renewal. SBBC shall not pay for or provide paid time off for attending continuing education activities for license renewal with the exception of trainings offered directly by the ESLS Department.
3. VENDOR's employees and school psychologist(s) shall review and become familiar with federal, state, and District confidentiality requirements for student records, and agrees that access to and use of those records by employees shall be in strict compliance with these requirements as stated in Sections 2.05 and 2.06 of this Agreement.
4. School psychologist(s) shall provide the following services, but not be limited to:
  - (a) Providing consultation with parents, school and district staff, diagnostic testing, observations, and intervention planning;
  - (b) Conducting initial evaluations and re-evaluations of children/adolescents and preparing a multidisciplinary team report or a psychoeducational report of findings in accordance with Broward County Schools' ESE Policies and Procedures;
  - (c) Small group or individual counseling with students, record-keeping for student attendance, preparing a counseling plan of care and preparing progress reports and counseling notes;
  - (d) Participating in the development of Individual Education Plan (IEP), attendance at required eligibility, IEP and dismissal staffings, providing consultation with parents, school district and staff, as needed;
  - (e) Complete all appropriate documentation for Medicaid Reimbursement; and
  - (f) School Psychologists shall be compensated for direct student services and student-related activities only
5. School psychologist(s), provided by VENDOR, shall be fluent in oral and written English. VENDOR shall provide a bi-lingual psychologist as needed.
6. School psychologist(s) under this Agreements shall be required to pass the screening of the Broward School's Police, Security Clearance Department prior to placement of assignment as required by SBBC (Refer to General Condition 7.39, SBBC Photo Identification Badge of the RFP). School psychologist(s) shall utilize the STAR system and/or sign-in/out procedures to document attendance at assigned location(s).

## ATTACHMENT A

7. School psychologist(s) who will be assigned to work for SBBC shall comply with the Jessica Lunsford Act and pass the screenings of the Special Investigative Unit (School Police) including a Level 2 FDLE background check and FBI screening and fingerprinting. The fee is payable directly to Fieldprint.
  - (a) This requirement applies even if the individual has passed similar screening by other governmental agencies.
  - (b) VENDOR is cautioned that it is their responsibility to ensure their staff complies with this requirement in a timely manner.
  - (c) SBBC issued I.D. Badge shall be worn at all times while at the school and other SBBC locations.
8. SBBC reserves the right to interview all VENDOR's school psychologist candidates prior to placement; PreK-12 experience is preferred. SBBC reserves the right to refuse to utilize any proposed school psychologist(s) if it is in their best interest to do so. SBBC reserves the right to have an individual school psychologist removed from the assigned position. VENDOR shall have five (5) workdays in which to propose a replacement school psychologist. Should VENDOR be unable to provide an acceptable replacement, all other contract other awarded vendors, under this contract, will then be notified to submit a candidate to SBBC.
9. School psychologist(s) shall be expected to attend all district-sponsored professional development activities in relation to this Agreement.
10. School psychologist(s) shall be required to complete original protocols for each assessment administered to be kept in the Psychological Services Records Department. A Psychoeducational Report or a Multidisciplinary Report will be completed by the school psychologist(s) and uploaded to EdPlan.
11. School psychologist(s) shall be required to write clinical notes for each direct counseling service and student-oriented consultation that is provided. For all clinical notes attached to students that have a signed consent form, school psychologist(s) shall submit notes with each weekly log.
12. Any mental health screenings and assessments conducted shall be logged and original documents shall be kept in students' educational record. School psychologist(s) shall also be required to complete a weekly log documenting the hours of service for each student served.
13. School psychologist(s) shall provide services consistent with the professional standards of care and comply with all the medical and ethical requirements imposed by the State of Florida, Board of Medicine, the Department of Professional Regulations, the Florida State Department of Education and any other applicable federal, state or local regulatory agency.

## ATTACHMENT A

14. School psychologist(s) shall adhere to SBBC rules and regulations regarding proper attire (no tank-tops, no open-toe shoes), wearing SBBC issued ID badge, prohibition of smoking, usage of proper language, prohibition of use and possession of controlled substances and alcoholic beverages, prohibition of the possession of firearms, either on their person or in their personal vehicles and any other restrictions or prohibitions as may apply.
15. School psychologist(s) shall follow all procedures (including, but not limited to, utilizing the Star System and no personal calls or emails during treatment time) of individual schools or offices where the school psychologist(s) is assigned. School psychologist(s) must check their SBBC provided email at least twice a day for critical communication throughout the day with SBBC personnel as established.
16. School psychologist(s) shall provide the requested level of service(s), in accordance with and/or changes for services requested by the ESLS Department, within five (5) calendar days of notice, unless otherwise mutually agreed upon. Excessive failure to meet the needs of SBBC, as requested, shall result in termination of the VENDOR's contract.
17. School psychologist(s) shall maintain normal working hours of 7:30 a.m. to 3:00 p.m. or 8:00 a.m. to 3:30 p.m. There will be no reimbursement for a thirty (30) minute lunch period. SBBC may only be invoiced for up to seven (7) hours per day unless prior approval has been granted by SBBC, ESLS staff for extended service time. School psychologist(s) may provide a maximum of four (4) hours of service as needed on each scheduled employee planning day unless prior approval is granted for scheduled evaluations, training or report writing by the ESLS Department. Invoices not complying with this requirement shall be rejected and returned to VENDOR for correction and failure to invoice correctly may result in a delay of payment. If VENDOR consistently submits an invoice that is not in compliance may be found in default of their contract.
18. VENDOR shall provide a service schedule of all personnel for approval, upon request, on a regular basis as determined by a designated SBBC representative. Requests shall be submitted within the established deadline. Failure to comply with requested deadlines may result in a delay in payment of an invoice.
19. VENDOR shall provide uninterrupted services based upon the current school calendar to students by providing qualified substitutes or replacements in the event of an anticipated or unanticipated lapse of service. All qualified substitutes must display an SBBC identification badge and be pre-approved by appropriate SBBC administrator. (Refer to General Condition 7.39 of the RFP) Any lapse of service to SBBC for five (5) student attendance days during any school year shall result in default of their contract. VENDOR may be responsible to provide compensatory services or payments to SBBC for lapse of service as determined by the ESLS Department.
20. School psychologist(s) shall prepare time logs, reports, written analysis, and other written memoranda in the form and manner deemed appropriate by SBBC.
21. VENDOR shall bill under SBBC's Medicaid provider number when needed.



## ATTACHMENT A

22. VENDOR shall provide proof of services on the form provided by SBBC upon initiation of services and up until training is provided on the Accelify Electronic Database. Once the school psychologist(s) have received training, the school psychologist(s) shall then submit all proof of services electronically via the database.
23. VENDOR shall cooperate with SBBC in its partnership with universities and colleges to provide supervision of practicum experience for student local school psychology programs.
24. VENDOR may be evaluated annually in areas to include, but not be limited to, responsiveness, continuity of service, quality of work, and professionalism.
25. School psychologist(s) shall attend an orientation workshop of not more than four hours. This orientation workshop shall include, but not be limited to, general information on the policies and procedures of the Broward County Special Programs and Procedures, the rights of students with disabilities, and other operational procedures required to carry out the assigned school psychology duties. Additional workshops and/or meetings may be required during the term of the contract.
26. School psychologist(s) shall receive, from SBBC, requested materials, equipment, and other related items that have been determined to be necessary to carry out school psychology services and required for the provision of Free Appropriate Public Education (FAPE) when approved by a designated SBBC, ESLS representative.
27. School psychologist(s) shall participate in the 504 and Exceptional Student Education (ESE) eligibility meetings to share evaluation results and recommendations. When appropriate, the school psychologist(s) shall participate in 504 and IEP meetings, and assist in the development of the goals and objectives of the IEPs in collaboration with appropriate school/district personnel.
28. School psychologist(s) shall attend re-evaluation meetings and provide consultation regarding the need for the collection of updated assessment data. Assessment results shall be shared following any re-evaluations conducted by the school psychologist(s).
29. School psychologist(s) shall work only on days when students are in attendance unless a written request is made and approved by the ESLS designee, one week prior to the date requested.
30. SBBC shall provide to VENDOR's approved school psychologist(s) appropriate and necessary technology (i.e. laptop computer, etc.) that will be needed to carry out job responsibilities for this contract. The school psychologist(s) shall be required to sign The School Board of Broward County, Florida's Property Pass, Form 0013 (**Exhibit 1**), issued by ESLS Department and must abide by the conditions stated in School Board Policy 5306 – School and District Technology Usage (**Exhibit 2**). The school psychologist(s) shall be responsible for the technology equipment provided to them. If the technology equipment provided to the school psychologist(s) is lost, stolen or damaged, the school psychologist(s) must report this immediately to the ESLS Department. If requested by SBBC, the school psychologist(s) may be required to replace the equipment provided to them at their cost.

## ATTACHMENT A

30. School psychologist(s) shall maintain student evaluation and counseling records as established by the SBBC, ESLS Department. These records contain confidential information and therefore must be kept secure at all times.

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

\_\_\_\_\_  
 EMPLOYEE/STUDENT NAME (*Circle One*)

\_\_\_\_\_  
 DATE

\_\_\_\_\_  
 LOCATION NO./NAME

The above-named person is authorized to remove from the location above, subject to the conditions established in Board Policy #5306, the tangible personal property described below.

\_\_\_\_\_  
 PROPERTY DESCRIPTION

\_\_\_\_\_  
 PHONE NUMBER

\_\_\_\_\_  
 SERIAL NUMBER

By signing below the borrower agrees to the following stipulations:

- a. The property remains the property of The School Board of Broward County, Florida, and must be returned by the expected return date indicated below in good condition.
- b. The property shall be used only in connection with borrower's employment/study assignments.
- c. The borrower shall ensure the safety of the property while it is in his possession.
- d. The borrower has read, and understands, the provisions of Board Policy #5306.
- e. In case of loss or damage, the borrower shall adequately compensate The School Board of Broward County, Florida. **(Not applicable to computer borrowing by District staff.)**

\_\_\_\_\_  
 EXPECTED RETURN DATE  
 (No later than end of fiscal year)

\_\_\_\_\_  
 EMPLOYEE  
 (Circle One)

\_\_\_\_\_  
 SIGNATURE OF AUTHORIZING PRINCIPAL/SUPERVISOR

The return of the above-described property in good condition is hereby acknowledged.

\_\_\_\_\_  
 DATE PROPERTY RETURNED

\_\_\_\_\_  
 SIGNATURE (PRINCIPAL/DIRECTOR/SUPERVISOR)

Form No. 0013  
 Revised 4/01  
 W18122

**SCHOOL AND DISTRICT TECHNOLOGY USAGE**

THE SCHOOL BOARD OF BROWARD COUNTY, FLORIDA ADHERES TO THE BELIEF THAT TECHNOLOGY SHOULD PLAY A VITAL ROLE IN MEETING THE NEEDS OF THE BROAD RANGE OF ABILITIES, DISABILITIES, CULTURAL BACKGROUNDS AND ETHNIC POPULATIONS REPRESENTED IN DISTRICT SCHOOLS. TO ASSURE THAT TECHNOLOGY SHALL PLAY A PREDOMINANT ROLE, THIS POLICY PROVIDES GUIDANCE FOR APPROPRIATE TECHNOLOGY UTILIZATION AND INTEGRATION INTO THE CURRICULUM, AS WELL AS INFUSION INTO SCHOOL/DISTRICT ADMINISTRATION AND MANAGEMENT.

**1. Definition**

**For the purpose of this policy, technology is defined as, but not limited to, the following:**

- a. Instructional and staff workstations (both desktop and portable), tablets, printers, scanners and other peripherals;
- b. Administrative staff workstations (both desktop and portable), tablets, printers, scanners and other peripherals;
- c. Campus and departmental local area networks (both wired and wireless), including wiring, hubs, switches, routers, transmitters/receivers and other devices;
- d. Servers; including instructional lab servers, web servers, video servers, file and print servers, database servers, internet proxy caching servers;
- e. A Wide Area Network linking all School Board of Broward County (SBBC) sites into one countywide Intranet;
- f. Telephone systems; including primary systems, integrated voice response/management systems, automatic dialing systems;
- g. Learning resource management systems, including library automation systems;
- h. Distance learning systems;
- i. Video capturing, broadcast, receiving, and distribution systems;
- j. Teleconferencing systems;
- k. Application software packages which result in the creation and maintenance of an operational database;
- l. Energy management and security monitoring systems;
- m. Radio systems;
- n. Office copier, Printer, image scanners and document management systems;
- o. Cellular phones, PDAs, Smartphones, and similar mobile items;
- p. Paging systems;
- q. Intercom; and
- r. Facsimile systems.

**2. Purpose**

- a. To foster and support innovation and experimentation in the transformation from a traditional approach to teaching, learning, and education management to a technology-based model meeting the needs of the broad range of abilities, disabilities, cultural backgrounds, and ethnic populations represented in Broward County Public Schools.
- b. To establish and maintain guidelines and procedures for appropriate technology utilization and infusion in the classroom, in the schools, in school and district administration and management, and in planning and evaluation to more effectively

prepare students for the transition from school to work for success in the workplace, and to improve the operations of the school system.

### 3. Technology Guidelines

- a. The primary priority of the technology system is to improve student learning, teaching, and business efficiency.
- b. Designs will be based on vendor-independent open system standards.
- c. The network will integrate voice, data, and video communications systems.
- d. The data architecture will be based on an enterprise-wide network using client-server technology.
- e. Database management software will be relational and able to run on a variety of operating systems and hardware platforms.
- f. A common data dictionary will be established that defines data elements at all levels from the classroom to the federal government.
- g. Information management will be bi-directional, allowing data query, reporting, analysis and entry by authorized users.
- h. Information will be recorded once and validated at the source.
- i. Multi-platforms will be supported where possible.
- j. All mainframe, servers, personal computers and peripherals will be inter-connected through network hardware and software.
- k. Uniform technology support services will be made available at all locations.
- l. All technology resources will be coordinated and integrated with appropriate curriculum and business initiatives.
- m. The system will be accessible to staff, students, parents, and the community for appropriate uses and protected with security measures which prevent and detect/monitor unauthorized and inappropriate use.
- n. Provisions must be made for keeping the technology current, within available resources, including policies on replacement or upgrade based on a life-cycle process.
- o. Appropriate training and professional development must be provided to teachers, staff, and administrators to ensure timely implementation and effective use.
- p. The technology must improve decision making and staff productivity.
- q. A process will be established to monitor the effectiveness of technology project implementations.
- r. Student safety, security, and compliance with all applicable laws governing public records (Florida Statute Section 1002.22 and 1002.221) are of primary concern and must be considered in the implementation of all technologies.
- s. Establishing and maintaining procedures for disabling or otherwise modifying any technology protection measures shall be the sole responsibility of the Superintendent or designee.
- t. All users of the Broward County Public Schools network must adhere to the Information Security Guidelines. The latest version of the Information Security Guidelines will be posted on <http://web.broward.k12.fl.us/techstandards>.
- u. Broward Schools' network and telecommunication services shall be properly monitored and, to the extent technically possible, users of school-sponsored telecommunication services and networks shall be protected from harassment or unsafe, unwanted, or unsolicited contact and from content deemed inappropriate.
- v. To the extent practical, and as specifically required by the Children's Internet Protection Act (CIPA), blocking shall be applied to visual and/or auditory

- depictions of material deemed obscene, violent, pornographic (child and otherwise), or any other digital material deemed harmful to minors.
- w. Steps shall be taken to promote the safety and security of the School Board of Broward County's computer and telecommunications network(s) when using electronic mail, instant messaging, blogs (macro/micro), social networks, chat services, and other forms of direct electronic communications.
  - x. Staff will be responsible for educating, supervising, and monitoring the appropriate usage of the school district's online computer and telecommunications network(s) and access to the Internet in accordance with this policy, the Children's Internet Protection Act (CIPA), the Neighborhood Children's Internet Protection Act (NCIPA), and the Protecting Children in the 21<sup>st</sup> Century Act.
  - y. Upon receipt of specific parent/guardian written permission (electronically or otherwise), students will be eligible to receive electronic communications from District employees in connection with activities outside of classroom/instruction activities. However, communications with students utilizing electronic devices, or otherwise, for fraternization purposes are strictly prohibited, except communications between parent and child. Inappropriate communications, as defined below in section 8.h., shall be prohibited. All contact and communications with students, shall be consistent with School Board policies and the Florida Code of Ethics and the Principles of Professional Conduct of the Education Profession in Florida, State Board of Education Rules 6B-1.001 and 6B-1006, F.A.C., which require, among other things, that the primary concern always be for the well-being of the student and to "exercise the best professional judgment and integrity."
  - z. All use of cellular equipment and services provided by SBBC must be in accordance with the provisions of the Public Records Act (Florida Statute Section 119) and Standard Practice Bulletin, A-469, "Cellular Telephone Access and Usage".
  - aa. Suitable training shall be provided to students regarding appropriate online behavior, including interacting with other individuals on social networking websites and in chat rooms and cyberbullying awareness and response.
  - ab. Access to District Networks, applications, and systems shall be discontinued upon termination of employment except in situations where continued access is required by board-approved agreements, School Board policies, state statutes, or federal laws.

#### 4. **Desired Outcomes**

- a. Technology will be appropriately and equitably integrated into instruction and management processes and used by all students and staff as an integral component of school improvement and student success. Improving student performance and achievement, increasing staff productivity, and ensuring efficiency of the day-to-day operations of the school system are the essential reasons for the use of technology in Broward County Public School System.
- b. Technology will be procured and deployed as needed to meet state and federal legislative mandates.
- c. All school classrooms, media centers, and offices and all district departments and offices will be electronically networked (wired and/or wireless) and equipped, providing all staff, students, and administration equitable and easy access to information technologies for teaching, learning, management, and day-to-day operations.

- d. All high school graduates will be prepared to use multiple technologies upon entrance into the work force and/or higher education.
- e. New and emerging technologies will be evaluated, and if appropriate, incorporated into school curriculum and will be integral elements of school improvement and accountability.
- f. Organizational productivity and efficiency will increase as technology is infused into the workplace.
- g. Student, teacher, staff, and administrative effectiveness will improve concurrently with the infusion of technology into their respective workplaces.
- h. The Broward County community will recognize district schools and departments as resources; and the number and quality of partnerships and cooperative endeavors will increase.
- i. The decision-making process will be improved as technology facilitates the flow of information and the communication process, within the district, the state, and the world.
- j. Improved communication between schools and institutions of higher education will increase the sharing of best practices as well as enhance pre-service and in-service training and emphasize technology integration into the curriculum.
- k. Inter- and intra-departmental collaboration, from planning through evaluation, will be a goal of the District.
- l. All units responsible for technology planning will work collaboratively with county, state, and government groups to investigate current, advanced, and emerging commercial technologies and to identify or develop, if necessary, efficient and cost-effective applications.
- m. The broadest possible access to the School Board of Broward County's web-based educational resources will be promoted, while providing safeguards to ensure the safety of students and that security is maintained. Towards this desired outcome, The School Board of Broward County, Florida, will support programs designed to bridge the Digital Divide.
- n. Technology will be used to build and maintain communications links between SBBC and its parental and community stakeholders. (e.g. Instant Messaging, Social Media, blogs and micro blogs, mobile applications, telephone contact systems, etc.). The use of these media, however, must be in compliance with the Florida Retention Schedules (<http://dlis.dos.state.fl.us/barm/genschedules/GS1-SL.pdf>).

## 5. Implementation

A comprehensive and continuous short and long-range Board technology implementation process will direct, review, evaluate, and improve the effective utilization of all aspects of technology.

- a. The Superintendent will direct staff to:
  - 1. Consult and collaborate on a continuing basis with education, business, community, and government groups locally, regionally, and nationally.
  - 2. Identify student competencies in using technologies to access, analyze, apply, and communicate information and incorporate them into the Standards of Service.
  - 3. Identify staff competencies in integrating and applying information technologies in instruction and management and incorporate these competencies as part of the evaluation process.
  - 4. Identify educational management tools to be acquired and implemented.



4. Establish and continually update an ongoing staff development program to support technology usage and integration.
5. Establish baseline standards to ensure that all schools and offices have adequate, appropriate and up to date hardware, software, and communications capabilities as rapidly as resources permit.
6. Review and/or establish guidelines as needed on copyright, acceptable use, and other ethical use policies.
7. Identify, document, and evaluate core processes that need improvement or re-engineering to maximize the productivity and educational benefits from technology investments.
8. Prepare a viable timeline for task implementation and completion, which will assist in evaluating the progress and effectiveness of the district's technology plan.

## **6. Acceptable use of Computer Network and Online Telecommunications**

Individuals who use District-owned or leased technology, applications, networks, or telecommunications infrastructure and systems agree to abide by the terms and tenets of this policy. The School Board of Broward County does not warrant network or telecommunications functionality or accuracy of information, nor does it warrant the effectiveness of Internet filtering. No expectation of privacy is created or intended to be created by this Policy. Users of systems, networks, and telecommunications systems must recognize that all content created or stored utilizing District technology may be subject to monitoring for compliance with School Board policies and applicable laws.

### **a. Goals for Technology use and Internet Safety**

1. Prevent user access over its computer and telecommunications network(s) to, or transmission of, inappropriate material via Internet, electronic mail, instant messaging systems, social networks, or other forms of direct electronic communications;
2. Prevent unauthorized access or other unlawful online activity including, but not limited to, the "hacking" of systems within and outside of the District's enterprise;
3. Prevent unauthorized online disclosure, use, alteration, or dissemination of personally identifiable information of students or confidential information of staff;
4. Comply with the Children's Internet Protection Act (CIPA); the Neighborhood Children's Internet Protection Act (NCIPA); the Protecting Children in the 21<sup>st</sup> Century Act, the Public Records Act (Florida Statute Section 119), and all applicable laws;
5. Prevent the use of its computer and telecommunications network(s) for the purpose of harassment, unlawful discrimination, cyberbullying, cyberstalking and other unlawful activities; and
6. Protect students and staff from inappropriate (as defined in 8h), unlawful or unauthorized communications from individuals, including School Board employees.

**b. Rules**

1. All use of telecommunication services and networks provided by the District or used in any of its schools or departments shall be consistent with Federal laws, Florida laws, the Florida Department of Education "Code of Ethics of the Education Profession in Florida" (Rule 6B-1), and the "Code of Ethics for Computer, Network and On-line Telecommunications Users" (see next section).
2. Successful participation in a network requires that its users regard it as a shared resource and that members conduct themselves in a responsible, safe, ethical, and legal manner while using the network and all accessible applications and digital resources.
3. Staff and students who are exchanging communication with others inside and outside the District are representing The School Board of Broward County, Florida, and should conduct themselves appropriately.
4. Technology owned or leased by the School Board shall not be used for advertising or otherwise communicating or promoting the interests of any commercial, religious, political or other non-district agency or organization except as permitted through board approved agreements, School Board policies, state statutes, or federal laws.
5. Anyone using personally owned technology devices and/or telecommunications services on property owned by the School Board of Broward County must do so in accordance with the terms and tenets of this policy and the published "Personally Owned Device Guidelines". The latest version of the "Personally Owned Guidelines" will be posted on <http://web.broward.k12.fl.us/techstandards>.
6. To implement the Acceptable Use Provision of this policy, it is necessary that all users read and acknowledge in writing that they understand their obligations and willingness to comply with the "Code of Ethics for Computer Network and Online Telecommunications Users" (see below).
7. Student use of technology shall be consistent with the provisions and tenets of this policy and the "Student Code of Conduct".
8. Use of technology shall be consistent with the tenets and provisions of the District's "Social Media Use Guidelines" and the "Web-Publishing Guidelines".

**c. Code of Ethics for Computer Network and Online Telecommunications Users**

1. All users are expected to read and understand the following privileges, rights, and responsibilities when using the network(s) or telecommunications equipment or systems of Broward County public schools.
  - a. Use of computer network and/or online telecommunications is a privilege and must support teaching, learning, and research.
  - b. Students, parents, faculty, and staff in Broward County Public Schools will have access to web-based educational resources in compliance with local, state and federal laws.
  - c. Authorized users shall be ultimately responsible for all activity under their account and password. Accounts shall be used only by the authorized user and only for the purposes specified.

- d. Use of an identity or password other than the user's own is prohibited.
- e. All network users shall adhere to the rules of copyright regarding software, information, and the attribution of authorship. Posting or re-posting any content or material protected by copyright or other intellectual property laws without the author's permission and/or without proper attribution is prohibited.
- f. Any use of telecommunication services or networks for illegal, inappropriate, obscene, or pornographic purposes shall be prohibited.
- g. The use of the District Technology is provided to assist employees in the efficient delivery of public services to the community. Accordingly, the District Technology must be used for purposes consistent with the District's mission and policies.
- h. Use of School Board technology for or engaging in offensive or inflammatory speech, profanity, or obscene language shall be prohibited.
- i. Hate mail, harassment, discriminatory remarks, and other antisocial behaviors shall be prohibited.
- j. Users shall not intentionally spread computer viruses, vandalize the data, infiltrate systems, damage hardware or software, or in any way degrade, interfere or disrupt the use of the network, applications or telecommunications systems, or those belonging to external entities.
- k. Attempts to interfere, degrade or disrupt system performance will be subject to disciplinary action and/or may be viewed as criminal activity in accordance with applicable state and federal law and, if so, will be reported to law enforcement agencies.
- l. Files, documents, materials, and records generated by District employees using School Board of Broward County property, equipment, facilities, and/or systems are the property of the School Board of Broward County and may be accessed at any time by appropriate authorized system personnel.
- m. Records, as defined in Florida Statute Section 119.011(12), generated by District employees using School Board of Broward County property and made or received in connection with the transaction of official business of the School Board (including emails and text messages) must be retained and maintained as public records in compliance with State Law and Board Policy. All business-related email correspondence must utilize the District's email system. Text messaging is permitted solely for the purpose of exchanging transitory messages.
- n. All e-mails created by District employees using School Board of Broward County property must be in compliance with the District's E-Mail Guidelines, which can be found at [www.web.broward.k12.fl.us/techstandards](http://www.web.broward.k12.fl.us/techstandards).
- o. Equipment, networks or systems owned and/or operated by the School Board of Broward County may not be used for the purpose, intended or otherwise, of harassment, "cyberbullying", "cyberstalking" or Dating Violence or Abuse.

**7. Compliance**

- a. Students, employees, and community members/visitors using School Board equipment, networks, or telecommunications infrastructure or systems, on-site or off-site, must conform to the requirements of this policy.
- b. Failure to adhere to, and conform online activities with, any provisions of this policy may subject users to some or all of the following: warnings, usage restrictions, disciplinary actions, or legal proceedings.

**8. Definition of Terms**

- a. Illegal activities shall be defined as a violation of local, state, and/or federal laws.
- b. Inappropriate use shall be defined as a violation of the intended use of the District's mission, goals, policies, or procedures.
- c. Obscenity and/or pornography shall be defined as a violation of generally accepted social standards for use of a publicly-owned and operated communication vehicle.
- d. Harmful to minors means any picture, image, graphic image file, or other visual depiction that-- (a) taken as a whole and with respect to minors, appeals to a prurient interest in nudity, sex, or excretion; (b) depicts, describes, or represents, in a patently offensive way with respect to what is suitable for minors, an actual or simulated sexual act or sexual contact, actual or simulated normal or perverted sexual acts, or a lewd exhibition of the genitals; and (c) taken as a whole, lacks serious literary, artistic, political, or scientific value as to minors.
- e. Sexual Act; Sexual Contact have the meanings given such terms in section 2246 of title 18, United States Code.
- f. Dating Violence or Abuse is defined in School Board Policy 5010.
- g. Harassment, cyberbullying and cyberstalking are defined in School Board Policy 5.9.
- h. "Inappropriate communication" is defined as:
  - (i) a communication which is harmful to minors,
  - (ii) a communication that is inconsistent with the School Board Policies, federal or state laws, or the Code of Ethics for the Education Profession in Florida (which requires the exercise of the best professional judgment and integrity and the highest degree of ethical conduct), or
  - (iii) a communication with a minor student, through the use of District Technology or the use of personally-owned technology devices and/or telecommunication services, that is not related to school connected activities/assignments and that is made without parental permission to do so.
- i. Transitory messages are not intended to formalize or perpetuate knowledge and do not set policy, establish guidelines or procedures, certify a transaction, or become a receipt. "Transitory" refers to short-term value based upon the content and purpose of the message, not the format or technology used to transmit it. Examples of transitory messages include, but are not limited to, reminders to employees about scheduled meetings or appointments; most telephone messages and announcements of events.

Statutory authority: 1001.41

Laws Implemented: 1001.43 (3) (a), Public Records Act (Florida Statute Section 119), Children's Internet Protection Act (CIPA), the Neighborhood Children's Protection Act (NCIPA), the Protecting Children in the 21<sup>st</sup> Century Act.

Policy adopted: 8/6/96

Policy Amended: 2/17/98, 12/15/98, 5/1/01, 3/4/03, 4/29/03, 1/18/05, 8/3/10, 5/30/12

## 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

**EBS HEALTHCARE STAFFING SERVICES, INC.**  
 (hereinafter referred to as "**VENDOR**"),  
 whose principal place of business is  
 200 Skiles Boulevard  
 West Chester, Pennsylvania 19382

**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 3 <sup>rd</sup> Avenue Fort Lauderdale, Florida 33301
With a Copy to:	Director, Exceptional Student Learning Support Department The School Board of Broward County, Florida Arthur Ashe Campus 1701 NW 23 <sup>rd</sup> Avenue Fort Lauderdale, Florida 33311  Privacy Officer Risk Management Department The School Board of Broward County, Florida 600 S.E. 3 <sup>rd</sup> Avenue, 11 <sup>th</sup> Floor Ft. Lauderdale, FL 33301
To Business Associate:	John Gumpert, Special Education Coordinator EBS Healthcare Staffing Services, Inc. 200 Skiles Boulevard West Chester, Pennsylvania 19382

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**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.

**ATTACHMENT B**

**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:

*Kathelyn Jacques-Adams*

Digitally signed by Kathelyn Jacques-Adams,  
Esq. - kathelyn.jacques-  
adams@gbrowardschools.com  
Reason: EBS Healthcare Staffing Services, Inc.  
Date: 2020.02.06 09:47:24 -05'00'

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

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FOR BUSINESS ASSOCIATE

EBS HEALTHCARE STAFFING SERVICES, INC.

John Gumpert  
Signature

By: John Gumpert, Special Ed. Coordinator  
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 PENNSYLVANIA

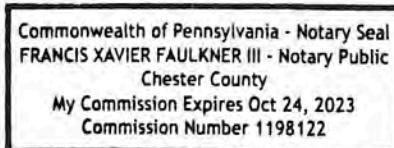
COUNTY OF Chester

The foregoing instrument was acknowledged before me by means of ☒ physical presence or ☐ online notarization, this February 4<sup>th</sup>, 2020 (date) by John Gumpert / Special Ed. Coord. (name of officer or agent, title of officer or agent) of EBS HEALTHCARE (name of corporation acknowledging), a PENNSYLVANIA (state or place of incorporation) corporation, on behalf of the corporation. He/she is personally known to me or has produced personally known (type of identification) as identification and who ☒ did / ☐ did not first take an oath this 4<sup>th</sup> day of February, 2020.

My Commission Expires:

Francis X. Faulkner III  
Signature – Notary Public

(SEAL)



Francis X. Faulkner III  
Notary's Printed Name

1198122  
Notary's Commission No.

[THIS SPACE INTENTIONALLY LEFT BLANK]

**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: \_\_\_\_\_

## 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

**INVO HEALTHCARE ASSOCIATES, LLC**

(hereinafter referred to as "VENDOR"),

whose principal place of business is

1780 Kendarbren Drive

Jamison, Pennsylvania 18929

**WHEREAS**, SBBC issued a Request for Proposal identified as RFP FY20-065 – Student Psychological and Mental Health Services (hereinafter referred to as "RFP"); dated August 13, 2019 and amended by Addendum No. 2, dated September 9, 2019, and Addendum No. 1, dated August 27, 2019 all of which are incorporated by reference herein, for the purpose of receiving proposals for student psychological and mental health services; and

**WHEREAS**, VENDOR offered a proposal dated September 13, 2019 (hereinafter referred to as "Proposal") which is incorporated by reference herein, in response to this RFP.

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

### ARTICLE 1 - RECITALS

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

### ARTICLE 2 – SPECIAL CONDITIONS

2.01 **Term of Agreement.** Unless terminated earlier pursuant to Section 3.05 of this Agreement, the term of this Agreement shall commence upon the execution of all parties conclude on **June 30, 2023**. The term of the Agreement may, by mutual agreement between SBBC and VENDOR, be extended for two (2) additional one-year periods and, if needed, 180 calendar days beyond the expiration date of the renewal period. SBBC's Procurement & Warehousing Services Department, will, if considering renewing, request a letter consenting to renewal from VENDOR, prior to the end of the term. Any renewal period shall be approved by an Amendment to this Agreement executed by both parties.



2.02 **Description of Services Provided.** VENDOR shall provide SBBC with the Scope of Services in its Proposal and in compliance with this Agreement, the RFP and its Addenda, and as specified in **Attachment A – Scope of Services**.

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

- First: This Agreement, then;
- Second: Addendum No. 2, then;
- Third: Addendum No. 1, then;
- Fourth: RFP FY20-065 – Student Psychological and Mental Health Services, then;
- Fifth: Proposal submitted in response to the RFP by VENDOR.

2.04 **Cost of Services.**

(a) SBBC shall pay VENDOR for the cost of services satisfactorily rendered by a school psychologist at a rate from sixty-six dollars (\$66.00) per hour to a not-to-exceed rate of \$68.00 per hour depending on the experience of the school psychologist. VENDOR shall submit to the Exceptional Student Learning Support (ESLS) Department, Arthur Ashe Campus, 1701 NW 23<sup>rd</sup> Avenue, Fort Lauderdale, Florida 33311, an appropriate invoice to be paid net thirty (30) calendar days after the issuance of the same invoice.

(b) Costs shall not exceed the total amount as stated on the Purchase Order(s). VENDOR may offer, at any time to SBBC, a special educational discount for pricing and/or reduce the cost of services during the term of this Agreement. VENDOR may invoice SBBC at an hourly rate less than its original bid price at any time during the term of this Agreement.

(c) The cost for orientation meeting(s) for a new school psychologist(s) shall be at no charge to SBBC (Refer to **Attachment A**, Item 25). SBBC and VENDOR will determine the duration of orientation, based on the experience and job expectations of the school psychologist, which will not exceed three (3), eight (8) hour workdays. The cost for regularly scheduled meetings shall be billed at either the not-to-exceed rate or at a less rate as deemed appropriate by VENDOR.

2.05 **SBBC Disclosure of Education Records.**

(a) Purposes: School psychologists will be provided with access to selected school district database systems to utilize for the purpose of conducting psychological evaluations, assisting with intervention planning, providing support services to students, and for school-based decision-making. Under this agreement, school psychologists are only entitled to view education records of the students they are working with.

(b) Access will be provided to the following databases for the specific purposes identified below:

- 1) Ed Plan - Access to EdPlan will be provided to school psychologists for the purpose of conducting psychological evaluations, assisting with the development of students' IEPs, EPs, FBAs, PBIPs, reevaluation plans, medical records, and other such documents utilized for educational planning or as a part of the consideration for the ESE program.

- 2) Accelify - Access to Accelify will be utilized for the purpose of Medicaid billing (e.g., logging evaluation activities and direct services to students), logging non-student activities (e.g., crisis response, trainings), and opening/closing referrals for evaluations.
- 3) BASIS: Access to BASIS will be utilized for the purpose of conducting psychological evaluations and participating in school-based decision-making as it pertains to the collaborative problem-solving model and other job functions.

(c) Types: School psychologists will be provided with limited access to the following databases in accordance with the definitions below:

- 1) Ed Plan: EdPlan will be used to upload psychological reports, review a student's documents related to their past participation in the ESE program, including their evaluation history and any medical records shared with the school-based teams. They will access additional EdPlan records, as needed, to provide guidance in the development of interventions, and additional educational planning. Psychologists will also be given access to a student's Behavioral Threat Assessment records when they are involved as mandatory participant on a student's Behavioral Threat Assessment team.
- 2) Accelify: A psychologist will have access to their psych referrals list, with the identifying information of students' cases that were assigned to them individually. They will also have access to the students at their school to document services provided to the students or at the school. This tool will be used for the purpose of Medicaid billing and logging services direct and indirect services provided.
- 3) BASIS: A psychologist will access student details which include, but are not limited to: demographic information, health records, contact information, academic history, test scores, discipline history, attendance history, identified risk factors, assignment history, RtI referrals, and any educational records needed for the purpose of conducting psychological evaluations, guiding the development of interventions, and additional educational planning.

(d) Consent: SBBC will obtain written consent from each student's parent / guardian or student age 18 or over prior to disclosing or allowing access to the education records listed in this section.

(e) School psychologists will sign Electronic User Agreements and Privacy Policy Statements as defined by The School Board of Broward County, Florida when provided with access to the above-mentioned databases.

## 2.06 **VENDOR Confidentiality of Education Records.**

(a) Notwithstanding any provision to the contrary within this Agreement, VENDOR and/or its individual school psychologists and personnel 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 redisclose 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 safety 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](mailto:privacy@browardschools.com), and take all necessary notification steps as may 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 any media equipment is no longer in use or is to be disposed; secure erasure will 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) VENDOR 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.

2.07 **HIPAA Compliance.** VENDOR acknowledges that the Health Insurance Portability and Accountability Act ("HIPAA") and the Health Information Technology for Economic and Clinical Health Act of 2009 ("HITECH Act") (HIPAA and HITECH Act are collectively referred to herein as "HIPAA") protect the privacy of protected health information ("PHI") and may be applicable to student records in certain circumstances; and shall enter into SBBC's HIPAA Business Associate Agreement ("BAA") attached as **Attachment B**. PHI may be used and disclosed only in compliance with HIPAA.

2.08 **Inspection of VENDOR's Records by SBBC.** VENDOR shall establish and maintain books, records and documents (including electronic storage media) sufficient to reflect all income and expenditures of funds provided by SBBC under this Agreement. All VENDOR's 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 VENDOR 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 VENDOR's records from the effective date of this Agreement, for the duration of the term of this Agreement, and until the later of five (5) years after the termination of this Agreement or five (5) years after the date of final payment by SBBC to VENDOR pursuant to this Agreement.



(b) Notice of Inspection. SBBC's agent or its authorized representative shall provide VENDOR 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 VENDOR's facilities and to any and all records related to this Agreement, and shall be provided adequate and appropriate work space in order to exercise the rights permitted under this section.

(d) Failure to Permit Inspection. Failure by VENDOR to permit audit, inspection, examination, evaluation and/or reproduction as permitted under this section shall constitute grounds for termination of this Agreement by SBBC for cause and shall be grounds for SBBC's denial of some or all of any VENDOR'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 VENDOR in excess of two percent (2%) of the total billings under this Agreement, the actual cost of SBBC's audit shall be paid by VENDOR. If the audit discloses billings or charges to which VENDOR is not contractually entitled, VENDOR shall pay said sum to SBBC within twenty (20) days of receipt of written demand unless otherwise agreed to in writing by both parties.

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

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

2.09 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: Director, Exceptional Student Learning Support Department  
The School Board of Broward County, Florida  
Arthur Ashe Campus  
1701 NW 23<sup>rd</sup> Avenue  
Fort Lauderdale, Florida 33311

To VENDOR: Matt Stringer, President  
Invo HealthCare Associates, LLC  
10014 N. Dale Mabry Highway  
Suite C-100  
Tampa, Florida 33618

With a Copy to: Danielle Bower, Area Director  
Invo HealthCare Associates, LLC  
1780 Kendarbren Drive  
Jamison, Pennsylvania 18929

2.10 **Non-Compete Clause.** The ESLS Department will inform VENDOR at the end of each school year if they are interested in hiring VENDOR's school psychologist(s). At that time the school psychologist will maintain contract status for a duration of twelve (12) months, at a full-time schedule. Upon completion of the twelve-month "non-compete" period, the school psychologist(s) will have the option to be hired by SBBC with no fee to SBBC or the school psychologist.

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

2.12 **Public Records.** The following provisions are required by Section 119.0701, Florida Statutes, and may not be amended. VENDOR 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, VENDOR 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. VENDOR 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 VENDOR does not transfer the public records to SBBC. Upon completion of the Agreement, VENDOR shall transfer, at no cost, to SBBC all public records in possession of VENDOR or keep and maintain public records required by SBBC to perform the services required under the Agreement. If VENDOR transfers all public records to SBBC upon completion of the Agreement, VENDOR shall destroy any duplicate public records that are exempt or confidential and exempt from public records disclosure requirements. If VENDOR keeps and maintains public



records upon completion of the Agreement, VENDOR 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.**

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

2.14 **Insurance Requirements.** VENDOR shall comply with the following insurance requirements throughout the term of this Agreement:

(a) **General Liability.** VENDOR 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) **Professional Liability/Errors & Omissions.** VENDOR 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.** VENDOR 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. VENDOR 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 VENDOR to SBBC's Risk Management Department by Certificate of Insurance within fifteen (15) 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 VENDOR to remedy any deficiencies. VENDOR 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. VENDOR 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.

#### 2.15 Nondiscrimination.

(a) As a condition of entering into this Agreement, VENDOR represents and warrants that it will comply with the SBBC's Commercial Nondiscrimination Policy, as described under, Section D.1 of SBBC's Policy No. 3330 – Supplier Diversity Outreach Program.

(b) As part of such compliance, VENDOR shall not discriminate on the basis of race, color, religion, ancestry or national origin, sex, age, marital status, sexual orientation, or on the basis of disability or other unlawful forms of discrimination in the solicitation, selection, hiring, or commercial treatment of subcontractors, vendors, suppliers, or commercial customers, nor shall



VENDOR retaliate against any person for reporting instances of such discrimination. VENDOR shall provide equal opportunity for subcontractors, vendors, and suppliers to participate in all of its public sector and private sector subcontracting and supply opportunities, provided that nothing contained in this clause shall prohibit or limit otherwise lawful efforts to remedy the effects of marketplace discrimination that have occurred or are occurring in the SBBC's relevant marketplace. VENDOR understands and agrees that a material violation of this clause shall be considered a material breach of this Agreement and may result in termination of this Agreement, disqualification of the company from participating in SBBC Agreements, or other sanctions. This clause is not enforceable by or for the benefit of, and creates no obligation to, any third party.

2.16 **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.

2.17 **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.

2.18 **Incorporation by Reference.** Attachment A and Attachment B, 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. 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 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:

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

**[THIS SPACE INTENTIONALLY LEFT BLANK; SIGNATURE PAGE FOLLOWS]**



**FOR VENDOR:**

(Corporate Seal)

INVO HEALTHCARE ASSOCIATES, LLC

ATTEST:

By [Signature]

Print Name: Matt Stringer

Title: 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 Pennsylvania

COUNTY OF Bucks

The foregoing instrument was acknowledged before me by means of ☒ physical presence or ☐ online notarization, this 2/13/20 (date) by Matt Stringer (name of officer or agent, title of officer or agent) of Invo Healthcare Associates (name of corporation acknowledging), a Pennsylvania (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 13 day of February, 2020.

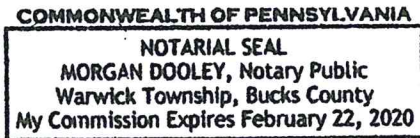
My Commission Expires:

[Signature]  
Signature Notary Public

Morgan Dooley  
Notary's Printed Name

1239982  
Notary's Commission No.

(SEAL)



SCOPE OF SERVICES

1. VENDOR shall furnish current certified/licensed school psychologist(s) under this contract. If a certificate and/or license is suspended, revoked, or otherwise deemed invalid by the State of Florida, the VENDOR shall notify the Exceptional Student Learning and Support (ESLS) immediately that it is removing the uncertified school psychologist from the school property and shall arrange for a qualified replacement within 48 hours. **Award of this contract shall not be a guarantee of business, a guarantee of specified volume of service or minimum dollar revenue to be received under this contract.**
2. School psychologist(s), provided by the VENDOR, shall be responsible for obtaining the necessary contract hours for certificate renewal. SBBC shall not pay for or provide paid time off for attending continuing education activities for license renewal with the exception of trainings offered directly by the ESLS Department.
3. VENDOR's employees and school psychologist(s) shall review and become familiar with federal, state, and District confidentiality requirements for student records, and agrees that access to and use of those records by employees shall be in strict compliance with these requirements as stated in Sections 2.05 and 2.06 of this Agreement.
4. School psychologist(s) shall provide the following services, but not be limited to:
  - (a) Providing consultation with parents, school and district staff, diagnostic testing, observations, and intervention planning;
  - (b) Conducting initial evaluations and re-evaluations of children/adolescents and preparing a multidisciplinary team report or a psychoeducational report of findings in accordance with Broward County Schools' ESE Policies and Procedures;
  - (c) Small group or individual counseling with students, record-keeping for student attendance, preparing a counseling plan of care and preparing progress reports and counseling notes;
  - (d) Participating in the development of Individual Education Plan (IEP), attendance at required eligibility, IEP and dismissal staffings, providing consultation with parents, school district and staff, as needed;
  - (e) Complete all appropriate documentation for Medicaid Reimbursement; and
  - (f) School Psychologists shall be compensated for direct student services and student-related activities only
5. School psychologist(s), provided by VENDOR, shall be fluent in oral and written English. VENDOR shall provide a bi-lingual psychologist as needed.
6. School psychologist(s) under this Agreements shall be required to pass the screening of the Broward School's Police, Security Clearance Department prior to placement of assignment as required by SBBC (Refer to General Condition 7.39, SBBC Photo Identification Badge of the RFP). School psychologist(s) shall utilize the STAR system and/or sign-in/out procedures to document attendance at assigned location(s).



## ATTACHMENT A

7. School psychologist(s) who will be assigned to work for SBBC shall comply with the Jessica Lunsford Act and pass the screenings of the Special Investigative Unit (School Police) including a Level 2 FDLE background check and FBI screening and fingerprinting. The fee is payable directly to Fieldprint.
  - (a) This requirement applies even if the individual has passed similar screening by other governmental agencies.
  - (b) VENDOR is cautioned that it is their responsibility to ensure their staff complies with this requirement in a timely manner.
  - (c) SBBC issued I.D. Badge shall be worn at all times while at the school and other SBBC locations.
8. SBBC reserves the right to interview all VENDOR's school psychologist candidates prior to placement; PreK-12 experience is preferred. SBBC reserves the right to refuse to utilize any proposed school psychologist(s) if it is in their best interest to do so. SBBC reserves the right to have an individual school psychologist removed from the assigned position. VENDOR shall have five (5) workdays in which to propose a replacement school psychologist. Should VENDOR be unable to provide an acceptable replacement, all other contract other awarded vendors, under this contract, will then be notified to submit a candidate to SBBC.
9. School psychologist(s) shall be expected to attend all district-sponsored professional development activities in relation to this Agreement.
10. School psychologist(s) shall be required to complete original protocols for each assessment administered to be kept in the Psychological Services Records Department. A Psychoeducational Report or a Multidisciplinary Report will be completed by the school psychologist(s) and uploaded to EdPlan.
11. School psychologist(s) shall be required to write clinical notes for each direct counseling service and student-oriented consultation that is provided. For all clinical notes attached to students that have a signed consent form, school psychologist(s) shall submit notes with each weekly log.
12. Any mental health screenings and assessments conducted shall be logged and original documents shall be kept in students' educational record. School psychologist(s) shall also be required to complete a weekly log documenting the hours of service for each student served.
13. School psychologist(s) shall provide services consistent with the professional standards of care and comply with all the medical and ethical requirements imposed by the State of Florida, Board of Medicine, the Department of Professional Regulations, the Florida State Department of Education and any other applicable federal, state or local regulatory agency.



## ATTACHMENT A

14. School psychologist(s) shall adhere to SBBC rules and regulations regarding proper attire (no tank-tops, no open-toe shoes), wearing SBBC issued ID badge, prohibition of smoking, usage of proper language, prohibition of use and possession of controlled substances and alcoholic beverages, prohibition of the possession of firearms, either on their person or in their personal vehicles and any other restrictions or prohibitions as may apply.
15. School psychologist(s) shall follow all procedures (including, but not limited to, utilizing the Star System and no personal calls or emails during treatment time) of individual schools or offices where the school psychologist(s) is assigned. School psychologist(s) must check their SBBC provided email at least twice a day for critical communication throughout the day with SBBC personnel as established.
16. School psychologist(s) shall provide the requested level of service(s), in accordance with and/or changes for services requested by the ESLS Department, within five (5) calendar days of notice, unless otherwise mutually agreed upon. Excessive failure to meet the needs of SBBC, as requested, shall result in termination of the VENDOR's contract.
17. School psychologist(s) shall maintain normal working hours of 7:30 a.m. to 3:00 p.m. or 8:00 a.m. to 3:30 p.m. There will be no reimbursement for a thirty (30) minute lunch period. SBBC may only be invoiced for up to seven (7) hours per day unless prior approval has been granted by SBBC, ESLS staff for extended service time. School psychologist(s) may provide a maximum of four (4) hours of service as needed on each scheduled employee planning day unless prior approval is granted for scheduled evaluations, training or report writing by the ESLS Department. Invoices not complying with this requirement shall be rejected and returned to VENDOR for correction and failure to invoice correctly may result in a delay of payment. If VENDOR consistently submits an invoice that is not in compliance may be found in default of their contract.
18. VENDOR shall provide a service schedule of all personnel for approval, upon request, on a regular basis as determined by a designated SBBC representative. Requests shall be submitted within the established deadline. Failure to comply with requested deadlines may result in a delay in payment of an invoice.
19. VENDOR shall provide uninterrupted services based upon the current school calendar to students by providing qualified substitutes or replacements in the event of an anticipated or unanticipated lapse of service. All qualified substitutes must display an SBBC identification badge and be pre-approved by appropriate SBBC administrator. (Refer to General Condition 7.39 of the RFP) Any lapse of service to SBBC for five (5) student attendance days during any school year shall result in default of their contract. VENDOR may be responsible to provide compensatory services or payments to SBBC for lapse of service as determined by the ESLS Department.
20. School psychologist(s) shall prepare time logs, reports, written analysis, and other written memoranda in the form and manner deemed appropriate by SBBC.
21. VENDOR shall bill under SBBC's Medicaid provider number when needed.

## ATTACHMENT A

22. VENDOR shall provide proof of services on the form provided by SBBC upon initiation of services and up until training is provided on the Accelify Electronic Database. Once the school psychologist(s) have received training, the school psychologist(s) shall then submit all proof of services electronically via the database.
23. VENDOR shall cooperate with SBBC in its partnership with universities and colleges to provide supervision of practicum experience for student local school psychology programs.
24. VENDOR may be evaluated annually in areas to include, but not be limited to, responsiveness, continuity of service, quality of work, and professionalism.
25. School psychologist(s) shall attend an orientation workshop of not more than four hours. This orientation workshop shall include, but not be limited to, general information on the policies and procedures of the Broward County Special Programs and Procedures, the rights of students with disabilities, and other operational procedures required to carry out the assigned school psychology duties. Additional workshops and/or meetings may be required during the term of the contract.
26. School psychologist(s) shall receive, from SBBC, requested materials, equipment, and other related items that have been determined to be necessary to carry out school psychology services and required for the provision of Free Appropriate Public Education (FAPE) when approved by a designated SBBC, ESLS representative.
27. School psychologist(s) shall participate in the 504 and Exceptional Student Education (ESE) eligibility meetings to share evaluation results and recommendations. When appropriate, the school psychologist(s) shall participate in 504 and IEP meetings, and assist in the development of the goals and objectives of the IEPs in collaboration with appropriate school/district personnel.
28. School psychologist(s) shall attend re-evaluation meetings and provide consultation regarding the need for the collection of updated assessment data. Assessment results shall be shared following any re-evaluations conducted by the school psychologist(s).
29. School psychologist(s) shall work only on days when students are in attendance unless a written request is made and approved by the ESLS designee, one week prior to the date requested.
30. SBBC shall provide to VENDOR's approved school psychologist(s) appropriate and necessary technology (i.e. laptop computer, etc.) that will be needed to carry out job responsibilities for this contract. The school psychologist(s) shall be required to sign The School Board of Broward County, Florida's Property Pass, Form 0013 (**Exhibit 1**), issued by ESLS Department and must abide by the conditions stated in School Board Policy 5306 – School and District Technology Usage (**Exhibit 2**). The school psychologist(s) shall be responsible for the technology equipment provided to them. If the technology equipment provided to the school psychologist(s) is lost, stolen or damaged, the school psychologist(s) must report this immediately to the ESLS Department. If requested by SBBC, the school psychologist(s) may be required to replace the equipment provided to them at their cost.

## ATTACHMENT A

30. School psychologist(s) shall maintain student evaluation and counseling records as established by the SBBC, ESLS Department. These records contain confidential information and therefore must be kept secure at all times.

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

\_\_\_\_\_  
 EMPLOYEE/STUDENT NAME (*Circle One*)

\_\_\_\_\_  
 DATE

\_\_\_\_\_  
 LOCATION NO./NAME

The above-named person is authorized to remove from the location above, subject to the conditions established in Board Policy #5306, the tangible personal property described below.

\_\_\_\_\_  
 PROPERTY DESCRIPTION

\_\_\_\_\_  
 PHONE NUMBER

\_\_\_\_\_  
 SERIAL NUMBER

By signing below the borrower agrees to the following stipulations:

- a. The property remains the property of The School Board of Broward County, Florida, and must be returned by the expected return date indicated below in good condition.
- b. The property shall be used only in connection with borrower's employment/study assignments.
- c. The borrower shall ensure the safety of the property while it is in his possession.
- d. The borrower has read, and understands, the provisions of Board Policy #5306.
- e. In case of loss or damage, the borrower shall adequately compensate The School Board of Broward County, Florida. ***(Not applicable to computer borrowing by District staff.)***

\_\_\_\_\_  
 EXPECTED RETURN DATE  
 (No later than end of fiscal year)

\_\_\_\_\_  
 EMPLOYEE  
 (Circle One)

\_\_\_\_\_  
 SIGNATURE OF AUTHORIZING PRINCIPAL/SUPERVISOR

The return of the above-described property in good condition is hereby acknowledged.

\_\_\_\_\_  
 DATE PROPERTY RETURNED

\_\_\_\_\_  
 SIGNATURE (PRINCIPAL/DIRECTOR/SUPERVISOR)

Form No. 0013  
 Revised 4/01  
 W18122

5306

5306

### SCHOOL AND DISTRICT TECHNOLOGY USAGE

THE SCHOOL BOARD OF BROWARD COUNTY, FLORIDA ADHERES TO THE BELIEF THAT TECHNOLOGY SHOULD PLAY A VITAL ROLE IN MEETING THE NEEDS OF THE BROAD RANGE OF ABILITIES, DISABILITIES, CULTURAL BACKGROUNDS AND ETHNIC POPULATIONS REPRESENTED IN DISTRICT SCHOOLS. TO ASSURE THAT TECHNOLOGY SHALL PLAY A PREDOMINANT ROLE, THIS POLICY PROVIDES GUIDANCE FOR APPROPRIATE TECHNOLOGY UTILIZATION AND INTEGRATION INTO THE CURRICULUM, AS WELL AS INFUSION INTO SCHOOL/DISTRICT ADMINISTRATION AND MANAGEMENT.

#### 1. Definition

**For the purpose of this policy, technology is defined as, but not limited to, the following:**

- a. Instructional and staff workstations (both desktop and portable), tablets, printers, scanners and other peripherals;
- b. Administrative staff workstations (both desktop and portable), tablets, printers, scanners and other peripherals;
- c. Campus and departmental local area networks (both wired and wireless), including wiring, hubs, switches, routers, transmitters/receivers and other devices;
- d. Servers; including instructional lab servers, web servers, video servers, file and print servers, database servers, internet proxy caching servers;
- e. A Wide Area Network linking all School Board of Broward County (SBBC) sites into one countywide Intranet;
- f. Telephone systems; including primary systems, integrated voice response/management systems, automatic dialing systems;
- g. Learning resource management systems, including library automation systems;
- h. Distance learning systems;
- i. Video capturing, broadcast, receiving, and distribution systems;
- j. Teleconferencing systems;
- k. Application software packages which result in the creation and maintenance of an operational database;
- l. Energy management and security monitoring systems;
- m. Radio systems;
- n. Office copier, Printer, image scanners and document management systems;
- o. Cellular phones, PDAs, Smartphones, and similar mobile items;
- p. Paging systems;
- q. Intercom; and
- r. Facsimile systems.

#### 2. Purpose

- a. To foster and support innovation and experimentation in the transformation from a traditional approach to teaching, learning, and education management to a technology-based model meeting the needs of the broad range of abilities, disabilities, cultural backgrounds, and ethnic populations represented in Broward County Public Schools.
- b. To establish and maintain guidelines and procedures for appropriate technology utilization and infusion in the classroom, in the schools, in school and district administration and management, and in planning and evaluation to more effectively



prepare students for the transition from school to work for success in the workplace, and to improve the operations of the school system.

### 3. Technology Guidelines

- a. The primary priority of the technology system is to improve student learning, teaching, and business efficiency.
- b. Designs will be based on vendor-independent open system standards.
- c. The network will integrate voice, data, and video communications systems.
- d. The data architecture will be based on an enterprise-wide network using client-server technology.
- e. Database management software will be relational and able to run on a variety of operating systems and hardware platforms.
- f. A common data dictionary will be established that defines data elements at all levels from the classroom to the federal government.
- g. Information management will be bi-directional, allowing data query, reporting, analysis and entry by authorized users.
- h. Information will be recorded once and validated at the source.
- i. Multi-platforms will be supported where possible.
- j. All mainframe, servers, personal computers and peripherals will be inter-connected through network hardware and software.
- k. Uniform technology support services will be made available at all locations.
- l. All technology resources will be coordinated and integrated with appropriate curriculum and business initiatives.
- m. The system will be accessible to staff, students, parents, and the community for appropriate uses and protected with security measures which prevent and detect/monitor unauthorized and inappropriate use.
- n. Provisions must be made for keeping the technology current, within available resources, including policies on replacement or upgrade based on a life-cycle process.
- o. Appropriate training and professional development must be provided to teachers, staff, and administrators to ensure timely implementation and effective use.
- p. The technology must improve decision making and staff productivity.
- q. A process will be established to monitor the effectiveness of technology project implementations.
- r. Student safety, security, and compliance with all applicable laws governing public records (Florida Statute Section 1002.22 and 1002.221) are of primary concern and must be considered in the implementation of all technologies.
- s. Establishing and maintaining procedures for disabling or otherwise modifying any technology protection measures shall be the sole responsibility of the Superintendent or designee.
- t. All users of the Broward County Public Schools network must adhere to the Information Security Guidelines. The latest version of the Information Security Guidelines will be posted on <http://web.broward.k12.fl.us/techstandards>.
- u. Broward Schools' network and telecommunication services shall be properly monitored and, to the extent technically possible, users of school-sponsored telecommunication services and networks shall be protected from harassment or unsafe, unwanted, or unsolicited contact and from content deemed inappropriate.
- v. To the extent practical, and as specifically required by the Children's Internet Protection Act (CIPA), blocking shall be applied to visual and/or auditory



- depictions of material deemed obscene, violent, pornographic (child and otherwise), or any other digital material deemed harmful to minors.
- w. Steps shall be taken to promote the safety and security of the School Board of Broward County's computer and telecommunications network(s) when using electronic mail, instant messaging, blogs (macro/micro), social networks, chat services, and other forms of direct electronic communications.
  - x. Staff will be responsible for educating, supervising, and monitoring the appropriate usage of the school district's online computer and telecommunications network(s) and access to the Internet in accordance with this policy, the Children's Internet Protection Act (CIPA), the Neighborhood Children's Internet Protection Act (NCIPA), and the Protecting Children in the 21<sup>st</sup> Century Act.
  - y. Upon receipt of specific parent/guardian written permission (electronically or otherwise), students will be eligible to receive electronic communications from District employees in connection with activities outside of classroom/instruction activities. However, communications with students utilizing electronic devices, or otherwise, for fraternization purposes are strictly prohibited, except communications between parent and child. Inappropriate communications, as defined below in section 8.h., shall be prohibited. All contact and communications with students, shall be consistent with School Board policies and the Florida Code of Ethics and the Principles of Professional Conduct of the Education Profession in Florida, State Board of Education Rules 6B-1.001 and 6B-1006, F.A.C., which require, among other things, that the primary concern always be for the well-being of the student and to "exercise the best professional judgment and integrity."
  - z. All use of cellular equipment and services provided by SBBC must be in accordance with the provisions of the Public Records Act (Florida Statute Section 119) and Standard Practice Bulletin, A-469, "Cellular Telephone Access and Usage".
  - aa. Suitable training shall be provided to students regarding appropriate online behavior, including interacting with other individuals on social networking websites and in chat rooms and cyberbullying awareness and response.
  - ab. Access to District Networks, applications, and systems shall be discontinued upon termination of employment except in situations where continued access is required by board-approved agreements, School Board policies, state statutes, or federal laws.

#### 4. Desired Outcomes

- a. Technology will be appropriately and equitably integrated into instruction and management processes and used by all students and staff as an integral component of school improvement and student success. Improving student performance and achievement, increasing staff productivity, and ensuring efficiency of the day-to-day operations of the school system are the essential reasons for the use of technology in Broward County Public School System.
- b. Technology will be procured and deployed as needed to meet state and federal legislative mandates.
- c. All school classrooms, media centers, and offices and all district departments and offices will be electronically networked (wired and/or wireless) and equipped, providing all staff, students, and administration equitable and easy access to information technologies for teaching, learning, management, and day-to-day operations.



- d. All high school graduates will be prepared to use multiple technologies upon entrance into the work force and/or higher education.
- e. New and emerging technologies will be evaluated, and if appropriate, incorporated into school curriculum and will be integral elements of school improvement and accountability.
- f. Organizational productivity and efficiency will increase as technology is infused into the workplace.
- g. Student, teacher, staff, and administrative effectiveness will improve concurrently with the infusion of technology into their respective workplaces.
- h. The Broward County community will recognize district schools and departments as resources; and the number and quality of partnerships and cooperative endeavors will increase.
- i. The decision-making process will be improved as technology facilitates the flow of information and the communication process, within the district, the state, and the world.
- j. Improved communication between schools and institutions of higher education will increase the sharing of best practices as well as enhance pre-service and in-service training and emphasize technology integration into the curriculum.
- k. Inter- and intra-departmental collaboration, from planning through evaluation, will be a goal of the District.
- l. All units responsible for technology planning will work collaboratively with county, state, and government groups to investigate current, advanced, and emerging commercial technologies and to identify or develop, if necessary, efficient and cost-effective applications.
- m. The broadest possible access to the School Board of Broward County's web-based educational resources will be promoted, while providing safeguards to ensure the safety of students and that security is maintained. Towards this desired outcome, The School Board of Broward County, Florida, will support programs designed to bridge the Digital Divide.
- n. Technology will be used to build and maintain communications links between SBBC and its parental and community stakeholders. (e.g. Instant Messaging, Social Media, blogs and micro blogs, mobile applications, telephone contact systems, etc.). The use of these media, however, must be in compliance with the Florida Retention Schedules (<http://dis.dos.state.fl.us/barm/genschedules/GS1-SL.pdf>).

## 5. Implementation

A comprehensive and continuous short and long-range Board technology implementation process will direct, review, evaluate, and improve the effective utilization of all aspects of technology.

- a. The Superintendent will direct staff to:
  - 1. Consult and collaborate on a continuing basis with education, business, community, and government groups locally, regionally, and nationally.
  - 2. Identify student competencies in using technologies to access, analyze, apply, and communicate information and incorporate them into the Standards of Service.
  - 3. Identify staff competencies in integrating and applying information technologies in instruction and management and incorporate these competencies as part of the evaluation process.
  - 4. Identify educational management tools to be acquired and implemented.



4. Establish and continually update an ongoing staff development program to support technology usage and integration.
5. Establish baseline standards to ensure that all schools and offices have adequate, appropriate and up to date hardware, software, and communications capabilities as rapidly as resources permit.
6. Review and/or establish guidelines as needed on copyright, acceptable use, and other ethical use policies.
7. Identify, document, and evaluate core processes that need improvement or re-engineering to maximize the productivity and educational benefits from technology investments.
8. Prepare a viable timeline for task implementation and completion, which will assist in evaluating the progress and effectiveness of the district's technology plan.

## 6. Acceptable use of Computer Network and Online Telecommunications

Individuals who use District-owned or leased technology, applications, networks, or telecommunications infrastructure and systems agree to abide by the terms and tenets of this policy. The School Board of Broward County does not warrant network or telecommunications functionality or accuracy of information, nor does it warrant the effectiveness of Internet filtering. No expectation of privacy is created or intended to be created by this Policy. Users of systems, networks, and telecommunications systems must recognize that all content created or stored utilizing District technology may be subject to monitoring for compliance with School Board policies and applicable laws.

### a. Goals for Technology use and Internet Safety

1. Prevent user access over its computer and telecommunications network(s) to, or transmission of, inappropriate material via Internet, electronic mail, instant messaging systems, social networks, or other forms of direct electronic communications;
2. Prevent unauthorized access or other unlawful online activity including, but not limited to, the "hacking" of systems within and outside of the District's enterprise;
3. Prevent unauthorized online disclosure, use, alteration, or dissemination of personally identifiable information of students or confidential information of staff;
4. Comply with the Children's Internet Protection Act (CIPA); the Neighborhood Children's Internet Protection Act (NCIPA); the Protecting Children in the 21<sup>st</sup> Century Act, the Public Records Act (Florida Statute Section 119), and all applicable laws;
5. Prevent the use of its computer and telecommunications network(s) for the purpose of harassment, unlawful discrimination, cyberbullying, cyberstalking and other unlawful activities; and
6. Protect students and staff from inappropriate (as defined in 8h), unlawful or unauthorized communications from individuals, including School Board employees.

## b. Rules

1. All use of telecommunication services and networks provided by the District or used in any of its schools or departments shall be consistent with Federal laws, Florida laws, the Florida Department of Education "Code of Ethics of the Education Profession in Florida" (Rule 6B-1), and the "Code of Ethics for Computer, Network and On-line Telecommunications Users" (see next section).
2. Successful participation in a network requires that its users regard it as a shared resource and that members conduct themselves in a responsible, safe, ethical, and legal manner while using the network and all accessible applications and digital resources.
3. Staff and students who are exchanging communication with others inside and outside the District are representing The School Board of Broward County, Florida, and should conduct themselves appropriately.
4. Technology owned or leased by the School Board shall not be used for advertising or otherwise communicating or promoting the interests of any commercial, religious, political or other non-district agency or organization except as permitted through board approved agreements, School Board policies, state statutes, or federal laws.
5. Anyone using personally owned technology devices and/or telecommunications services on property owned by the School Board of Broward County must do so in accordance with the terms and tenets of this policy and the published "Personally Owned Device Guidelines". The latest version of the "Personally Owned Guidelines" will be posted on <http://web.broward.k12.fl.us/techstandards>.
6. To implement the Acceptable Use Provision of this policy, it is necessary that all users read and acknowledge in writing that they understand their obligations and willingness to comply with the "Code of Ethics for Computer Network and Online Telecommunications Users" (see below).
7. Student use of technology shall be consistent with the provisions and tenets of this policy and the "Student Code of Conduct".
8. Use of technology shall be consistent with the tenets and provisions of the District's "Social Media Use Guidelines" and the "Web-Publishing Guidelines".

## c. Code of Ethics for Computer Network and Online Telecommunications Users

1. All users are expected to read and understand the following privileges, rights, and responsibilities when using the network(s) or telecommunications equipment or systems of Broward County public schools.
  - a. Use of computer network and/or online telecommunications is a privilege and must support teaching, learning, and research.
  - b. Students, parents, faculty, and staff in Broward County Public Schools will have access to web-based educational resources in compliance with local, state and federal laws.
  - c. Authorized users shall be ultimately responsible for all activity under their account and password. Accounts shall be used only by the authorized user and only for the purposes specified.



- d. Use of an identity or password other than the user's own is prohibited.
- e. All network users shall adhere to the rules of copyright regarding software, information, and the attribution of authorship. Posting or re-posting any content or material protected by copyright or other intellectual property laws without the author's permission and/or without proper attribution is prohibited.
- f. Any use of telecommunication services or networks for illegal, inappropriate, obscene, or pornographic purposes shall be prohibited.
- g. The use of the District Technology is provided to assist employees in the efficient delivery of public services to the community. Accordingly, the District Technology must be used for purposes consistent with the District's mission and policies.
- h. Use of School Board technology for or engaging in offensive or inflammatory speech, profanity, or obscene language shall be prohibited.
- i. Hate mail, harassment, discriminatory remarks, and other antisocial behaviors shall be prohibited.
- j. Users shall not intentionally spread computer viruses, vandalize the data, infiltrate systems, damage hardware or software, or in any way degrade, interfere or disrupt the use of the network, applications or telecommunications systems, or those belonging to external entities.
- k. Attempts to interfere, degrade or disrupt system performance will be subject to disciplinary action and/or may be viewed as criminal activity in accordance with applicable state and federal law and, if so, will be reported to law enforcement agencies.
- l. Files, documents, materials, and records generated by District employees using School Board of Broward County property, equipment, facilities, and/or systems are the property of the School Board of Broward County and may be accessed at any time by appropriate authorized system personnel.
- m. Records, as defined in Florida Statute Section 119.011(12), generated by District employees using School Board of Broward County property and made or received in connection with the transaction of official business of the School Board (including emails and text messages) must be retained and maintained as public records in compliance with State Law and Board Policy. All business-related email correspondence must utilize the District's email system. Text messaging is permitted solely for the purpose of exchanging transitory messages.
- n. All e-mails created by District employees using School Board of Broward County property must be in compliance with the District's E-Mail Guidelines, which can be found at [www.web.broward.k12.fl.us/techstandards](http://www.web.broward.k12.fl.us/techstandards).
- o. Equipment, networks or systems owned and/or operated by the School Board of Broward County may not be used for the purpose, intended or otherwise, of harassment, "cyberbullying", "cyberstalking" or Dating Violence or Abuse.

**7. Compliance**

- a. Students, employees, and community members/visitors using School Board equipment, networks, or telecommunications infrastructure or systems, on-site or off-site, must conform to the requirements of this policy.
- b. Failure to adhere to, and conform online activities with, any provisions of this policy may subject users to some or all of the following: warnings, usage restrictions, disciplinary actions, or legal proceedings.

**8. Definition of Terms**

- a. Illegal activities shall be defined as a violation of local, state, and/or federal laws.
- b. Inappropriate use shall be defined as a violation of the intended use of the District's mission, goals, policies, or procedures.
- c. Obscenity and/or pornography shall be defined as a violation of generally accepted social standards for use of a publicly-owned and operated communication vehicle.
- d. Harmful to minors means any picture, image, graphic image file, or other visual depiction that-- (a) taken as a whole and with respect to minors, appeals to a prurient interest in nudity, sex, or excretion; (b) depicts, describes, or represents, in a patently offensive way with respect to what is suitable for minors, an actual or simulated sexual act or sexual contact, actual or simulated normal or perverted sexual acts, or a lewd exhibition of the genitals; and (c) taken as a whole, lacks serious literary, artistic, political, or scientific value as to minors.
- e. Sexual Act; Sexual Contact have the meanings given such terms in section 2246 of title 18, United States Code.
- f. Dating Violence or Abuse is defined in School Board Policy 5010.
- g. Harassment, cyberbullying and cyberstalking are defined in School Board Policy 5.9.
- h. "Inappropriate communication" is defined as:
  - (i) a communication which is harmful to minors,
  - (ii) a communication that is inconsistent with the School Board Policies, federal or state laws, or the Code of Ethics for the Education Profession in Florida (which requires the exercise of the best professional judgment and integrity and the highest degree of ethical conduct), or
  - (iii) a communication with a minor student, through the use of District Technology or the use of personally-owned technology devices and/or telecommunication services, that is not related to school connected activities/assignments and that is made without parental permission to do so.
- i. Transitory messages are not intended to formalize or perpetuate knowledge and do not set policy, establish guidelines or procedures, certify a transaction, or become a receipt. "Transitory" refers to short-term value based upon the content and purpose of the message, not the format or technology used to transmit it. Examples of transitory messages include, but are not limited to, reminders to employees about scheduled meetings or appointments; most telephone messages and announcements of events.

Statutory authority: 1001.41

Laws Implemented: 1001.43 (3) (a), Public Records Act (Florida Statute Section 119), Children's Internet Protection Act (CIPA), the Neighborhood Children's Protection Act (NCIPA), the Protecting Children in the 21<sup>st</sup> Century Act.

Policy adopted: 8/6/96

Policy Amended: 2/17/98, 12/15/98, 5/1/01, 3/4/03, 4/29/03, 1/18/05, 8/3/10, 5/30/12



## 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

**INVO HEALTHCARE ASSOCIATES, LLC**  
 (hereinafter referred to as "*Business Associate*"),  
 whose principal place of business is  
 1780 Kendarbren Drive  
 Jamison, Pennsylvania 18929

**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 3<sup>rd</sup> Avenue  
Fort Lauderdale, Florida 33301

With a Copy to:

Director, Exceptional Student Learning Support Department  
The School Board of Broward County, Florida  
Arthur Ashe Campus  
1701 NW 23<sup>rd</sup> Avenue  
Fort Lauderdale, Florida 33311

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

To Business Associate:

Matt Stringer, President  
Invo HealthCare Associates, LLC  
10014 N. Dale Mabry Highway  
Suite C-100  
Tampa, Florida 33618

With a Copy to:

Danielle Bower, Area Director  
Invo HealthCare Associates, LLC  
1780 Kendarbren Drive  
Jamison, Pennsylvania 18929



**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.



**ATTACHMENT B**

**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:

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

**[THIS SPACE INTENTIONALLY LEFT BLANK]**

FOR BUSINESS ASSOCIATE

INVO HEALTHCARE ASSOCIATES, LLC

[Signature]  
Signature

By: Matt Stringer, 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 Pennsylvania  
COUNTY OF Bucks

The foregoing instrument was acknowledged before me by means of ☒ physical presence or ☐ online notarization, this 2/13/20 (date) by Matt Stringer (name of officer or agent, title of officer or agent) of Invo HealthCare Associates (name of corporation acknowledging), a Pennsylvania (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 13 day of February, 2020.

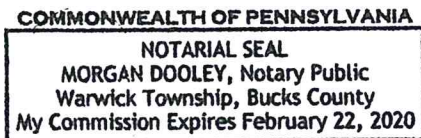
My Commission Expires:

[Signature]  
Signature - Notary Public

Morgan Dooley  
Notary's Printed Name

1239982  
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: \_\_\_\_\_

## 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

**ORANGE TREE STAFFING, LLC**

(hereinafter referred to as "VENDOR"),  
whose principal place of business is  
111 East Fairbanks Avenue  
Winter Park, Florida 32789

**WHEREAS**, SBBC issued a Request for Proposal identified as RFP FY20-065 – Student Psychological and Mental Health Services (hereinafter referred to as "RFP"); dated August 13, 2019 and amended by Addendum No. 2, dated September 9, 2019, and Addendum No. 1, dated August 27, 2019 all of which are incorporated by reference herein, for the purpose of receiving proposals for student psychological and mental health services; and

**WHEREAS**, VENDOR offered a proposal dated September 1, 2019 (hereinafter referred to as "Proposal") which is incorporated by reference herein, in response to this RFP.

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

### ARTICLE 1 - RECITALS

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

### ARTICLE 2 – SPECIAL CONDITIONS

2.01 **Term of Agreement.** Unless terminated earlier pursuant to Section 3.05 of this Agreement, the term of this Agreement shall commence upon the execution of all parties conclude on **June 30, 2023**. The term of the Agreement may, by mutual agreement between SBBC and VENDOR, be extended for two (2) additional one-year periods and, if needed, 180 calendar days beyond the expiration date of the renewal period. SBBC's Procurement & Warehousing Services Department, will, if considering renewing, request a letter consenting to renewal from VENDOR, prior to the end of the term. Any renewal period shall be approved by an Amendment to this Agreement executed by both parties.

2.02 **Description of Services Provided.** VENDOR shall provide SBBC with the Scope of Services in its Proposal and in compliance with this Agreement, the RFP and its Addenda, and as specified in **Attachment A – Scope of Services.**

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

- First: This Agreement, then;
- Second: Addendum No. 2, then;
- Third: Addendum No. 1, then;
- Fourth: RFP FY20-065 – Student Psychological and Mental Health Services, then;
- Fifth: Proposal submitted in response to the RFP by VENDOR.

2.04 **Cost of Services.**

(a) SBBC shall pay VENDOR for the cost of services satisfactorily rendered by a school psychologist at a not-to-exceed rate of sixty-eight dollars (\$68.00) per hour. VENDOR shall submit to the Exceptional Student Learning Support (ESLS) Department, Arthur Ashe Campus, 1701 NW 23<sup>rd</sup> Avenue, Fort Lauderdale, Florida 33311, an appropriate invoice to be paid net thirty (30) calendar days after the issuance of the same invoice.

(b) Costs shall not exceed the total amount as stated on the Purchase Order(s). VENDOR may offer, at any time to SBBC, a special educational discount for pricing and/or reduce the cost of services during the term of this Agreement. VENDOR may invoice SBBC at an hourly rate less than its original bid price at any time during the term of this Agreement.

(c) The cost for orientation meeting(s) for a new school psychologist(s) shall be at no charge to SBBC (Refer to **Attachment A**, Item 25). SBBC and VENDOR will determine the duration of orientation, based on the experience and job expectations of the school psychologist, which will not exceed three (3), eight (8) hour workdays. The cost for regularly scheduled meetings shall be billed at either the not-to-exceed rate or at a less rate as deemed appropriate by VENDOR.

2.05 **SBBC Disclosure of Education Records.**

(a) Purposes: School psychologists will be provided with access to selected school district database systems to utilize for the purpose of conducting psychological evaluations, assisting with intervention planning, providing support services to students, and for school-based decision-making. Under this agreement, school psychologists are only entitled to view education records of the students they are working with.

(b) Access will be provided to the following databases for the specific purposes identified below:

- 1) Ed Plan - Access to EdPlan will be provided to school psychologists for the purpose of conducting psychological evaluations, assisting with the development of students' IEPs, EPs, FBAs, PBIPs, reevaluation plans, medical records, and other such documents utilized for educational planning or as a part of the consideration for the ESE program.



- 2) Accelify - Access to Accelify will be utilized for the purpose of Medicaid billing (e.g., logging evaluation activities and direct services to students), logging non-student activities (e.g., crisis response, trainings), and opening/closing referrals for evaluations.
- 3) BASIS: Access to BASIS will be utilized for the purpose of conducting psychological evaluations and participating in school-based decision-making as it pertains to the collaborative problem-solving model and other job functions.

(c) Types: School psychologists will be provided with limited access to the following databases in accordance with the definitions below:

- 1) Ed Plan: EdPlan will be used to upload psychological reports, review a student's documents related to their past participation in the ESE program, including their evaluation history and any medical records shared with the school-based teams. They will access additional EdPlan records, as needed, to provide guidance in the development of interventions, and additional educational planning. Psychologists will also be given access to a student's Behavioral Threat Assessment records when they are involved as mandatory participant on a student's Behavioral Threat Assessment team.
- 2) Accelify: A psychologist will have access to their psych referrals list, with the identifying information of students' cases that were assigned to them individually. They will also have access to the students at their school to document services provided to the students or at the school. This tool will be used for the purpose of Medicaid billing and logging services direct and indirect services provided.
- 3) BASIS: A psychologist will access student details which include, but are not limited to: demographic information, health records, contact information, academic history, test scores, discipline history, attendance history, identified risk factors, assignment history, RtI referrals, and any educational records needed for the purpose of conducting psychological evaluations, guiding the development of interventions, and additional educational planning.

(d) Consent: SBBC will obtain written consent from each student's parent / guardian or student age 18 or over prior to disclosing or allowing access to the education records listed in this section.

(e) School psychologists will sign Electronic User Agreements and Privacy Policy Statements as defined by The School Board of Broward County, Florida when provided with access to the above-mentioned databases.

## **2.06 VENDOR Confidentiality of Education Records.**

(a) Notwithstanding any provision to the contrary within this Agreement, VENDOR and/or its individual school psychologists and personnel 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 redisclose 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 safety 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](mailto:privacy@browardschools.com), and take all necessary notification steps as may 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 any media equipment is no longer in use or is to be disposed; secure erasure will 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) VENDOR 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.

2.07 **HIPAA Compliance.** VENDOR acknowledges that the Health Insurance Portability and Accountability Act ("HIPAA") and the Health Information Technology for Economic and Clinical Health Act of 2009 ("HITECH Act") (HIPAA and HITECH Act are collectively referred to herein as "HIPAA") protect the privacy of protected health information ("PHI") and may be applicable to student records in certain circumstances; and shall enter into SBBC's HIPAA Business Associate Agreement ("BAA") attached as **Attachment B**. PHI may be used and disclosed only in compliance with HIPAA.

2.08 **Inspection of VENDOR's Records by SBBC.** VENDOR shall establish and maintain books, records and documents (including electronic storage media) sufficient to reflect all income and expenditures of funds provided by SBBC under this Agreement. All VENDOR's 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 VENDOR 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 VENDOR's records from the effective date of this Agreement, for the duration of the term of this Agreement, and until the later of five (5) years after the termination of this Agreement or five (5) years after the date of final payment by SBBC to VENDOR pursuant to this Agreement.

(b) Notice of Inspection. SBBC's agent or its authorized representative shall provide VENDOR 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 VENDOR's facilities and to any and all records related to this Agreement, and shall be provided adequate and appropriate work space in order to exercise the rights permitted under this section.

(d) Failure to Permit Inspection. Failure by VENDOR to permit audit, inspection, examination, evaluation and/or reproduction as permitted under this section shall constitute grounds for termination of this Agreement by SBBC for cause and shall be grounds for SBBC's denial of some or all of any VENDOR'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 VENDOR in excess of two percent (2%) of the total billings under this Agreement, the actual cost of SBBC's audit shall be paid by VENDOR. If the audit discloses billings or charges to which VENDOR is not contractually entitled, VENDOR shall pay said sum to SBBC within twenty (20) days of receipt of written demand unless otherwise agreed to in writing by both parties.

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

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

2.09 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: Director, Exceptional Student Learning Support Department  
The School Board of Broward County, Florida  
Arthur Ashe Campus  
1701 NW 23<sup>rd</sup> Avenue  
Fort Lauderdale, Florida 33311

To VENDOR: Mardly R. Smith, Owner  
Orange Tree Staffing, LLC  
111 East Fairbanks Avenue  
Winter Park, Florida 32789

2.10 **Non-Compete Clause.** The ESLS Department will inform VENDOR at the end of each school year if they are interested in hiring VENDOR's school psychologist(s). The first six (6) months after the final contracted date with VENDOR's school psychologist, represents a provisional period, during which the school psychologist will not be eligible to apply directly or in-directly to be hired by SBBC.

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

2.12 **Public Records.** The following provisions are required by Section 119.0701, Florida Statutes, and may not be amended. VENDOR 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, VENDOR 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. VENDOR 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 VENDOR does not transfer the public records to SBBC. Upon completion of the



Agreement, VENDOR shall transfer, at no cost, to SBBC all public records in possession of VENDOR or keep and maintain public records required by SBBC to perform the services required under the Agreement. If VENDOR transfers all public records to SBBC upon completion of the Agreement, VENDOR shall destroy any duplicate public records that are exempt or confidential and exempt from public records disclosure requirements. If VENDOR keeps and maintains public records upon completion of the Agreement, VENDOR 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.**

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

2.14 **Insurance Requirements.** VENDOR shall comply with the following insurance requirements throughout the term of this Agreement:

(a) **General Liability.** VENDOR 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) Professional Liability/Errors & Omissions. VENDOR 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. VENDOR 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. VENDOR 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 VENDOR to SBBC's Risk Management Department by Certificate of Insurance within fifteen (15) 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 VENDOR to remedy any deficiencies. VENDOR 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. VENDOR 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.

## 2.15 **Nondiscrimination.**

(a) As a condition of entering into this Agreement, VENDOR represents and warrants that it will comply with the SBBC's Commercial Nondiscrimination Policy, as described under, Section D.1 of SBBC's Policy No. 3330 – Supplier Diversity Outreach Program.

(b) As part of such compliance, VENDOR shall not discriminate on the basis of race, color, religion, ancestry or national origin, sex, age, marital status, sexual orientation, or on the basis of disability or other unlawful forms of discrimination in the solicitation, selection, hiring, or commercial treatment of subcontractors, vendors, suppliers, or commercial customers, nor shall VENDOR retaliate against any person for reporting instances of such discrimination. VENDOR shall provide equal opportunity for subcontractors, vendors, and suppliers to participate in all of its public sector and private sector subcontracting and supply opportunities, provided that nothing contained in this clause shall prohibit or limit otherwise lawful efforts to remedy the effects of marketplace discrimination that have occurred or are occurring in the SBBC's relevant marketplace. VENDOR understands and agrees that a material violation of this clause shall be considered a material breach of this Agreement and may result in termination of this Agreement, disqualification of the company from participating in SBBC Agreements, or other sanctions. This clause is not enforceable by or for the benefit of, and creates no obligation to, any third party.

2.16 **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.

2.17 **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.

2.18 **Incorporation by Reference.** Attachment A and Attachment B, 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. 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 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: Orange Tree Staffing, LLC  
Date: 2020.02.04 07:43:02 -05'00'

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

**[THIS SPACE INTENTIONALLY LEFT BLANK; SIGNATURE PAGE FOLLOWS]**

**FOR VENDOR:**

(Corporate Seal)

ORANGE TREE STAFFING, LLC

ATTEST:

\_\_\_\_\_, Secretary  
-or-  
Elaine Hindley  
Witness

[Signature]  
Witness

By [Signature]

Print Name: Mardly R. Smith

Title: Owner

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

STATE OF FL

COUNTY OF Orange

The foregoing instrument was acknowledged before me by means of ☒ physical presence or ☐ online notarization, this 01/29/2020 (date) by Mardly R. Smith | Owner (name of officer or agent, title of officer or agent) of Orange Tree Staffing, LLC (name of corporation acknowledging), a FL (state or place of incorporation) corporation, on behalf of the corporation. He/she is personally known to me or has produced Driver's License (type of identification) as identification and who ☐ did/☐ did not first take an oath this 29th day of January, 2020.

My Commission Expires: 4/29/2022

(SEAL)



Heather R. Cromlish  
Signature – Notary Public

Heather R. Cromlish  
Notary's Printed Name

676 212564  
Notary's Commission No.

SCOPE OF SERVICES

1. VENDOR shall furnish current certified/licensed school psychologist(s) under this contract. If a certificate and/or license is suspended, revoked, or otherwise deemed invalid by the State of Florida, the VENDOR shall notify the Exceptional Student Learning and Support (ESLS) immediately that it is removing the uncertified school psychologist from the school property and shall arrange for a qualified replacement within 48 hours. **Award of this contract shall not be a guarantee of business, a guarantee of specified volume of service or minimum dollar revenue to be received under this contract.**
2. School psychologist(s), provided by the VENDOR, shall be responsible for obtaining the necessary contract hours for certificate renewal. SBBC shall not pay for or provide paid time off for attending continuing education activities for license renewal with the exception of trainings offered directly by the ESLS Department.
3. VENDOR's employees and school psychologist(s) shall review and become familiar with federal, state, and District confidentiality requirements for student records, and agrees that access to and use of those records by employees shall be in strict compliance with these requirements as stated in Sections 2.05 and 2.06 of this Agreement.
4. School psychologist(s) shall provide the following services, but not be limited to:
  - (a) Providing consultation with parents, school and district staff, diagnostic testing, observations, and intervention planning;
  - (b) Conducting initial evaluations and re-evaluations of children/adolescents and preparing a multidisciplinary team report or a psychoeducational report of findings in accordance with Broward County Schools' ESE Policies and Procedures;
  - (c) Small group or individual counseling with students, record-keeping for student attendance, preparing a counseling plan of care and preparing progress reports and counseling notes;
  - (d) Participating in the development of Individual Education Plan (IEP), attendance at required eligibility, IEP and dismissal staffings, providing consultation with parents, school district and staff, as needed;
  - (e) Complete all appropriate documentation for Medicaid Reimbursement; and
  - (f) School Psychologists shall be compensated for direct student services and student-related activities only
5. School psychologist(s), provided by VENDOR, shall be fluent in oral and written English. VENDOR shall provide a bi-lingual psychologist as needed.
6. School psychologist(s) under this Agreements shall be required to pass the screening of the Broward School's Police, Security Clearance Department prior to placement of assignment as required by SBBC (Refer to General Condition 7.39, SBBC Photo Identification Badge of the RFP). School psychologist(s) shall utilize the STAR system and/or sign-in/out procedures to document attendance at assigned location(s).

## ATTACHMENT A

7. School psychologist(s) who will be assigned to work for SBBC shall comply with the Jessica Lunsford Act and pass the screenings of the Special Investigative Unit (School Police) including a Level 2 FDLE background check and FBI screening and fingerprinting. The fee is payable directly to Fieldprint.
  - (a) This requirement applies even if the individual has passed similar screening by other governmental agencies.
  - (b) VENDOR is cautioned that it is their responsibility to ensure their staff complies with this requirement in a timely manner.
  - (c) SBBC issued I.D. Badge shall be worn at all times while at the school and other SBBC locations.
8. SBBC reserves the right to interview all VENDOR's school psychologist candidates prior to placement; PreK-12 experience is preferred. SBBC reserves the right to refuse to utilize any proposed school psychologist(s) if it is in their best interest to do so. SBBC reserves the right to have an individual school psychologist removed from the assigned position. VENDOR shall have five (5) workdays in which to propose a replacement school psychologist. Should VENDOR be unable to provide an acceptable replacement, all other contract other awarded vendors, under this contract, will then be notified to submit a candidate to SBBC.
9. School psychologist(s) shall be expected to attend all district-sponsored professional development activities in relation to this Agreement.
10. School psychologist(s) shall be required to complete original protocols for each assessment administered to be kept in the Psychological Services Records Department. A Psychoeducational Report or a Multidisciplinary Report will be completed by the school psychologist(s) and uploaded to EdPlan.
11. School psychologist(s) shall be required to write clinical notes for each direct counseling service and student-oriented consultation that is provided. For all clinical notes attached to students that have a signed consent form, school psychologist(s) shall submit notes with each weekly log.
12. Any mental health screenings and assessments conducted shall be logged and original documents shall be kept in students' educational record. School psychologist(s) shall also be required to complete a weekly log documenting the hours of service for each student served.
13. School psychologist(s) shall provide services consistent with the professional standards of care and comply with all the medical and ethical requirements imposed by the State of Florida, Board of Medicine, the Department of Professional Regulations, the Florida State Department of Education and any other applicable federal, state or local regulatory agency.



## ATTACHMENT A

14. School psychologist(s) shall adhere to SBBC rules and regulations regarding proper attire (no tank-tops, no open-toe shoes), wearing SBBC issued ID badge, prohibition of smoking, usage of proper language, prohibition of use and possession of controlled substances and alcoholic beverages, prohibition of the possession of firearms, either on their person or in their personal vehicles and any other restrictions or prohibitions as may apply.
15. School psychologist(s) shall follow all procedures (including, but not limited to, utilizing the Star System and no personal calls or emails during treatment time) of individual schools or offices where the school psychologist(s) is assigned. School psychologist(s) must check their SBBC provided email at least twice a day for critical communication throughout the day with SBBC personnel as established.
16. School psychologist(s) shall provide the requested level of service(s), in accordance with and/or changes for services requested by the ESLS Department, within five (5) calendar days of notice, unless otherwise mutually agreed upon. Excessive failure to meet the needs of SBBC, as requested, shall result in termination of the VENDOR's contract.
17. School psychologist(s) shall maintain normal working hours of 7:30 a.m. to 3:00 p.m. or 8:00 a.m. to 3:30 p.m. There will be no reimbursement for a thirty (30) minute lunch period. SBBC may only be invoiced for up to seven (7) hours per day unless prior approval has been granted by SBBC, ESLS staff for extended service time. School psychologist(s) may provide a maximum of four (4) hours of service as needed on each scheduled employee planning day unless prior approval is granted for scheduled evaluations, training or report writing by the ESLS Department. Invoices not complying with this requirement shall be rejected and returned to VENDOR for correction and failure to invoice correctly may result in a delay of payment. If VENDOR consistently submits an invoice that is not in compliance may be found in default of their contract.
18. VENDOR shall provide a service schedule of all personnel for approval, upon request, on a regular basis as determined by a designated SBBC representative. Requests shall be submitted within the established deadline. Failure to comply with requested deadlines may result in a delay in payment of an invoice.
19. VENDOR shall provide uninterrupted services based upon the current school calendar to students by providing qualified substitutes or replacements in the event of an anticipated or unanticipated lapse of service. All qualified substitutes must display an SBBC identification badge and be pre-approved by appropriate SBBC administrator. (Refer to General Condition 7.39 of the RFP) Any lapse of service to SBBC for five (5) student attendance days during any school year shall result in default of their contract. VENDOR may be responsible to provide compensatory services or payments to SBBC for lapse of service as determined by the ESLS Department.
20. School psychologist(s) shall prepare time logs, reports, written analysis, and other written memoranda in the form and manner deemed appropriate by SBBC.
21. VENDOR shall bill under SBBC's Medicaid provider number when needed.

## ATTACHMENT A

22. VENDOR shall provide proof of services on the form provided by SBBC upon initiation of services and up until training is provided on the Accelify Electronic Database. Once the school psychologist(s) have received training, the school psychologist(s) shall then submit all proof of services electronically via the database.
23. VENDOR shall cooperate with SBBC in its partnership with universities and colleges to provide supervision of practicum experience for student local school psychology programs.
24. VENDOR may be evaluated annually in areas to include, but not be limited to, responsiveness, continuity of service, quality of work, and professionalism.
25. School psychologist(s) shall attend an orientation workshop of not more than four hours. This orientation workshop shall include, but not be limited to, general information on the policies and procedures of the Broward County Special Programs and Procedures, the rights of students with disabilities, and other operational procedures required to carry out the assigned school psychology duties. Additional workshops and/or meetings may be required during the term of the contract.
26. School psychologist(s) shall receive, from SBBC, requested materials, equipment, and other related items that have been determined to be necessary to carry out school psychology services and required for the provision of Free Appropriate Public Education (FAPE) when approved by a designated SBBC, ESLS representative.
27. School psychologist(s) shall participate in the 504 and Exceptional Student Education (ESE) eligibility meetings to share evaluation results and recommendations. When appropriate, the school psychologist(s) shall participate in 504 and IEP meetings, and assist in the development of the goals and objectives of the IEPs in collaboration with appropriate school/district personnel.
28. School psychologist(s) shall attend re-evaluation meetings and provide consultation regarding the need for the collection of updated assessment data. Assessment results shall be shared following any re-evaluations conducted by the school psychologist(s).
29. School psychologist(s) shall work only on days when students are in attendance unless a written request is made and approved by the ESLS designee, one week prior to the date requested.
30. SBBC shall provide to VENDOR's approved school psychologist(s) appropriate and necessary technology (i.e. laptop computer, etc.) that will be needed to carry out job responsibilities for this contract. The school psychologist(s) shall be required to sign The School Board of Broward County, Florida's Property Pass, Form 0013 (**Exhibit 1**), issued by ESLS Department and must abide by the conditions stated in School Board Policy 5306 – School and District Technology Usage (**Exhibit 2**). The school psychologist(s) shall be responsible for the technology equipment provided to them. If the technology equipment provided to the school psychologist(s) is lost, stolen or damaged, the school psychologist(s) must report this immediately to the ESLS Department. If requested by SBBC, the school psychologist(s) may be required to replace the equipment provided to them at their cost.

## ATTACHMENT A

30. School psychologist(s) shall maintain student evaluation and counseling records as established by the SBBC, ESLS Department. These records contain confidential information and therefore must be kept secure at all times.

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

\_\_\_\_\_  
EMPLOYEE/STUDENT NAME (*Circle One*)\_\_\_\_\_  
DATE\_\_\_\_\_  
LOCATION NO./NAME

The above-named person is authorized to remove from the location above, subject to the conditions established in Board Policy #5306, the tangible personal property described below.

\_\_\_\_\_  
PROPERTY DESCRIPTION\_\_\_\_\_  
PHONE NUMBER\_\_\_\_\_  
SERIAL NUMBER

By signing below the borrower agrees to the following stipulations:

- a. The property remains the property of The School Board of Broward County, Florida, and must be returned by the expected return date indicated below in good condition.
- b. The property shall be used only in connection with borrower's employment/study assignments.
- c. The borrower shall ensure the safety of the property while it is in his possession.
- d. The borrower has read, and understands, the provisions of Board Policy #5306.
- e. In case of loss or damage, the borrower shall adequately compensate The School Board of Broward County, Florida. **(Not applicable to computer borrowing by District staff.)**

\_\_\_\_\_  
EXPECTED RETURN DATE  
(No later than end of fiscal year)\_\_\_\_\_  
EMPLOYEE  
(Circle One)\_\_\_\_\_  
SIGNATURE OF AUTHORIZING PRINCIPAL/SUPERVISOR

The return of the above-described property in good condition is hereby acknowledged.

\_\_\_\_\_  
DATE PROPERTY RETURNED\_\_\_\_\_  
SIGNATURE (PRINCIPAL/DIRECTOR/SUPERVISOR)

## SCHOOL AND DISTRICT TECHNOLOGY USAGE

THE SCHOOL BOARD OF BROWARD COUNTY, FLORIDA ADHERES TO THE BELIEF THAT TECHNOLOGY SHOULD PLAY A VITAL ROLE IN MEETING THE NEEDS OF THE BROAD RANGE OF ABILITIES, DISABILITIES, CULTURAL BACKGROUNDS AND ETHNIC POPULATIONS REPRESENTED IN DISTRICT SCHOOLS. TO ASSURE THAT TECHNOLOGY SHALL PLAY A PREDOMINANT ROLE, THIS POLICY PROVIDES GUIDANCE FOR APPROPRIATE TECHNOLOGY UTILIZATION AND INTEGRATION INTO THE CURRICULUM, AS WELL AS INFUSION INTO SCHOOL/DISTRICT ADMINISTRATION AND MANAGEMENT.

### 1. Definition

**For the purpose of this policy, technology is defined as, but not limited to, the following:**

- a. Instructional and staff workstations (both desktop and portable), tablets, printers, scanners and other peripherals;
- b. Administrative staff workstations (both desktop and portable), tablets, printers, scanners and other peripherals;
- c. Campus and departmental local area networks (both wired and wireless), including wiring, hubs, switches, routers, transmitters/receivers and other devices;
- d. Servers; including instructional lab servers, web servers, video servers, file and print servers, database servers, internet proxy caching servers;
- e. A Wide Area Network linking all School Board of Broward County (SBBC) sites into one countywide Intranet;
- f. Telephone systems; including primary systems, integrated voice response/management systems, automatic dialing systems;
- g. Learning resource management systems, including library automation systems;
- h. Distance learning systems;
- i. Video capturing, broadcast, receiving, and distribution systems;
- j. Teleconferencing systems;
- k. Application software packages which result in the creation and maintenance of an operational database;
- l. Energy management and security monitoring systems;
- m. Radio systems;
- n. Office copier, Printer, image scanners and document management systems;
- o. Cellular phones, PDAs, Smartphones, and similar mobile items;
- p. Paging systems;
- q. Intercom; and
- r. Facsimile systems.

### 2. Purpose

- a. To foster and support innovation and experimentation in the transformation from a traditional approach to teaching, learning, and education management to a technology-based model meeting the needs of the broad range of abilities, disabilities, cultural backgrounds, and ethnic populations represented in Broward County Public Schools.
- b. To establish and maintain guidelines and procedures for appropriate technology utilization and infusion in the classroom, in the schools, in school and district administration and management, and in planning and evaluation to more effectively



prepare students for the transition from school to work for success in the workplace, and to improve the operations of the school system.

### 3. Technology Guidelines

- a. The primary priority of the technology system is to improve student learning, teaching, and business efficiency.
- b. Designs will be based on vendor-independent open system standards.
- c. The network will integrate voice, data, and video communications systems.
- d. The data architecture will be based on an enterprise-wide network using client-server technology.
- e. Database management software will be relational and able to run on a variety of operating systems and hardware platforms.
- f. A common data dictionary will be established that defines data elements at all levels from the classroom to the federal government.
- g. Information management will be bi-directional, allowing data query, reporting, analysis and entry by authorized users.
- h. Information will be recorded once and validated at the source.
- i. Multi-platforms will be supported where possible.
- j. All mainframe, servers, personal computers and peripherals will be inter-connected through network hardware and software.
- k. Uniform technology support services will be made available at all locations.
- l. All technology resources will be coordinated and integrated with appropriate curriculum and business initiatives.
- m. The system will be accessible to staff, students, parents, and the community for appropriate uses and protected with security measures which prevent and detect/monitor unauthorized and inappropriate use.
- n. Provisions must be made for keeping the technology current, within available resources, including policies on replacement or upgrade based on a life-cycle process.
- o. Appropriate training and professional development must be provided to teachers, staff, and administrators to ensure timely implementation and effective use.
- p. The technology must improve decision making and staff productivity.
- q. A process will be established to monitor the effectiveness of technology project implementations.
- r. Student safety, security, and compliance with all applicable laws governing public records (Florida Statute Section 1002.22 and 1002.221) are of primary concern and must be considered in the implementation of all technologies.
- s. Establishing and maintaining procedures for disabling or otherwise modifying any technology protection measures shall be the sole responsibility of the Superintendent or designee.
- t. All users of the Broward County Public Schools network must adhere to the Information Security Guidelines. The latest version of the Information Security Guidelines will be posted on <http://web.broward.k12.fl.us/techstandards>.
- u. Broward Schools' network and telecommunication services shall be properly monitored and, to the extent technically possible, users of school-sponsored telecommunication services and networks shall be protected from harassment or unsafe, unwanted, or unsolicited contact and from content deemed inappropriate.
- v. To the extent practical, and as specifically required by the Children's Internet Protection Act (CIPA), blocking shall be applied to visual and/or auditory

depictions of material deemed obscene, violent, pornographic (child and otherwise), or any other digital material deemed harmful to minors.

- w. Steps shall be taken to promote the safety and security of the School Board of Broward County's computer and telecommunications network(s) when using electronic mail, instant messaging, blogs (macro/micro), social networks, chat services, and other forms of direct electronic communications.
- x. Staff will be responsible for educating, supervising, and monitoring the appropriate usage of the school district's online computer and telecommunications network(s) and access to the Internet in accordance with this policy, the Children's Internet Protection Act (CIPA), the Neighborhood Children's Internet Protection Act (NCIPA), and the Protecting Children in the 21<sup>st</sup> Century Act.
- y. Upon receipt of specific parent/guardian written permission (electronically or otherwise), students will be eligible to receive electronic communications from District employees in connection with activities outside of classroom/instruction activities. However, communications with students utilizing electronic devices, or otherwise, for fraternization purposes are strictly prohibited, except communications between parent and child. Inappropriate communications, as defined below in section 8.h., shall be prohibited. All contact and communications with students, shall be consistent with School Board policies and the Florida Code of Ethics and the Principles of Professional Conduct of the Education Profession in Florida, State Board of Education Rules 6B-1.001 and 6B-1006, F.A.C., which require, among other things, that the primary concern always be for the well-being of the student and to "exercise the best professional judgment and integrity."
- z. All use of cellular equipment and services provided by SBBC must be in accordance with the provisions of the Public Records Act (Florida Statute Section 119) and Standard Practice Bulletin, A-469, "Cellular Telephone Access and Usage".
- aa. Suitable training shall be provided to students regarding appropriate online behavior, including interacting with other individuals on social networking websites and in chat rooms and cyberbullying awareness and response.
- ab. Access to District Networks, applications, and systems shall be discontinued upon termination of employment except in situations where continued access is required by board-approved agreements, School Board policies, state statutes, or federal laws.

#### 4. **Desired Outcomes**

- a. Technology will be appropriately and equitably integrated into instruction and management processes and used by all students and staff as an integral component of school improvement and student success. Improving student performance and achievement, increasing staff productivity, and ensuring efficiency of the day-to-day operations of the school system are the essential reasons for the use of technology in Broward County Public School System.
- b. Technology will be procured and deployed as needed to meet state and federal legislative mandates.
- c. All school classrooms, media centers, and offices and all district departments and offices will be electronically networked (wired and/or wireless) and equipped, providing all staff, students, and administration equitable and easy access to information technologies for teaching, learning, management, and day-to-day operations.

- d. All high school graduates will be prepared to use multiple technologies upon entrance into the work force and/or higher education.
- e. New and emerging technologies will be evaluated, and if appropriate, incorporated into school curriculum and will be integral elements of school improvement and accountability.
- f. Organizational productivity and efficiency will increase as technology is infused into the workplace.
- g. Student, teacher, staff, and administrative effectiveness will improve concurrently with the infusion of technology into their respective workplaces.
- h. The Broward County community will recognize district schools and departments as resources; and the number and quality of partnerships and cooperative endeavors will increase.
- i. The decision-making process will be improved as technology facilitates the flow of information and the communication process, within the district, the state, and the world.
- j. Improved communication between schools and institutions of higher education will increase the sharing of best practices as well as enhance pre-service and in-service training and emphasize technology integration into the curriculum.
- k. Inter- and intra-departmental collaboration, from planning through evaluation, will be a goal of the District.
- l. All units responsible for technology planning will work collaboratively with county, state, and government groups to investigate current, advanced, and emerging commercial technologies and to identify or develop, if necessary, efficient and cost-effective applications.
- m. The broadest possible access to the School Board of Broward County's web-based educational resources will be promoted, while providing safeguards to ensure the safety of students and that security is maintained. Towards this desired outcome, The School Board of Broward County, Florida, will support programs designed to bridge the Digital Divide.
- n. Technology will be used to build and maintain communications links between SBBC and its parental and community stakeholders. (e.g. Instant Messaging, Social Media, blogs and micro blogs, mobile applications, telephone contact systems, etc.). The use of these media, however, must be in compliance with the Florida Retention Schedules (<http://dlis.dos.state.fl.us/barm/genschedules/GS1-SL.pdf>).

## 5. Implementation

A comprehensive and continuous short and long-range Board technology implementation process will direct, review, evaluate, and improve the effective utilization of all aspects of technology.

- a. The Superintendent will direct staff to:
  - 1. Consult and collaborate on a continuing basis with education, business, community, and government groups locally, regionally, and nationally.
  - 2. Identify student competencies in using technologies to access, analyze, apply, and communicate information and incorporate them into the Standards of Service.
  - 3. Identify staff competencies in integrating and applying information technologies in instruction and management and incorporate these competencies as part of the evaluation process.
  - 4. Identify educational management tools to be acquired and implemented.

4. Establish and continually update an ongoing staff development program to support technology usage and integration.
5. Establish baseline standards to ensure that all schools and offices have adequate, appropriate and up to date hardware, software, and communications capabilities as rapidly as resources permit.
6. Review and/or establish guidelines as needed on copyright, acceptable use, and other ethical use policies.
7. Identify, document, and evaluate core processes that need improvement or re-engineering to maximize the productivity and educational benefits from technology investments.
8. Prepare a viable timeline for task implementation and completion, which will assist in evaluating the progress and effectiveness of the district's technology plan.

## **6. Acceptable use of Computer Network and Online Telecommunications**

Individuals who use District-owned or leased technology, applications, networks, or telecommunications infrastructure and systems agree to abide by the terms and tenets of this policy. The School Board of Broward County does not warrant network or telecommunications functionality or accuracy of information, nor does it warrant the effectiveness of Internet filtering. No expectation of privacy is created or intended to be created by this Policy. Users of systems, networks, and telecommunications systems must recognize that all content created or stored utilizing District technology may be subject to monitoring for compliance with School Board policies and applicable laws.

### **a. Goals for Technology use and Internet Safety**

1. Prevent user access over its computer and telecommunications network(s) to, or transmission of, inappropriate material via Internet, electronic mail, instant messaging systems, social networks, or other forms of direct electronic communications;
2. Prevent unauthorized access or other unlawful online activity including, but not limited to, the "hacking" of systems within and outside of the District's enterprise;
3. Prevent unauthorized online disclosure, use, alteration, or dissemination of personally identifiable information of students or confidential information of staff;
4. Comply with the Children's Internet Protection Act (CIPA); the Neighborhood Children's Internet Protection Act (NCIPA); the Protecting Children in the 21<sup>st</sup> Century Act, the Public Records Act (Florida Statute Section 119), and all applicable laws;
5. Prevent the use of its computer and telecommunications network(s) for the purpose of harassment, unlawful discrimination, cyberbullying, cyberstalking and other unlawful activities; and
6. Protect students and staff from inappropriate (as defined in 8h), unlawful or unauthorized communications from individuals, including School Board employees.

**b. Rules**

1. All use of telecommunication services and networks provided by the District or used in any of its schools or departments shall be consistent with Federal laws, Florida laws, the Florida Department of Education "Code of Ethics of the Education Profession in Florida" (Rule 6B-1), and the "Code of Ethics for Computer, Network and On-line Telecommunications Users" (see next section).
2. Successful participation in a network requires that its users regard it as a shared resource and that members conduct themselves in a responsible, safe, ethical, and legal manner while using the network and all accessible applications and digital resources.
3. Staff and students who are exchanging communication with others inside and outside the District are representing The School Board of Broward County, Florida, and should conduct themselves appropriately.
4. Technology owned or leased by the School Board shall not be used for advertising or otherwise communicating or promoting the interests of any commercial, religious, political or other non-district agency or organization except as permitted through board approved agreements, School Board policies, state statutes, or federal laws.
5. Anyone using personally owned technology devices and/or telecommunications services on property owned by the School Board of Broward County must do so in accordance with the terms and tenets of this policy and the published "Personally Owned Device Guidelines". The latest version of the "Personally Owned Guidelines" will be posted on <http://web.broward.k12.fl.us/techstandards>.
6. To implement the Acceptable Use Provision of this policy, it is necessary that all users read and acknowledge in writing that they understand their obligations and willingness to comply with the "Code of Ethics for Computer Network and Online Telecommunications Users" (see below).
7. Student use of technology shall be consistent with the provisions and tenets of this policy and the "Student Code of Conduct".
8. Use of technology shall be consistent with the tenets and provisions of the District's "Social Media Use Guidelines" and the "Web-Publishing Guidelines".

**c. Code of Ethics for Computer Network and Online Telecommunications Users**

1. All users are expected to read and understand the following privileges, rights, and responsibilities when using the network(s) or telecommunications equipment or systems of Broward County public schools.
  - a. Use of computer network and/or online telecommunications is a privilege and must support teaching, learning, and research.
  - b. Students, parents, faculty, and staff in Broward County Public Schools will have access to web-based educational resources in compliance with local, state and federal laws.
  - c. Authorized users shall be ultimately responsible for all activity under their account and password. Accounts shall be used only by the authorized user and only for the purposes specified.



- d. Use of an identity or password other than the user's own is prohibited.
- e. All network users shall adhere to the rules of copyright regarding software, information, and the attribution of authorship. Posting or re-posting any content or material protected by copyright or other intellectual property laws without the author's permission and/or without proper attribution is prohibited.
- f. Any use of telecommunication services or networks for illegal, inappropriate, obscene, or pornographic purposes shall be prohibited.
- g. The use of the District Technology is provided to assist employees in the efficient delivery of public services to the community. Accordingly, the District Technology must be used for purposes consistent with the District's mission and policies.
- h. Use of School Board technology for or engaging in offensive or inflammatory speech, profanity, or obscene language shall be prohibited.
- i. Hate mail, harassment, discriminatory remarks, and other antisocial behaviors shall be prohibited.
- j. Users shall not intentionally spread computer viruses, vandalize the data, infiltrate systems, damage hardware or software, or in any way degrade, interfere or disrupt the use of the network, applications or telecommunications systems, or those belonging to external entities.
- k. Attempts to interfere, degrade or disrupt system performance will be subject to disciplinary action and/or may be viewed as criminal activity in accordance with applicable state and federal law and, if so, will be reported to law enforcement agencies.
- l. Files, documents, materials, and records generated by District employees using School Board of Broward County property, equipment, facilities, and/or systems are the property of the School Board of Broward County and may be accessed at any time by appropriate authorized system personnel.
- m. Records, as defined in Florida Statute Section 119.011(12), generated by District employees using School Board of Broward County property and made or received in connection with the transaction of official business of the School Board (including emails and text messages) must be retained and maintained as public records in compliance with State Law and Board Policy. All business-related email correspondence must utilize the District's email system. Text messaging is permitted solely for the purpose of exchanging transitory messages.
- n. All e-mails created by District employees using School Board of Broward County property must be in compliance with the District's E-Mail Guidelines, which can be found at [www.web.broward.k12.fl.us/techstandards](http://www.web.broward.k12.fl.us/techstandards).
- o. Equipment, networks or systems owned and/or operated by the School Board of Broward County may not be used for the purpose, intended or otherwise, of harassment, "cyberbullying", "cyberstalking" or Dating Violence or Abuse.

**7. Compliance**

- a. Students, employees, and community members/visitors using School Board equipment, networks, or telecommunications infrastructure or systems, on-site or off-site, must conform to the requirements of this policy.
- b. Failure to adhere to, and conform online activities with, any provisions of this policy may subject users to some or all of the following: warnings, usage restrictions, disciplinary actions, or legal proceedings.

**8. Definition of Terms**

- a. Illegal activities shall be defined as a violation of local, state, and/or federal laws.
- b. Inappropriate use shall be defined as a violation of the intended use of the District's mission, goals, policies, or procedures.
- c. Obscenity and/or pornography shall be defined as a violation of generally accepted social standards for use of a publicly-owned and operated communication vehicle.
- d. Harmful to minors means any picture, image, graphic image file, or other visual depiction that-- (a) taken as a whole and with respect to minors, appeals to a prurient interest in nudity, sex, or excretion; (b) depicts, describes, or represents, in a patently offensive way with respect to what is suitable for minors, an actual or simulated sexual act or sexual contact, actual or simulated normal or perverted sexual acts, or a lewd exhibition of the genitals; and (c) taken as a whole, lacks serious literary, artistic, political, or scientific value as to minors.
- e. Sexual Act; Sexual Contact have the meanings given such terms in section 2246 of title 18, United States Code.
- f. Dating Violence or Abuse is defined in School Board Policy 5010.
- g. Harassment, cyberbullying and cyberstalking are defined in School Board Policy 5.9.
- h. "Inappropriate communication" is defined as:
  - (i) a communication which is harmful to minors,
  - (ii) a communication that is inconsistent with the School Board Policies, federal or state laws, or the Code of Ethics for the Education Profession in Florida (which requires the exercise of the best professional judgment and integrity and the highest degree of ethical conduct), or
  - (iii) a communication with a minor student, through the use of District Technology or the use of personally-owned technology devices and/or telecommunication services, that is not related to school connected activities/assignments and that is made without parental permission to do so.
- i. Transitory messages are not intended to formalize or perpetuate knowledge and do not set policy, establish guidelines or procedures, certify a transaction, or become a receipt. "Transitory" refers to short-term value based upon the content and purpose of the message, not the format or technology used to transmit it. Examples of transitory messages include, but are not limited to, reminders to employees about scheduled meetings or appointments; most telephone messages and announcements of events.

Statutory authority: 1001.41

Laws Implemented: 1001.43 (3) (a), Public Records Act (Florida Statute Section 119), Children's Internet Protection Act (CIPA), the Neighborhood Children's Protection Act (NCIPA), the Protecting Children in the 21<sup>st</sup> Century Act.

Policy adopted: 8/6/96

Policy Amended: 2/17/98, 12/15/98, 5/1/01, 3/4/03, 4/29/03, 1/18/05, 8/3/10, 5/30/12

**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

**ORANGE TREE STAFFING, LLC**

(hereinafter referred to as "**Business Associate**"),  
whose principal place of business is  
111 East Fairbanks Avenue  
Winter Park, Florida 32789

**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 3 <sup>rd</sup> Avenue Fort Lauderdale, Florida 33301
With a Copy to:	Director, Exceptional Student Learning Support Department The School Board of Broward County, Florida Arthur Ashe Campus 1701 NW 23 <sup>rd</sup> Avenue Fort Lauderdale, Florida 33311  Privacy Officer Risk Management Department The School Board of Broward County, Florida 600 S.E. 3 <sup>rd</sup> Avenue, 11 <sup>th</sup> Floor Ft. Lauderdale, FL 33301
To Business Associate:	Mardly R. Smith, Owner Orange Tree Staffing, LLC 111 East Fairbanks Avenue Winter Park, Florida 32789

**[THIS SPACE INTENTIONALLY LEFT BLANK]**

**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.

ATTACHMENT B

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

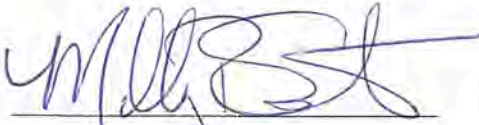
Approved as to Form and Legal Content:

*Kathelyn Jacques-Adams*

Digitally signed by Kathelyn Jacques-  
Adams, Esq. - kathelyn.jacques-  
adams@gbrowardschools.com  
Reason: Orange Tree Staffing, LLC  
Date: 2020.02.04 07:43:55 -05'00'

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

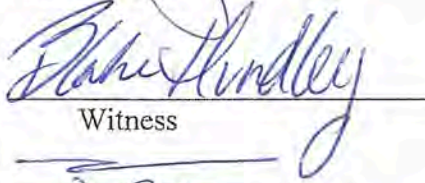
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FOR BUSINESS ASSOCIATE


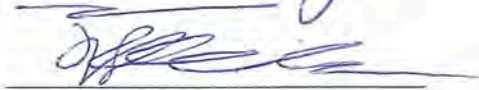
Signature

By: Mardly R. Perez-Smith | Owner

Print Name and Title



Witness




Witness

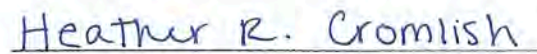
**The Following Notarization is Required for Every Agreement Without Regard to Whether the Party Chose to Use a Secretary's Attestation or Two (2) Witnesses.**

STATE OF FLCOUNTY OF Orange

The foregoing instrument was acknowledged before me by means of ☒ physical presence or ☐ online notarization, this 01/29/2020 (date) by Mardly R. Smith | Owner (name of officer or agent, title of officer or agent) of Orange Tree Staffing, LLC (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 Driver's License (type of identification) as identification and who ☒ did/☐ did not first take an oath this 29th day of January, 2020.

My Commission Expires: 4/29/2022
  
Signature – Notary Public

(SEAL)


  
Notary's Printed Name

66 212564  
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: \_\_\_\_\_

## 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

**SPEECH REHAB SERVICES, LLC**

(hereinafter referred to as "VENDOR"),  
whose principal place of business is  
551 NW 77<sup>th</sup> Street, #111  
Boca Raton, Florida 33487

**WHEREAS**, SBBC issued a Request for Proposal identified as RFP FY20-065 – Student Psychological and Mental Health Services (hereinafter referred to as "RFP"); dated August 13, 2019 and amended by Addendum No. 2, dated September 9, 2019, and Addendum No. 1, dated August 27, 2019 all of which are incorporated by reference herein, for the purpose of receiving proposals for student psychological and mental health services; and

**WHEREAS**, VENDOR offered a proposal dated September 12, 2019 (hereinafter referred to as "Proposal") which is incorporated by reference herein, in response to this RFP.

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

### ARTICLE 1 - RECITALS

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

### ARTICLE 2 – SPECIAL CONDITIONS

2.01 **Term of Agreement.** Unless terminated earlier pursuant to Section 3.05 of this Agreement, the term of this Agreement shall commence upon the execution of all parties conclude on **June 30, 2023**. The term of the Agreement may, by mutual agreement between SBBC and VENDOR, be extended for two (2) additional one-year periods and, if needed, 180 calendar days beyond the expiration date of the renewal period. SBBC's Procurement & Warehousing Services Department, will, if considering renewing, request a letter consenting to renewal from VENDOR, prior to the end of the term. Any renewal period shall be approved by an Amendment to this Agreement executed by both parties.

2.02 **Description of Services Provided.** VENDOR shall provide SBBC with the Scope of Services in its Proposal and in compliance with this Agreement, the RFP and its Addenda, and as specified in **Attachment A – Scope of Services.**

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

- First: This Agreement, then;
- Second: Addendum No. 2, then;
- Third: Addendum No. 1, then;
- Fourth: RFP FY20-065 – Student Psychological and Mental Health Services, then;
- Fifth: Proposal submitted in response to the RFP by VENDOR.

2.04 **Cost of Services.**

(a) SBBC shall pay VENDOR for the cost of services satisfactorily rendered by a school psychologist at a not-to-exceed rate of sixty-eight dollars (\$68.00) per hour. VENDOR shall submit to the Exceptional Student Learning Support (ESLS) Department, Arthur Ashe Campus, 1701 NW 23<sup>rd</sup> Avenue, Fort Lauderdale, Florida 33311, an appropriate invoice to be paid net thirty (30) calendar days after the issuance of the same invoice.

(b) Costs shall not exceed the total amount as stated on the Purchase Order(s). VENDOR may offer, at any time to SBBC, a special educational discount for pricing and/or reduce the cost of services during the term of this Agreement. VENDOR may invoice SBBC at an hourly rate less than its original bid price at any time during the term of this Agreement.

(c) The cost for orientation meeting(s) for a new school psychologist(s) shall be sixty-five dollars (\$65.00) per hour to SBBC (Refer to **Attachment A**, Item 25). The cost for regularly scheduled meetings shall be billed at either the not-to-exceed rate or at a less rate as deemed appropriate by VENDOR.

2.05 **SBBC Disclosure of Education Records.**

(a) Purposes: School psychologists will be provided with access to selected school district database systems to utilize for the purpose of conducting psychological evaluations, assisting with intervention planning, providing support services to students, and for school-based decision-making. Under this agreement, school psychologists are only entitled to view education records of the students they are working with.

(b) Access will be provided to the following databases for the specific purposes identified below:

- 1) Ed Plan - Access to EdPlan will be provided to school psychologists for the purpose of conducting psychological evaluations, assisting with the development of students' IEPs, EPs, FBAs, PBIPs, reevaluation plans, medical records, and other such documents utilized for educational planning or as a part of the consideration for the ESE program.

- 2) Accelify - Access to Accelify will be utilized for the purpose of Medicaid billing (e.g., logging evaluation activities and direct services to students), logging non-student activities (e.g., crisis response, trainings), and opening/closing referrals for evaluations.
- 3) BASIS: Access to BASIS will be utilized for the purpose of conducting psychological evaluations and participating in school-based decision-making as it pertains to the collaborative problem-solving model and other job functions.

(c) Types: School psychologists will be provided with limited access to the following databases in accordance with the definitions below:

- 1) Ed Plan: EdPlan will be used to upload psychological reports, review a student's documents related to their past participation in the ESE program, including their evaluation history and any medical records shared with the school-based teams. They will access additional EdPlan records, as needed, to provide guidance in the development of interventions, and additional educational planning. Psychologists will also be given access to a student's Behavioral Threat Assessment records when they are involved as mandatory participant on a student's Behavioral Threat Assessment team.
- 2) Accelify: A psychologist will have access to their psych referrals list, with the identifying information of students' cases that were assigned to them individually. They will also have access to the students at their school to document services provided to the students or at the school. This tool will be used for the purpose of Medicaid billing and logging services direct and indirect services provided.
3. BASIS: A psychologist will access student details which include, but are not limited to: demographic information, health records, contact information, academic history, test scores, discipline history, attendance history, identified risk factors, assignment history, Rtl referrals, and any educational records needed for the purpose of conducting psychological evaluations, guiding the development of interventions, and additional educational planning.

(d) Consent: SBBC will obtain written consent from each student's parent / guardian or student age 18 or over prior to disclosing or allowing access to the education records listed in this section.

(e) School psychologists will sign Electronic User Agreements and Privacy Policy Statements as defined by The School Board of Broward County, Florida when provided with access to the above-mentioned databases.

## 2.06 **VENDOR Confidentiality of Education Records.**

(a) Notwithstanding any provision to the contrary within this Agreement, VENDOR and/or its individual school psychologists and personnel 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 redisclose 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 safety 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](mailto:privacy@browardschools.com), and take all necessary notification steps as may 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 any media equipment is no longer in use or is to be disposed; secure erasure will 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) VENDOR 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.

2.07 **HIPAA Compliance.** VENDOR acknowledges that the Health Insurance Portability and Accountability Act ("HIPAA") and the Health Information Technology for Economic and Clinical Health Act of 2009 ("HITECH Act") (HIPAA and HITECH Act are collectively referred to herein as "HIPAA") protect the privacy of protected health information ("PHI") and may be applicable to student records in certain circumstances; and shall enter into SBBC's HIPAA Business Associate Agreement ("BAA") attached as **Attachment B**. PHI may be used and disclosed only in compliance with HIPAA.

2.08 **Inspection of VENDOR's Records by SBBC.** VENDOR shall establish and maintain books, records and documents (including electronic storage media) sufficient to reflect all income and expenditures of funds provided by SBBC under this Agreement. All VENDOR's 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 VENDOR 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 VENDOR's records from the effective date of this Agreement, for the duration of the term of this Agreement, and until the later of five (5) years after the termination of this Agreement or five (5) years after the date of final payment by SBBC to VENDOR pursuant to this Agreement.

(b) Notice of Inspection. SBBC's agent or its authorized representative shall provide VENDOR 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 VENDOR's facilities and to any and all records related to this Agreement, and shall be provided adequate and appropriate work space in order to exercise the rights permitted under this section.

(d) Failure to Permit Inspection. Failure by VENDOR to permit audit, inspection, examination, evaluation and/or reproduction as permitted under this section shall constitute grounds for termination of this Agreement by SBBC for cause and shall be grounds for SBBC's denial of some or all of any VENDOR'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 VENDOR in excess of two percent (2%) of the total billings under this Agreement, the actual cost of SBBC's audit shall be paid by VENDOR. If the audit discloses billings or charges to which VENDOR is not contractually entitled, VENDOR shall pay said sum to SBBC within twenty (20) days of receipt of written demand unless otherwise agreed to in writing by both parties.

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

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

2.09 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: Director, Exceptional Student Learning Support Department  
The School Board of Broward County, Florida  
Arthur Ashe Campus  
1701 NW 23<sup>rd</sup> Avenue  
Fort Lauderdale, Florida 33311

To VENDOR: Victor Suvall, Chief Executive Officer  
Speech Rehab Services, LLC  
551 NW 77<sup>th</sup> Street, #111  
Boca Raton, Florida 33487

With a Copy to: Dr. Tiffany North, Vice President of Strategic Development  
Speech Rehab Services, LLC  
551 NW 77<sup>th</sup> Street, #111  
Boca Raton, Florida 33487

2.10 **Non-Compete Clause.** The ESLS Department will inform VENDOR at the end of each school year if they are interested in hiring VENDOR's school psychologist(s). The first six (6) months after the final contracted date with VENDOR's school psychologist, represents a provisional period, during which the school psychologist will not be eligible to apply directly or in-directly to be hired by SBBC.

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

2.12 **Public Records.** The following provisions are required by Section 119.0701, Florida Statutes, and may not be amended. VENDOR 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, VENDOR 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. VENDOR 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 VENDOR does not transfer the public records to SBBC. Upon completion of the Agreement, VENDOR shall transfer, at no cost, to SBBC all public records in possession of VENDOR or keep and maintain public records required by SBBC to perform the services required under the Agreement. If VENDOR transfers all public records to SBBC upon completion of the Agreement, VENDOR shall destroy any duplicate public records that are exempt or confidential and exempt from public records disclosure requirements. If VENDOR keeps and maintains public records upon completion of the Agreement, VENDOR 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.**

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

2.14 **Insurance Requirements.** VENDOR shall comply with the following insurance requirements throughout the term of this Agreement:

(a) **General Liability.** VENDOR 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) **Professional Liability/Errors & Omissions.** VENDOR 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. VENDOR 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. VENDOR 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 VENDOR to SBBC's Risk Management Department by Certificate of Insurance within fifteen (15) 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 VENDOR to remedy any deficiencies. VENDOR 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. VENDOR 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.

#### 2.15 Nondiscrimination.

(a) As a condition of entering into this Agreement, VENDOR represents and warrants that it will comply with the SBBC's Commercial Nondiscrimination Policy, as described under, Section D.1 of SBBC's Policy No. 3330 – Supplier Diversity Outreach Program.



(b) As part of such compliance, VENDOR shall not discriminate on the basis of race, color, religion, ancestry or national origin, sex, age, marital status, sexual orientation, or on the basis of disability or other unlawful forms of discrimination in the solicitation, selection, hiring, or commercial treatment of subcontractors, vendors, suppliers, or commercial customers, nor shall VENDOR retaliate against any person for reporting instances of such discrimination. VENDOR shall provide equal opportunity for subcontractors, vendors, and suppliers to participate in all of its public sector and private sector subcontracting and supply opportunities, provided that nothing contained in this clause shall prohibit or limit otherwise lawful efforts to remedy the effects of marketplace discrimination that have occurred or are occurring in the SBBC's relevant marketplace. VENDOR understands and agrees that a material violation of this clause shall be considered a material breach of this Agreement and may result in termination of this Agreement, disqualification of the company from participating in SBBC Agreements, or other sanctions. This clause is not enforceable by or for the benefit of, and creates no obligation to, any third party.

2.16 **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.

2.17 **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.

2.18 **Incorporation by Reference.** Attachment A and Attachment B, 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. 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 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: Speech Rehab Services, LLC  
Date: 2020.02.06 10:03:36 -05'00'

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

**[THIS SPACE INTENTIONALLY LEFT BLANK; SIGNATURE PAGE FOLLOWS]**

**FOR VENDOR:**

(Corporate Seal)

SPEECH REHAB SERVICES, LLC

ATTEST:

By [Signature]

Print Name: VICTOR SUVAL

Title: EXECUTIVE DIRECTOR

, Secretary

-or-

Claudia P. Leandre  
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 Palm Beach

The foregoing instrument was acknowledged before me by means of ☒ physical presence or ☐ online notarization, this 2/4/20 (date) by VICTOR SUVAL (name of officer or agent, title of officer or agent) of SPEECH REHAB SERVICES LLC (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 \_\_\_\_\_ day of \_\_\_\_\_, 2020.

My Commission Expires:

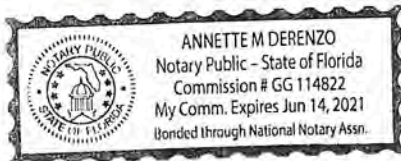
6/14/21

[Signature]  
Signature - Notary Public

Annette M DeRenzo  
Notary's Printed Name

AG114822  
Notary's Commission No.

(SEAL)





SCOPE OF SERVICES

1. VENDOR shall furnish current certified/licensed school psychologist(s) under this contract. If a certificate and/or license is suspended, revoked, or otherwise deemed invalid by the State of Florida, the VENDOR shall notify the Exceptional Student Learning and Support (ESLS) immediately that it is removing the uncertified school psychologist from the school property and shall arrange for a qualified replacement within 48 hours. **Award of this contract shall not be a guarantee of business, a guarantee of specified volume of service or minimum dollar revenue to be received under this contract.**
2. School psychologist(s), provided by the VENDOR, shall be responsible for obtaining the necessary contract hours for certificate renewal. SBBC shall not pay for or provide paid time off for attending continuing education activities for license renewal with the exception of trainings offered directly by the ESLS Department.
3. VENDOR's employees and school psychologist(s) shall review and become familiar with federal, state, and District confidentiality requirements for student records, and agrees that access to and use of those records by employees shall be in strict compliance with these requirements as stated in Sections 2.05 and 2.06 of this Agreement.
4. School psychologist(s) shall provide the following services, but not be limited to:
  - (a) Providing consultation with parents, school and district staff, diagnostic testing, observations, and intervention planning;
  - (b) Conducting initial evaluations and re-evaluations of children/adolescents and preparing a multidisciplinary team report or a psychoeducational report of findings in accordance with Broward County Schools' ESE Policies and Procedures;
  - (c) Small group or individual counseling with students, record-keeping for student attendance, preparing a counseling plan of care and preparing progress reports and counseling notes;
  - (d) Participating in the development of Individual Education Plan (IEP), attendance at required eligibility, IEP and dismissal staffings, providing consultation with parents, school district and staff, as needed;
  - (e) Complete all appropriate documentation for Medicaid Reimbursement; and
  - (f) School Psychologists shall be compensated for direct student services and student-related activities only
5. School psychologist(s), provided by VENDOR, shall be fluent in oral and written English. VENDOR shall provide a bi-lingual psychologist as needed.
6. School psychologist(s) under this Agreements shall be required to pass the screening of the Broward School's Police, Security Clearance Department prior to placement of assignment as required by SBBC (Refer to General Condition 7.39, SBBC Photo Identification Badge of the RFP). School psychologist(s) shall utilize the STAR system and/or sign-in/out procedures to document attendance at assigned location(s).

## ATTACHMENT A

7. School psychologist(s) who will be assigned to work for SBBC shall comply with the Jessica Lunsford Act and pass the screenings of the Special Investigative Unit (School Police) including a Level 2 FDLE background check and FBI screening and fingerprinting. The fee is payable directly to Fieldprint.
  - (a) This requirement applies even if the individual has passed similar screening by other governmental agencies.
  - (b) VENDOR is cautioned that it is their responsibility to ensure their staff complies with this requirement in a timely manner.
  - (c) SBBC issued I.D. Badge shall be worn at all times while at the school and other SBBC locations.
8. SBBC reserves the right to interview all VENDOR's school psychologist candidates prior to placement; PreK-12 experience is preferred. SBBC reserves the right to refuse to utilize any proposed school psychologist(s) if it is in their best interest to do so. SBBC reserves the right to have an individual school psychologist removed from the assigned position. VENDOR shall have five (5) workdays in which to propose a replacement school psychologist. Should VENDOR be unable to provide an acceptable replacement, all other contract other awarded vendors, under this contract, will then be notified to submit a candidate to SBBC.
9. School psychologist(s) shall be expected to attend all district-sponsored professional development activities in relation to this Agreement.
10. School psychologist(s) shall be required to complete original protocols for each assessment administered to be kept in the Psychological Services Records Department. A Psychoeducational Report or a Multidisciplinary Report will be completed by the school psychologist(s) and uploaded to EdPlan.
11. School psychologist(s) shall be required to write clinical notes for each direct counseling service and student-oriented consultation that is provided. For all clinical notes attached to students that have a signed consent form, school psychologist(s) shall submit notes with each weekly log.
12. Any mental health screenings and assessments conducted shall be logged and original documents shall be kept in students' educational record. School psychologist(s) shall also be required to complete a weekly log documenting the hours of service for each student served.
13. School psychologist(s) shall provide services consistent with the professional standards of care and comply with all the medical and ethical requirements imposed by the State of Florida, Board of Medicine, the Department of Professional Regulations, the Florida State Department of Education and any other applicable federal, state or local regulatory agency.

## ATTACHMENT A

14. School psychologist(s) shall adhere to SBBC rules and regulations regarding proper attire (no tank-tops, no open-toe shoes), wearing SBBC issued ID badge, prohibition of smoking, usage of proper language, prohibition of use and possession of controlled substances and alcoholic beverages, prohibition of the possession of firearms, either on their person or in their personal vehicles and any other restrictions or prohibitions as may apply.
15. School psychologist(s) shall follow all procedures (including, but not limited to, utilizing the Star System and no personal calls or emails during treatment time) of individual schools or offices where the school psychologist(s) is assigned. School psychologist(s) must check their SBBC provided email at least twice a day for critical communication throughout the day with SBBC personnel as established.
16. School psychologist(s) shall provide the requested level of service(s), in accordance with and/or changes for services requested by the ESLS Department, within five (5) calendar days of notice, unless otherwise mutually agreed upon. Excessive failure to meet the needs of SBBC, as requested, shall result in termination of the VENDOR's contract.
17. School psychologist(s) shall maintain normal working hours of 7:30 a.m. to 3:00 p.m. or 8:00 a.m. to 3:30 p.m. There will be no reimbursement for a thirty (30) minute lunch period. SBBC may only be invoiced for up to seven (7) hours per day unless prior approval has been granted by SBBC, ESLS staff for extended service time. School psychologist(s) may provide a maximum of four (4) hours of service as needed on each scheduled employee planning day unless prior approval is granted for scheduled evaluations, training or report writing by the ESLS Department. Invoices not complying with this requirement shall be rejected and returned to VENDOR for correction and failure to invoice correctly may result in a delay of payment. If VENDOR consistently submits an invoice that is not in compliance may be found in default of their contract.
18. VENDOR shall provide a service schedule of all personnel for approval, upon request, on a regular basis as determined by a designated SBBC representative. Requests shall be submitted within the established deadline. Failure to comply with requested deadlines may result in a delay in payment of an invoice.
19. VENDOR shall provide uninterrupted services based upon the current school calendar to students by providing qualified substitutes or replacements in the event of an anticipated or unanticipated lapse of service. All qualified substitutes must display an SBBC identification badge and be pre-approved by appropriate SBBC administrator. (Refer to General Condition 7.39 of the RFP) Any lapse of service to SBBC for five (5) student attendance days during any school year shall result in default of their contract. VENDOR may be responsible to provide compensatory services or payments to SBBC for lapse of service as determined by the ESLS Department.
20. School psychologist(s) shall prepare time logs, reports, written analysis, and other written memoranda in the form and manner deemed appropriate by SBBC.
21. VENDOR shall bill under SBBC's Medicaid provider number when needed.

## ATTACHMENT A

22. VENDOR shall provide proof of services on the form provided by SBBC upon initiation of services and up until training is provided on the Accelify Electronic Database. Once the school psychologist(s) have received training, the school psychologist(s) shall then submit all proof of services electronically via the database.
23. VENDOR shall cooperate with SBBC in its partnership with universities and colleges to provide supervision of practicum experience for student local school psychology programs.
24. VENDOR may be evaluated annually in areas to include, but not be limited to, responsiveness, continuity of service, quality of work, and professionalism.
25. School psychologist(s) shall attend an orientation workshop of not more than four hours. This orientation workshop shall include, but not be limited to, general information on the policies and procedures of the Broward County Special Programs and Procedures, the rights of students with disabilities, and other operational procedures required to carry out the assigned school psychology duties. Additional workshops and/or meetings may be required during the term of the contract.
26. School psychologist(s) shall receive, from SBBC, requested materials, equipment, and other related items that have been determined to be necessary to carry out school psychology services and required for the provision of Free Appropriate Public Education (FAPE) when approved by a designated SBBC, ESLS representative.
27. School psychologist(s) shall participate in the 504 and Exceptional Student Education (ESE) eligibility meetings to share evaluation results and recommendations. When appropriate, the school psychologist(s) shall participate in 504 and IEP meetings, and assist in the development of the goals and objectives of the IEPs in collaboration with appropriate school/district personnel.
28. School psychologist(s) shall attend re-evaluation meetings and provide consultation regarding the need for the collection of updated assessment data. Assessment results shall be shared following any re-evaluations conducted by the school psychologist(s).
29. School psychologist(s) shall work only on days when students are in attendance unless a written request is made and approved by the ESLS designee, one week prior to the date requested.
30. SBBC shall provide to VENDOR's approved school psychologist(s) appropriate and necessary technology (i.e. laptop computer, etc.) that will be needed to carry out job responsibilities for this contract. The school psychologist(s) shall be required to sign The School Board of Broward County, Florida's Property Pass, Form 0013 (**Exhibit 1**), issued by ESLS Department and must abide by the conditions stated in School Board Policy 5306 – School and District Technology Usage (**Exhibit 2**). The school psychologist(s) shall be responsible for the technology equipment provided to them. If the technology equipment provided to the school psychologist(s) is lost, stolen or damaged, the school psychologist(s) must report this immediately to the ESLS Department. If requested by SBBC, the school psychologist(s) may be required to replace the equipment provided to them at their cost.

## ATTACHMENT A

30. School psychologist(s) shall maintain student evaluation and counseling records as established by the SBBC, ESLS Department. These records contain confidential information and therefore must be kept secure at all times.

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

\_\_\_\_\_  
EMPLOYEE/STUDENT NAME (*Circle One*)\_\_\_\_\_  
DATE\_\_\_\_\_  
LOCATION NO./NAME

The above-named person is authorized to remove from the location above, subject to the conditions established in Board Policy #5306, the tangible personal property described below.

\_\_\_\_\_  
PROPERTY DESCRIPTION\_\_\_\_\_  
PHONE NUMBER\_\_\_\_\_  
SERIAL NUMBER

By signing below the borrower agrees to the following stipulations:

- a. The property remains the property of The School Board of Broward County, Florida, and must be returned by the expected return date indicated below in good condition.
- b. The property shall be used only in connection with borrower's employment/study assignments.
- c. The borrower shall ensure the safety of the property while it is in his possession.
- d. The borrower has read, and understands, the provisions of Board Policy #5306.
- e. In case of loss or damage, the borrower shall adequately compensate The School Board of Broward County, Florida. **(Not applicable to computer borrowing by District staff.)**

\_\_\_\_\_  
EXPECTED RETURN DATE  
(No later than end of fiscal year)\_\_\_\_\_  
EMPLOYEE  
(Circle One)\_\_\_\_\_  
SIGNATURE OF AUTHORIZING PRINCIPAL/SUPERVISOR

The return of the above-described property in good condition is hereby acknowledged.

\_\_\_\_\_  
DATE PROPERTY RETURNED\_\_\_\_\_  
SIGNATURE (PRINCIPAL/DIRECTOR/SUPERVISOR)

Form No. 0013  
 Revised 4/01  
 W18122



## SCHOOL AND DISTRICT TECHNOLOGY USAGE

THE SCHOOL BOARD OF BROWARD COUNTY, FLORIDA ADHERES TO THE BELIEF THAT TECHNOLOGY SHOULD PLAY A VITAL ROLE IN MEETING THE NEEDS OF THE BROAD RANGE OF ABILITIES, DISABILITIES, CULTURAL BACKGROUNDS AND ETHNIC POPULATIONS REPRESENTED IN DISTRICT SCHOOLS. TO ASSURE THAT TECHNOLOGY SHALL PLAY A PREDOMINANT ROLE, THIS POLICY PROVIDES GUIDANCE FOR APPROPRIATE TECHNOLOGY UTILIZATION AND INTEGRATION INTO THE CURRICULUM, AS WELL AS INFUSION INTO SCHOOL/DISTRICT ADMINISTRATION AND MANAGEMENT.

### 1. Definition

**For the purpose of this policy, technology is defined as, but not limited to, the following:**

- a. Instructional and staff workstations (both desktop and portable), tablets, printers, scanners and other peripherals;
- b. Administrative staff workstations (both desktop and portable), tablets, printers, scanners and other peripherals;
- c. Campus and departmental local area networks (both wired and wireless), including wiring, hubs, switches, routers, transmitters/receivers and other devices;
- d. Servers; including instructional lab servers, web servers, video servers, file and print servers, database servers, internet proxy caching servers;
- e. A Wide Area Network linking all School Board of Broward County (SBBC) sites into one countywide Intranet;
- f. Telephone systems; including primary systems, integrated voice response/management systems, automatic dialing systems;
- g. Learning resource management systems, including library automation systems;
- h. Distance learning systems;
- i. Video capturing, broadcast, receiving, and distribution systems;
- j. Teleconferencing systems;
- k. Application software packages which result in the creation and maintenance of an operational database;
- l. Energy management and security monitoring systems;
- m. Radio systems;
- n. Office copier, Printer, image scanners and document management systems;
- o. Cellular phones, PDAs, Smartphones, and similar mobile items;
- p. Paging systems;
- q. Intercom; and
- r. Facsimile systems.

### 2. Purpose

- a. To foster and support innovation and experimentation in the transformation from a traditional approach to teaching, learning, and education management to a technology-based model meeting the needs of the broad range of abilities, disabilities, cultural backgrounds, and ethnic populations represented in Broward County Public Schools.
- b. To establish and maintain guidelines and procedures for appropriate technology utilization and infusion in the classroom, in the schools, in school and district administration and management, and in planning and evaluation to more effectively

prepare students for the transition from school to work for success in the workplace, and to improve the operations of the school system.

### 3. Technology Guidelines

- a. The primary priority of the technology system is to improve student learning, teaching, and business efficiency.
- b. Designs will be based on vendor-independent open system standards.
- c. The network will integrate voice, data, and video communications systems.
- d. The data architecture will be based on an enterprise-wide network using client-server technology.
- e. Database management software will be relational and able to run on a variety of operating systems and hardware platforms.
- f. A common data dictionary will be established that defines data elements at all levels from the classroom to the federal government.
- g. Information management will be bi-directional, allowing data query, reporting, analysis and entry by authorized users.
- h. Information will be recorded once and validated at the source.
- i. Multi-platforms will be supported where possible.
- j. All mainframe, servers, personal computers and peripherals will be inter-connected through network hardware and software.
- k. Uniform technology support services will be made available at all locations.
- l. All technology resources will be coordinated and integrated with appropriate curriculum and business initiatives.
- m. The system will be accessible to staff, students, parents, and the community for appropriate uses and protected with security measures which prevent and detect/monitor unauthorized and inappropriate use.
- n. Provisions must be made for keeping the technology current, within available resources, including policies on replacement or upgrade based on a life-cycle process.
- o. Appropriate training and professional development must be provided to teachers, staff, and administrators to ensure timely implementation and effective use.
- p. The technology must improve decision making and staff productivity.
- q. A process will be established to monitor the effectiveness of technology project implementations.
- r. Student safety, security, and compliance with all applicable laws governing public records (Florida Statute Section 1002.22 and 1002.221) are of primary concern and must be considered in the implementation of all technologies.
- s. Establishing and maintaining procedures for disabling or otherwise modifying any technology protection measures shall be the sole responsibility of the Superintendent or designee.
- t. All users of the Broward County Public Schools network must adhere to the Information Security Guidelines. The latest version of the Information Security Guidelines will be posted on <http://web.broward.k12.fl.us/techstandards>.
- u. Broward Schools' network and telecommunication services shall be properly monitored and, to the extent technically possible, users of school-sponsored telecommunication services and networks shall be protected from harassment or unsafe, unwanted, or unsolicited contact and from content deemed inappropriate.
- v. To the extent practical, and as specifically required by the Children's Internet Protection Act (CIPA), blocking shall be applied to visual and/or auditory

depictions of material deemed obscene, violent, pornographic (child and otherwise), or any other digital material deemed harmful to minors.

- w. Steps shall be taken to promote the safety and security of the School Board of Broward County's computer and telecommunications network(s) when using electronic mail, instant messaging, blogs (macro/micro), social networks, chat services, and other forms of direct electronic communications.
- x. Staff will be responsible for educating, supervising, and monitoring the appropriate usage of the school district's online computer and telecommunications network(s) and access to the Internet in accordance with this policy, the Children's Internet Protection Act (CIPA), the Neighborhood Children's Internet Protection Act (NCIPA), and the Protecting Children in the 21<sup>st</sup> Century Act.
- y. Upon receipt of specific parent/guardian written permission (electronically or otherwise), students will be eligible to receive electronic communications from District employees in connection with activities outside of classroom/instruction activities. However, communications with students utilizing electronic devices, or otherwise, for fraternization purposes are strictly prohibited, except communications between parent and child. Inappropriate communications, as defined below in section 8.h., shall be prohibited. All contact and communications with students, shall be consistent with School Board policies and the Florida Code of Ethics and the Principles of Professional Conduct of the Education Profession in Florida, State Board of Education Rules 6B-1.001 and 6B-1006, F.A.C., which require, among other things, that the primary concern always be for the well-being of the student and to "exercise the best professional judgment and integrity."
- z. All use of cellular equipment and services provided by SBBC must be in accordance with the provisions of the Public Records Act (Florida Statute Section 119) and Standard Practice Bulletin, A-469, "Cellular Telephone Access and Usage".
- aa. Suitable training shall be provided to students regarding appropriate online behavior, including interacting with other individuals on social networking websites and in chat rooms and cyberbullying awareness and response.
- ab. Access to District Networks, applications, and systems shall be discontinued upon termination of employment except in situations where continued access is required by board-approved agreements, School Board policies, state statutes, or federal laws.

#### 4. Desired Outcomes

- a. Technology will be appropriately and equitably integrated into instruction and management processes and used by all students and staff as an integral component of school improvement and student success. Improving student performance and achievement, increasing staff productivity, and ensuring efficiency of the day-to-day operations of the school system are the essential reasons for the use of technology in Broward County Public School System.
- b. Technology will be procured and deployed as needed to meet state and federal legislative mandates.
- c. All school classrooms, media centers, and offices and all district departments and offices will be electronically networked (wired and/or wireless) and equipped, providing all staff, students, and administration equitable and easy access to information technologies for teaching, learning, management, and day-to-day operations.

- d. All high school graduates will be prepared to use multiple technologies upon entrance into the work force and/or higher education.
- e. New and emerging technologies will be evaluated, and if appropriate, incorporated into school curriculum and will be integral elements of school improvement and accountability.
- f. Organizational productivity and efficiency will increase as technology is infused into the workplace.
- g. Student, teacher, staff, and administrative effectiveness will improve concurrently with the infusion of technology into their respective workplaces.
- h. The Broward County community will recognize district schools and departments as resources; and the number and quality of partnerships and cooperative endeavors will increase.
- i. The decision-making process will be improved as technology facilitates the flow of information and the communication process, within the district, the state, and the world.
- j. Improved communication between schools and institutions of higher education will increase the sharing of best practices as well as enhance pre-service and in-service training and emphasize technology integration into the curriculum.
- k. Inter- and intra-departmental collaboration, from planning through evaluation, will be a goal of the District.
- l. All units responsible for technology planning will work collaboratively with county, state, and government groups to investigate current, advanced, and emerging commercial technologies and to identify or develop, if necessary, efficient and cost-effective applications.
- m. The broadest possible access to the School Board of Broward County's web-based educational resources will be promoted, while providing safeguards to ensure the safety of students and that security is maintained. Towards this desired outcome, The School Board of Broward County, Florida, will support programs designed to bridge the Digital Divide.
- n. Technology will be used to build and maintain communications links between SBBC and its parental and community stakeholders. (e.g. Instant Messaging, Social Media, blogs and micro blogs, mobile applications, telephone contact systems, etc.). The use of these media, however, must be in compliance with the Florida Retention Schedules (<http://dlis.dos.state.fl.us/barm/genschedules/GS1-SL.pdf>).

## 5. Implementation

A comprehensive and continuous short and long-range Board technology implementation process will direct, review, evaluate, and improve the effective utilization of all aspects of technology.

- a. The Superintendent will direct staff to:
  - 1. Consult and collaborate on a continuing basis with education, business, community, and government groups locally, regionally, and nationally.
  - 2. Identify student competencies in using technologies to access, analyze, apply, and communicate information and incorporate them into the Standards of Service.
  - 3. Identify staff competencies in integrating and applying information technologies in instruction and management and incorporate these competencies as part of the evaluation process.
  - 4. Identify educational management tools to be acquired and implemented.

4. Establish and continually update an ongoing staff development program to support technology usage and integration.
5. Establish baseline standards to ensure that all schools and offices have adequate, appropriate and up to date hardware, software, and communications capabilities as rapidly as resources permit.
6. Review and/or establish guidelines as needed on copyright, acceptable use, and other ethical use policies.
7. Identify, document, and evaluate core processes that need improvement or re-engineering to maximize the productivity and educational benefits from technology investments.
8. Prepare a viable timeline for task implementation and completion, which will assist in evaluating the progress and effectiveness of the district's technology plan.

## 6. Acceptable use of Computer Network and Online Telecommunications

Individuals who use District-owned or leased technology, applications, networks, or telecommunications infrastructure and systems agree to abide by the terms and tenets of this policy. The School Board of Broward County does not warrant network or telecommunications functionality or accuracy of information, nor does it warrant the effectiveness of Internet filtering. No expectation of privacy is created or intended to be created by this Policy. Users of systems, networks, and telecommunications systems must recognize that all content created or stored utilizing District technology may be subject to monitoring for compliance with School Board policies and applicable laws.

### a. Goals for Technology use and Internet Safety

1. Prevent user access over its computer and telecommunications network(s) to, or transmission of, inappropriate material via Internet, electronic mail, instant messaging systems, social networks, or other forms of direct electronic communications;
2. Prevent unauthorized access or other unlawful online activity including, but not limited to, the "hacking" of systems within and outside of the District's enterprise;
3. Prevent unauthorized online disclosure, use, alteration, or dissemination of personally identifiable information of students or confidential information of staff;
4. Comply with the Children's Internet Protection Act (CIPA); the Neighborhood Children's Internet Protection Act (NCIPA); the Protecting Children in the 21<sup>st</sup> Century Act, the Public Records Act (Florida Statute Section 119), and all applicable laws;
5. Prevent the use of its computer and telecommunications network(s) for the purpose of harassment, unlawful discrimination, cyberbullying, cyberstalking and other unlawful activities; and
6. Protect students and staff from inappropriate (as defined in 8h), unlawful or unauthorized communications from individuals, including School Board employees.

**b. Rules**

1. All use of telecommunication services and networks provided by the District or used in any of its schools or departments shall be consistent with Federal laws, Florida laws, the Florida Department of Education "Code of Ethics of the Education Profession in Florida" (Rule 6B-1), and the "Code of Ethics for Computer, Network and On-line Telecommunications Users" (see next section).
2. Successful participation in a network requires that its users regard it as a shared resource and that members conduct themselves in a responsible, safe, ethical, and legal manner while using the network and all accessible applications and digital resources.
3. Staff and students who are exchanging communication with others inside and outside the District are representing The School Board of Broward County, Florida, and should conduct themselves appropriately.
4. Technology owned or leased by the School Board shall not be used for advertising or otherwise communicating or promoting the interests of any commercial, religious, political or other non-district agency or organization except as permitted through board approved agreements, School Board policies, state statutes, or federal laws.
5. Anyone using personally owned technology devices and/or telecommunications services on property owned by the School Board of Broward County must do so in accordance with the terms and tenets of this policy and the published "Personally Owned Device Guidelines". The latest version of the "Personally Owned Guidelines" will be posted on <http://web.broward.k12.fl.us/techstandards>.
6. To implement the Acceptable Use Provision of this policy, it is necessary that all users read and acknowledge in writing that they understand their obligations and willingness to comply with the "Code of Ethics for Computer Network and Online Telecommunications Users" (see below).
7. Student use of technology shall be consistent with the provisions and tenets of this policy and the "Student Code of Conduct".
8. Use of technology shall be consistent with the tenets and provisions of the District's "Social Media Use Guidelines" and the "Web-Publishing Guidelines".

**c. Code of Ethics for Computer Network and Online Telecommunications Users**

1. All users are expected to read and understand the following privileges, rights, and responsibilities when using the network(s) or telecommunications equipment or systems of Broward County public schools.
  - a. Use of computer network and/or online telecommunications is a privilege and must support teaching, learning, and research.
  - b. Students, parents, faculty, and staff in Broward County Public Schools will have access to web-based educational resources in compliance with local, state and federal laws.
  - c. Authorized users shall be ultimately responsible for all activity under their account and password. Accounts shall be used only by the authorized user and only for the purposes specified.



- d. Use of an identity or password other than the user's own is prohibited.
- e. All network users shall adhere to the rules of copyright regarding software, information, and the attribution of authorship. Posting or re-posting any content or material protected by copyright or other intellectual property laws without the author's permission and/or without proper attribution is prohibited.
- f. Any use of telecommunication services or networks for illegal, inappropriate, obscene, or pornographic purposes shall be prohibited.
- g. The use of the District Technology is provided to assist employees in the efficient delivery of public services to the community. Accordingly, the District Technology must be used for purposes consistent with the District's mission and policies.
- h. Use of School Board technology for or engaging in offensive or inflammatory speech, profanity, or obscene language shall be prohibited.
- i. Hate mail, harassment, discriminatory remarks, and other antisocial behaviors shall be prohibited.
- j. Users shall not intentionally spread computer viruses, vandalize the data, infiltrate systems, damage hardware or software, or in any way degrade, interfere or disrupt the use of the network, applications or telecommunications systems, or those belonging to external entities.
- k. Attempts to interfere, degrade or disrupt system performance will be subject to disciplinary action and/or may be viewed as criminal activity in accordance with applicable state and federal law and, if so, will be reported to law enforcement agencies.
- l. Files, documents, materials, and records generated by District employees using School Board of Broward County property, equipment, facilities, and/or systems are the property of the School Board of Broward County and may be accessed at any time by appropriate authorized system personnel.
- m. Records, as defined in Florida Statute Section 119.011(12), generated by District employees using School Board of Broward County property and made or received in connection with the transaction of official business of the School Board (including emails and text messages) must be retained and maintained as public records in compliance with State Law and Board Policy. All business-related email correspondence must utilize the District's email system. Text messaging is permitted solely for the purpose of exchanging transitory messages.
- n. All e-mails created by District employees using School Board of Broward County property must be in compliance with the District's E-Mail Guidelines, which can be found at [www://web.broward.k12.fl.us/techstandards](http://web.broward.k12.fl.us/techstandards).
- o. Equipment, networks or systems owned and/or operated by the School Board of Broward County may not be used for the purpose, intended or otherwise, of harassment, "cyberbullying", "cyberstalking" or Dating Violence or Abuse.

**7. Compliance**

- a. Students, employees, and community members/visitors using School Board equipment, networks, or telecommunications infrastructure or systems, on-site or off-site, must conform to the requirements of this policy.
- b. Failure to adhere to, and conform online activities with, any provisions of this policy may subject users to some or all of the following: warnings, usage restrictions, disciplinary actions, or legal proceedings.

**8. Definition of Terms**

- a. Illegal activities shall be defined as a violation of local, state, and/or federal laws.
- b. Inappropriate use shall be defined as a violation of the intended use of the District's mission, goals, policies, or procedures.
- c. Obscenity and/or pornography shall be defined as a violation of generally accepted social standards for use of a publicly-owned and operated communication vehicle.
- d. Harmful to minors means any picture, image, graphic image file, or other visual depiction that-- (a) taken as a whole and with respect to minors, appeals to a prurient interest in nudity, sex, or excretion; (b) depicts, describes, or represents, in a patently offensive way with respect to what is suitable for minors, an actual or simulated sexual act or sexual contact, actual or simulated normal or perverted sexual acts, or a lewd exhibition of the genitals; and (c) taken as a whole, lacks serious literary, artistic, political, or scientific value as to minors.
- e. Sexual Act; Sexual Contact have the meanings given such terms in section 2246 of title 18, United States Code.
- f. Dating Violence or Abuse is defined in School Board Policy 5010.
- g. Harassment, cyberbullying and cyberstalking are defined in School Board Policy 5.9.
- h. "Inappropriate communication" is defined as:
  - (i) a communication which is harmful to minors,
  - (ii) a communication that is inconsistent with the School Board Policies, federal or state laws, or the Code of Ethics for the Education Profession in Florida (which requires the exercise of the best professional judgment and integrity and the highest degree of ethical conduct), or
  - (iii) a communication with a minor student, through the use of District Technology or the use of personally-owned technology devices and/or telecommunication services, that is not related to school connected activities/assignments and that is made without parental permission to do so.
- i. Transitory messages are not intended to formalize or perpetuate knowledge and do not set policy, establish guidelines or procedures, certify a transaction, or become a receipt. "Transitory" refers to short-term value based upon the content and purpose of the message, not the format or technology used to transmit it. Examples of transitory messages include, but are not limited to, reminders to employees about scheduled meetings or appointments; most telephone messages and announcements of events.

Statutory authority: 1001.41

Laws Implemented: 1001.43 (3) (a), Public Records Act (Florida Statute Section 119), Children's Internet Protection Act (CIPA), the Neighborhood Children's Protection Act (NCIPA), the Protecting Children in the 21<sup>st</sup> Century Act.

Policy adopted: 8/6/96

Policy Amended: 2/17/98, 12/15/98, 5/1/01, 3/4/03, 4/29/03, 1/18/05, 8/3/10, 5/30/12

**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

**SPEECH REHAB SERVICES, LLC**  
 (hereinafter referred to as "**Business Associate**"),  
 whose principal place of business is  
 551 NW 77<sup>th</sup> Street, #111  
 Boca Raton, Florida 33487

**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 3<sup>rd</sup> Avenue  
Fort Lauderdale, Florida 33301

With a Copy to:

Director, Exceptional Student Learning Support Department  
The School Board of Broward County, Florida  
Arthur Ashe Campus  
1701 NW 23<sup>rd</sup> Avenue  
Fort Lauderdale, Florida 33311

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

To Business Associate:

Victor Suvall, Chief Executive Officer  
Speech Rehab Services, LLC  
551 NW 77<sup>th</sup> Street, #111  
Boca Raton, Florida 33487

With a Copy to:

Dr. Tiffany North, Vice President of Strategic Development  
Speech Rehab Services, LLC  
551 NW 77<sup>th</sup> Street, #111  
Boca Raton, Florida 33487



**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

By \_\_\_\_\_  
Donna P. Korn, Chair

ATTEST:

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

Approved as to Form and Legal Content:



Digitally signed by Kathelyn Jacques-  
Adams, Esq. - kathelyn.jacques-  
adams@gbrowardschools.com  
Reason: Speech Rehab Services, LLC  
Date: 2020.02.06 10:04:09 -05'00'

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

**[THIS SPACE INTENTIONALLY LEFT BLANK]**

**FOR BUSINESS ASSOCIATE**

SPEECH REHAB SERVICES, LLC

[Signature]  
Signature

By: VICTOR SUVALL, EXECUTIVE DIRECTOR  
Print Name and Title

Claudia P. Deane  
Witness

Michelle G.  
Witness

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

STATE OF Florida  
COUNTY OF Palm Beach

The foregoing instrument was acknowledged before me by means of ☒ physical presence or ☐ online notarization, this 2/4/20 (date) by Victor Suvall (name of officer or agent, title of officer or agent) of Speech Rehab Services LLC (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 \_\_\_\_\_ day of \_\_\_\_\_, 2020.

My Commission Expires:

6/14/21

Annette M DeRenzo  
Signature – Notary Public

Annette M DeRenzo  
Notary's Printed Name

GG114822  
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: \_\_\_\_\_