

AGREEMENT

THIS AGREEMENT is made and entered into as of this ____ day of ____, 2005,
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

SPECTRUM PROGRAMS, INC
(hereinafter referred to as "Agency")
whose principal place of business is
11031 Northeast 6th Avenue
Miami, Florida 33161-7182

WHEREAS, SBBC and the Agency are members of the Broward Information Network (BIN) and BIN provides a framework for sharing information; and

WHEREAS, the students which the SBBC and the Agency jointly serve benefit when there is communication among service providers; and

WHEREAS, the Agency is an independent contractor providing services on behalf of the Children's Services Administration Division of Broward County, the Children's Services Council and/or the Substance Abuse/Mental Health Program Office of the Department of Children and Families;

WHEREAS, the Agency and SBBC are continuously working to improve the system of support for students with mental health and/or substance abuse disorders; and

WHEREAS, the SBBC is authorized to release student records to the Agency upon receipt of parental consent for the release of specific student records; and

WHEREAS, the Agency has information that would facilitate and support the education of students with substance abuse and/or mental health disorders; and

WHEREAS, BIN provides an established, HIPAA-compliant mechanism for sharing information among member agencies;

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 The Agency agrees to:

- A. seek parent permission, through a release of information process that is mutually agreeable to both the Agency and to SBBC, to provide to SBBC information that is relevant to the stabilization and support of students with substance abuse and/or mental health disorders including: basic demographic information; information about the types of services that were previously or are currently being provided to the student; and agency case contact information.
- B. assure that all information exchanged will be protected in accordance with Florida Statute 1022.22, the Family Educational Rights and Privacy Act of 1974 (FERPA) also known as the Buckley Amendment, Florida State Board of Education Administrative Rule 6A-14.051, Florida Statute 39.202, the Health Insurance Portability and Accountability Act and within the standards of 42 CFR Part II.
- C. make available the original, signed parent consent form for an audit/review by the SBBC to determine compliance with the BIN access. These consent forms will adhere to the standards of the applicable laws as stated in 2.01 B.

2.02 SBBC agrees to:

- A. provide the Agency with access to information in selected TERMS data tables for those students for whom the agency has obtained the required parent consent and for whom the electronic “flag” indicating parent consent has been activated in the school district’s student data base. Information to be shared is limited to the panel information as indicated in Attachment “A”.
- B. assure that all information exchanged will be protected in accordance with Florida Statute 1022.22, the Family Educational Rights and Privacy Act of 1974 (FERPA, also known as the Buckley Amendment), and Florida State Board of Education Administrative Rule 6A-14.051, School Board Policy 5100 School Educational Records, the Health Insurance Portability and Accountability Act and within the standards of 42 CFR Part II.
- C. terminate any Agency’s access to TERMS data information for failing to abide by Sections 2.01 A, 2.01 B, 2.02 A and 2.02 B..

2.03 **Business Associate Agreement.** The parties will enter into a Business Associate Agreement to the extent that such are applicable to any information to be shared under the terms of the Agreement.

2.04 **Indemnification.** Each party 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.

ARTICLE 3 – GENERAL CONDITIONS

3.01 **No Waiver of Sovereign Immunity.** Nothing contained in this Agreement is intended to serve as a waiver of sovereign immunity by any agency to which sovereign immunity may be applicable.

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

3.03 **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 race, age, religion, color, gender, national origin, marital status, disability or sexual orientation.

3.04 **Termination.** This Agreement may be canceled by SBBC or Agency during the term hereof upon thirty- (30) days written notice to the other parties of its desire to terminate this Agreement.

3.05 **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 of non-compliance with that law.

3.06 **Entire 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.

3.07 **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.

3.08 **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.

3.09 **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.

3.10 **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.

3.11 **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.

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

3.13 **Assignment.** Neither this Agreement or any interest herein may be assigned, transferred or encumbered by any party without the prior written consent of the other party.

3.14 **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.

3.15 **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.

3.16 **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, unenforcability or unlawful or void nature of that provision shall not effect any other provision and this Agreement shall be considered as if such invalid, illegal, unlawful, unenforceable or void provision had never been included herein.

3.17 **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: Fay Clark
Executive Director, Student Support
Services/Exceptional Student Education
The School Board of Broward County, Florida
600 SE Third Avenue
Fort Lauderdale, Florida 33301

To Agency: Jackie Rose, Vice President
Spectrum Programs, Inc.
11031 Northeast 6th Avenue
Miami, Florida 33161-7182

3.18 **Captions.** The captions, section numbers, article 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.

3.19 **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.

3.20 **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 with interest calculated from the date of the erroneous payment or overpayment. Interest shall be calculated using the interest rate for judgments under Section 55.03, Florida Statutes, applicable at the time the erroneous payment or overpayment was made by SBBC.

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

FOR SBBC

(Corporate Seal)

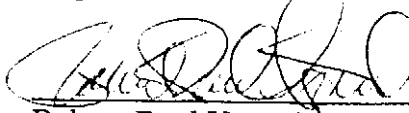
THE SCHOOL BOARD OF BROWARD
COUNTY, FLORIDA

ATTEST:

By _____
Stephanie Arma Kraft, Esq., Chair

Franklin L. Till, Jr., Superintendent of
Schools

Approved as to Form:



Robert Paul Vignola
Assistant School Board Attorney

FOR AGENCY

(Corporate Seal)

SPECTRUM PROGRAMS, INC.

Name of Corporation or Agency

ATTEST:


By: 

Jackie Rose, Vice President

Date 10/18/04

Secretary _____

-or-


Witness


Witness

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

STATE OF Florida

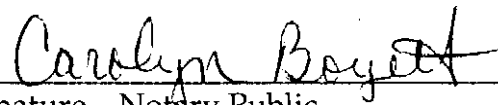
COUNTY OF Dade

The foregoing instrument was acknowledged before me this 18th day of October, 2004 by Jackie Rose of

Spectrum Programs, Inc. Name of Person
Name of Corporation or Agency, on behalf of the corporation/agency.

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

My Commission Expires: 2/11/07


Signature - Notary Public

Carolyn Boyett
Printed Name of Notary

(SEAL)

DD182943
Notary's Commission No.

**TERMS PANELS TO BE RELEASED VIA BIN AGREEMENT
ONLY WITH PARENT CONSENT**

PANEL	FIELD
A03	<i>BASIC DEMOGRAPHICS PANEL</i>
	BIRTHDATE VERIFICATION (VER)
	MISSING CHILD FLAG (MC)
	SOCIAL SECURITY NUMBER (SSN)

A05	<i>CONTACT INFORMATION PANEL</i>
	CONTACT ADDRESS LINE 1
	CONTACT ADDRESS LINE 2
	CONTACT CITY
	CONTACT CODE (CD)
	CONTACT HOME PHONE AREA CODE
	CONTACT HOME PHONE NUMBER
	CONTACT NAME
	CONTACT STATE
	CONTACT WORK PHONE AREA CODE
	CONTACT WORK PHONE EXTENSION
	CONTACT WORK PHONE NUMBER
	CONTACT ZIP CODE

A07	<i>ASSIGNMENT HISTORY</i>
	ASSIGNMENT, FULL/PART CODE (ASG)
	CALENDAR OF ASSIGNMENT (CAL)
	DAYS ABSENT (ABS)
	DAYS PRESENT (PRS)
	DISTRICT OF ASSIGNMENT (DS)
	END OF YEAR FLAG (EY)
	ENTRY (RE-ENTRY) CODE, PK-12
	ENTRY (RE-ENTRY) DATE
	GRADE LEVEL, CURRENT (GR)
	GRADE LEVEL OF ASSIGNMENT
	PROMOTION/RETENTION CODE (PR)
	SCHOOL NAME OF ASSIGNMENT
	SCHOOL NUMBER, CURRENT ENROLLMENT (SCHL)
	SCHOOL NUMBER OF ASSIGNMENT (SCHL)
	SCHOOL YEAR, CURRENT (YEAR)
	SCHOOL YEAR, OF ASSIGNMENT (SY)
	STUDENT CURRENT STATUS (ST)

A07	ASSIGNMENT HISTORY CON'T
	STUDENT NAME
	STUDENT NAME
	STUDENT NUMBER
	WITHDRAWAL CODE
	WITHDRAWAL DATE
	WITHDRAWAL PLACEMENT FOLLOW-UP(PF)

A23	SPECIAL PROGRAMS PANEL
	EARLY INTERVENTION SERVICES
	EVEN START FAMILY LITERACY (E)
	EXCEPTIONALITY OTHERS
	EXCP STDT, POST SCHL OUTCOME
	EXIT INTERVIEW DATE
	FEFP PROGRAM NUMBER
	PRIMARY EXCEPTIONALITY (P)
	PROGRAM PARTICIPANT PRIOR TO KG (P)
	SPECIAL PROGRAM CODE SELECTION
	SPECIAL PROGRAM STATUS SELECT (ST)