



# AGENDA REQUEST FORM

THE SCHOOL BOARD OF BROWARD COUNTY, FLORIDA

ITEM No.:

EE-18.

MEETING DATE

2019-07-23 10:05 - Regular School Board Meeting

AGENDA ITEM

ITEMS

CATEGORY

EE. OFFICE OF STRATEGY & OPERATIONS

DEPARTMENT

Procurement & Warehousing Services

Special Order Request

☐ Yes

☒ No

Time

Open Agenda

☒ Yes

☐ No

TITLE:

Recommendation for Additional Spending Authority - 18-001V - Speech Language Pathology and Audiology Services

## REQUESTED ACTION:

Approve the additional spending authority for the above Request for Proposal (RFP). Contract Term: July 1, 2017 through June 30, 2020, 3 Years; User Department: Exceptional Student Learning Support (ESLS), Additional Requested Amount: \$7,955,722; New Award Amount: \$24,455,722; Awarded Vendor(s) 23; Small/Minority/Women Business Enterprise Vendor(s): 4. See Supporting Docs for continuation of Requested Action.

## SUMMARY EXPLANATION AND BACKGROUND:

This RFP was issued to provide students who qualify for services as exceptional students with disabilities under the Individuals with Disabilities Act (IDEA), Individuals with Disabilities Improvement Act (IDIA) and any other students identified by District staff or as required by the legislature. This RFP provides speech-language pathology and audiology services for students who have a communication disorder in the areas of language, articulation, fluency, voice, and dead/hard of hearing. The original award amount was \$16,500,000.

This agenda item is to request an additional spending authority in order to provide services until June 30, 2020.

## SCHOOL BOARD GOALS:

☐ Goal 1: High Quality Instruction ☒ Goal 2: Continuous Improvement ☐ Goal 3: Effective Communication

## FINANCIAL IMPACT:

The estimated financial impact to the District will be \$7,955,722. The contract award amount was for \$16,500,000. The request is to increase the spending authority by \$7,955,722, bringing the new contract value to \$24,455,722. The funding source will come from the General Fund through school-based Florida Public Schools Full-time Equivalent generated for speech-language services and from the ESLS Department's operating budget. The financial impact represents an estimated contract value; however, the amount authorized will not exceed the contract award amount.

## EXHIBITS: (List)

(1) Continuation of Requested Action (2) Executive Summary (3) Approved ARF 6-13-2017 SBOM EE-27 (4) Recommendation Tabulation 6-13-2017 (5) Financial Analysis Worksheet

## BOARD ACTION:

**APPROVED**

(For Official School Board Records Office Only)

## SOURCE OF ADDITIONAL INFORMATION:

Name: Dr. Antoine Hickman/Mary Claire Mucenic

Phone: 754-321-3400

Name: Mary C. Coker

Phone: 754-321-0501

THE SCHOOL BOARD OF BROWARD COUNTY, FLORIDA  
Senior Leader & Title

Maurice L. Woods - Chief Strategy & Operations Officer

Signature

Maurice Woods

7/16/2019, 3:24:51 PM

Approved In Open  
Board Meeting On:

By:

JUL 23 2019

*Heather P. Brinkman*

School Board Chair

Electronic Signature

Form #4189 Revised 06/05/2019

RWR/ MLW/MCC/AH/MCM:ch

**Recommendation for Additional Spending Authority**  
**18-001V - Speech-Language Pathology and Audiology Services**  
**July 23, 2019 Board Agenda**

**CONTINUATION OF REQUESTED ACTION**

All Source Recruiting Group, Inc., d/b/a Ardor Health Solutions  
\*Audrey B. Greenwald, M.S., CCC, P.A. d/b/a Boca Speech Center  
Cell Staff, LLC  
Cobb Pediatric Speech Services, Inc.  
Community Rehab Associates, Inc.  
\*Comprehensive Therapy Consultants, Inc.  
EBS Healthcare Staffing Services, Inc.  
EDU Healthcare, LLC  
The Execu/Search Group, LLC  
Invo Healthcare Associates, LLC  
MG Therapy, Inc.  
Mytherapycompany, LLC  
Orange Tree Staffing, LLC  
Quantum Health Professionals, Inc.  
RCM Health Care Services, a Division of RCM Technologies (USA), Inc.  
SHC Services, Inc., d/b/a Supplemental Health Care  
\*Sondra Pierce, Ms CCC-SLP  
\*Speech Rehab Services, LLC  
Staffing Options and Solutions, Inc.  
Sunbelt Staffing, LLC  
Therapia Staffing, LLC  
3 Chords, Inc., d/b/a TherapyTravelers  
Thera-Peds, Inc.

\*Minority/Women Business Enterprise as awarded on 6/13/17



## **EXECUTIVE SUMMARY**

### **Recommendation for Additional Spending Authority 18-001V – Speech-Language Pathology and Audiology Services**

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#### **Introduction**

##### **Responsible: Procurement & Warehousing Services (PWS)**

This request is to approve the recommendation for an additional spending authority for Request for Proposal (RFP) 18-001V – Speech-Language Pathology and Audiology Services that was approved by the School Board on June 13, 2017, as part of Agenda Item EE-27 for three (3) years from July 1, 2017 through June 30, 2020, with an authorized spending authority of \$16,500,000. There are twenty-three (23) vendors awarded on this contract, and four (4) vendors are Minority/Women Business Enterprise certified vendors with the District. The additional spending authority requested is \$7,955,722

This RFP provides speech-language pathologists and audiologists for students who have a communication disorder in the areas of language, speech (articulation, fluency, voice), and/or deaf/hard of hearing. Without these services, speech and/or language impaired students would not develop to their potential in the areas of communication, pre-academic learning, vocational training, or social adjustment.

#### **Goods/Services Description**

##### **Responsible: Exceptional Student Learning Support (ESLS) Department**

Although it is recognized that some students may benefit from speech-language pathology and audiology services, only those students with a disability who meet federal and state guidelines may be served. These services are designed to provide support to students whose disorder(s) interfere with communication and adversely affect performance or functioning in the student's typical learning environment and result in the need for exceptional student education.

Performance requirements included within the RFP:

- a) Awardees must provide speech-language pathologists whose performance is consistent with standard professional care and who comply with the State of Florida Department of Health, Division of Medical Quality Assurance, and Board of Professional Regulation for speech, language, and audiology requirements.
- b) Awardees shall have their speech-language pathologists attend two (2) scheduled policies/procedures meetings, considered as part of their workday, of not less than three (3) hours, as determined by the District. These meetings will include but are not limited to, general information on the policies and procedures of the Broward County special programs and procedures, the rights of students with disabilities, and other operational procedures required to carry out the therapy program.
- c) Audiology services will determine the type and degree of hearing impairment and will implement habilitation and rehabilitation services for the student(s); administer and interpret a variety of tests (e.g. air and bone conduction, speech reception, and discrimination) to determine type and degree of hearing impairment, site of damage, and effects on comprehension and speech; evaluate test results in relation to behavioral, social, educational, and medical information obtained from patients, families, teachers, speech pathologists, and other professionals to determine communication problems related to a hearing disability; as well as, plan and implement prevision, habilitation, or rehabilitation services (e.g. hearing aid selection and orientation, counseling, auditory training, lip reading, language habilitation, speech conservation, and other treatment programs developed in consultation with speech pathologists and other professionals).

**Recommendation for Additional Spending Authority**  
**18-001V – Speech-Language Pathology and Audiology Services**  
**July 23, 2019 Board Agenda**  
**Page 2**

Nationwide, the fields of speech-language pathology and audiology are considered to be areas of critical shortage. There is a shortage of graduates choosing school-based speech-language pathology and/or audiology as a profession to pursue. Many schools lose potential job candidates to more lucrative positions at hospitals, rehabilitation centers, or private practice. Within the District, retirements, resignations, transfers, medical/family leave, and growth positions to address caseload/workload issues impacts the number of positions that are required to maintain the provision of Free Appropriate Public Education for students with disabilities.

<b>Growth in Speech-Language Pathology Contracted Positions</b>			
<b>Description</b>	<b>School Year 2015/2016</b>	<b>School Year 2016-2017</b>	<b>School Year 2018-2019</b>
Total SLP Contractual Positions	107	119	134
Number of SLP services being provided	115,467	127,514	153,016

**Procurement Method**  
**Responsible: PWS**

The procurement method chosen is through a competitive solicitation, which is required by School Board Policy 3320, Part II, Rule D, and Florida Administrative Code 6A-1.012(7).

This solicitation was released to the public from December 1, 2016 through February 2, 2017, where two hundred and fifty-eight (258) vendors were notified, forty-one (41) vendors downloaded the RFP documentation. Twenty-four (24) vendors responded to the RFP and submitted proposals. Twenty-three (23) vendors were recommended for award. One proposal did not meet the minimum eligibility requirements of the RFP and was disqualified. The recommended vendors are as follows:

All Source Recruiting Group, Inc. d/b/a Ardor Health Solutions	Mytherapycompany, LLC
*Audrey B. Greenwald, M.S., CCC, P.A. d/b/a Boca Speech Center	Orange Tree Staffing, LLC
Cell Staff, LLC	Quantum Health Professionals, Inc.
Cobb Pediatric Speech Services, Inc.	RCM Health Care Services, a Division of RCM Technologies (USA), Inc.
Community Rehab Associates, Inc.	SHC Services, Inc., d/b/a Supplemental Health Care
*Comprehensive Therapy Consultants, Inc.	*Sondra Pierce, Ms CCC-SLP
EBS Healthcare Staffing Services, Inc.	*Speech Rehab Services, LLC
EDU Healthcare, LLC	Staffing Options and Solutions, Inc.
The Execu/Search Group, LLC	Sunbelt Staffing, LLC
Invo Healthcare Associates, LLC	Therapia Staffing, LLC
MG Therapy, Inc.	3 Chords, Inc., d/b/a TherapyTravelers
	Thera-Peds, Inc.

(\*) M/WBE Certified Vendors (4)

**Recommendation for Additional Spending Authority**  
**18-001V – Speech-Language Pathology and Audiology Services**  
**July 23, 2019 Board Agenda**  
**Page 3**

**Financial Impact**  
**Responsible: PWS and ESLS Department**

The total financial impact to the District will be approximately \$7,955,722. The contract award amount was for \$16,500,000. The request is to increase the spending authority by \$7,955,772, bringing the new contract value to \$24,455,722. The funding source will come from the General Fund through school-based Florida Public Schools Full-Time Equivalent generated for speech-language services and from the Exceptional Student Learning Support Department's operating budget. The financial impact represents an estimated contract value; however, the amount authorized will not exceed the contract award amount.

<b>Locations Charged to Spend Authority</b>	<b>Total Spend</b>
Special Ed Ops	\$11,336,443.91
ESLS Department	\$4,268,370.50
Head Start/Early	\$131,472.00
Innovative Programs	\$334,615.16
<b>TOTAL:</b>	<b>\$16,070,902 (rounded)</b>

Spending rationale based on historical expenditures

Historical Average Monthly Expenditures	\$698,735
Number of months	<u>12</u>
Estimated forecast spend	\$8,384,820
Less unused authorized appending	<u>\$429,098</u>
<b>Total requested spending authority (rounded)</b>	<b>\$7,955,722</b>

During the term of the contract, there has been an increase of students covered and additional positions needed to cover the services; therefore, causing an increase in the spending authority for the next twelve (12) months of the contract, July 1, 2019, through June 30, 2020.

The projected spending authority for this RFP will include these factors, stated below, in order to come to an estimated spending authorization for this contract.

- increase in student services as well as make-up sessions;
- unexpected vacancies of Speech-Language Pathologists due to some factors (family illness, early retirement, transfer, etc.), which have prompted the additional contractual costs;
- include hospital, homebound students, for whom Exceptional Student Education and Support Services (ESE/SS) Department had to pick up the cost of services due to a shortage of District SLPs available to provide these services (including make-up sessions);
- extensive growth in speech-language pathology personnel needed over the last two school years related to the need to address high caseload issues addressed by both the Evergreen Report and the ESE/SS Task Force. Because the field is a critical shortage area, these positions are typically filled by contractual personnel who are paid an hourly rate based on a seven (7) hour day.

Therefore, in order to meet the needs of the District and continuation of services, an additional spending authority of \$7,955,722 is requested for this contract.



# AGENDA REQUEST FORM

## THE SCHOOL BOARD OF BROWARD COUNTY, FLORIDA

ITEM No.:

EE-27.

MEETING DATE

Jun 13 2017 10:05AM - School Board Operational Meeting

AGENDA ITEM

ITEMS

CATEGORY

EE. OFFICE OF STRATEGY &amp; OPERATIONS

DEPARTMENT

Procurement &amp; Warehousing Services

Special Order Request

☐ Yes☒ No

Time

Open Agenda

☒ Yes☐ No

TITLE:

Recommendation of \$500,000 or Greater - 18-001V - Speech-Language Pathology and Audiology Services

**REQUESTED ACTION:**

Approve the recommendation to award the above Request for Proposal (RFP). Contract Term: July 1, 2017, through June 30, 2020, 3 Years; User Department: Exceptional Student Education and Support Services; Award Amount: \$16,500,000; Awarded Vendors: 23; Minority/Women Business Enterprise Vendor(s): 4  
See Supporting Docs for continuation of Requested Action.

**SUMMARY EXPLANATION AND BACKGROUND:**

The School Board of Broward County, Florida, received twenty-four (24) proposals in response to RFP 18-001V - Speech-Language Pathology and Audiology Services. This RFP provides speech-language pathologist and audiologists for students who have a communication disorder in the areas of language, articulation, fluency, voice, and deaf/hard of hearing.

A copy of the bid documents are available online at:

[http://www.broward.k12.fl.us/supply/agenda/18-001V\\_Speech\\_Language\\_Pathology\\_Audiology\\_Services.pdf](http://www.broward.k12.fl.us/supply/agenda/18-001V_Speech_Language_Pathology_Audiology_Services.pdf)

Copies of all supporting documents are available at the Board Members' Office on the 14th floor of the K.C. Wright Administration Center and available online via the Broward County Public Schools eAgenda at: <https://webappe.browardschools.com/eagenda>

These Agreements have been reviewed and approved as to form and legal content by the Office of the General Counsel.

**SCHOOL BOARD GOALS:**

☐ Goal 1: High Quality Instruction ☒ Goal 2: Continuous Improvement ☐ Goal 3: Effective Communication

**FINANCIAL IMPACT:**

The estimated financial impact to the District will be \$16,500,000. The funding will come from the General fund through school-based Florida Public Schools Full-time Equivalent generated for speech-language services and from the Exceptional Student Education department's operating budget. The financial impact represents an estimated contract value; however, the amount authorized will not exceed the contract award amount.

**EXHIBITS: (List)**

(1) Continuation of Requested Action (2) Executive Summary (3) Agreements-11-ONLINE (4) Agreements-12-ONLINE (5) Recommendation Tabulation (6) Financial Analysis Worksheet (7) Cost Comparison and Negotiated Pricing (8) Supplier Evaluations-11

**BOARD ACTION:****APPROVED**

(For Official School Board Records Office Only)

**SOURCE OF ADDITIONAL INFORMATION:**

Name: Dr. Antoine Hickman

Phone: 754-321-3400

Name: Mary C. Coker

Phone: 754-321-0501

**THE SCHOOL BOARD OF BROWARD COUNTY, FLORIDA**  
**Senior Leader & Title**

Maurice L. Woods - Chief Strategy &amp; Operations Officer

Approved In Open  
Board Meeting On:

JUN 13 2017

Signature

Maurice Woods

6/2/2017, 9:56:23 AM

By:

School Board Chair

Electronic Signature

Form #4189 Revised 07/16  
RWR/ MLW/MCC/AK:ch

The School Board of Broward County, Florida  
Procurement & Warehousing Services

ITB / RFP No.:	18-001V	Tentative Board Meeting Date*:	JUNE 13, 2017		
Description:	SPEECH-PATHOLOGY AND AUDIOLOGY SERVICES	Notified:	258	Downloaded:	41
		ITB / RFP Rec'd:	24	No. Bids:	0
For:	EXCEPTIONAL STUDENT EDUCATION DEPT.	ITB / RFP Opening:	FEBRUARY 2, 2017		
Fund:	GENERAL FUND – FLORIDA SCHOOL BASED FULL-TIME EQUIVALENT GENERATED FOR SPEECH-LANGUAGE SERVICES	Advertised Date:	DECEMBER 1, 2016		

**POSTING OF ITB / RFP RECOMMENDATION/TABULATION:** ITB / RFP Recommendations and Tabulations will be posted in the Procurement & Warehousing Services and [www.Demandstar.com](http://www.Demandstar.com) on **MAY 10, 2017 @ 11:00 AM** and will remain posted for 72 hours. Any person who is adversely affected by the decision or intended decision shall file a notice of protest, in writing, within 72 hours after the posting of the notice of decision or intended decision. The formal written protest shall be filed within ten (10) days after the date the notice of protest is filed. Failure to file a notice of protest or failure to file a formal written protest shall constitute a waiver of proceedings under this chapter. Section 120.57(3)(b), Florida Statutes, states that "The formal written protest shall state with particularity the facts and law upon which the protest is based." Saturdays, Sundays, state holidays and days during which the District is closed shall be excluded in the computation of the 72-hour time period provided. Filings shall be at the office of the Director of Procurement & Warehousing Services, 7720 West Oakland Park Boulevard, Suite 323, Sunrise, Florida 33351. Any person who files an action protesting an intended decision shall post with the School Board, at the time of filing the formal written protest, a bond, payable to The School Board of Broward County, Florida, (SBBC), in an amount equal to one percent (1%) of the estimated value of the contract. Failure to post the bond required by SBBC Policy 3320, Part VIII, Purchasing Policies, Section N, within the time allowed for filing a bond shall constitute a waiver of the right to protest.

(\*) The Cone of Silence, as stated in the ITB / RFP, is in effect until this ITB / RFP is approved by SBBC. The Board meeting date stated above is tentative. Confirm with the Purchasing Agent of record for the actual date the Cone of Silence has concluded.

**REVISED-2 - RECOMMENDATION TABULATION**

TWENTY-FOUR PROPOSALS WERE RECEIVED IN RESPONSE TO RFP 18-001V. PROPOSALS WERE EVALUATED BY THE FOLLOWING COMMITTEE MEMBERS CONSISTING OF:

DENEEN GORASSINI – COORDINATOR, STUDENT SUPPORT MEDICAID, MEDICAID/504  
DEBRA HARRINGTON – CURRICULUM SPECIALIST, SPEECH-LANGUAGE IMPAIRED, ESE DEPARTMENT  
THERESA SPURLOCK – CURRICULUM SUPERVISOR, CHH/VISUALLY IMPAIRED, ESE DEPARTMENT  
CYNTHIA MESA – OCCUPATIONAL AND PHYSICAL THERAPY SPECIALIST

M/WBE ADVISOR: LAVINIA FREEMAN, M/WBE SPECIALIST III

IN ACCORDANCE WITH SECTION 5.0, EVALUATION OF PROPOSALS AND THE EVALUATION COMMITTEE, IT IS RECOMMENDED THAT THE FOLLOWING LISTED PROPOSERS BE RECOMMENDED FOR APPROVAL BY THE SCHOOL BOARD FOR SPEECH-LANGUAGE PATHOLOGY AND AUDIOLOGY SERVICES. IN ORDER TO BE CONSIDERED QUALIFIED FOR APPROVAL, A MINIMUM SCORE OF 70 POINTS IS REQUIRED.

ALL SOURCE RECRUITING GROUP, INC.

D/B/A ARDOR HEALTH SOLUTIONS

\* AUDREY B. GREENWALD, M.S. CCC, P.A. (CAUCASIAN, FEMALE)

D/B/A BOCA SPEECH CENTER

CELL STAFF, LLC

COBB PEDIATRIC THERAPY SERVICES, INC.

COMMUNITY REHAB ASSOCIATES, INC.

\* COMPREHENSIVE THERAPY CONSULTANTS, INC. (AFRICAN AMERICAN)

EBS HEALTHCARE STAFFING SERVICES, INC.

EDU HEALTHCARE, LLC

THE EXECU/SEARCH GROUP, LLC

INVO HEALTHCARE ASSOCIATES, LLC

MG THERAPY, INC.

MYTHERAPYCOMPANY LLC

The School Board of Broward County, Florida, prohibits any policy or procedure which results in discrimination on the basis of age, color, disability, gender expression, national origin, marital status, race, religion, sex or sexual orientation. Individuals who wish to file a discrimination complaint, may call the Executive Director, Benefits & EEO Compliance at 754-321-2150 or Teletype Machine (TTY) at 754-321-2158.

Individuals with disabilities requesting accommodations under the Americans with Disabilities Act (ADA) may call the Equal Educational Opportunities (EEO) at 754-321-2150 or Teletype Machine (TTY) at 754-321-2158.

ORANGE TREE STAFFING, LLC  
QUANTUM HEALTH PROFESSIONALS, INC.  
RCM HEALTH CARE SERVICES  
A DIVISION OF RCM TECHNOLOGIES (USA), INC.  
SHC SERVICES, INC.  
D/B/A SUPPLEMENTAL HEALTH CARE  
\* SONDRRA PIERCE, MS, CCC-SLP (CAUCASIAN, FEMALE)  
\* SPEECH REHAB SERVICES, LLC (CAUCASIAN, FEMALE)  
STAFFING OPTIONS & SOLUTIONS, INC.  
SUNBELT STAFFING, LLC.  
THERAPIA STAFFING, LLC.  
3 CHORDS, INC.  
D/B/A THERAPYTRAVELERS  
THERA-PEDS, INC.

(\*) CERTIFIED M/WBE VENDOR

IT IS RECOMMENDED FOR REASON(S) STATED ON THE ATTACHED RFP REJECTION SHEET, THE RFP IN ITS ENTIRETY BE REJECTED FOR NOT COMPLYING WITH MINIMUM ELIGIBILITY REQUIREMENTS.

THE AWARD FOR THESE PROPOSERS SHALL BE CONTINGENT UPON SUCCESSFUL COMPLETION OF WRITTEN AGREEMENTS.

CONTRACT PERIOD: JULY 1, 2017 THROUGH JUNE 30, 2020

By: \_\_\_\_\_

  
(Purchasing Agent)

Date: \_\_\_\_\_

5/10/17

The School Board of Broward County, Florida, prohibits any policy or procedure which results in discrimination on the basis of age, color, disability, gender expression, national origin, marital status, race, religion, sex or sexual orientation. Individuals who wish to file a discrimination complaint, may call the Executive Director, Benefits & EEO Compliance at 754-321-2150 or Teletype Machine (TTY) at 754-321-2158.

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**RFP 18-001V**  
**SPEECH-PATHOLOGY AND AUDIOLOGY SERVICES**  
**SCORE SHEET**

<b>18-001V - Speech Pathology and Audiology Services</b>	<b>Maximum Points</b>	<b>Cindy Mesa</b>	<b>Debra Harrington</b>	<b>Deneen Gorassini</b>	<b>Terry Spurlock</b>	<b>Average Points</b>
<b>Experience and Qualifications</b>	<b>35</b>					
All Source Recruiting Group d/b/a Ardor Health Solutions		35	35	35	30	34
Audrey Greenwald M.S. CCC d/b/a Boca Speech Center		35	35	35	30	34
Cobb Pediatric Therapy Services		35	35	35	30	34
Cell Staff, LLC		33	32	34	30	32
Community Rehab Associates, Inc.		34	35	35	35	35
Comprehensive Therapy Consultants		35	35	35	30	34
EDU Healthcare		35	32	35	30	33
Execu/Search Group, LLC		32	35	35	30	33
EBS Educational Based Services		35	35	35	30	34
Invo Healthcare Associates		34	35	35	35	35
MG Therapy, Inc.		33	35	35	30	33
MyTherapyCompany, LLC		35	35	35	30	34
Orange Tree Staffing, LLC		32	35	35	30	33
Quantum Health Professionals		32	35	30	30	32
RCM Health Care Services / RCM Technologies		33	35	25	30	31
SHC Services, Inc. d/b/a Supplemental Healthcare		34	35	35	30	34
Sondra Pierce, MS, CCC - SLP		35	35	35	30	34
Speech Rehab Services, LLC		35	35	35	30	34
Staffing Options and Solutions, Inc.		34	35	35	30	34
Sunbelt Staffing, LLC		35	35	35	30	34
Therapia Staffing		30	32	25	30	29
Therapy Travelers		30	35	25	30	30
Thera-Peds, Inc.				35	30	
<b>Scope of Services</b>						
All Source Recruiting Group d/b/a Ardor Health Solutions		35		10	20	24
Audrey Greenwald M.S. CCC d/b/a Boca Speech Center		35	35	35	30	34
Cobb Pediatric Therapy Services		35	35	35	35	35
Cell Staff, LLC		35	35	34	30	34
Community Rehab Associates, Inc.		35	35	35	30	34
Comprehensive Therapy Consultants		35	35	35	30	34
EDU Healthcare		35	35	35	30	34
Execu/Search Group, LLC		35	35	35	30	34
EBS Educational Based Services		35	35	35	30	34
Invo Healthcare Associates		35	35	32	35	34
MG Therapy, Inc.		35	35	35	30	34
MyTherapyCompany, LLC		35	35	35	30	34
Orange Tree Staffing, LLC		35	35	35	30	34
Quantum Health Professionals		35	35	35	30	34
RCM Health Care Services / RCM Technologies		35	35	35	30	34
SHC Services, Inc. d/b/a Supplemental Healthcare		33	32	35	30	33

**RFP 18-001V**  
**SPEECH-PATHOLOGY AND AUDIOLOGY SERVICES**  
**SCORE SHEET**

<b>18-001V - Speech Pathology and Audiology Services</b>	<b>Maximum Points</b>	<b>Cindy Mesa</b>	<b>Debra Harrington</b>	<b>Deneen Gorassini</b>	<b>Terry Spurlock</b>	<b>Average Points</b>
Sondra Pierce, MS, CCC - SLP		35	35	35	30	34
Speech Rehab Services, LLC		35	35	35	30	34
Staffing Options and Solutions, Inc.		35	35	35	30	34
Sunbelt Staffing, LLC		35	35	35	35	35
Therapia Staffing		35	35	35	30	34
Therapy Travelers		35	35	35	30	34
Thera-Peds, Inc.		35	35	35	30	34
<b>Cost of Services</b>	<b>20</b>					
All Source Recruiting Group d/b/a Ardor Health Solutions		19.8	19.8	19.8	19.8	19.8
Audrey Greenwald M.S. CCC d/b/a Boca Speech Center		19.2	19.2	19.2	19.2	19.2
Cobb Pediatric Therapy Services		19.2	19.2	19.2	19.2	19.2
Cell Staff, LLC		17.9	17.9	17.9	17.9	17.9
Community Rehab Associates, Inc.		19.7	19.7	19.7	19.7	19.7
Comprehensive Therapy Consultants		19.2	19.2	19.2	19.2	19.2
EDU Healthcare		18.2	18.2	18.2	18.2	18.2
Execu/Search Group, LLC		18.7	18.7	18.7	18.7	18.7
EBS Educational Based Services		17.9	17.9	17.9	17.9	17.9
Invo Healthcare Associates		17.9	17.9	17.9	17.9	17.9
MG Therapy, Inc.		19.2	19.2	19.2	19.2	19.2
MyTherapyCompany, LLC		18.2	18.2	18.2	18.2	18.2
Orange Tree Staffing, LLC		17.9	17.9	17.9	17.9	17.9
Quantum Health Professionals		19.3	19.3	19.3	19.3	19.3
RCM Health Care Services / RCM Technologies		17.9	17.9	17.9	17.9	17.9
SHC Services, Inc. d/b/a Supplemental Healthcare		18.3	18.3	18.3	18.3	18.3
Sondra Pierce, MS, CCC - SLP		19.2	19.2	19.2	19.2	19.2
Speech Rehab Services, LLC		17.9	17.9	17.9	17.9	17.9
Staffing Options and Solutions, Inc.		19.8	19.8	19.8	19.8	19.8
Sunbelt Staffing, LLC		17.9	17.9	17.9	17.9	17.9
Therapia Staffing		18.8	18.8	18.8	18.8	18.8
Therapy Travelers		17.9	17.9	17.9	17.9	17.9
Thera-Peds, Inc.		17.9	17.9	17.9	17.9	17.9
<b>M/WBE</b>	<b>10</b>					
All Source Recruiting Group d/b/a Ardor Health Solutions		0	0	0	0	0
Audrey Greenwald M.S. CCC d/b/a Boca Speech Center		10	10	10	10	10
Cobb Pediatric Therapy Services		0	0	0	0	0
Cell Staff, LLC		0	0	0	0	0
Community Rehab Associates, Inc.		0	0	0	0	0
Comprehensive Therapy Consultants		10	10	10	10	10



**RFP 18-001V**  
**SPEECH-PATHOLOGY AND AUDIOLOGY SERVICES**  
**SCORE SHEET**

18-001V - Speech Pathology and Audiology Services	Maximum Points	Cindy Mesa	Debra Harrington	Deneen Gorassini	Terry Spurlock	Average Points
EDU Healthcare		0	0	0	0	0
Execu/Search Group, LLC		0	0	0	0	0
EBS Educational Based Services		5	5	5	5	5
Invo Healthcare Associates		0	0	0	0	0
MG Therapy, Inc		0	0	0	0	0
MyTherapyCompany, LLC		0	0	0	0	0
Orange Tree Staffing, LLC		10	10	10	10	10
Quantum Health Professionals		0	0	0	0	0
RCM Health Care Services / RCM Technologies		0	0	0	0	0
SHC Services, Inc. d/b/a Supplemental Healthcare		1	1	1	1	1
Sondra Pierce, MS, CCC - SLP		10	10	10	10	10
Speech Rehab Services, LLC		10	10	10	10	10
Staffing Options and Solutions, Inc.		0	0	0	0	0
Sunbelt Staffing, LLC		0	0	0	0	0
Therapia Staffing		0	0	0	0	0
Therapy Travelers		0	0	0	0	0
Thera-Peds, Inc		10	10	10	10	10
<b>Total Score</b>	<b>100</b>					
All Source Recruiting Group d/b/a Ardor Health Solutions						
Audrey Greenwald M.S. CCC d/b/a Boca Speech Center						97
Cobb Pediatric Therapy Services						88
Cell Staff, LLC						84
Community Rehab Associates, Inc.						88
Comprehensive Therapy Consultants						97
EDU Healthcare						85
Execu/Search Group, LLC						85
EBS Educational Based Services						90
Invo Healthcare Associates						87
MG Therapy, Inc.						86
MyTherapyCompany, LLC						86
Orange Tree Staffing, LLC						95
Quantum Health Professionals						85
RCM Health Care Services / RCM Technologies						82
SHC Services, Inc. d/b/a Supplemental Healthcare						85
Sondra Pierce, MS, CCC - SLP						97
Speech Rehab Services, LLC						95
Staffing Options and Solutions, Inc.						87
Sunbelt Staffing, LLC						87
Therapia Staffing						82

**RFP 18-001V**  
**SPEECH-PATHOLOGY AND AUDIOLOGY SERVICES**  
**SCORE SHEET**

18-001V - Speech Pathology and Audiology Services		Maximum Points	Cindy Mesa	Debra Harrington	Deneen Gorassini	Terry Spurlock	Average Points
Therapy Travelers							82
Thera-Peds, Inc							89

**RFP 18-001V**  
**SPEECH-LANGUAGE PATHOLOGY AND AUDIOLOGY SERVICES**  
**REJECTION SHEET**

Reject proposal from PresenceLearning, Inc. In accordance with Section 4.2 and 4.2.2. of the RFP, in order to be considered for award and further evaluated, Proposer must have an active registration to do business in the State of Florida with the Department of State Division of Corporations by registering their business on [www.sunbiz.org](http://www.sunbiz.org) at the time of RFP opening. Failure to provide this information requested below will result in disqualification of proposal. Proposer did not provide the information requested for Section 4.2.2. and their company is not registered with the State of Florida with the Department of State Division of Corporations.

## PROCUREMENT & WAREHOUSING SERVICES

## FINANCIAL ANALYSIS WORKSHEET

## BID INFORMATION

<b>New Bid # (Ex: 10-004R):</b>		<b>Preparation Date:</b>	June 20, 2019
<b>Previous Bid # (Ex: 10-004R):</b>	18-001V	<b>Buyer/PA:</b>	CHUCK HIGH
<b>New Bid Award Total:</b>	\$24,455,722	<b>Bid Title:</b>	SPEECH - LANGUAGE PATHOLOGY AND AUDIOLOGY SERVICES
<b>Previous Award Total:</b>	\$16,500,000		
<b>Bid Type:</b>	INCREASE TO BID		
<b>Previous Bid Term (Start Date):</b>	7/1/2017	<b>New Bid Term (In Months):</b>	
<b>Previous Bid Term (End Date):</b>	6/30/2020	<b># of Months Into Bid:</b>	23

## SPEND REPORTING

Purchase Order(s) Spend:	\$16,070,902
P Card Purchases:	\$0
Total Invoiced-to-Date Amount (PO + Pcard Purchases):	\$16,070,902
Average Monthly Expenditure:	\$698,735
Unused Authorized Spending:	\$429,098
Est. Forecasted Spend (For Entire Bid Term):	

## VENDOR INFORMATION

Awarded Vendors:	M/WBE Status (If applicable):	Spend:
118973-SPEECH REHAB SERVICES LLC		\$ 5,334,053
114361-BOCA SPEECH CENTER		\$ 3,658,551
122830-INVO HEALTHCARE ASSOCIATES LLC		\$ 2,480,857
114358-COMMUNITY REHAB ASSOCIATES INC		\$ 2,247,024
112261-EBS HEALTHCARE STAFFING SERVICES IN		\$ 1,378,810
131735-ORANGE TREE STAFFING LLC		\$ 574,060
126691-COMPREHENSIVE THERAPY CONSULTANTS		\$ 300,987
125035-PIERCE, SONDRRA M		\$ 67,846
123251-ALL SOURCE RECRUITING GROUP INC		\$ 23,714
112270-SHC SERVICES INC		\$ 5,000
	PO VENDOR SPEND:	\$ 16,070,902
	P-CARD SPEND:	\$ -
	TOTAL SPEND:	\$ 16,070,902

**NOTES (Type Below):**

**Award Amount: \$16,500,000. Spending authority needed for 12 months: \$7,955,722. The total Spending authority requested: \$24,455,722.**

Spending Per Location		
Ordering Location	Number of PO's	Sum of Total Spend
Special Ed Ops	21	\$11,336,443.91
ESE	12	\$4,268,370.50
Head Start/Early	8	\$131,472.00
Innovative Prog.	7	\$334,615.16
<b>TOTAL</b>		<b>\$16,070,901.57</b>

Spending rationale based on historical expenditures

Historical Average Monthly Expenditures	\$698,735
Number of months	12
Estimated forecast spend	\$8,384,820
Less unused authorized appending	\$429,098
<b>Total requested spending authority (rounded)</b>	<b>\$7,955,722</b>

Default Funding Source*		Department/School & Sign-off Information*	
Cost Center	2610097800	Name (First & Last)	Mary Claire Mucenic
Fund	1000	Title	Director
Functional Area	5250791120000000	Department/School Name	ESLS Department
Commitment Item	53150000	Sign-off provided by	Jose Laverde, Ph.D.

\*To ensure accuracy, please type in or select from the menu for the Default Funding Source and Department Information (No hand written information)

Data Source: SAP and Works (Bank of America system)	Prepared on:	7/7/2019
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All information included in this summary is based on the preparation date listed above and may change at any time beyond that date.



# AGENDA REQUEST FORM

## THE SCHOOL BOARD OF BROWARD COUNTY, FLORIDA

MEETING DATE	Jun 13 2017 10:05AM - School Board Operational Meeting
AGENDA ITEM	ITEMS
CATEGORY	EE. OFFICE OF STRATEGY & OPERATIONS
DEPARTMENT	Procurement & Warehousing Services

Special Order Request
<input type="radio"/> Yes <input checked="" type="radio"/> No
Time
Open Agenda
<input checked="" type="radio"/> Yes <input type="radio"/> No

ITEM No.:

EE-27.

TITLE:

Recommendation of \$500,000 or Greater - 18-001V - Speech-Language Pathology and Audiology Services

**REQUESTED ACTION:**

Approve the recommendation to award the above Request for Proposal (RFP). Contract Term: July 1, 2017, through June 30, 2020, 3 Years; User Department: Exceptional Student Education and Support Services; Award Amount: \$16,500,000; Awarded Vendors: 23; Minority/Women Business Enterprise Vendor(s): 4  
See Supporting Docs for continuation of Requested Action.

**SUMMARY EXPLANATION AND BACKGROUND:**

The School Board of Broward County, Florida, received twenty-four (24) proposals in response to RFP 18-001V - Speech-Language Pathology and Audiology Services. This RFP provides speech-language pathologist and audiologists for students who have a communication disorder in the areas of language, articulation, fluency, voice, and deaf/hard of hearing.

A copy of the bid documents are available online at:

[http://www.broward.k12.fl.us/supply/agenda/18-001V\\_Speech\\_Language\\_Pathology\\_Audiology\\_Services.pdf](http://www.broward.k12.fl.us/supply/agenda/18-001V_Speech_Language_Pathology_Audiology_Services.pdf)

Copies of all supporting documents are available at the Board Members' Office on the 14th floor of the K.C. Wright Administration Center and available online via the Broward County Public Schools eAgenda at: <https://webappe.browardschools.com/eagenda>

These Agreements have been reviewed and approved as to form and legal content by the Office of the General Counsel.

**SCHOOL BOARD GOALS:**

☐ Goal 1: High Quality Instruction ☒ Goal 2: Continuous Improvement ☐ Goal 3: Effective Communication

**FINANCIAL IMPACT:**

The estimated financial impact to the District will be \$16,500,000. The funding will come from the General fund through school-based Florida Public Schools Full-time Equivalent generated for speech-language services and from the Exceptional Student Education department's operating budget. The financial impact represents an estimated contract value; however, the amount authorized will not exceed the contract award amount.

**EXHIBITS: (List)**

(1) Continuation of Requested Action (2) Executive Summary (3) Agreements-11-ONLINE (4) Agreements-12-ONLINE (5) Recommendation Tabulation (6) Financial Analysis Worksheet (7) Cost Comparison and Negotiated Pricing (8) Supplier Evaluations-11

**BOARD ACTION:****APPROVED**

(For Official School Board Records Office Only)

**SOURCE OF ADDITIONAL INFORMATION:**

Name: Dr. Antoine Hickman	Phone: 754-321-3400
Name: Mary C. Coker	Phone: 754-321-0501

**THE SCHOOL BOARD OF BROWARD COUNTY, FLORIDA**  
**Senior Leader & Title**

Maurice L. Woods - Chief Strategy &amp; Operations Officer

Signature

Maurice Woods

6/2/2017, 9:56:23 AM

Approved In Open  
Board Meeting On:

JUN 13 2017

By:

School Board Chair

Electronic Signature

Form #4189 Revised 07/16  
RWR/ MLW/MCC/AK:ch

**Recommendation of \$500,000 or Greater**  
**18-001V - Speech-Language Pathology and Audiology Services**  
**June 13, 2017 Board Agenda**  
**Page 2**

**CONTINUATION OF REQUESTED ACTION**

All Source Recruiting Group, Inc., d/b/a Ardor Health Solutions  
\*Audrey B. Greenwald, M.S., CCC, P.A. d/b/a Boca Speech Center  
Cell Staff, LLC  
Cobb Pediatric Speech Services, Inc.  
Community Rehab Associates, Inc.  
\*Comprehensive Therapy Consultants, Inc.  
EBS Healthcare Staffing Services, Inc.  
EDU Healthcare, LLC  
Invo Healthcare Associates, LLC  
MG Therapy, Inc.  
Mytherapycompany, LLC  
Orange Tree Staffing, LLC  
Quantum Health Professionals, Inc.  
RCM Health Care Services, a Division of RCM Technologies (USA), Inc.  
SHC Services, Inc., d/b/a Supplemental Health Care  
\*Sondra Pierce, Ms CCC-SLP  
\*Speech Rehab Services, LLC  
Staffing Options and Solutions, Inc.  
Sunbelt Staffing, LLC  
Therapia Staffing, LLC  
3 Chords, Inc., d/b/a TherapyTravelers  
Thera-Peds, Inc.  
  
\*Certified Minority/Women Business Enterprise

## **EXECUTIVE SUMMARY**

### **Recommendation of \$500,000 or Greater 18-001V – Speech-Language Pathology and Audiology Services**

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This Request for Proposal (RFP) provides speech-language pathologists and audiologists for students who have a communication disorder in the areas of language, speech (articulation, fluency, voice), and/or deaf/hard of hearing. Without these services, speech and/or language impaired students would not develop to their potential in the areas of communication, pre-academic learning, vocational training, or social adjustment.

Although it is recognized that some students may benefit from speech-language pathology (SLP) and audiology services, only those students with a disability who meet federal and state guidelines may be served. These services are designed to provide support to students whose disorder(s) interfere with communication and adversely affect performance or functioning in the student's typical learning environment, and result in the need for exceptional student education.

Performance requirements included within the RFP:

- a) Awardees must provide speech-language pathologists whose performance is consistent with a professional standard care and who comply with the State of Florida Department of Health, Division of Medical Quality Assurance, and Board of Professional Regulation for speech, language, and audiology requirements.
- b) Awardees shall have their speech-language pathologists attend two (2) scheduled policies/procedures meetings, considered as part of their workday, of not less than three (3) hours, as determined by the District. These meetings will include, but are not limited to, general information on the policies and procedures of the Broward County special programs and procedures, the rights of students with disabilities, and other operational procedures required to carry out the therapy program.
- c) Audiology services will determine the type and degree of hearing impairment and will implement habilitation and rehabilitation services for the student(s); administer and interpret a variety of tests (e.g. air and bone conduction, speech reception, and discrimination) to determine type and degree of hearing impairment, site of damage, and effects on comprehension and speech; evaluate test results in relation to behavioral, social, educational, and medical information obtained from patients, families, teachers, speech pathologists, and other professionals to determine communication problems related to a hearing disability; as well as, plan and implement prevision, habilitation, or rehabilitation services (e.g. hearing aid selection and orientation, counseling, auditory training, lip reading, language habilitation, speech conservation, and other treatment programs developed in consultation with speech pathologists and other professionals).

Nationwide, the fields of speech-language pathology and audiology are considered to be areas of critical shortage. There is a shortage of graduates choosing school-based speech-language pathology and/or audiology as a profession to pursue. Many schools lose potential job candidates to more lucrative positions at hospitals, rehabilitation centers, or private practice.

The number of contract services during the contract period for RFP 15-041V, through June 30, 2017, is fluid and is based on a year-to-year need. Retirements, resignations, transfers, medical/family leave, and growth positions to address caseload/workload issues impacts the number of positions that are required to maintain the provision of Free Appropriate Public Education for students with disabilities.

**Recommendation of \$500,000 or Greater**

**18-001V – Speech-Language Pathology and Audiology Services**

**June 13, 2017 Board Agenda**

**Page 2**

<b>Growth in SLP Contracted Positions</b>			
<b>School Year</b>	<b>14/15</b>	<b>15/16</b>	<b>16/17</b>
Total SLP Contractual Positions	78	107	119
Number of SLP Growth Positions filled by a contract	10	33	31
Percent of contracts filling growth positions	12%	30%	26%
Number of SLP services being provided	98,556	115,467	92,874 (thru February 2017)

<b>Locations Charged to Spend Authority</b>
Audiology Services
Head Start School Year
Hospital Homebound
Innovative Programs/Venture Design
Private Schools Speech/Language Services
Speech/Language Services BCPS

During the term of the contract, there has been an increase of students covered and additional positions needed to cover the services; therefore, causing an increase in the spending authority during the next 3 year RFP cycle of the contract, July 1, 2017, through June 30, 2020.

The projected spending authority for this RFP will include these factors, stated below, in order to come to an estimated spending authorization for this contract.

- increase in student services as well as make-up sessions;
- unexpected vacancies of Speech-Language Pathologists due to some factors (family illness, early retirement, transfer, etc.), which have prompted the additional contractual costs;
- include hospital, homebound students, for whom Exceptional Student Education and Support Services (ESE/SS) Department had to pick up the cost of services due to a shortage of District SLPs available to provide these services (including make-up sessions);
- extensive growth in speech-language pathology personnel needed over the last two school years related to the need to address high caseload issues addressed by both the Evergreen Report and the ESE/SS Task Force. Because the field is a critical shortage area, these positions are typically filled by contractual personnel who are paid an hourly rate based on a seven (7) hour day.

Therefore, in order to meet the needs of the District, a spending authority of \$16,500,000 will be needed to perform the services for this contract.



## AGREEMENT

THIS AGREEMENT is made and entered into as of this 13<sup>th</sup> day of June, 2017, 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 E. Fairbanks Avenue  
Winter Park, Florida 32789

WHEREAS, SBBC issued a Request for Proposal identified as RFP 18-001V – Speech-Language Pathology and Audiology Services (hereinafter referred to as "RFP"), dated December 1, 2016 and amended by Addendum No. 4, dated January 17, 2017, Addendum No. 3, dated January 13, 2017 Addendum No. 2, dated December 19, 2016, and Addendum No. 1, dated December 9, 2016 all of which are incorporated by reference herein, for the purpose of receiving proposals for speech-language pathology and audiology services; and

WHEREAS, VENDOR offered a proposal dated January 29, 2017 (hereinafter referred to as "Proposal") which is incorporated by reference herein, in response to this RFP.

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

### ARTICLE 1 – RECITALS

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

### ARTICLE 2 – SPECIAL CONDITIONS

2.01 **Term of Agreement.** Unless terminated earlier pursuant to Section 3.05 of this Agreement, the term of this Agreement shall commence on **July 1, 2017** and conclude on **June 30, 2020**. The term of the Agreement may, by mutual agreement between SBBC and VENDOR be extended for two additional one-year periods and, if needed, 180 days beyond the expiration date of the renewal period. SBBC's Procurement & Warehousing Services Department, will, if considering renewing, request a letter consenting to renewal from VENDOR, prior to the end of the term. Any renewal period shall be approved by an Amendment to this Agreement executed by both parties.

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

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

First: This Agreement, then;  
Second: Addendum No. 4, then;  
Third: Addendum No. 3, then;  
Fourth: Addendum No. 2, then;  
Fifth: Addendum No. 1, then;  
Fourth: RFP 18-001V – Speech-Language Pathology and Audiology Services, then;  
Fifth: Proposal submitted in response to the RFP by VENDOR.

2.04 **Cost of Services.** SBBC shall pay VENDOR for cost of services satisfactorily rendered for Speech-Language Pathologist at \$60.00/hr. and Audiologist at \$58.00/hr. Costs shall not exceed the amount as stated on the Purchase Order. VENDOR may offer SBBC a special educational discount for pricing and reduce the cost of services during the term of the Agreement. VENDOR may invoice SBBC at an hourly rate less than their original bid price.

2.05 **M/WBE Participation.** VENDOR is a current Certified MWBE, Hispanic-American, Female, with SBBC, Certificate #7007-6882.

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

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

VENDOR shall enter into SBBC’s HIPAA Business Associate Agreement (“BAA”) substantially in the form attached hereto and incorporated herein as **Attachment B.**

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

evaluation, analysis, verification and reconciliation of any and all expenditures under this Agreement without regard to funding sources.

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

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

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

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

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

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

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

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

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

To SBBC: Superintendent of Schools  
The School Board of Broward County, Florida  
600 Southeast Third Avenue  
Fort Lauderdale, Florida 33301

With a Copy to: Executive Director, ESE/SS Division  
The School Board of Broward County, Florida  
1701 NW 23<sup>rd</sup> Avenue  
Fort Lauderdale, Florida 33301

To VENDOR: Mardly R. Smith  
Orange Tree Staffing, LLC  
111 E. Fairbanks Avenue  
Winter Park, FL 32789

2.08 **Background Screening.** Vendor agrees to comply with all requirements of Sections 1012.32 and 1012.465, Florida Statutes, and all of its personnel who (1) are to be permitted access to school grounds when students are present, (2) will have direct contact with students, or (3) have access or control of school funds, will successfully complete the background screening required by the referenced statutes and meet the standards established by the statutes. This background screening will be conducted by SBBC in advance of the 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 the 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.

2.09 **Insurance.** VENDOR shall provide the minimum insurance requirements as provided below:

- a) **GENERAL LIABILITY:** Limits not less than \$1,000,000 per occurrence for Bodily Injury/ Property Damage; \$1,000,000 General Aggregate. Limits not less than \$1,000,000 for Products/Completed Operations Aggregate.

- b) **WORKER'S COMPENSATION:** Florida Statutory limits in accordance with Chapter 440; Employer's Liability limits not less than \$100,000/\$100,000/\$500,000 (each accident/disease-each employee/disease-policy limit).
- c) **PROFESSIONAL LIABILITY:** Limits not less than \$1,000,000 per occurrence covering services provided under this Agreement.
- d) **AUTO LIABILITY:** Owned, Non-Owned and Hired Auto Liability with Bodily Injury and Property Damage limits of not less than \$1,000,000 Combined Single Limit. If VENDOR does not own any vehicles, hired and non-owned automobile liability coverage in the amount of \$1,000,000 will be accepted. In addition, an affidavit signed by the VENDOR must be furnished to SBBC indicating the following:  
VENDOR does not own any vehicles. In the event insured acquires any vehicles throughout the term of this Agreement, insured agrees to provide proof of "Any Auto" coverage effective the date of acquisition. (Fax affidavit with Certificate of Insurance to SBBC Risk Management at 866-897-0424.)
- e) **ACCEPTABILITY OF INSURANCE CARRIERS:** The insurance policies shall be issued by companies qualified to do business in the State of Florida. The insurance companies must be rated 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 Risk Management Department by Certificate of Insurance within 15 days of the date of this Agreement. All certificates (and any required documents) must be received and approved by SBBC before any work commences to permit VENDOR time to remedy any deficiencies. **FAX CERTIFICATES OF INSURANCE TO SBBC RISK MANAGEMENT AT 866-897-0424.**
- g) **REQUIRED CONDITIONS:** Liability policies must contain the following provisions. In addition, the following wording must be included on the Certificate of Insurance:  
**The School Board of Broward County, Florida, its members, officers, employees and agents are added as additional insured.**  
**All liability policies are primary of all other valid and collectable coverage maintained by The School Board of Broward County, Florida.**  
(\*\*Please include the RFP Number and Title on the Certificate of Insurance.)  
(Certificate Holder: The School Board of Broward County, Florida 600 Southeast Third Avenue, Fort Lauderdale, Florida 33301)
- 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 business days if required insurance is cancelled.
- i) **The School Board of Broward County, Florida reserves the right to review, reject or accept any required policies of insurance, including limits, coverage's or endorsements, herein throughout the term of this Agreement.**

### **ARTICLE 3 – GENERAL CONDITIONS**

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

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

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

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

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

3.06 **Default.** The parties agree that, in the event that either party is in default of its obligations under this Agreement, the non-defaulting party shall provide to the defaulting party (30) days written notice to cure the default. However, in the event said default cannot be cured within said thirty (30) day period and the defaulting party is diligently attempting in good faith to cure same, the time period shall be reasonably extended to allow the defaulting party additional cure time. Upon the occurrence of a default that is not cured during the applicable cure period, this Agreement may be terminated by the non-defaulting party upon thirty (30) days notice. This

remedy is not intended to be exclusive of any other remedy, and each and every such remedy shall be cumulative and shall be in addition to every other remedy now or hereafter existing at law or in equity or by statute or otherwise. No single or partial exercise by any party of any right, power, or remedy hereunder shall preclude any other or future exercise thereof. Nothing in this section shall be construed to preclude termination for convenience pursuant to Section 3.05.

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

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

3.09 **Public Records:** 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 transfer 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, Insert Name shall meet all applicable requirements for retaining public records. All records stored electronically must be provided to SBBC, upon request from SBBC's custodian of public records, in a format that is compatible with SBBC's information technology systems.

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

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

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

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

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

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

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

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

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



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

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

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

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

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

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

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

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

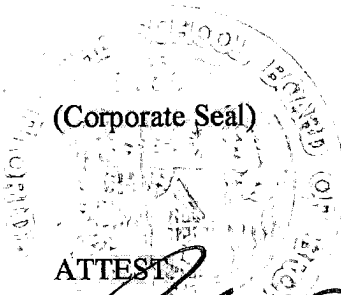
3.26 **Liability.** This section shall survive the termination of all performance or obligations under this Agreement and shall be fully binding until such time as any proceeding brought on account of this Agreement is barred by any applicable statute of limitations.

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

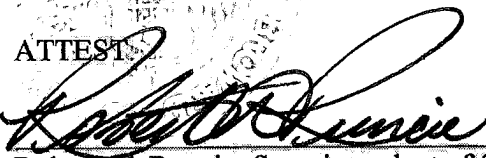
B. By VENDOR: VENDOR agrees to indemnify, hold harmless and defend SBBC, its agents, servants and employees from any and all claims, judgments, costs, and expenses including, but not limited to, reasonable attorney's fees, reasonable investigative and discovery costs, court costs and all other sums which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

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

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



ATTEST

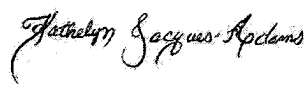
  
Robert W. Runcie, Superintendent of Schools

**FOR SBBC**

THE SCHOOL BOARD OF BROWARD  
COUNTY, FLORIDA

By   
Abby M. Freedman, Chair

Approved as to Form and Legal Content:

  
Digitally signed by Kathelyn Jacques-Adams,  
Esq. - kathelyn.jacques-  
adams@gbrowardschools.com  
Reason: Orange Tree Staffing, LLC  
Date: 2017.05.26 07:58:37 -04'00'

Office of the General Counsel

**FOR VENDOR**

(Corporate Seal)

ORANGE TREE STAFFING, LLC

ATTEST:

By Marilyn Smith

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

-or-

Arcia  
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 Orange

The foregoing instrument was acknowledged before me this 27 day of April, 2017 by Marilyn Smith of Orange Tree Staffing, on behalf of the corporation/agency.

He/She is personally known to me or produced Drivers License as identification and did did not first take an oath.

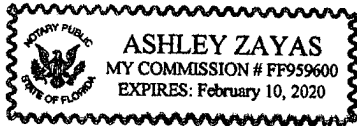
My Commission Expires: 2/10/20

Ashley Zayas  
Signature - Notary Public

Ashley Zayas  
Printed Name of Notary

FF959600  
Notary's Commission No.

(SEAL)



**SCOPE OF SERVICES**

1. VENDOR shall offer services for speech-language pathologist(s) and audiologists that hold a current, active professional license in speech-language pathology or audiology from the Department of Health, Board of Speech-Language Pathology and Audiology agree to provide copies of a current active professional license and certifications in speech-language pathology and/or audiology prior to acceptance for placement.
2. VENDOR shall, throughout **Attachment A**, not to hire any individual who is currently employed part-time or full-time by SBBC as a speech-language pathologist or audiologist until the completion of the school year. VENDOR shall, throughout **Attachment A**, hold harmless any individual employed by them who elects to become employed by SBBC in the school year following the expiration date of the current Agreement, throughout **Attachment A**, school year.
3. VENDOR shall provide speech-language pathologists and audiologists whose performance shall be consistent with a professional standard of care and comply with requirements of the State of Florida Department of Health, Division of Medical Quality Assurance, and Board of Professional Regulation for speech, language and audiology requirements of other applicable local, state or federal agencies which may govern the speech-language pathologist's or audiologist's activities on behalf of SBBC.
4. VENDOR shall provide services consistent with the professional standard of care and shall comply with the ethical requirements imposed by the State of Florida Department of Professional Regulations, the Florida State Department of Education and any other federal, state or local regulatory agency.
5. All speech-language pathologists and audiologists, who shall be providing services under this contract, must be articulate in oral and written English.
6. All speech-language pathologists and audiologists, under this contract, shall be required to pass the screening of the Broward District Schools Police Department prior to placement of assignment as required by the School Board of Broward County, Florida. (See General Condition 7.30 of the RFP, SBBC Photo Identification Badge). All speech-language pathologists and/or audiologists must utilize the STAR system and/or sign-in/out procedures to document attendance at assigned location.
7. Speech-language pathologist(s) and audiologist(s) providing services shall follow the procedures for the referral, identification, screening, evaluation, eligibility, placement, and dismissal of students with speech-language or hearing impairments as provided in the document Special Programs and Procedures by the ESE/SS Division.
8. Speech-language pathologist(s) and audiologist(s) providing services shall follow procedures for completing required documentation for student attendance, student progress and reporting to parents, reimbursement for Medicaid funding, and other procedures as indicated by the Special Programs and Procedures document and ESE/SS Division.
9. Speech-language pathologist(s) and audiologist(s) providing services shall allow District administrative staff as well as teacher-based resource personnel to review required documentation and observe all provided services.

## SCOPE OF SERVICES

10. Speech-language pathologist(s) and audiologist(s) providing services shall submit, for approval to the school principal or designee, any written communication intended for parents and teachers.
11. Speech-language pathologist(s) and audiologist(s) shall follow all rules and procedures as contained in the employee handbooks of the individual school. Speech-language pathologist(s) and audiologist(s) shall refrain from using school equipment (such as phones, copiers, computers, etc.) for personal or commercial business during service times.
12. Speech-Language pathologist(s) and audiologist(s) shall complete such records as shall be required to document services provided, on a daily basis. VENDOR shall submit timesheets and other documentation needed to substantiate payment through the approved electronic database on an approved voucher form no later than five (5) days following the delivery of service. In order to insure timely payment VENDOR must submit accurate time sheets of service in accordance with the training they receive. These records must be submitted to the ESE/SS Division, Arthur Ashe, Jr. Campus, 1701 NW 23<sup>rd</sup> Avenue, Fort Lauderdale, Florida 33311.
13. VENDOR shall have all new providers use and submit an approved District template to log services until training takes place for the electronic system. VENDOR shall utilize the approved template until such time as they are trained in the electronic database system. Immediately following training all providers, VENDOR shall transfer the data from the district template into the Educational Database System and file the original hard copy in the student's IEP folder at the school site.
14. (SBBC) ESE/SS Division reserves the right to interview all speech-language pathologist(s) and/or audiologist(s) prior to placement. ESE/SS Division reserves the right to refuse to utilize any given speech-language pathologist(s) and/or audiologist(s) if it is in their best interest to do so.
15. VENDOR's Speech-Language Pathologist(s) must attend two (2) scheduled policies/procedures meetings, considered as part of their workday, of not less than three (3) hours as determined by the District. These meetings shall include, but are not limited to, general information on these policies and procedures of the Broward County Special Programs and Procedures, the rights of students with disabilities, and other operational procedures required to carry out the therapy program. VENDOR shall incorporate any cancelled service sessions due to meeting times into their schedule.
16. VENDOR shall, throughout **Attachment A**, execute SBBC's HIPPA Business Associate Agreement as stated in **Attachment B**.
17. VENDOR shall provide speech-language pathologist(s) and/or audiologist(s) who agree to provide therapy services throughout the District at all times and locations designated by SBBC. SBBC reserves the right to request a change in times and locations of services provided by VENDOR (consistent with the written agreement for days and hours worked), during the course of an assignment. Services shall be provided up to 7 hours per day on regular student attendance days. Services provided on employee planning days and early release days must be pre-approved in writing by an authorized representative of the ESE/SS Division. School year calendars may be viewed on the following web link:  
**<http://www.browardschools.com>. Click on the link "Calendars"**

## SCOPE OF SERVICES

18. **VENDOR** shall, throughout **Attachment A**, provide the requested services within ten school days of verbal/written notice of an assignment by SBBC.
19. Resumes of replacement personnel are to be submitted to the ESE/SS Division for review. All replacement personnel must have written approval by the ESE/SS Division prior to placement. All replacement personnel shall follow the procedures as stated by the ESE/SS Division. All replacement personnel must have the same credentials equivalent to the individuals whom they replace. ESE/SS Division reserves the right to interview replacement personnel prior to approval.
20. The Audiologist's services shall determine the type and degree of hearing impairment and shall implement habilitation and rehabilitation services for the student. Administers and interprets variety of tests, such as air and bone conduction, and speech reception and discrimination tests, to determine type and degree of hearing impairment, site of damage, and effects on comprehension and speech. Evaluates test results in relation to behavioral, social, educational, and medical information obtained from patients, families, teachers, speech pathologists and other professionals to determine communication problems related to hearing disability. Plans and implements prevision, habilitation or rehabilitation services including hearing aid selection and orientation, counseling, auditory training, lip reading, language habilitation, speech conservation and other treatment programs developed in consultation with speech pathologists and other professionals.
21. Clinical Fellowship Year (CFY) candidates with a provisional license will be considered for a school assignment if the **VENDOR** agrees to provide all supervisory and support requirements for the candidate.
22. **VENDOR** shall insure that any interruption of services due to a therapist being "unavailable" shall be made up to the best of their ability and shall be documented in the Electronic Based System as "make-up" session.
23. **VENDOR** shall, throughout **Attachment A**, provide the required ELL training to all candidates assigned to a school site. Training can be provided via the **VENDOR**'s own process or via the District's training for a minimal cost. Training must comply with the requirements of the Florida Consent Decree and the META Agreement.

**HIPPA BUSINESS ASSOCIATE AGREEMENT**

This Business Associate Agreement ("***Agreement***") is made and entered into as of this \_\_\_\_\_ day of \_\_\_\_\_, 2017 (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 E. 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 the term is defined at 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 coverage subject to regulation under the Health Insurance Portability and Accountability Act of 1996 ("HIPPA"), 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 HIPPA, the Health Information Technology for Economic and Clinical Health Act of 2009 ("HITECH"), the Omnibus Rule of 2013, and the 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").

**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/or disclosure of PHI and the security of 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.

- (b) “**Business Associate**” shall mean Business Associate named above and shall include all successors and assigns, affiliates, subsidiaries, and related companies.
- (c) “**Designed 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 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) “**HIPPA**” means Health Insurance Portability and Accountability Act of 1996.
- (f) “**HITECH Act**” means the Health Information Technology for Economic and Clinical Health Act of 2009.
- (g) “**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).
- (h) “**Minimum Necessary**” means the least amount of PHI needed to accomplish the intended purpose of the use or disclosure.
- (i) “**Omnibus Rule**” means the HIPPA Omnibus Rule of 2013.
- (j) “**Privacy Rule**” shall mean the Standards of Privacy of Individuals Identifiable Health Information as set forth at 45 C.F.R. Parts 160 and 164, subparts A and E.
- (k) “**Protected Health Information**” or “**PHI**” shall have the same meaning as the term “protected health information” in 45 C.F.R. §130.103 (as amended by the HITECH Act) limited to the information created or received by Business Associate from or on behalf of SBBC.
- (l) “**Required by Law**” shall have the same meaning as the term “required by law” in 45 C.F.R. §164.103.
- (m) “**Secretary**” shall mean the Secretary of the Department of Health and Human Services or his or her designee.
- (n) “**Security Rule**” shall mean the Standards for Security of ePHI as set forth 45 C.F.R. Parts 160 and 164 Subpart C.
- (o) “**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 HIPPA or HITECH Act.
- (c) Business Associate agrees to use appropriate safeguards and comply, where applicable, with the HIPPA 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 substantially the same form as Exhibit A, hereto.
- (e) Business Associate shall promptly inform SBBC of a Breach of Unsecured PHI following the first day on which Business Associate knows of such Breach or following the first day on which Business Associate should have known 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 by Federal and/or Florida law.

- (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 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 HIPPA Rules, including the rules to extend the requirements to the agent's or subcontractor's subcontractors.
- (h) Business Associate agrees to provide access, at the requires of SBBC, and in the time and manner designated by SBBC, to PHI in a Designated Record Set that is not also in SBBC's possession, to SBBC in order for SBBC to meet the requirements under 45 C.F.R. §164.524.
- (i) Business Associate agrees to make PHI available for amendment and incorporate all amendments to PHI in a Designated Record Set that SBBC directs or agrees to pursuant to 45 C.F.R. §164.526 at the request of SBBC or an Individual 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 a request of SBBC to the Secretary, in a time and manner as designated by SBBC or the Secretary, for the 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 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.

**3. Permitted Uses and Disclosures of PHI by "Business Associate"**

- (a) Except as otherwise limited in this Agreement, Business Associate may use or disclose PHI to perform functions, activities or services for, or on behalf of, SBBC as previously agreed to by the parties (the "Service Agreement") provided that such use or disclosure would not violate the Privacy Rule if done by SBBC.

- (b) Except as otherwise limited in 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 in 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 for 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 in 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
- (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 with ten (10) business days prior written notice to Business Associate to audit Business Associate from time-to-time to verify Business Associate compliance with the terms of this Agreement. SBBC shall be entitled and enabled to inspect the records and other information relevant to Business Associate 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 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 and confidentiality and integrity of ePHI under the Security Standards 45 C.F.R. Part 160 and 164 subpart C.
- (b) Business Associate agrees that it will ensure that agents or subcontractors agree to implement the applicable administrative, physical, and technical safeguards required to protect the confidentiality and integrity of ePHI under the Security Standards 45 C.F.R. Part 164.
- (c) Business Associate agrees to report to SBBC all Security Incidents (as defined 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 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, on behalf of SBBC, it will perform all transactions for which a standard has been developed under the EDI Rule that Business Associate could reasonably be expected to perform in the ordinary course of its functions on behalf of SBBC.

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 HIPPA.

**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 HIPPA in general, shall be deemed to amend this Agreement to incorporate said changes without further action.

**8. Amendment.**

The parties agree to take any and all actions necessary to amend this Agreement from time to time so that SBBC is in compliance with the Privacy Rule, the Security Rule, the HITECH Act, and HIPPA in general. The parties may agree to amend this Agreement from time to time in other respect that 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 as of the Effective Date and shall remain in effect until such time as SBBC exercises its right to 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 of such breach to Business Associate, 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.

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, for example, if SBBC makes illegal demands on Business Associate, 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 Covered Entity.

- (d) **Effect of Termination.** Except as set forth in this Section 9(d), upon termination of this Agreement for any reason, at the request of SBBC, 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. In the event that Business Associate determines that returning or destroying the PHI is infeasible, such as in the use of data aggregation, Business Associate shall provide to SBBC written notification of the conditions that make return or destruction infeasible. If 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 make the return or destruction infeasible, 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 while such equipment is on premises owned or controlled by SBBC; or the negligence of Business Associate 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 property, and injury or death of any person whether employed by Business Associate, SBBC or otherwise.

### **ARTICLE 3 – GENERAL CONDITIONS**

#### 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 waiver of limits to liability or rights existing under Section 768.28, Florida Statutes.

#### 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 term 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.

**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, FL 33301

With a Copy to: Executive Director, ESE/SS Division  
The School Board of Broward County, Florida  
1701 NW 23<sup>rd</sup> Avenue  
Fort Lauderdale, Florida 33301

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  
Orange Tree Staffing, LLC  
111 E. Fairbanks Avenue  
Winter Park, FL 32789

**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. The person signing on behalf of "Business Associate" has authority to bind "Business Associate" with respect to all provisions contained in this Agreement.

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

No failure or delay by a party hereto in exercising any right, power or remedy under this Agreement, and no course of dealing between the parties hereto, will operate as a waiver of any such right, power or remedy of the party. No single or partial exercise of any right, power or remedy under this Agreement by a party hereto, nor any abandonment or discontinuance of steps to enforce any such right, power or remedy, will preclude such party from any other or further exercise thereof or the exercise of any other right, power or remedy hereunder. The election of any remedy by a party hereto will not constitute a waiver of the right of such party to pursue other available remedies. No notice to or demand on a party not expressly required under this Agreement will entitle the party receiving such notice or demand to any other or further notice or demand in similar or other circumstances or constitute a waiver of the right of the party giving such notice or demand to any other or further action in any circumstances without such notice or demand. The terms and provisions of this Agreement may be waived, or consent for the departure there from granted, only by written document executed by the party entitled to the benefits of such terms or provisions. No such waiver or consent will be deemed to be or will constitute a waiver or consent with respect to any other terms or provisions of this Agreement, whether or not similar. Each such waiver or consent will be effective only in the specific instance and for the purpose for which it was given, and will not constitute a continuing waiver or consent.

**27. Regulatory References.**

A reference in this Agreement to a section in the Privacy Rule, the Security Rule, the HITECH Act, or HIPAA in general means the referenced section or its successor, and for which compliance is required.

**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.

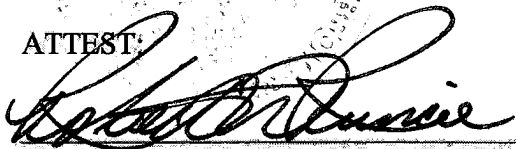
**30. Interpretation.**

Any ambiguity in this Agreement shall be interpreted in a manner that permits SBBC to comply with the Privacy Rule, Security Rule, the HITECH Act, HIPPA in general and any subsequent legislation or regulations otherwise affecting Business Associates.

IN WITNESS WHEREOF, the parties have executed this Business Associate Agreement as of the Effective Date.

(Corporate Seal)

ATTEST:



Robert W. Runcie, Superintendent of Schools

**FOR SBBC**

THE SCHOOL BOARD OF BROWARD  
COUNTY, FLORIDA

By Abby M. Freedman  
Abby M. Freedman, Chair

Approved as to Form and Legal Content:



Digitally signed by Kathelyn Jacques-Adams, Esq. -  
kathelyn.jacques-adams@gbrowardschools.com  
Reason: Orange Tree Staffing, LLC  
Date: 2017.05.26 07:59:17 -04'00'

Office of the General Counsel

**FOR BUSINESS ASSOCIATE**

Mardy R. Smith  
Signature

Mardy R. Smith, Owner  
Print Name and Title

[Signature]  
Witness

[Signature]  
Witness

STATE OF Florida

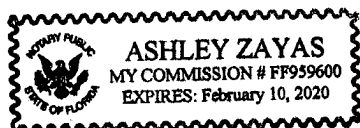
COUNTY OF Orange

The foregoing instrument was acknowledged before me by Mardy Smith who is personally known to me or who produced Drivers License as identification and who did did not first take an oath this 27 day of April, 2017.

My Commission Expires: 2/10/20

Ashley Zayas  
Signature – Notary Public

Ashley Zayas  
Notary's Printed Name



FF959600  
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 12<sup>th</sup> day of June, 2017, 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

### QUANTUM HEALTH PROFESSIONALS, INC.

(hereinafter referred to as "VENDOR"),

whose principal place of business is

10000 W. 75<sup>th</sup> Street, Suite 250

Merriam, Kansas 66204

**WHEREAS**, SBBC issued a Request for Proposal identified as RFP 18-001V – Speech-Language Pathology and Audiology Services (hereinafter referred to as "RFP"), dated December 1, 2016 and amended by Addendum No. 4, dated January 17, 2017, Addendum No. 3, dated January 13, 2017 Addendum No. 2, dated December 19, 2016, and Addendum No. 1, dated December 9, 2016 all of which are incorporated by reference herein, for the purpose of receiving proposals for speech-language pathology and audiology services; and

**WHEREAS**, VENDOR offered a proposal dated January 30, 2017 (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 3.06 of this Agreement, the term of this Agreement shall commence on **July 1, 2017** and conclude on **June 30, 2020**. The term of the Agreement may, by mutual agreement between SBBC and VENDOR be extended for two additional one-year periods and, if needed, 180 days beyond the expiration date of the renewal period. SBBC's Procurement & Warehousing Services Department, will, if considering renewing, request a letter consenting to renewal from VENDOR, prior to the end of the term. Any renewal period shall be approved by an Amendment to this Agreement executed by both parties.

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

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

First: This Agreement, then;  
Second: Addendum No. 4, then;  
Third: Addendum No. 3, then;  
Fourth: Addendum No. 2, then;  
Fifth: Addendum No. 1, then;  
Sixth: RFP 18-001V – Speech-Language Pathology and Audiology Services, then;  
Seventh: Proposal submitted in response to the RFP by VENDOR.

2.04 **Cost of Services.** SBBC shall pay VENDOR for cost of services satisfactorily rendered for Speech-Language Pathologist at \$59.50/hr. Costs shall not exceed the amount as stated on the Purchase Order. VENDOR may offer SBBC a special educational discount for pricing and reduce the cost of services during the term of the Agreement. VENDOR may invoice SBBC at an hourly rate less than their original proposal price.

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

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

VENDOR shall enter into SBBC’s HIPAA Business Associate Agreement (“BAA”) substantially in the form attached hereto and incorporated herein as **Attachment B.**

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

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

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

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

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

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

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

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

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

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

To SBBC: Superintendent of Schools  
The School Board of Broward County, Florida  
600 Southeast Third Avenue  
Fort Lauderdale, Florida 33301

With a Copy to: Executive Director, ESE/SS Division  
The School Board of Broward County, Florida  
1701 NW 23<sup>rd</sup> Avenue  
Fort Lauderdale, Florida 33301

To VENDOR: Quantum Health Professionals, Inc.  
10000 W. 75<sup>th</sup> Street, Suite 250  
Merriam, Kansas 66204

2.08 **Background Screening.** Vendor agrees to comply with all requirements of Sections 1012.32 and 1012.465, Florida Statutes, and all of its personnel who (1) are to be permitted access to school grounds when students are present, (2) will have direct contact with students, or (3) have access or control of school funds, will successfully complete the background screening required by the referenced statutes and meet the standards established by the statutes. This background screening will be conducted by SBBC in advance of the 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 the 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.

2.09 **Insurance.** VENDOR shall provide the minimum insurance requirements as provided below:

- a) **GENERAL LIABILITY:** Limits not less than \$1,000,000 per occurrence for Bodily Injury/ Property Damage; \$1,000,000 General Aggregate. Limits not less than \$1,000,000 for Products/Completed Operations Aggregate.
- b) **WORKER'S COMPENSATION:** Florida Statutory limits in accordance with Chapter 440; Employer's Liability limits not less than \$100,000/\$100,000/\$500,000 (each accident/disease-each employee/disease-policy limit).
- c) **PROFESSIONAL LIABILITY:** Limits not less than \$1,000,000 per occurrence covering services provided under this Agreement.

- d) **AUTO LIABILITY:** Owned, Non-Owned and Hired Auto Liability with Bodily Injury and Property Damage limits of not less than \$1,000,000 Combined Single Limit. If VENDOR does not own any vehicles, hired and non-owned automobile liability coverage in the amount of \$1,000,000 will be accepted. In addition, an affidavit signed by the VENDOR must be furnished to SBBC indicating the following:  
VENDOR does not own any vehicles. In the event insured acquires any vehicles throughout the term of this Agreement, insured agrees to provide proof of "Any Auto" coverage effective the date of acquisition. (Fax affidavit with Certificate of Insurance to SBBC Risk Management at 866-897-0424.)
- e) **ACCEPTABILITY OF INSURANCE CARRIERS:** The insurance policies shall be issued by companies qualified to do business in the State of Florida. The insurance companies must be rated 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 Risk Management Department by Certificate of Insurance within 15 days of the date of this Agreement. All certificates (and any required documents) must be received and approved by SBBC before any work commences to permit VENDOR time to remedy any deficiencies. **FAX CERTIFICATES OF INSURANCE TO SBBC RISK MANAGEMENT AT 866-897-0424.**
- g) **REQUIRED CONDITIONS:** Liability policies must contain the following provisions. In addition, the following wording must be included on the Certificate of Insurance:  
**The School Board of Broward County, Florida, its members, officers, employees and agents are added as additional insured.**  
**All liability policies are primary of all other valid and collectable coverage maintained by The School Board of Broward County, Florida.**  
(\*Please include the RFP Number and Title on the Certificate of Insurance.)  
**(Certificate Holder: The School Board of Broward County, Florida 600 Southeast Third Avenue, Fort Lauderdale, Florida 33301)**
- 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 business days if required insurance is cancelled.
- i) **The School Board of Broward County, Florida reserves the right to review, reject or accept any required policies of insurance, including limits, coverage's or endorsements, herein throughout the term of this Agreement.**

### **ARTICLE 3 – GENERAL CONDITIONS**

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



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

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

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

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

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

**3.07 Default.** The parties agree that, in the event that either party is in default of its obligations under this Agreement, the non-defaulting party shall provide to the defaulting party (30) days written notice to cure the default. However, in the event said default cannot be cured within said thirty (30) day period and the defaulting party is diligently attempting in good faith to

cure same, the time period shall be reasonably extended to allow the defaulting party additional cure time. Upon the occurrence of a default that is not cured during the applicable cure period, this Agreement may be terminated by the non-defaulting party upon thirty (30) days notice. This remedy is not intended to be exclusive of any other remedy, and each and every such remedy shall be cumulative and shall be in addition to every other remedy now or hereafter existing at law or in equity or by statute or otherwise. No single or partial exercise by any party of any right, power, or remedy hereunder shall preclude any other or future exercise thereof. Nothing in this section shall be construed to preclude termination for convenience pursuant to Section 3.05.

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

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

**3.10 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 transfer 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, Insert Name shall meet all applicable requirements for retaining public records. All records stored electronically must be provided to SBBC, upon request from SBBC's custodian of public records, in a format that is compatible with SBBC's information technology systems.

**IF A PARTY TO THIS AGREEMENT HAS QUESTIONS REGARDING THE APPLICATION OF CHAPTER 119, FLORIDA STATUTES, TO ITS DUTY TO PROVIDE PUBLIC RECORDS RELATING TO THE AGREEMENT, CONTACT THE CUSTODIAN OF PUBLIC RECORDS AT 754-321-1900, REQUEL.BELL@BROWARDSCHOOLS.COM, RISK**

**MANAGEMENT DEPARTMENT, PUBLIC RECORDS DIVISION, 600  
SOUTHEAST THIRD AVENUE, FORT LAUDERDALE, FLORIDA 33301.**

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

3.12 **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.

3.13 **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.

3.14 **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.

3.15 **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.

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

3.17 **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.

3.18 **Incorporation by Reference.** **Attachments A and B** are attached hereto and referenced herein shall be deemed to be incorporated into this Agreement by reference.

3.19 **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.

3.20 **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.

3.21 **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.

3.22 **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.

3.23 **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.

3.24 **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.

3.25 **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.

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

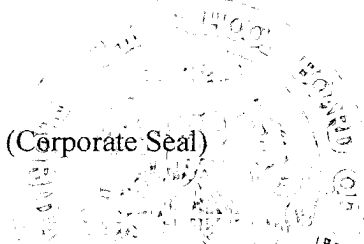
3.27 **Liability.** This section shall survive the termination of all performance or obligations under this Agreement and shall be fully binding until such time as any proceeding brought on account of this Agreement is barred by any applicable statute of limitations.

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

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

3.28 **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.



(Corporate Seal)

ATTEST:

A handwritten signature in black ink, appearing to read "Robert W. Runcie".

Robert W. Runcie, Superintendent of Schools

**FOR SBBC**

THE SCHOOL BOARD OF BROWARD  
COUNTY, FLORIDA

By Abby M. Freedman, Chair

Approved as to Form and Legal Content:

A handwritten signature in black ink, appearing to read "Kathelyn Jacques-Adams".

Digitally signed by Kathelyn Jacques-Adams,  
Esq. - kathelyn.jacques-  
adams@gbrowardschools.com  
Reason: Quantum Health Professionals, Inc.  
Date: 2017.05.23 15:36:06 -04'00'

Office of the General Counsel

**FOR VENDOR**

(Corporate Seal)

QUANTUM HEALTH PROFESSIONALS, INC.

ATTEST:

By [Signature]

[Signature] Secretary

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 Nebraska

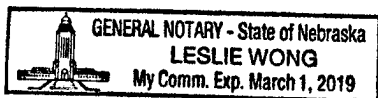
COUNTY OF Douglas

The foregoing instrument was acknowledged before me this 2nd day of May, 20 17 by Lisa Carpenter of

Quantum Health Professionals, on behalf of the corporation/agency.

He/She is personally known to me or produced NE Driver's License as identification and did did not first take an oath. Type of Identification

My Commission Expires: 03/01/2019



(SEAL)

[Signature]  
Signature - Notary Public

Leslie Wong  
Printed Name of Notary

N/A  
Notary's Commission No.

## SCOPE OF SERVICES

1. VENDOR shall offer services for speech-language pathologist(s) that hold a current, active professional license in speech-language pathology from the Department of Health, Board of Speech-Language Pathology and agree to provide copies of a current active professional license and certifications in speech-language pathology prior to acceptance for placement.
2. VENDOR shall, throughout **Attachment A**, not to hire any individual who is currently employed part-time or full-time by SBBC as a speech-language pathologist until the completion of the school year. VENDOR shall, throughout **Attachment A**, hold harmless any individual employed by them who elects to become employed by SBBC in the school year following the expiration date of the current Agreement, throughout **Attachment A**, school year.
3. VENDOR shall provide speech-language pathologists whose performance shall be consistent with a professional standard of care and comply with requirements of the State of Florida Department of Health, Division of Medical Quality Assurance, and Board of Professional Regulation for speech, language requirements of other applicable local, state or federal agencies which may govern the speech-language pathologist's activities on behalf of SBBC.
4. VENDOR shall provide services consistent with the professional standard of care and shall comply with the ethical requirements imposed by the State of Florida Department of Professional Regulations, the Florida State Department of Education and any other federal, state or local regulatory agency.
5. All speech-language pathologists, who shall be providing services under this Agreement, throughout **Attachment A**, must be articulate in oral and written English.
6. All speech-language pathologists, under this Agreement, throughout **Attachment A**, shall be required to pass the screening of the Broward District Schools Police Department prior to placement of assignment as required by the School Board of Broward County, Florida. (See General Condition 7.30 of the RFP, SBBC Photo Identification Badge). All speech-language pathologists must utilize the STAR system and/or sign-in/out procedures to document attendance at assigned location.
7. Speech-language pathologist(s) providing services shall follow the procedures for the referral, identification, screening, evaluation, eligibility, placement, and dismissal of students with speech-language impairments as provided in the document Special Programs and Procedures by the ESE/SS Division.
8. Speech-language pathologist(s) providing services shall follow procedures for completing required documentation for student attendance, student progress and reporting to parents, reimbursement for Medicaid funding, and other procedures as indicated by the Special Programs and Procedures document and ESE/SS Division.
9. Speech-language pathologist(s) providing services shall allow District administrative staff as well as teacher-based resource personnel to review required documentation and observe all provided services.

## SCOPE OF SERVICES

10. Speech-language pathologist(s) providing services shall submit, for approval to the school principal or designee, any written communication intended for parents and teachers.
11. Speech-language pathologist(s) shall follow all rules and procedures as contained in the employee handbooks of the individual school. Speech-language pathologist(s) shall refrain from using school equipment (such as phones, copiers, computers, etc.) for personal or commercial business during service times.
12. Speech-Language pathologist(s) shall complete such records as shall be required to document services provided, on a daily basis. VENDOR shall submit timesheets and other documentation needed to substantiate payment through the approved electronic database on an approved voucher form no later than five (5) days following the delivery of service. In order to insure timely payment VENDOR must submit accurate time sheets of service in accordance with the training they receive. These records must be submitted to the ESE/SS Division, Arthur Ashe, Jr. Campus, 1701 NW 23<sup>rd</sup> Avenue, Fort Lauderdale, Florida 33311.
13. VENDOR shall have all new providers use and submit an approved District template to log services until training takes place for the electronic system. VENDOR shall utilize the approved template until such time as they are trained in the electronic database system. Immediately following training all providers, VENDOR shall transfer the data from the district template into the Educational Database System and file the original hard copy in the student's IEP folder at the school site.
14. (SBBC) ESE/SS Division reserves the right to interview all speech-language pathologist(s) prior to placement. ESE/SS Division reserves the right to refuse to utilize any given speech-language pathologist(s) and/or audiologist(s) if it is in their best interest to do so.
15. VENDOR's Speech-Language Pathologist(s) must attend two (2) scheduled policies/procedures meetings, considered as part of their workday, of not less than three (3) hours as determined by the District. These meetings shall include, but are not limited to, general information on these policies and procedures of the Broward County Special Programs and Procedures, the rights of students with disabilities, and other operational procedures required to carry out the therapy program. VENDOR shall incorporate any cancelled service sessions due to meeting times into their schedule.
16. VENDOR shall, throughout **Attachment A**, execute SBBC's HIPPA Business Associate Agreement as stated in **Attachment B**.
17. VENDOR shall provide speech-language pathologist(s) who agree to provide therapy services throughout the District at all times and locations designated by SBBC. SBBC reserves the right to request a change in times and locations of services provided by VENDOR (consistent with the written agreement for days and hours worked), during the course of an assignment. Services shall be provided up to 7 hours per day on regular student attendance days. Services provided on employee planning days and early release days must be pre-approved in writing by an authorized representative of the ESE/SS Division. School year calendars may be viewed on the following web link:  
<http://www.browardschools.com>. Click on the link "Calendars"



## SCOPE OF SERVICES

18. VENDOR shall, throughout **Attachment A**, provide the requested services within ten school days of verbal/written notice of an assignment by SBBC.
19. Resumes of replacement personnel are to be submitted to the ESE/SS Division for review. All replacement personnel must have written approval by the ESE/SS Division prior to placement. All replacement personnel shall follow the procedures as stated by the ESE/SS Division. All replacement personnel must have the same credentials equivalent to the individuals whom they replace. ESE/SS Division reserves the right to interview replacement personnel prior to approval.
20. Clinical Fellowship Year (CFY) candidates with a provisional license will be considered for a school assignment if the VENDOR agrees to provide all supervisory and support requirements for the candidate.
21. VENDOR shall insure that any interruption of services due to a therapist being “unavailable” shall be made up to the best of their ability and shall be documented in the Electronic Based System as “make-up” session.
22. VENDOR shall, throughout **Attachment A**, provide the required ELL training to all candidates assigned to a school site. Training can be provided via the VENDOR’s own process or via the District’s training for a minimal cost. Training must comply with the requirements of the Florida Consent Decree and the META Agreement.

**HIPPA BUSINESS ASSOCIATE AGREEMENT**

This Business Associate Agreement ("***Agreement***") is made and entered into as of this \_\_\_\_\_ day of \_\_\_\_\_, 2017 (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

**QUANTUM HEALTH PROFESSIONALS, INC.**

(hereinafter referred to as "***Business Associate***"),

whose principal place of business is

10000 W. 75<sup>th</sup> Street, Suite 250

Merriam, Kansas 66204

**WHEREAS**, by virtue of some of the services that Business Associate performs for SBBC, Business Associate may be a "business associate", as the term is defined at 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 coverage subject to regulation under the Health Insurance Portability and Accountability Act of 1996 ("HIPPA"), 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 HIPPA, the Health Information Technology for Economic and Clinical Health Act of 2009 ("HITECH"), the Omnibus Rule of 2013, and the 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").

**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/or disclosure of PHI and the security of 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.

- (b) “**Business Associate**” shall mean Business Associate named above and shall include all successors and assigns, affiliates, subsidiaries, and related companies.
- (c) “**Designed 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 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) “**HIPPA**” means Health Insurance Portability and Accountability Act of 1996.
- (f) “**HITECH Act**” means the Health Information Technology for Economic and Clinical Health Act of 2009.
- (g) “**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).
- (h) “**Minimum Necessary**” means the least amount of PHI needed to accomplish the intended purpose of the use or disclosure.
- (i) “**Omnibus Rule**” means the HIPPA Omnibus Rule of 2013.
- (j) “**Privacy Rule**” shall mean the Standards of Privacy of Individuals Identifiable Health Information as set forth at 45 C.F.R. Parts 160 and 164, subparts A and E.
- (k) “**Protected Health Information**” or “**PHI**” shall have the same meaning as the term “protected health information” in 45 C.F.R. §130.103 (as amended by the HITECH Act) limited to the information created or received by Business Associate from or on behalf of SBBC.
- (l) “**Required by Law**” shall have the same meaning as the term “required by law” in 45 C.F.R. §164.103.
- (m) “**Secretary**” shall mean the Secretary of the Department of Health and Human Services or his or her designee.
- (n) “**Security Rule**” shall mean the Standards for Security of ePHI as set forth 45 C.F.R. Parts 160 and 164 Subpart C.
- (o) “**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 HIPPA or HITECH Act.
- (c) Business Associate agrees to use appropriate safeguards and comply, where applicable, with the HIPPA 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 substantially the same form as Exhibit A, hereto.
- (e) Business Associate shall promptly inform SBBC of a Breach of Unsecured PHI following the first day on which Business Associate knows of such Breach or following the first day on which Business Associate should have known 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 by Federal and/or Florida law.

## **ATTACHMENT B**

- (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 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 access, at the requires of SBBC, and in the time and manner designated by SBBC, to PHI in a Designated Record Set that is not also in SBBC's possession, to SBBC in order for SBBC to meet the requirements under 45 C.F.R. §164.524.
- (i) Business Associate agrees to make PHI available for amendment and incorporate all amendments to PHI in a Designated Record Set that SBBC directs or agrees to pursuant to 45 C.F.R. §164.526 at the request of SBBC or an Individual 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 a request of SBBC to the Secretary, in a time and manner as designated by SBBC or the Secretary, for the 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 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.

### **3. Permitted Uses and Disclosures of PHI by "Business Associate"**

- (a) Except as otherwise limited in this Agreement, Business Associate may use or disclose PHI to perform functions, activities or services for, or on behalf of, SBBC as previously agreed to by the parties (the "Service Agreement") provided that such use or disclosure would not violate the Privacy Rule if done by SBBC.

- (b) Except as otherwise limited in 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 in 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 for 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 in 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
- (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 with ten (10) business days prior written notice to Business Associate to audit Business Associate from time-to-time to verify Business Associate compliance with the terms of this Agreement. SBBC shall be entitled and enabled to inspect the records and other information relevant to Business Associate 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 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 and confidentiality and integrity of ePHI under the Security Standards 45 C.F.R. Part 160 and 164 subpart C.
- (b) Business Associate agrees that it will ensure that agents or subcontractors agree to implement the applicable administrative, physical, and technical safeguards required to protect the confidentiality and integrity of ePHI under the Security Standards 45 C.F.R. Part 164.
- (c) Business Associate agrees to report to SBBC all Security Incidents (as defined 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 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, on behalf of SBBC, it will perform all transactions for which a standard has been developed under the EDI Rule that Business Associate could reasonably be expected to perform in the ordinary course of its functions on behalf of SBBC.

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 HIPPA.

**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 HIPPA in general, shall be deemed to amend this Agreement to incorporate said changes without further action.

**8. Amendment.**

The parties agree to take any and all actions necessary to amend this Agreement from time to time so that SBBC is in compliance with the Privacy Rule, the Security Rule, the HITECH Act, and HIPPA in general. The parties may agree to amend this Agreement from time to time in other respect that 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 as of the Effective Date and shall remain in effect until such time as SBBC exercises its right to 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 of such breach to Business Associate, 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.

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, for example, if SBBC makes illegal demands on Business Associate, 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 Covered Entity.

- (d) **Effect of Termination.** Except as set forth in this Section 9(d), upon termination of this Agreement for any reason, at the request of SBBC, 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. In the event that Business Associate determines that returning or destroying the PHI is infeasible, such as in the use of data aggregation, Business Associate shall provide to SBBC written notification of the conditions that make return or destruction infeasible. If 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 make the return or destruction infeasible, 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 while such equipment is on premises owned or controlled by SBBC; or the negligence of Business Associate 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 property, and injury or death of any person whether employed by Business Associate, SBBC or otherwise.

### **ARTICLE 3 – GENERAL CONDITIONS**

#### 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 waiver of limits to liability or rights existing under Section 768.28, Florida Statutes.

#### 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 term 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.

**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, FL 33301
With a Copy to:	Executive Director, ESE/SS Division The School Board of Broward County, Florida 1701 NW 23 <sup>rd</sup> Avenue Fort Lauderdale, Florida 33301
	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:	Quantum Health Professionals, Inc. 10000 W. 75 <sup>th</sup> Street, Suite 250 Merriam, Kansas 66204

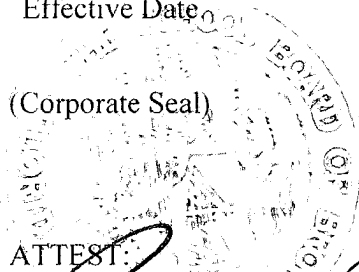
**23. Severability.**

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.

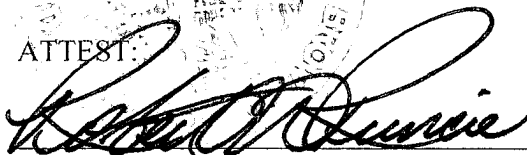
30. Interpretation.

Any ambiguity in this Agreement shall be interpreted in a manner that permits SBBC to comply with the Privacy Rule, Security Rule, the HITECH Act, HIPPA in general an any subsequent legislation or regulations otherwise affecting Business Associates.

IN WITNESS WHEREOF, the parties have executed this Business Associate Agreement as of the Effective Date



ATTEST:

  
Robert W. Runcie, Superintendent of Schools

FOR SBBC

THE SCHOOL BOARD OF BROWARD  
COUNTY, FLORIDA

By   
Abby M. Freedman, Chair

Approved as to Form and Legal Content:



Digitally signed by Kathelyn Jacques-Adams, Esq.  
- kathelyn.jacques-adams@gbrowardschools.com  
Reason: Quantum Health Professionals, Inc.  
Date: 2017.05.23 15:36:40 -04'00'

Office of the General Counsel

**FOR BUSINESS ASSOCIATE**

[Signature]  
Signature

Lisa Carpenter, Exec. Director of  
Print Name and Title  
Government  
Contracts.

[Signature]  
Witness

[Signature]  
Witness

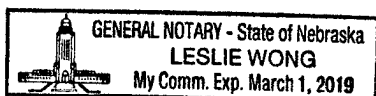
STATE OF Nebraska

COUNTY OF Douglas

The foregoing instrument was acknowledged before me by Lisa Carpenter who is personally known to me or who produced NE Driver's license as identification and who did / did not first take an oath this 2nd day of May, 2017.

My Commission Expires: 03/01/2019

[Signature]  
Signature – Notary Public



Leslie Wong  
Notary's Printed Name

NIA  
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 13<sup>th</sup> day of June, 2017, 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

### RCM TECHNOLOGIES (USA), INC.

(hereinafter referred to as "VENDOR"),

whose principal place of business is

2500 McClellan Avenue, #350

Pennsauken, New Jersey 08109

**WHEREAS**, SBBC issued a Request for Proposal identified as RFP 18-001V – Speech-Language Pathology and Audiology Services (hereinafter referred to as "RFP"), dated December 1, 2016 and amended by Addendum No. 4, dated January 17, 2017, Addendum No. 3, dated January 13, 2017 Addendum No. 2, dated December 19, 2016, and Addendum No. 1, dated December 9, 2016 all of which are incorporated by reference herein, for the purpose of receiving proposals for speech-language pathology and audiology services; and

**WHEREAS**, VENDOR offered a proposal dated January 19, 2017 (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 3.06 of this Agreement, the term of this Agreement shall commence on **July 1, 2017** and conclude on **June 30, 2020**. The term of the Agreement may, by mutual agreement between SBBC and VENDOR be extended for two additional one-year periods and, if needed, 180 days beyond the expiration date of the renewal period. SBBC's Procurement & Warehousing Services Department, will, if considering renewing, request a letter consenting to renewal from VENDOR, prior to the end of the term. Any renewal period shall be approved by an Amendment to this Agreement executed by both parties.

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

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

First: This Agreement, then;  
Second: Addendum No. 4, then;  
Third: Addendum No. 3, then;  
Fourth: Addendum No. 2, then;  
Fifth: Addendum No. 1, then;  
Fourth: RFP 18-001V – Speech-Language Pathology and Audiology Services, then;  
Fifth: Proposal submitted in response to the RFP by VENDOR.

2.04 **Cost of Services.** SBBC shall pay VENDOR for cost of services satisfactorily rendered for Speech-Language Pathologist at \$60.00/hr. and Audiologist at \$57.00/hr. Costs shall not exceed the amount as stated on the Purchase Order. VENDOR may offer SBBC a special educational discount for pricing and reduce the cost of services during the term of the Agreement. VENDOR may invoice SBBC at an hourly rate less than their original proposal price.

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

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

VENDOR shall enter into SBBC’s HIPAA Business Associate Agreement (“BAA”) substantially in the form attached hereto and incorporated herein as **Attachment B**.

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

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

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

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

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

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

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

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

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



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

To SBBC: Superintendent of Schools  
The School Board of Broward County, Florida  
600 Southeast Third Avenue  
Fort Lauderdale, Florida 33301

With a Copy to: Executive Director, ESE/SS Division  
The School Board of Broward County, Florida  
1701 NW 23<sup>rd</sup> Avenue  
Fort Lauderdale, Florida 33301

To VENDOR: Manager of Rehabilitation/School Services  
RCM Technologies, Inc.  
2500 McClellan Avenue, #350  
Pennsauken, New Jersey 08109

2.08 **Background Screening.** Vendor agrees to comply with all requirements of Sections 1012.32 and 1012.465, Florida Statutes, and all of its personnel who (1) are to be permitted access to school grounds when students are present, (2) will have direct contact with students, or (3) have access or control of school funds, will successfully complete the background screening required by the referenced statutes and meet the standards established by the statutes. This background screening will be conducted by SBBC in advance of the 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 the 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.

2.09 **Insurance.** VENDOR shall provide the minimum insurance requirements as provided below:

- a) **GENERAL LIABILITY:** Limits not less than \$1,000,000 per occurrence for Bodily Injury/ Property Damage; \$1,000,000 General Aggregate. Limits not less than \$1,000,000 for Products/Completed Operations Aggregate.
- b) **WORKER'S COMPENSATION:** Florida Statutory limits in accordance with Chapter 440; Employer's Liability limits not less than \$100,000/\$100,000/\$500,000 (each accident/disease-each employee/disease-policy limit).

- c) **PROFESSIONAL LIABILITY:** Limits not less than \$1,000,000 per occurrence covering services provided under this Agreement.
- d) **AUTO LIABILITY:** Owned, Non-Owned and Hired Auto Liability with Bodily Injury and Property Damage limits of not less than \$1,000,000 Combined Single Limit. If VENDOR does not own any vehicles, hired and non-owned automobile liability coverage in the amount of \$1,000,000 will be accepted. In addition, an affidavit signed by the VENDOR must be furnished to SBBC indicating the following:  
VENDOR does not own any vehicles. In the event insured acquires any vehicles throughout the term of this Agreement, insured agrees to provide proof of "Any Auto" coverage effective the date of acquisition. (Fax affidavit with Certificate of Insurance to SBBC Risk Management at 866-897-0424.)
- e) **ACCEPTABILITY OF INSURANCE CARRIERS:** The insurance policies shall be issued by companies qualified to do business in the State of Florida. The insurance companies must be rated 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 Risk Management Department by Certificate of Insurance within 15 days of the date of this Agreement. All certificates (and any required documents) must be received and approved by SBBC before any work commences to permit VENDOR time to remedy any deficiencies. **FAX CERTIFICATES OF INSURANCE TO SBBC RISK MANAGEMENT AT 866-897-0424.**
- g) **REQUIRED CONDITIONS:** Liability policies must contain the following provisions. In addition, the following wording must be included on the Certificate of Insurance:  
**The School Board of Broward County, Florida, its members, officers, employees and agents are added as additional insured.**  
**All liability policies are primary of all other valid and collectable coverage maintained by The School Board of Broward County, Florida.**  
(\*Please include the RFP Number and Title on the Certificate of Insurance.)  
(Certificate Holder: The School Board of Broward County, Florida 600 Southeast Third Avenue, Fort Lauderdale, Florida 33301)
- 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 business days if required insurance is cancelled.
- i) **The School Board of Broward County, Florida reserves the right to review, reject or accept any required policies of insurance, including limits, coverage's or endorsements, herein throughout the term of this Agreement.**

## **ARTICLE 3 – GENERAL CONDITIONS**

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

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

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

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

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

**3.06 Termination.** This Agreement may be canceled with or without cause by SBBC during the term hereof upon thirty (30) days written notice to the other parties of its desire to terminate this Agreement. SBBC shall have no liability for any property left on SBBC's property by any party to this Agreement after the termination of this Agreement. Any party

contracting with SBBC under this Agreement agrees that any of its property placed upon SBBC's facilities pursuant to this Agreement shall be removed within ten (10) business days following the termination, conclusion or cancellation of this Agreement and that any such property remaining upon SBBC's facilities after that time shall be deemed to be abandoned, title to such property shall pass to SBBC, and SBBC may use or dispose of such property as SBBC deems fit and appropriate.

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

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

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

**3.10 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 transfer 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, Insert Name shall meet all applicable requirements for retaining public records. All records stored electronically must be provided to SBBC, upon request

from SBBC's custodian of public records, in a format that is compatible with SBBC's information technology systems.

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

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

3.12 **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.

3.13 **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.

3.14 **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.

3.15 **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.

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

3.17 **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.

3.18 **Incorporation by Reference.** **Attachments A and B** are attached hereto and referenced herein shall be deemed to be incorporated into this Agreement by reference.

3.19 **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.

3.20 **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.

3.21 **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.

3.22 **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.

3.23 **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.

3.24 **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.

3.25 **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.

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

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

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

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

3.28 **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 IS LEFT INTENTIONALLY BLANK**

**FOR SBBC**

THE SCHOOL BOARD OF BROWARD  
COUNTY, FLORIDA

By Abby M. Freedman  
Abby M. Freedman, Chair

(Corporate Seal)

ATTEST

Robert W. Runcie  
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: RCM Technologies (USA), Inc.  
Date: 2017.05.24 14:35:53 -04'00'

Office of the General Counsel



**FOR VENDOR**

(Corporate Seal)

RCM TECHNOLOGIES (USA), INC.

ATTEST:

By

*[Signature]*  
Michael Saks, SVP

\_\_\_\_\_, 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 New York

COUNTY OF Queens

The foregoing instrument was acknowledged before me this 24<sup>th</sup> day of May, 2017 by Michael Saks of \_\_\_\_\_  
Name of Person

RCM Health Care Services (Division of RCM Tech) on behalf of the corporation/agency.  
Name of Corporation or Agency

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

My Commission Expires: 7/23/20

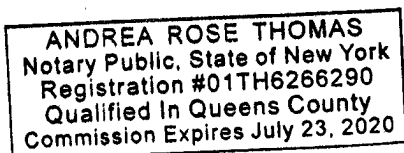
*[Signature]*

Signature – Notary Public

Andrea Thomas

Printed Name of Notary

(SEAL)



01TH6266290

Notary's Commission No.

## SCOPE OF SERVICES

1. VENDOR shall offer services for speech-language pathologist(s) and audiologists that hold a current, active professional license in speech-language pathology or audiology from the Department of Health, Board of Speech-Language Pathology and Audiology agree to provide copies of a current active professional license and certifications in speech-language pathology and/or audiology prior to acceptance for placement.
2. VENDOR shall, throughout **Attachment A**, not to hire any individual who is currently employed part-time or full-time by SBBC as a speech-language pathologist or audiologist until the completion of the school year. VENDOR shall, throughout **Attachment A**, hold harmless any individual employed by them who elects to become employed by SBBC in the school year following the expiration date of the current Agreement, throughout **Attachment A**, school year.
3. VENDOR shall provide speech-language pathologists and audiologists whose performance shall be consistent with a professional standard of care and comply with requirements of the State of Florida Department of Health, Division of Medical Quality Assurance, and Board of Professional Regulation for speech, language and audiology requirements of other applicable local, state or federal agencies which may govern the speech-language pathologist's or audiologist's activities on behalf of SBBC.
4. VENDOR shall provide services consistent with the professional standard of care and shall comply with the ethical requirements imposed by the State of Florida Department of Professional Regulations, the Florida State Department of Education and any other federal, state or local regulatory agency.
5. All speech-language pathologists and audiologists, who shall be providing services under this Agreement, throughout **Attachment A**, must be articulate in oral and written English.
6. All speech-language pathologists and audiologists, under this Agreement, throughout **Attachment A**, shall be required to pass the screening of the Broward District Schools Police Department prior to placement of assignment as required by the School Board of Broward County, Florida. (See General Condition 7.30 of the RFP, SBBC Photo Identification Badge). All speech-language pathologists and/or audiologists must utilize the STAR system and/or sign-in/out procedures to document attendance at assigned location.
7. Speech-language pathologist(s) and audiologist(s) providing services shall follow the procedures for the referral, identification, screening, evaluation, eligibility, placement, and dismissal of students with speech-language or hearing impairments as provided in the document Special Programs and Procedures by the ESE/SS Division.
8. Speech-language pathologist(s) and audiologist(s) providing services shall follow procedures for completing required documentation for student attendance, student progress and reporting to parents, reimbursement for Medicaid funding, and other procedures as indicated by the Special Programs and Procedures document and ESE/SS Division.
9. Speech-language pathologist(s) and audiologist(s) providing services shall allow District administrative staff as well as teacher-based resource personnel to review required documentation and observe all provided services.

## SCOPE OF SERVICES

10. Speech-language pathologist(s) and audiologist(s) providing services shall submit, for approval to the school principal or designee, any written communication intended for parents and teachers.
11. Speech-language pathologist(s) and audiologist(s) shall follow all rules and procedures as contained in the employee handbooks of the individual school. Speech-language pathologist(s) and audiologist(s) shall refrain from using school equipment (such as phones, copiers, computers, etc.) for personal or commercial business during service times.
12. Speech-Language pathologist(s) and audiologist(s) shall complete such records as shall be required to document services provided, on a daily basis. VENDOR shall submit timesheets and other documentation needed to substantiate payment through the approved electronic database on an approved voucher form no later than five (5) days following the delivery of service. In order to insure timely payment VENDOR must submit accurate time sheets of service in accordance with the training they receive. These records must be submitted to the ESE/SS Division, Arthur Ashe, Jr. Campus, 1701 NW 23<sup>rd</sup> Avenue, Fort Lauderdale, Florida 33311.
13. VENDOR shall have all new providers use and submit an approved District template to log services until training takes place for the electronic system. VENDOR shall utilize the approved template until such time as they are trained in the electronic database system. Immediately following training all providers, VENDOR shall transfer the data from the district template into the Educational Database System and file the original hard copy in the student's IEP folder at the school site.
14. (SBBC) ESE/SS Division reserves the right to interview all speech-language pathologist(s) and/or audiologist(s) prior to placement. ESE/SS Division reserves the right to refuse to utilize any given speech-language pathologist(s) and/or audiologist(s) if it is in their best interest to do so.
15. VENDOR's Speech-Language Pathologist(s) must attend two (2) scheduled policies/procedures meetings, considered as part of their workday, of not less than three (3) hours as determined by the District. These meetings shall include, but are not limited to, general information on these policies and procedures of the Broward County Special Programs and Procedures, the rights of students with disabilities, and other operational procedures required to carry out the therapy program. VENDOR shall incorporate any cancelled service sessions due to meeting times into their schedule.
16. VENDOR shall, throughout **Attachment A**, execute SBBC's HIPPA Business Associate Agreement as stated in **Attachment B**.
17. VENDOR shall provide speech-language pathologist(s) and/or audiologist(s) who agree to provide therapy services throughout the District at all times and locations designated by SBBC. SBBC reserves the right to request a change in times and locations of services provided by VENDOR (consistent with the written agreement for days and hours worked), during the course of an assignment. Services shall be provided up to 7 hours per day on regular student attendance days. Services provided on employee planning days and early release days must be pre-approved in writing by an authorized representative of the ESE/SS Division. School year calendars may be viewed on the following web link:  
**<http://www.browardschools.com>. Click on the link "Calendars"**

## SCOPE OF SERVICES

18. VENDOR shall, throughout **Attachment A**, to provide the requested services within ten school days of verbal/written notice of an assignment by SBBC.
19. Resumes of replacement personnel are to be submitted to the ESE/SS Division for review. All replacement personnel must have written approval by the ESE/SS Division prior to placement. All replacement personnel shall follow the procedures as stated by the ESE/SS Division. All replacement personnel must have the same credentials equivalent to the individuals whom they replace. ESE/SS Division reserves the right to interview replacement personnel prior to approval.
20. The Audiologist's services shall determine the type and degree of hearing impairment and shall implement habilitation and rehabilitation services for the student. Administers and interprets variety of tests, such as air and bone conduction, and speech reception and discrimination tests, to determine type and degree of hearing impairment, site of damage, and effects on comprehension and speech. Evaluates test results in relation to behavioral, social, educational, and medical information obtained from patients, families, teachers, speech pathologists and other professionals to determine communication problems related to hearing disability. Plans and implements prevision, habilitation or rehabilitation services including hearing aid selection and orientation, counseling, auditory training, lip reading, language habilitation, speech conservation and other treatment programs developed in consultation with speech pathologists and other professionals.
21. Clinical Fellowship Year (CFY) candidates with a provisional license will be considered for a school assignment if the VENDOR agrees to provide all supervisory and support requirements for the candidate.
22. VENDOR shall insure that any interruption of services due to a therapist being "unavailable" shall be made up to the best of their ability and shall be documented in the Electronic Based System as "make-up" session.
23. VENDOR shall, throughout **Attachment A**, to provide the required ELL training to all candidates assigned to a school site. Training can be provided via the VENDOR's own process or via the District's training for a minimal cost. Training must comply with the requirements of the Florida Consent Decree and the META Agreement.

**HIPPA BUSINESS ASSOCIATE AGREEMENT**

This Business Associate Agreement (“**Agreement**”) is made and entered into as of this \_\_\_\_\_ day of \_\_\_\_\_, 2017 (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

**RCM TECHNOLOGIES (USA), INC.**

(hereinafter referred to as “**Business Associate**”),  
whose principal place of business is  
2500 McClellan Avenue, #350  
Pennsauken, New Jersey 08109

**WHEREAS**, by virtue of some of the services that Business Associate performs for SBBC, Business Associate may be a “business associate”, as the term is defined at 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 coverage subject to regulation under the Health Insurance Portability and Accountability Act of 1996 (“HIPPA”), 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 HIPPA, the Health Information Technology for Economic and Clinical Health Act of 2009 (“HITECH”), the Omnibus Rule of 2013, and the 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”).

**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/or disclosure of PHI and the security of 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.
- (b) “**Business Associate**” shall mean Business Associate named above and shall include all

successors and assigns, affiliates, subsidiaries, and related companies.

- (c) “***Designed 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 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) “***HIPPA***” means Health Insurance Portability and Accountability Act of 1996.
- (f) “***HITECH Act***” means the Health Information Technology for Economic and Clinical Health Act of 2009.
- (g) “***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).
- (h) “***Minimum Necessary***” means the least amount of PHI needed to accomplish the intended purpose of the use or disclosure.
- (i) “***Omnibus Rule***” means the HIPPA Omnibus Rule of 2013.
- (j) “***Privacy Rule***” shall mean the Standards of Privacy of Individuals Identifiable Health Information as set forth at 45 C.F.R. Parts 160 and 164, subparts A and E.
- (k) “***Protected Health Information***” or “***PHI***” shall have the same meaning as the term “protected health information” in 45 C.F.R. §130.103 (as amended by the HITECH Act) limited to the information created or received by Business Associate from or on behalf of SBBC.
- (l) “***Required by Law***” shall have the same meaning as the term “required by law” in 45 C.F.R. §164.103.
- (m) “***Secretary***” shall mean the Secretary of the Department of Health and Human Services or his or her designee.
- (n) “***Security Rule***” shall mean the Standards for Security of ePHI as set forth 45 C.F.R. Parts 160 and 164 Subpart C.
- (o) “***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 HIPPA or HITECH Act.
- (c) Business Associate agrees to use appropriate safeguards and comply, where applicable, with the HIPPA 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 substantially the same form as Exhibit A, hereto.
- (e) Business Associate shall promptly inform SBBC of a Breach of Unsecured PHI following the first day on which Business Associate knows of such Breach or following the first day on which Business Associate should have known 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 by Federal and/or Florida law.

- (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 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 access, at the requires of SBBC, and in the time and manner designated by SBBC, to PHI in a Designated Record Set that is not also in SBBC's possession, to SBBC in order for SBBC to meet the requirements under 45 C.F.R. §164.524.
- (i) Business Associate agrees to make PHI available for amendment and incorporate all amendments to PHI in a Designated Record Set that SBBC directs or agrees to pursuant to 45 C.F.R. §164.526 at the request of SBBC or an Individual 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 a request of SBBC to the Secretary, in a time and manner as designated by SBBC or the Secretary, for the 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 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.

### **3. Permitted Uses and Disclosures of PHI by "Business Associate"**

- (a) Except as otherwise limited in this Agreement, Business Associate may use or disclose PHI to perform functions, activities or services for, or on behalf of, SBBC as previously agreed to by the parties (the "Service Agreement") provided that such use or disclosure would not violate the Privacy Rule if done by SBBC.



- (b) Except as otherwise limited in 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 in 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 for 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 in 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
- (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 with ten (10) business days prior written notice to Business Associate to audit Business Associate from time-to-time to verify Business Associate compliance with the terms of this Agreement. SBBC shall be entitled and enabled to inspect the records and other information relevant to Business Associate 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 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 and confidentiality and integrity of ePHI under the Security Standards 45 C.F.R. Part 160 and 164 subpart C.
- (b) Business Associate agrees that it will ensure that agents or subcontractors agree to implement the applicable administrative, physical, and technical safeguards required to protect the confidentiality and integrity of ePHI under the Security Standards 45 C.F.R. Part 164.
- (c) Business Associate agrees to report to SBBC all Security Incidents (as defined 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 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, on behalf of SBBC, it will perform all transactions for which a standard has been developed under the EDI Rule that Business Associate could reasonably be expected to perform in the ordinary course of its functions on behalf of SBBC.

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 HIPPA.

#### 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 HIPPA in general, shall be deemed to amend this Agreement to incorporate said changes without further action.

#### 8. **Amendment.**

The parties agree to take any and all actions necessary to amend this Agreement from time to time so that SBBC is in compliance with the Privacy Rule, the Security Rule, the HITECH Act, and HIPPA in general. The parties may agree to amend this Agreement from time to time in other respect that 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 as of the Effective Date and shall remain in effect until such time as SBBC exercises its right to 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 of such breach to Business Associate, 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.

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, for example, if SBBC makes illegal demands on Business Associate, 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 Covered Entity.

- (d) **Effect of Termination.** Except as set forth in this Section 9(d), upon termination of this Agreement for any reason, at the request of SBBC, 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. In the event that Business Associate determines that returning or destroying the PHI is infeasible, such as in the use of data aggregation, Business Associate shall provide to SBBC written notification of the conditions that make return or destruction infeasible. If 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 make the return or destruction infeasible, 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 while such equipment is on premises owned or controlled by SBBC; or the negligence of Business Associate 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 property, and injury or death of any person whether employed by Business Associate, SBBC or otherwise.

### **ARTICLE 3 – GENERAL CONDITIONS**

#### 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 waiver of limits to liability or rights existing under Section 768.28, Florida Statutes.

#### 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 term 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.

**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, FL 33301

With a Copy to: Executive Director, ESE/SS Division  
The School Board of Broward County, Florida  
1701 NW 23<sup>rd</sup> Avenue  
Fort Lauderdale, Florida 33301

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: Manager of Rehabilitation/School Services  
RCM Technologies (USA), Inc.  
2500 McClellan Avenue, #350  
Pennsauken, New Jersey 08109

**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. The person signing on behalf of "Business Associate" has authority to bind "Business Associate" with respect to all provisions contained in this Agreement.

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

No failure or delay by a party hereto in exercising any right, power or remedy under this Agreement, and no course of dealing between the parties hereto, will operate as a waiver of any such right, power or remedy of the party. No single or partial exercise of any right, power or remedy under this Agreement by a party hereto, nor any abandonment or discontinuance of steps to enforce any such right, power or remedy, will preclude such party from any other or further exercise thereof or the exercise of any other right, power or remedy hereunder. The election of any remedy by a party hereto will not constitute a waiver of the right of such party to pursue other available remedies. No notice to or demand on a party not expressly required under this Agreement will entitle the party receiving such notice or demand to any other or further notice or demand in similar or other circumstances or constitute a waiver of the right of the party giving such notice or demand to any other or further action in any circumstances without such notice or demand. The terms and provisions of this Agreement may be waived, or consent for the departure there from granted, only by written document executed by the party entitled to the benefits of such terms or provisions. No such waiver or consent will be deemed to be or will constitute a waiver or consent with respect to any other terms or provisions of this Agreement, whether or not similar. Each such waiver or consent will be effective only in the specific instance and for the purpose for which it was given, and will not constitute a continuing waiver or consent.

**27. Regulatory References.**

A reference in this Agreement to a section in the Privacy Rule, the Security Rule, the HITECH Act, or HIPAA in general means the referenced section or its successor, and for which compliance is required.

**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.

**30. Interpretation.**

Any ambiguity in this Agreement shall be interpreted in a manner that permits SBBC to comply with the Privacy Rule, Security Rule, the HITECH Act, HIPPA in general and any subsequent legislation or regulations otherwise affecting Business Associates.

IN WITNESS WHEREOF, the parties have executed this Business Associate Agreement as of the Effective Date.

**FOR SBBC**

THE SCHOOL BOARD OF BROWARD  
COUNTY, FLORIDA

By Abby M. Freedman  
Abby M. Freedman, Chair

Approved as to Form and Legal Content:

Kathelyn Jacques-Adams

Digitally signed by Kathelyn Jacques-Adams,  
Esq. - kathelyn.jacques-  
adams@gbrowardschools.com  
Reason: RCM Technologies (USA), Inc.  
Date: 2017.05.24 14:36:48 -04'00'

Office of the General Counsel

(Corporate Seal)

ATTEST:

Robert W. Runcie

Robert W. Runcie, Superintendent of Schools

FOR BUSINESS ASSOCIATE

  
Signature

Michael Saks, SVP  
Print Name and Title

\_\_\_\_\_  
Witness

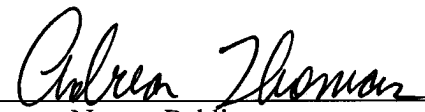
\_\_\_\_\_  
Witness

STATE OF New York

COUNTY OF Queens

The foregoing instrument was acknowledged before me by Michael Saks who is personally known to me or who produced \_\_\_\_\_ as identification and who did / did not first take an oath this 24<sup>th</sup> day of May, 2017.

My Commission Expires: 7/23/20

  
Signature – Notary Public

<p>ANDREA ROSE THOMAS Notary Public, State of New York Registration #01TH6266290 Qualified In Queens County Commission Expires July 23, 2020</p>
--

Andrea Thomas  
Notary's Printed Name

01TH6266290  
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 13<sup>th</sup> day of June, 2017, 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

### SHC SERVICES, INC. D/B/A SUPPLEMENTAL HEALTH CARE

(hereinafter referred to as "VENDOR"),  
whose principal place of business is  
1640 West Redstone Center Drive, Suite 200  
Park City, Utah 84098

**WHEREAS**, SBBC issued a Request for Proposal identified as RFP 18-001V – Speech-Language Pathology and Audiology Services (hereinafter referred to as "RFP"), dated December 1, 2016 and amended by Addendum No. 4, dated January 17, 2017, Addendum No. 3, dated January 13, 2017 Addendum No. 2, dated December 19, 2016, and Addendum No. 1, dated December 9, 2016 all of which are incorporated by reference herein, for the purpose of receiving proposals for speech-language pathology and audiology services; and

**WHEREAS**, VENDOR offered a proposal dated February 1, 2017 (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 3.06 of this Agreement, the term of this Agreement shall commence on **July 1, 2017** and conclude on **June 30, 2020**. The term of the Agreement may, by mutual agreement between SBBC and VENDOR be extended for two additional one-year periods and, if needed, 180 days beyond the expiration date of the renewal period. SBBC's Procurement & Warehousing Services Department, will, if considering renewing, request a letter consenting to renewal from VENDOR, prior to the end of the term. Any renewal period shall be approved by an Amendment to this Agreement executed by both parties.

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

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

First: This Agreement, then;  
Second: Addendum No. 4, then;  
Third: Addendum No. 3, then;  
Fourth: Addendum No. 2, then;  
Fifth: Addendum No. 1, then;  
Sixth: RFP 18-001V – Speech-Language Pathology and Audiology Services, then;  
Seventh: Proposal submitted in response to the RFP by VENDOR.

2.04 **Cost of Services.** SBBC shall pay VENDOR for cost of services satisfactorily rendered for Speech-Language Pathologist at \$58.00/hr. and Audiologist at \$59.50/hr. Costs shall not exceed the amount as stated on the Purchase Order. VENDOR may offer SBBC a special educational discount for pricing and reduce the cost of services during the term of the Agreement. VENDOR may invoice SBBC at an hourly rate less than their original proposal price.

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

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

VENDOR shall enter into SBBC’s HIPAA Business Associate Agreement (“BAA”) substantially in the form attached hereto and incorporated herein as **Attachment B**.

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

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

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

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

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

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

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

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

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

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

To SBBC: Superintendent of Schools  
The School Board of Broward County, Florida  
600 Southeast Third Avenue  
Fort Lauderdale, Florida 33301

With a Copy to: Executive Director, ESE/SS Division  
The School Board of Broward County, Florida  
1701 NW 23<sup>rd</sup> Avenue  
Fort Lauderdale, Florida 33301

To VENDOR: SHC Services, Inc.  
d/b/a Supplemental Health Care  
8000 Gov. Square Blvd., Suite 102  
Miami Lakes, FL 33016

With Copy to: SHC Services, Inc.  
Attn: Contracting  
1640 W. Redstone Center Drive, Suite 200  
Park City, UT 84098

2.08 **Background Screening.** Vendor agrees to comply with all requirements of Sections 1012.32 and 1012.465, Florida Statutes, and all of its personnel who (1) are to be permitted access to school grounds when students are present, (2) will have direct contact with students, or (3) have access or control of school funds, will successfully complete the background screening required by the referenced statutes and meet the standards established by the statutes. This background screening will be conducted by SBBC in advance of the 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 the 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.

2.09 **Insurance.** VENDOR shall provide the minimum insurance requirements as provided below:

- a) **GENERAL LIABILITY:** Limits not less than \$1,000,000 per occurrence for Bodily Injury/ Property Damage; \$1,000,000 General Aggregate. Limits not less than \$1,000,000 for Products/Completed Operations Aggregate.

- b) **WORKER'S COMPENSATION:** Florida Statutory limits in accordance with Chapter 440; Employer's Liability limits not less than \$100,000/\$100,000/\$500,000 (each accident/disease-each employee/disease-policy limit).
- c) **PROFESSIONAL LIABILITY:** Limits not less than \$1,000,000 per occurrence covering services provided under this Agreement.
- d) **AUTO LIABILITY:** Owned, Non-Owned and Hired Auto Liability with Bodily Injury and Property Damage limits of not less than \$1,000,000 Combined Single Limit. If VENDOR does not own any vehicles, hired and non-owned automobile liability coverage in the amount of \$1,000,000 will be accepted. In addition, an affidavit signed by the VENDOR must be furnished to SBBC indicating the following:  
VENDOR does not own any vehicles. In the event insured acquires any vehicles throughout the term of this Agreement, insured agrees to provide proof of "Any Auto" coverage effective the date of acquisition. (Fax affidavit with Certificate of Insurance to SBBC Risk Management at 866-897-0424.)
- e) **ACCEPTABILITY OF INSURANCE CARRIERS:** The insurance policies shall be issued by companies qualified to do business in the State of Florida. The insurance companies must be rated 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 Risk Management Department by Certificate of Insurance within 15 days of the date of this Agreement. All certificates (and any required documents) must be received and approved by SBBC before any work commences to permit VENDOR time to remedy any deficiencies. **FAX CERTIFICATES OF INSURANCE TO SBBC RISK MANAGEMENT AT 866-897-0424.**
- g) **REQUIRED CONDITIONS:** Liability policies must contain the following provisions. In addition, the following wording must be included on the Certificate of Insurance:  
**The School Board of Broward County, Florida, its members, officers, employees and agents are added as additional insured.**  
**All liability policies are primary of all other valid and collectable coverage maintained by The School Board of Broward County, Florida.**  
(\*Please include the RFP Number and Title on the Certificate of Insurance.)  
(Certificate Holder: The School Board of Broward County, Florida 600 Southeast Third Avenue, Fort Lauderdale, Florida 33301)
- 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 business days if required insurance is cancelled.
- i) **The School Board of Broward County, Florida reserves the right to review, reject or accept any required policies of insurance, including limits, coverage's or endorsements, herein throughout the term of this Agreement.**

### **ARTICLE 3 – GENERAL CONDITIONS**

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

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

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

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

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

3.06 **Termination.** This Agreement may be canceled with or without cause by SBBC during the term hereof upon thirty (30) days written notice to the other parties of its desire to terminate this Agreement. SBBC shall have no liability for any property left on SBBC's property by any party to this Agreement after the termination of this Agreement. Any party

contracting with SBBC under this Agreement agrees that any of its property placed upon SBBC's facilities pursuant to this Agreement shall be removed within ten (10) business days following the termination, conclusion or cancellation of this Agreement and that any such property remaining upon SBBC's facilities after that time shall be deemed to be abandoned, title to such property shall pass to SBBC, and SBBC may use or dispose of such property as SBBC deems fit and appropriate.

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

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

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

**3.10 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 transfer 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, Insert Name shall meet all applicable requirements for retaining public records. All records stored electronically must be provided to SBBC, upon request



from SBBC's custodian of public records, in a format that is compatible with SBBC's information technology systems.

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

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

3.12 **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.

3.13 **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. VENDOR agrees and admits that the state courts of the Seventeenth Judicial Circuit of Broward County, Florida and the Southern District of Florida shall have jurisdiction over VENDOR.

3.14 **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.

3.15 **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.

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

3.17 **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.

3.18 **Incorporation by Reference.** **Attachments A and B** are attached hereto and referenced herein shall be deemed to be incorporated into this Agreement by reference.

3.19 **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.

3.20 **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.

3.21 **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.

3.22 **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.

3.23 **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.

3.24 **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.

3.25 **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.

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

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

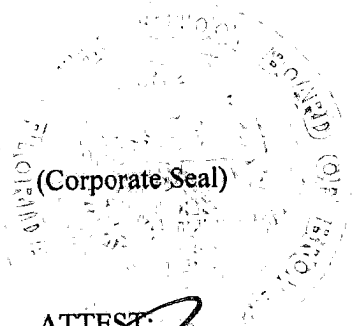
A. By SBBC: SBBC agrees to be fully responsible up to the limits of Section 768.28, Florida Statutes, for its acts of negligence, or its employees' acts of negligence when acting within the scope of their employment and agrees to be liable for any damages resulting from said negligence.

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

3.28 **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.

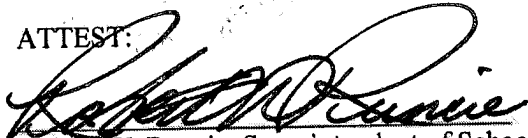
**IN WITNESS WHEREOF**, the Parties hereto have made and executed this Agreement on the date first above written.

**THIS SPACE IS LEFT INTENTIONALLY BLANK**



(Corporate Seal)

ATTEST:

  
Robert W. Runcie, Superintendent of Schools

**FOR SBBC**

THE SCHOOL BOARD OF BROWARD  
COUNTY, FLORIDA

By   
Abby M. Freedman, Chair

Approved as to Form and Legal Content:



Digitally signed by Kathelyn Jacques-Adams, Esq. -  
kathelyn.jacques-adams@gbrowardschools.com  
Reason: SHC Services, Inc. d/b/a Supplemental  
Health Care  
Date: 2017.05.24 12:29:55 -04'00'

Office of the General Counsel

**FOR VENDOR**

(Corporate Seal)

SHC SERVICES, INC.  
D/B/A SUPPLEMENTAL HEALTH CARE

ATTEST:

By KM Gibney

\_\_\_\_\_, 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 WASHINGTON

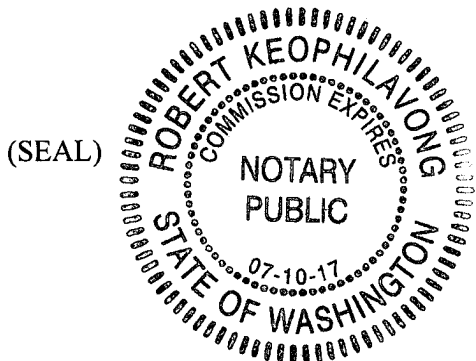
COUNTY OF KING

The foregoing instrument was acknowledged before me this 3<sup>RD</sup> day of MAY, 2017 by KEILEY GIBONEY of \_\_\_\_\_  
Name of Person

SHC SERVICES INC., on behalf of the corporation/agency.  
Name of Corporation or Agency

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

My Commission Expires: 07-10-2017



[Signature]  
Signature - Notary Public

ROBERT KEOPHILAVONG  
Printed Name of Notary

167112  
Notary's Commission No.

## SCOPE OF SERVICES

1. VENDOR shall offer services for speech-language pathologist(s) and audiologists that hold a current, active professional license in speech-language pathology or audiology from the Department of Health, Board of Speech-Language Pathology and Audiology agree to provide copies of a current active professional license and certifications in speech-language pathology and/or audiology prior to acceptance for placement.
2. VENDOR shall, throughout **Attachment A**, not to hire any individual who is currently employed part-time or full-time by SBBC as a speech-language pathologist or audiologist until the completion of the school year. VENDOR shall, throughout **Attachment A**, hold harmless any individual employed by them who elects to become employed by SBBC in the school year following the expiration date of the current Agreement, throughout **Attachment A**, school year.
3. VENDOR shall provide speech-language pathologists and audiologists whose performance shall be consistent with a professional standard of care and comply with requirements of the State of Florida Department of Health, Division of Medical Quality Assurance, and Board of Professional Regulation for speech, language and audiology requirements of other applicable local, state or federal agencies which may govern the speech-language pathologist's or audiologist's activities on behalf of SBBC.
4. VENDOR shall provide services consistent with the professional standard of care and shall comply with the ethical requirements imposed by the State of Florida Department of Professional Regulations, the Florida State Department of Education and any other federal, state or local regulatory agency.
5. All speech-language pathologists and audiologists, who shall be providing services under this Agreement, throughout **Attachment A**, must be articulate in oral and written English.
6. All speech-language pathologists and audiologists, under this Agreement, throughout **Attachment A**, shall be required to pass the screening of the Broward District Schools Police Department prior to placement of assignment as required by the School Board of Broward County, Florida. (See General Condition 7.30 of the RFP, SBBC Photo Identification Badge). All speech-language pathologists and/or audiologists must utilize the STAR system and/or sign-in/out procedures to document attendance at assigned location.
7. Speech-language pathologist(s) and audiologist(s) providing services shall follow the procedures for the referral, identification, screening, evaluation, eligibility, placement, and dismissal of students with speech-language or hearing impairments as provided in the document Special Programs and Procedures by the ESE/SS Division.
8. Speech-language pathologist(s) and audiologist(s) providing services shall follow procedures for completing required documentation for student attendance, student progress and reporting to parents, reimbursement for Medicaid funding, and other procedures as indicated by the Special Programs and Procedures document and ESE/SS Division.
9. Speech-language pathologist(s) and audiologist(s) providing services shall allow District administrative staff as well as teacher-based resource personnel to review required documentation and observe all provided services.

## SCOPE OF SERVICES

10. Speech-language pathologist(s) and audiologist(s) providing services shall submit, for approval to the school principal or designee, any written communication intended for parents and teachers.
11. Speech-language pathologist(s) and audiologist(s) shall follow all rules and procedures as contained in the employee handbooks of the individual school. Speech-language pathologist(s) and audiologist(s) shall refrain from using school equipment (such as phones, copiers, computers, etc.) for personal or commercial business during service times.
12. Speech-Language pathologist(s) and audiologist(s) shall complete such records as shall be required to document services provided, on a daily basis. VENDOR shall submit timesheets and other documentation needed to substantiate payment through the approved electronic database on an approved voucher form no later than five (5) days following the delivery of service. In order to insure timely payment VENDOR must submit accurate time sheets of service in accordance with the training they receive. These records must be submitted to the ESE/SS Division, Arthur Ashe, Jr. Campus, 1701 NW 23<sup>rd</sup> Avenue, Fort Lauderdale, Florida 33311.
13. VENDOR shall have all new providers use and submit an approved District template to log services until training takes place for the electronic system. VENDOR shall utilize the approved template until such time as they are trained in the electronic database system. Immediately following training all providers, VENDOR shall transfer the data from the district template into the Educational Database System and file the original hard copy in the student's IEP folder at the school site.
14. (SBBC) ESE/SS Division reserves the right to interview all speech-language pathologist(s) and/or audiologist(s) prior to placement. ESE/SS Division reserves the right to refuse to utilize any given speech-language pathologist(s) and/or audiologist(s) if it is in their best interest to do so.
15. VENDOR's Speech-Language Pathologist(s) must attend two (2) scheduled policies/procedures meetings, considered as part of their workday, of not less than three (3) hours as determined by the District. These meetings shall include, but are not limited to, general information on these policies and procedures of the Broward County Special Programs and Procedures, the rights of students with disabilities, and other operational procedures required to carry out the therapy program. VENDOR shall incorporate any cancelled service sessions due to meeting times into their schedule.
16. VENDOR shall, throughout **Attachment A**, to execute SBBC's HIPPA Business Associate Agreement as stated in **Attachment B**.
17. VENDOR shall provide speech-language pathologist(s) and/or audiologist(s) who agree to provide therapy services throughout the District at all times and locations designated by SBBC. SBBC reserves the right to request a change in times and locations of services provided by VENDOR (consistent with the written agreement for days and hours worked), during the course of an assignment. Services shall be provided up to 7 hours per day on regular student attendance days. Services provided on employee planning days and early release days must be pre-approved in writing by an authorized representative of the ESE/SS Division. School year calendars may be viewed on the following web link:  
**<http://www.browardschools.com>. Click on the link "Calendars"**

## SCOPE OF SERVICES

18. VENDOR shall, throughout **Attachment A**, to provide the requested services within ten school days of verbal/written notice of an assignment by SBBC.
19. Resumes of replacement personnel are to be submitted to the ESE/SS Division for review. All replacement personnel must have written approval by the ESE/SS Division prior to placement. All replacement personnel shall follow the procedures as stated by the ESE/SS Division. All replacement personnel must have the same credentials equivalent to the individuals whom they replace. ESE/SS Division reserves the right to interview replacement personnel prior to approval.
20. The Audiologist's services shall determine the type and degree of hearing impairment and shall implement habilitation and rehabilitation services for the student. Administers and interprets variety of tests, such as air and bone conduction, and speech reception and discrimination tests, to determine type and degree of hearing impairment, site of damage, and effects on comprehension and speech. Evaluates test results in relation to behavioral, social, educational, and medical information obtained from patients, families, teachers, speech pathologists and other professionals to determine communication problems related to hearing disability. Plans and implements provision, habilitation or rehabilitation services including hearing aid selection and orientation, counseling, auditory training, lip reading, language habilitation, speech conservation and other treatment programs developed in consultation with speech pathologists and other professionals.
21. Clinical Fellowship Year (CFY) candidates with a provisional license will be considered for a school assignment if the VENDOR agrees to provide all supervisory and support requirements for the candidate.
22. VENDOR shall insure that any interruption of services due to a therapist being "unavailable" shall be made up to the best of their ability and shall be documented in the Electronic Based System as "make-up" session.
23. VENDOR shall, throughout **Attachment A**, provide the required ELL training to all candidates assigned to a school site. Training can be provided via the VENDOR's own process or via the District's training for a minimal cost. Training must comply with the requirements of the Florida Consent Decree and the META Agreement.



## HIPAA BUSINESS ASSOCIATE AGREEMENT

This Business Associate Agreement ("**Agreement**") is made and entered into as of this \_\_\_\_\_ day of \_\_\_\_\_, 2017 (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

**SHC SERVICES, INC.**  
**D/B/A SUPPLEMENTAL HEALTH CARE**

(hereinafter referred to as "**Business Associate**"),  
whose principal place of business is  
5830 Coral Ridge Drive, Suite 300  
Coral Springs, Florida 33076

**WHEREAS**, by virtue of some of the services that Business Associate performs for SBBC, Business Associate may be a "business associate", as the term is defined at 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 coverage 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 the 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").

**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/or disclosure of PHI and the security of 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.

## ATTACHMENT B

- (b) “**Business Associate**” shall mean Business Associate named above and shall include all successors and assigns, affiliates, subsidiaries, and related companies.
- (c) “**Designed 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 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) “**HIPAA**” means Health Insurance Portability and Accountability Act of 1996.
- (f) “**HITECH Act**” means the Health Information Technology for Economic and Clinical Health Act of 2009.
- (g) “**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).
- (h) “**Minimum Necessary**” means the least amount of PHI needed to accomplish the intended purpose of the use or disclosure.
- (i) “**Omnibus Rule**” means the HIPAA Omnibus Rule of 2013.
- (j) “**Privacy Rule**” shall mean the Standards of Privacy of Individuals Identifiable Health Information as set forth at 45 C.F.R. Parts 160 and 164, subparts A and E.
- (k) “**Protected Health Information**” or “**PHI**” shall have the same meaning as the term “protected health information” in 45 C.F.R. §130.103 (as amended by the HITECH Act) limited to the information created or received by Business Associate from or on behalf of SBBC.
- (l) “**Required by Law**” shall have the same meaning as the term “required by law” in 45 C.F.R. §164.103.
- (m) “**Secretary**” shall mean the Secretary of the Department of Health and Human Services or his or her designee.
- (n) “**Security Rule**” shall mean the Standards for Security of ePHI as set forth 45 C.F.R. Parts 160 and 164 Subpart C.
- (o) “**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 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 substantially the same form as Exhibit A, hereto.
- (e) Business Associate shall promptly inform SBBC of a Breach of Unsecured PHI following the first day on which Business Associate knows of such Breach or following the first day on which Business Associate should have known 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 by Federal and/or Florida law.

## **ATTACHMENT B**

- (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 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 access, at the requires of SBBC, and in the time and manner designated by SBBC, to PHI in a Designated Record Set that is not also in SBBC's possession, to SBBC in order for SBBC to meet the requirements under 45 C.F.R. §164.524.
- (i) Business Associate agrees to make PHI available for amendment and incorporate all amendments to PHI in a Designated Record Set that SBBC directs or agrees to pursuant to 45 C.F.R. §164.526 at the request of SBBC or an Individual 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 a request of SBBC to the Secretary, in a time and manner as designated by SBBC or the Secretary, for the 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 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.

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

- (a) Except as otherwise limited in this Agreement, Business Associate may use or disclose PHI to perform functions, activities or services for, or on behalf of, SBBC as previously agreed to by the parties (the “Service Agreement”) provided that such use or disclosure would not violate the Privacy Rule if done by SBBC.
- (b) Except as otherwise limited in 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 in 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 for 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 in 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
- (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 with ten (10) business days prior written notice to Business Associate to audit Business Associate from time-to-time to verify Business Associate compliance with the terms of this Agreement. SBBC shall be entitled and enabled to inspect the records and other information relevant to Business Associate 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 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 and confidentiality and integrity of ePHI under the Security Standards 45 C.F.R. Part 160 and 164 subpart C.

- (b) Business Associate agrees that it will ensure that agents or subcontractors agree to implement the applicable administrative, physical, and technical safeguards required to protect the confidentiality and integrity of ePHI under the Security Standards 45 C.F.R. Part 164.
- (c) Business Associate agrees to report to SBBC all Security Incidents (as defined 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 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, on behalf of SBBC, it will perform all transactions for which a standard has been developed under the EDI Rule that Business Associate could reasonably be expected to perform in the ordinary course of its functions on behalf of SBBC.

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 in general, shall be deemed to amend this Agreement to incorporate said changes without further action.

**8. Amendment.**

The parties agree to take any and all actions necessary to amend this Agreement from time to time so that SBBC is in compliance with the Privacy Rule, the Security Rule, the HITECH Act, and HIPAA in general. The parties may agree to amend this Agreement from time to time in other respect that 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 as of the Effective Date and shall remain in effect until such time as SBBC exercises its right to 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 of such breach to Business Associate, 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.

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, for example, if SBBC makes illegal demands on Business Associate, 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 Covered Entity.

- (d) ***Effect of Termination.*** Except as set forth in this Section 9(d), upon termination of this Agreement for any reason, at the request of SBBC, 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. In the event that Business Associate determines that returning or destroying the PHI is infeasible, such as in the use of data aggregation, Business Associate shall provide to SBBC written notification of the conditions that make return or destruction infeasible. If 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 make the return or destruction infeasible, 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 while such equipment is on premises owned or controlled by SBBC; or the negligence of Business Associate 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 property, and injury or death of any person whether employed by Business Associate, SBBC or otherwise.

**ARTICLE 3 – GENERAL CONDITIONS****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 waiver of limits to liability or rights existing under Section 768.28, Florida Statutes.

**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 term 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.

**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, FL 33301
With a Copy to:	Executive Director, ESE/SS Division The School Board of Broward County, Florida 1701 NW 23 <sup>rd</sup> Avenue Fort Lauderdale, Florida 33301
	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: SHC Services, Inc.  
d/b/a Supplemental Health Care  
8000 Gov. Square Blvd., Suite 102  
Miami Lakes, FL 33016

With a Copy to: SHC Services, Inc.  
Attn: Contracting  
1640 W. Redstone Center Drive, Suite 200  
Park City, UT 84098

**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. The person signing on behalf of "Business Associate" has authority to bind "Business Associate" with respect to all provisions contained in this Agreement.

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

No failure or delay by a party hereto in exercising any right, power or remedy under this Agreement, and no course of dealing between the parties hereto, will operate as a waiver of any such right, power or remedy of the party. No single or partial exercise of any right, power or remedy under this Agreement by a party hereto, nor any abandonment or discontinuance of steps to enforce any such right, power or remedy, will preclude such party from any other or further exercise thereof or the exercise of any other right, power or remedy hereunder. The election of any remedy by a party hereto will not constitute a waiver of the right of such party to pursue other available remedies. No notice to or demand on a party not expressly required under this Agreement will entitle the party receiving such notice or demand to any other or further notice or demand in similar or other circumstances or constitute a waiver of the right of the party giving such notice or demand to any other or further action in any circumstances without such notice or demand. The terms and provisions of this Agreement may be waived, or consent for the departure there from granted, only by written document executed by the party entitled to the benefits of such terms or provisions. No such waiver or consent will be deemed to be or will constitute a waiver or consent with respect to any other terms or provisions of this Agreement, whether or not similar. Each such waiver or consent will be effective only in the specific instance and for the purpose for which it was given, and will not constitute a continuing waiver or consent.

**27. Regulatory References.**

A reference in this Agreement to a section in the Privacy Rule, the Security Rule, the HITECH Act, or HIPAA in general means the referenced section or its successor, and for which compliance is required.

**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.

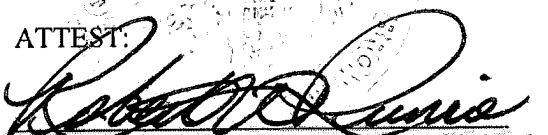
**30. Interpretation.**

Any ambiguity in this Agreement shall be interpreted in a manner that permits SBBC to comply with the Privacy Rule, Security Rule, the HITECH Act, HIPAA in general and any subsequent legislation or regulations otherwise affecting Business Associates.

IN WITNESS WHEREOF, the parties have executed this Business Associate Agreement as of the Effective Date.

(Corporate Seal)

ATTEST:

  
Robert W. Runcie, Superintendent of Schools

**FOR SBBC**

THE SCHOOL BOARD OF BROWARD  
COUNTY, FLORIDA

By   
Abby M. Freedman, Chair

Approved as to Form and Legal Content:



Digitally signed by Kathelyn Jacques-Adams, Esq. -  
kathelyn.jacques-adams@gbrowardschools.com  
Reason: SHC Services, Inc. d/b/a Supplemental  
Health Care  
Date: 2017.05.24 12:30:26 -04'00'

Office of the General Counsel

**FOR BUSINESS ASSOCIATE**

[Signature]  
Signature

Keiley GIBONEY  
Print Name and Title  
V.P. of SCHOOLS

[Signature]  
Witness

[Signature]  
Witness

STATE OF WASHINGTON

COUNTY OF KING

The foregoing instrument was acknowledged before me by KEILEY GIBONEY who is personally known to me or who produced WA STATE DRIVERS LICENSE as identification and who did / did not first take an oath this 3<sup>RD</sup> day of MAY, 20 17.

My Commission Expires: 07-10-2017

[Signature]  
Signature Notary Public

ROBERT KEOPHILAVONG  
Notary's Printed Name

167112  
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 13<sup>th</sup> day of June, 2017, 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

### SONDRA PIERCE, MS, CCC-SLP

(hereinafter referred to as "VENDOR"),  
whose principal place of business is  
548 Water Point  
Weston, Florida 33326

**WHEREAS**, SBBC issued a Request for Proposal identified as RFP 18-001V – Speech-Language Pathology and Audiology Services (hereinafter referred to as "RFP"), dated December 1, 2016 and amended by Addendum No. 4, dated January 17, 2017, Addendum No. 3, dated January 13, 2017 Addendum No. 2, dated December 19, 2016, and Addendum No. 1, dated December 9, 2016 all of which are incorporated by reference herein, for the purpose of receiving proposals for speech-language pathology and audiology services; and

**WHEREAS**, VENDOR offered a proposal dated January 25, 2017 (hereinafter referred to as "Proposal") which is incorporated by reference herein, in response to this RFP.

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

### ARTICLE 1 – RECITALS

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

### ARTICLE 2 – SPECIAL CONDITIONS

2.01 **Term of Agreement.** Unless terminated earlier pursuant to Section 3.05 of this Agreement, the term of this Agreement shall commence on **July 1, 2017** and conclude on **June 30, 2020**. The term of the Agreement may, by mutual agreement between SBBC and VENDOR be extended for two additional one-year periods and, if needed, 180 days beyond the expiration date of the renewal period. SBBC's Procurement & Warehousing Services Department, will, if considering renewing, request a letter consenting to renewal from VENDOR, prior to the end of the term. Any renewal period shall be approved by an Amendment to this Agreement executed by both parties.

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

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

First: This Agreement, then;  
Second: Addendum No. 4, then;  
Third: Addendum No. 3, then;  
Fourth: Addendum No. 2, then;  
Fifth: Addendum No. 1, then;  
Sixth: RFP 18-001V – Speech-Language Pathology and Audiology Services, then;  
Seventh: Proposal submitted in response to the RFP by VENDOR.

2.04 **Cost of Services.** SBBC shall pay VENDOR for cost of services satisfactorily rendered for Speech-Language Pathologist at \$58.00/hr. Costs shall not exceed the amount as stated on the Purchase Order. VENDOR may offer SBBC a special educational discount for pricing and reduce the cost of services during the term of the Agreement. VENDOR may invoice SBBC at an hourly rate less than their original bid price.

2.05 **M/WBE Participation.** VENDOR is a current Certified MWBE, Caucasian Female, with SBBC, Certificate #7007-6998.

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

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

VENDOR shall enter into SBBC’s HIPAA Business Associate Agreement (“BAA”) substantially in the form attached hereto and incorporated herein as **Attachment B**.

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

evaluation, analysis, verification and reconciliation of any and all expenditures under this Agreement without regard to funding sources.

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

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

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

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

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

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

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



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

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

To SBBC: Superintendent of Schools  
The School Board of Broward County, Florida  
600 Southeast Third Avenue  
Fort Lauderdale, Florida 33301

With a Copy to: Executive Director, ESE/SS Division  
The School Board of Broward County, Florida  
1701 NW 23<sup>rd</sup> Avenue  
Fort Lauderdale, Florida 33301

To VENDOR: Sondra Pierce, MS, CCC-SLP  
548 Water Point  
Weston, Florida 33326

2.09 **Background Screening.** Vendor agrees to comply with all requirements of Sections 1012.32 and 1012.465, Florida Statutes, and all of its personnel who (1) are to be permitted access to school grounds when students are present, (2) will have direct contact with students, or (3) have access or control of school funds, will successfully complete the background screening required by the referenced statutes and meet the standards established by the statutes. This background screening will be conducted by SBBC in advance of the 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 the 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.

2.10 **Insurance.** VENDOR shall provide the minimum insurance requirements as provided below:

- a) **GENERAL LIABILITY:** Limits not less than \$1,000,000 per occurrence for Bodily Injury/ Property Damage; \$1,000,000 General Aggregate. Limits not less than \$1,000,000 for Products/Completed Operations Aggregate.

- b) **WORKER'S COMPENSATION:** Florida Statutory limits in accordance with Chapter 440; Employer's Liability limits not less than \$100,000/\$100,000/\$500,000 (each accident/disease-each employee/disease-policy limit).
- c) **PROFESSIONAL LIABILITY:** Limits not less than \$1,000,000 per occurrence covering services provided under this Agreement.
- d) **AUTO LIABILITY:** Owned, Non-Owned and Hired Auto Liability with Bodily Injury and Property Damage limits of not less than \$1,000,000 Combined Single Limit. If VENDOR does not own any vehicles, hired and non-owned automobile liability coverage in the amount of \$1,000,000 will be accepted. In addition, an affidavit signed by the VENDOR must be furnished to SBBC indicating the following:  
VENDOR does not own any vehicles. In the event insured acquires any vehicles throughout the term of this Agreement, insured agrees to provide proof of "Any Auto" coverage effective the date of acquisition. (Fax affidavit with Certificate of Insurance to SBBC Risk Management at 866-897-0424.)
- e) **ACCEPTABILITY OF INSURANCE CARRIERS:** The insurance policies shall be issued by companies qualified to do business in the State of Florida. The insurance companies must be rated 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 Risk Management Department by Certificate of Insurance within 15 days of the date of this Agreement. All certificates (and any required documents) must be received and approved by SBBC before any work commences to permit VENDOR time to remedy any deficiencies. **FAX CERTIFICATES OF INSURANCE TO SBBC RISK MANAGEMENT AT 866-897-0424.**
- g) **REQUIRED CONDITIONS:** Liability policies must contain the following provisions. In addition, the following wording must be included on the Certificate of Insurance:  
**The School Board of Broward County, Florida, its members, officers, employees and agents are added as additional insured.**  
**All liability policies are primary of all other valid and collectable coverage maintained by The School Board of Broward County, Florida.**  
(\*\*Please include the RFP Number and Title on the Certificate of Insurance.)  
(Certificate Holder: The School Board of Broward County, Florida 600 Southeast Third Avenue, Fort Lauderdale, Florida 33301)
- 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 business days if required insurance is cancelled.
- i) **The School Board of Broward County, Florida reserves the right to review, reject or accept any required policies of insurance, including limits, coverage's or endorsements, herein throughout the term of this Agreement.**

### **ARTICLE 3 – GENERAL CONDITIONS**

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

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

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

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

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

3.06 **Default.** The parties agree that, in the event that either party is in default of its obligations under this Agreement, the non-defaulting party shall provide to the defaulting party (30) days written notice to cure the default. However, in the event said default cannot be cured within said thirty (30) day period and the defaulting party is diligently attempting in good faith to cure same, the time period shall be reasonably extended to allow the defaulting party additional cure time. Upon the occurrence of a default that is not cured during the applicable cure period, this Agreement may be terminated by the non-defaulting party upon thirty (30) days notice. This

remedy is not intended to be exclusive of any other remedy, and each and every such remedy shall be cumulative and shall be in addition to every other remedy now or hereafter existing at law or in equity or by statute or otherwise. No single or partial exercise by any party of any right, power, or remedy hereunder shall preclude any other or future exercise thereof. Nothing in this section shall be construed to preclude termination for convenience pursuant to Section 3.05.

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

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

3.09 **Public Records:** 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 transfer 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, Insert Name shall meet all applicable requirements for retaining public records. All records stored electronically must be provided to SBBC, upon request from SBBC's custodian of public records, in a format that is compatible with SBBC's information technology systems.

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

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

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

3.12 **Place of Performance.** All obligations of SBBC under the terms of this Agreement are reasonably susceptible of being performed in Broward County, Florida and shall be payable and performable in Broward County, Florida. VENDOR agrees and admits that the state courts of the Seventeenth Judicial Circuit of Broward County, Florida and the Southern District of Florida shall have jurisdiction over VENDOR.

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

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

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

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

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

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

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

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

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

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

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

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

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

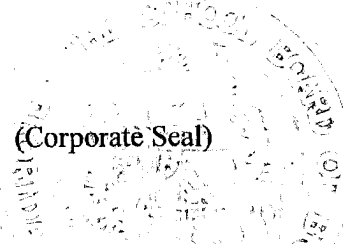
3.26 **Liability.** This section shall survive the termination of all performance or obligations under this Agreement and shall be fully binding until such time as any proceeding brought on account of this Agreement is barred by any applicable statute of limitations.

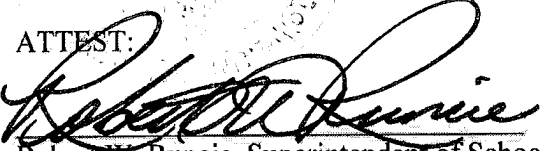
A. By SBBC: SBBC agrees to be fully responsible up to the limits of Section 768.28, Florida Statutes, for its acts of negligence, or its employees' acts of negligence when acting within the scope of their employment and agrees to be liable for any damages resulting from said negligence.

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

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


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

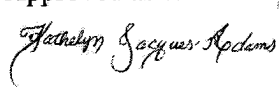


ATTEST:  
  
Robert W. Runcie, Superintendent of Schools

**FOR SBBC**

THE SCHOOL BOARD OF BROWARD  
COUNTY, FLORIDA

By   
Abby M. Freedman, Chair

Approved as to Form and Legal Content:  
  
Digitally signed by Kathelyn Jacques-Adams, Esq. - kathelyn.jacques-adams@gbrowardschools.com  
Reason: Sondra Pierce, MS, CCC-SLP  
Date: 2017.05.24 10:36:06 -04'00'

Office of the General Counsel

**FOR VENDOR**

Sandra Alfores  
Witness SANZ UABAR DEL TORO

Daniela  
Witness Daniela Wertheim

Signature

Sondra Pierce MS, CCC-SLP

STATE OF Florida

COUNTY OF Broward

The foregoing instrument was acknowledged before me by Sondra Michelle Pierce  
Insert Name Here  
who is personally known to me or who produced Florida Drivers License as  
Type of Identification  
identification and who did/did not first take an oath this 10<sup>th</sup> day of May,  
20 17.

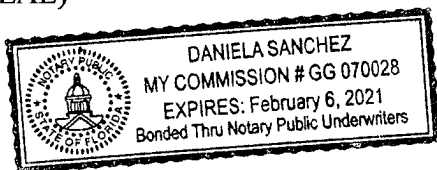
My Commission Expires: 2/6/21

Daniela Sanchez  
Signature – Notary Public

Daniela Sanchez  
Notary's Printed Name

66 070028  
Notary's Commission No.

(SEAL)





## SCOPE OF SERVICES

1. VENDOR shall offer services for speech-language pathologist(s) that hold a current, active professional license in speech-language pathology from the Department of Health, Board of Speech-Language Pathology and Audiology and agree to provide copies of a current active professional license and certifications in speech-language pathology prior to acceptance for placement.
2. VENDOR shall, throughout **Attachment A**, not to hire any individual who is currently employed part-time or full-time by SBBC as a speech-language pathologist or audiologist until the completion of the school year. VENDOR shall, throughout **Attachment A**, hold harmless any individual employed by them who elects to become employed by SBBC in the school year following the expiration date of the current Agreement, throughout **Attachment A**, school year.
3. VENDOR shall provide speech-language pathologists whose performance shall be consistent with a professional standard of care and comply with requirements of the State of Florida Department of Health, Division of Medical Quality Assurance, and Board of Professional Regulation for speech, language requirements of other applicable local, state or federal agencies which may govern the speech-language pathologist's activities on behalf of SBBC.
4. VENDOR shall provide services consistent with the professional standard of care and shall comply with the ethical requirements imposed by the State of Florida Department of Professional Regulations, the Florida State Department of Education and any other federal, state or local regulatory agency.
5. All speech-language pathologists, who shall be providing services under this Agreement, throughout **Attachment A**, must be articulate in oral and written English.
6. All speech-language pathologists, under this Agreement, throughout **Attachment A**, shall be required to pass the screening of the Broward District Schools Police Department prior to placement of assignment as required by the School Board of Broward County, Florida. (See General Condition 7.30 of the RFP, SBBC Photo Identification Badge). All speech-language pathologists must utilize the STAR system and/or sign-in/out procedures to document attendance at assigned location.
7. Speech-language pathologist(s) providing services will follow the procedures for the referral, identification, screening, evaluation, eligibility, placement, and dismissal of students with speech-language or hearing impairments as provided in the document Special Programs and Procedures by the ESE/SS Division.
8. Speech-language pathologist(s) providing services shall follow procedures for completing required documentation for student attendance, student progress and reporting to parents, reimbursement for Medicaid funding, and other procedures as indicated by the Special Programs and Procedures document and ESE/SS Division.
9. Speech-language pathologist(s) providing services shall allow District administrative staff as well as teacher-based resource personnel to review required documentation and observe all provided services.

## SCOPE OF SERVICES

10. Speech-language pathologist(s) providing services shall submit, for approval to the school principal or designee, any written communication intended for parents and teachers.
11. Speech-language pathologist(s) shall follow all rules and procedures as contained in the employee handbooks of the individual school. Speech-language pathologist(s) shall refrain from using school equipment (such as phones, copiers, computers, etc.) for personal or commercial business during service times.
12. Speech-Language pathologist(s) shall complete such records as shall be required to document services provided, on a daily basis. VENDOR shall submit timesheets and other documentation needed to substantiate payment through the approved electronic database on an approved voucher form no later than five (5) days following the delivery of service. In order to insure timely payment VENDOR must submit accurate time sheets of service in accordance with the training they receive. These records must be submitted to the ESE/SS Division, Arthur Ashe, Jr. Campus, 1701 NW 23<sup>rd</sup> Avenue, Fort Lauderdale, Florida 33311.
13. VENDOR shall have all new providers use and submit an approved District template to log services until training takes place for the electronic system. VENDOR shall utilize the approved template until such time as they are trained in the electronic database system. Immediately following training all providers, VENDOR shall transfer the data from the district template into the Educational Database System and file the original hard copy in the student's IEP folder at the school site.
14. (SBBC) ESE/SS Division reserves the right to interview all speech-language pathologist(s) prior to placement. ESE/SS Division reserves the right to refuse to utilize any given speech-language pathologist(s) if it is in their best interest to do so.
15. VENDOR's Speech-Language Pathologist(s) must attend two (2) scheduled policies/procedures meetings, considered as part of their workday, of not less than three (3) hours as determined by the District. These meetings shall include, but are not limited to, general information on these policies and procedures of the Broward County Special Programs and Procedures, the rights of students with disabilities, and other operational procedures required to carry out the therapy program. VENDOR shall incorporate any cancelled service sessions due to meeting times into their schedule.
16. VENDOR shall, throughout **Attachment A**, execute SBBC's HIPPA Business Associate Agreement as stated in **Attachment B**.
17. VENDOR shall provide speech-language pathologist(s) who agree to provide therapy services throughout the District at all times and locations designated by SBBC. SBBC reserves the right to request a change in times and locations of services provided by VENDOR (consistent with the written agreement for days and hours worked), during the course of an assignment. Services shall be provided up to 7 hours per day on regular student attendance days. Services provided on employee planning days and early release days must be pre-approved in writing by an authorized representative of the ESE/SS Division. School year calendars may be viewed on the following web link:  
**<http://www.browardschools.com>. Click on the link "Calendars"**

**SCOPE OF SERVICES**

18. **VENDOR** shall, throughout **Attachment A**, provide the requested services within ten school days of verbal/written notice of an assignment by SBBC.
19. Resumes of replacement personnel are to be submitted to the ESE/SS Division for review. All replacement personnel must have written approval by the ESE/SS Division prior to placement. All replacement personnel shall follow the procedures as stated by the ESE/SS Division. All replacement personnel must have the same credentials equivalent to the individuals whom they replace. ESE/SS Division reserves the right to interview replacement personnel prior to approval.
20. Clinical Fellowship Year (CFY) candidates with a provisional license will be considered for a school assignment if the **VENDOR** agrees to provide all supervisory and support requirements for the candidate.
21. **VENDOR** shall insure that any interruption of services due to a therapist being “unavailable” shall be made up to the best of their ability and shall be documented in the Electronic Based System as “make-up” session.
22. **VENDOR** shall, throughout **Attachment A**, provide the required ELL training to all candidates assigned to a school site. Training can be provided via the **VENDOR**’s own process or via the District’s training for a minimal cost. Training must comply with the requirements of the Florida Consent Decree and the META Agreement.

**HIPAA BUSINESS ASSOCIATE AGREEMENT**

This Business Associate Agreement ("**Agreement**") is made and entered into as of this \_\_\_\_\_ day of \_\_\_\_\_, 2017 (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

**SONDRA PIERCE, MS, CCC-SLP**

(hereinafter referred to as "**Business Associate**"),  
whose principal place of business is  
548 Water Point  
Weston, Florida 33326

**WHEREAS**, by virtue of some of the services that Business Associate performs for SBBC, Business Associate may be a "business associate", as the term is defined at 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 coverage 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 the 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").

**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/or disclosure of PHI and the security of 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.

- (b) “**Business Associate**” shall mean Business Associate named above and shall include all successors and assigns, affiliates, subsidiaries, and related companies.
- (c) “**Designed 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 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) “**HIPAA**” means Health Insurance Portability and Accountability Act of 1996.
- (f) “**HITECH Act**” means the Health Information Technology for Economic and Clinical Health Act of 2009.
- (g) “**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).
- (h) “**Minimum Necessary**” means the least amount of PHI needed to accomplish the intended purpose of the use or disclosure.
- (i) “**Omnibus Rule**” means the HIPAA Omnibus Rule of 2013.
- (j) “**Privacy Rule**” shall mean the Standards of Privacy of Individuals Identifiable Health Information as set forth at 45 C.F.R. Parts 160 and 164, subparts A and E.
- (k) “**Protected Health Information**” or “**PHI**” shall have the same meaning as the term “protected health information” in 45 C.F.R. §130.103 (as amended by the HITECH Act) limited to the information created or received by Business Associate from or on behalf of SBBC.
- (l) “**Required by Law**” shall have the same meaning as the term “required by law” in 45 C.F.R. §164.103.
- (m) “**Secretary**” shall mean the Secretary of the Department of Health and Human Services or his or her designee.
- (n) “**Security Rule**” shall mean the Standards for Security of ePHI as set forth 45 C.F.R. Parts 160 and 164 Subpart C.
- (o) “**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 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 substantially the same form as Exhibit A, hereto.
- (e) Business Associate shall promptly inform SBBC of a Breach of Unsecured PHI following the first day on which Business Associate knows of such Breach or following the first day on which Business Associate should have known 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 by Federal and/or Florida law.

## **ATTACHMENT B**

- (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 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 access, at the requires of SBBC, and in the time and manner designated by SBBC, to PHI in a Designated Record Set that is not also in SBBC's possession, to SBBC in order for SBBC to meet the requirements under 45 C.F.R. §164.524.
- (i) Business Associate agrees to make PHI available for amendment and incorporate all amendments to PHI in a Designated Record Set that SBBC directs or agrees to pursuant to 45 C.F.R. §164.526 at the request of SBBC or an Individual 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 a request of SBBC to the Secretary, in a time and manner as designated by SBBC or the Secretary, for the 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 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.

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

- (a) Except as otherwise limited in this Agreement, Business Associate may use or disclose PHI to perform functions, activities or services for, or on behalf of, SBBC as previously agreed to by the parties (the “Service Agreement”) provided that such use or disclosure would not violate the Privacy Rule if done by SBBC.
- (b) Except as otherwise limited in 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 in 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 for 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 in 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
- (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 with ten (10) business days prior written notice to Business Associate to audit Business Associate from time-to-time to verify Business Associate compliance with the terms of this Agreement. SBBC shall be entitled and enabled to inspect the records and other information relevant to Business Associate 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 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 and confidentiality and integrity of ePHI under the Security Standards 45 C.F.R. Part 160 and 164 subpart C.



- (b) Business Associate agrees that it will ensure that agents or subcontractors agree to implement the applicable administrative, physical, and technical safeguards required to protect the confidentiality and integrity of ePHI under the Security Standards 45 C.F.R. Part 164.
- (c) Business Associate agrees to report to SBBC all Security Incidents (as defined 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 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, on behalf of SBBC, it will perform all transactions for which a standard has been developed under the EDI Rule that Business Associate could reasonably be expected to perform in the ordinary course of its functions on behalf of SBBC.

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 in general, shall be deemed to amend this Agreement to incorporate said changes without further action.

**8. Amendment.**

The parties agree to take any and all actions necessary to amend this Agreement from time to time so that SBBC is in compliance with the Privacy Rule, the Security Rule, the HITECH Act, and HIPAA in general. The parties may agree to amend this Agreement from time to time in other respect that 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 as of the Effective Date and shall remain in effect until such time as SBBC exercises its right to 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 of such breach to Business Associate, 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.

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, for example, if SBBC makes illegal demands on Business Associate, 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 Covered Entity.

- (d) ***Effect of Termination.*** Except as set forth in this Section 9(d), upon termination of this Agreement for any reason, at the request of SBBC, 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. In the event that Business Associate determines that returning or destroying the PHI is infeasible, such as in the use of data aggregation, Business Associate shall provide to SBBC written notification of the conditions that make return or destruction infeasible. If 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 make the return or destruction infeasible, 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 while such equipment is on premises owned or controlled by SBBC; or the negligence of Business Associate 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 property, and injury or death of any person whether employed by Business Associate, SBBC or otherwise.

**ARTICLE 3 – GENERAL CONDITIONS****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 waiver of limits to liability or rights existing under Section 768.28, Florida Statutes.

**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 term 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.

To Business Associate: Sondra Pierce, MS, CCC-SLP  
548 Water Point  
Weston, Florida 33326

**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. The person signing on behalf of "Business Associate" has authority to bind "Business Associate" with respect to all provisions contained in this Agreement.

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

No failure or delay by a party hereto in exercising any right, power or remedy under this Agreement, and no course of dealing between the parties hereto, will operate as a waiver of any such right, power or remedy of the party. No single or partial exercise of any right, power or remedy under this Agreement by a party hereto, nor any abandonment or discontinuance of steps to enforce any such right, power or remedy, will preclude such party from any other or further exercise thereof or the exercise of any other right, power or remedy hereunder. The election of any remedy by a party hereto will not constitute a waiver of the right of such party to pursue other available remedies. No notice to or demand on a party not expressly required under this Agreement will entitle the party receiving such notice or demand to any other or further notice or demand in similar or other circumstances or constitute a waiver of the right of the party giving such notice or demand to any other or further action in any circumstances without such notice or demand. The terms and provisions of this Agreement may be waived, or consent for the departure there from granted, only by written document executed by the party entitled to the benefits of such terms or provisions. No such waiver or consent will be deemed to be or will constitute a waiver or consent with respect to any other terms or provisions of this Agreement, whether or not similar. Each such waiver or consent will be effective only in the specific instance and for the purpose for which it was given, and will not constitute a continuing waiver or consent.

**27. Regulatory References.**

A reference in this Agreement to a section in the Privacy Rule, the Security Rule, the HITECH Act, or HIPAA in general means the referenced section or its successor, and for which compliance is required.

**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.


**30. Interpretation.**

Any ambiguity in this Agreement shall be interpreted in a manner that permits SBBC to comply with the Privacy Rule, Security Rule, the HITECH Act, HIPAA in general and any subsequent legislation or regulations otherwise affecting Business Associates.

IN WITNESS WHEREOF, the parties have executed this Business Associate Agreement as of the Effective Date.

(Corporate Seal)

ATTEST:

  
Robert W. Runcie, Superintendent of Schools

**FOR SBBC**

THE SCHOOL BOARD OF BROWARD  
COUNTY, FLORIDA

By   
Abby M. Freedman, Chair

Approved as to Form and Legal Content:



Digitally signed by Kathelyn Jacques-Adams, Esq.  
- kathelyn.jacques-  
adams@gbrowardschools.com  
Reason: Sondra Pierce, MS, CCC-SLP  
Date: 2017.05.24 10:36:42 -04'00'

Office of the General Counsel

FOR BUSINESS ASSOCIATE

Sondra Pierce  
Signature  
Sandra Pierce  
Witness SANTO DEL TORO  
Daniela Wertheim  
Witness Daniela Wertheim

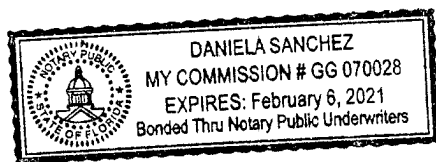
Sondra Pierce, Owner  
Print Name and Title

STATE OF Florida  
COUNTY OF Broward

The foregoing instrument was acknowledged before me by Sondra Michelle Pierce who is personally known to me or who produced Florida Drivers License as identification and who did / did not first take an oath this 10<sup>th</sup> day of May, 2017.

My Commission Expires: 2/6/21

Daniela Sanchez  
Signature – Notary Public



Daniela Sanchez  
Notary's Printed Name

GG 070028  
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 13<sup>th</sup> day of June, 2017, 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  
950 Peninsula Corporate Circle, #1014  
Boca Raton, Florida 33487

**WHEREAS**, SBBC issued a Request for Proposal identified as RFP 18-001V – Speech-Language Pathology and Audiology Services (hereinafter referred to as "RFP"), dated December 1, 2016 and amended by Addendum No. 4, dated January 17, 2017, Addendum No. 3, dated January 13, 2017 Addendum No. 2, dated December 19, 2016, and Addendum No. 1, dated December 9, 2016 all of which are incorporated by reference herein, for the purpose of receiving proposals for speech-language pathology and audiology services; and

**WHEREAS**, VENDOR offered a proposal dated January 27, 2017 (hereinafter referred to as "Proposal") which is incorporated by reference herein, in response to this RFP.

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

### ARTICLE 1 – RECITALS

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

### ARTICLE 2 – SPECIAL CONDITIONS

2.01 **Term of Agreement.** Unless terminated earlier pursuant to Section 3.05 of this Agreement, the term of this Agreement shall commence on **July 1, 2017** and conclude on **June 30, 2020**. The term of the Agreement may, by mutual agreement between SBBC and VENDOR be extended for two additional one-year periods and, if needed, 180 days beyond the expiration date of the renewal period. SBBC's Procurement & Warehousing Services Department, will, if considering renewing, request a letter consenting to renewal from VENDOR, prior to the end of the term. Any renewal period shall be approved by an Amendment to this Agreement executed by both parties.



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

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

First: This Agreement, then;  
Second: Addendum No. 4, then;  
Third: Addendum No. 3, then;  
Fourth: Addendum No. 2, then;  
Fifth: Addendum No. 1, then;  
Sixth: RFP 18-001V – Speech-Language Pathology and Audiology Services, then;  
Seventh: Proposal submitted in response to the RFP by VENDOR.

2.04 **Cost of Services.** SBBC shall pay VENDOR for cost of services satisfactorily rendered for Speech-Language Pathologist at \$59.00/hr. and Audiologist at \$50.00/hr. Costs shall not exceed the amount as stated on the Purchase Order. VENDOR may offer SBBC a special educational discount for pricing and reduce the cost of services during the term of the Agreement. VENDOR may invoice SBBC at an hourly rate less than their original bid price.

2.05 **M/WBE Participation.** VENDOR is a current Certified MWBE, Caucasian Female, with SBBC, Certificate #7007-6672.

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

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

VENDOR shall enter into SBBC’s HIPAA Business Associate Agreement (“BAA”) substantially in the form attached hereto and incorporated herein as **Attachment B.**

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

evaluation, analysis, verification and reconciliation of any and all expenditures under this Agreement without regard to funding sources.

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

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

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

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

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

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

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

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

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

To SBBC: Superintendent of Schools  
The School Board of Broward County, Florida  
600 Southeast Third Avenue  
Fort Lauderdale, Florida 33301

With a Copy to: Executive Director, ESE/SS Division  
The School Board of Broward County, Florida  
1701 NW 23<sup>rd</sup> Avenue  
Fort Lauderdale, Florida 33301

To VENDOR: Janet Sandler  
Speech Rehab Services, LLC  
950 Peninsula Corporate Circle, Suite 1014  
Boca Raton, Florida 33487

With Copy to: Janet Sandler  
31454 NW 61<sup>st</sup> Street  
Boca Raton, Florida 33496

2.09 **Background Screening.** Vendor agrees to comply with all requirements of Sections 1012.32 and 1012.465, Florida Statutes, and all of its personnel who (1) are to be permitted access to school grounds when students are present, (2) will have direct contact with students, or (3) have access or control of school funds, will successfully complete the background screening required by the referenced statutes and meet the standards established by the statutes. This background screening will be conducted by SBBC in advance of the 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 the 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.

2.10 **Insurance.** VENDOR shall provide the minimum insurance requirements as provided below:

- a) **GENERAL LIABILITY:** Limits not less than \$1,000,000 per occurrence for Bodily Injury/ Property Damage; \$1,000,000 General Aggregate. Limits not less than \$1,000,000 for Products/Completed Operations Aggregate.
- b) **WORKER'S COMPENSATION:** Florida Statutory limits in accordance with Chapter 440; Employer's Liability limits not less than \$100,000/\$100,000/\$500,000 (each accident/disease-each employee/disease-policy limit).
- c) **PROFESSIONAL LIABILITY:** Limits not less than \$1,000,000 per occurrence covering services provided under this Agreement.
- d) **AUTO LIABILITY:** Owned, Non-Owned and Hired Auto Liability with Bodily Injury and Property Damage limits of not less than \$1,000,000 Combined Single Limit. If VENDOR does not own any vehicles, hired and non-owned automobile liability coverage in the amount of \$1,000,000 will be accepted. In addition, an affidavit signed by the VENDOR must be furnished to SBBC indicating the following:  
VENDOR does not own any vehicles. In the event insured acquires any vehicles throughout the term of this Agreement, insured agrees to provide proof of "Any Auto" coverage effective the date of acquisition. (Fax affidavit with Certificate of Insurance to SBBC Risk Management at 866-897-0424.)
- e) **ACCEPTABILITY OF INSURANCE CARRIERS:** The insurance policies shall be issued by companies qualified to do business in the State of Florida. The insurance companies must be rated 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 Risk Management Department by Certificate of Insurance within 15 days of the date of this Agreement. All certificates (and any required documents) must be received and approved by SBBC before any work commences to permit VENDOR time to remedy any deficiencies. **FAX CERTIFICATES OF INSURANCE TO SBBC RISK MANAGEMENT AT 866-897-0424.**
- g) **REQUIRED CONDITIONS:** Liability policies must contain the following provisions. In addition, the following wording must be included on the Certificate of Insurance:  
**The School Board of Broward County, Florida, its members, officers, employees and agents are added as additional insured.**  
**All liability policies are primary of all other valid and collectable coverage maintained by The School Board of Broward County, Florida.**  
(\*Please include the RFP Number and Title on the Certificate of Insurance.)  
(Certificate Holder: The School Board of Broward County, Florida 600 Southeast Third Avenue, Fort Lauderdale, Florida 33301)
- 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 business days if required insurance is cancelled.

- i) **The School Board of Broward County, Florida reserves the right to review, reject or accept any required policies of insurance, including limits, coverage's or endorsements, herein throughout the term of this Agreement.**

### **ARTICLE 3 – GENERAL CONDITIONS**

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

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

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

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

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

3.06 **Default.** The parties agree that, in the event that either party is in default of its obligations under this Agreement, the non-defaulting party shall provide to the defaulting party (30) days written notice to cure the default. However, in the event said default cannot be cured within said thirty (30) day period and the defaulting party is diligently attempting in good faith to

cure same, the time period shall be reasonably extended to allow the defaulting party additional cure time. Upon the occurrence of a default that is not cured during the applicable cure period, this Agreement may be terminated by the non-defaulting party upon thirty (30) days notice. This remedy is not intended to be exclusive of any other remedy, and each and every such remedy shall be cumulative and shall be in addition to every other remedy now or hereafter existing at law or in equity or by statute or otherwise. No single or partial exercise by any party of any right, power, or remedy hereunder shall preclude any other or future exercise thereof. Nothing in this section shall be construed to preclude termination for convenience pursuant to Section 3.05.

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

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

3.09 **Public Records:** 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 transfer 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, Insert Name shall meet all applicable requirements for retaining public records. All records stored electronically must be provided to SBBC, upon request from SBBC's custodian of public records, in a format that is compatible with SBBC's information technology systems.

**IF A PARTY TO THIS AGREEMENT HAS QUESTIONS REGARDING THE APPLICATION OF CHAPTER 119, FLORIDA STATUTES, TO ITS DUTY TO PROVIDE PUBLIC RECORDS RELATING TO THE AGREEMENT, CONTACT THE CUSTODIAN OF PUBLIC RECORDS AT 754-321-1900, REQUEL.BELL@BROWARDSCHOOLS.COM, RISK**

**MANAGEMENT DEPARTMENT, PUBLIC RECORDS DIVISION, 600  
SOUTHEAST THIRD AVENUE, FORT LAUDERDALE, FLORIDA 33301.**

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

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

**3.12 Place of Performance.** All obligations of SBBC under the terms of this Agreement are reasonably susceptible of being performed in Broward County, Florida and shall be payable and performable in Broward County, Florida. VENDOR agrees and admits that the state courts of the Seventeenth Judicial Circuit of Broward County, Florida and the Southern District of Florida shall have jurisdiction over VENDOR.

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

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

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

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

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

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

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

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

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

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

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

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



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

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

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

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


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

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

**FOR SBBC**

(Corporate Seal)

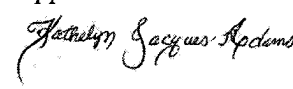
ATTEST

  
Robert W. Runcie, Superintendent of Schools

THE SCHOOL BOARD OF BROWARD  
COUNTY, FLORIDA

By   
Abby M. Freedman, Chair

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: 2017.05.24 08:51:27 -04'00'

Office of the General Counsel

**FOR VENDOR**

(Corporate Seal)

SPEECH REHAB SERVICES, LLC

ATTEST:

By Janet L Sandler  
Janet L. Sandler

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

Alex Caball  
Witness Alexander Cockrell

Toni Williams  
Witness Toni Williams

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

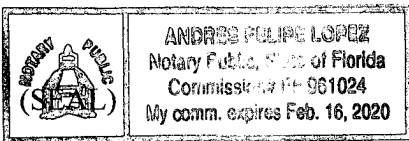
STATE OF Florida

COUNTY OF Palm Beach

The foregoing instrument was acknowledged before me this 29 day of April, 2017 by Janet L Sandler of Speech Rehab Services LLC, on behalf of the corporation/agency.  
Name of Person  
Name of Corporation or Agency

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

My Commission Expires:



Andres Felipe Lopez  
Signature – Notary Public

Andres Felipe Lopez  
Printed Name of Notary

FF 961024  
Notary's Commission No.

**SCOPE OF SERVICES**

1. VENDOR shall offer services for speech-language pathologist(s) and audiologists that hold a current, active professional license in speech-language pathology or audiology from the Department of Health, Board of Speech-Language Pathology and Audiology agree to provide copies of a current active professional license and certifications in speech-language pathology and/or audiology prior to acceptance for placement.
2. VENDOR shall, throughout **Attachment A**, not to hire any individual who is currently employed part-time or full-time by SBBC as a speech-language pathologist or audiologist until the completion of the school year. VENDOR shall, throughout **Attachment A** hold harmless any individual employed by them who elects to become employed by SBBC in the school year following the expiration date of the current Agreement, throughout **Attachment A**, school year.
3. VENDOR shall provide speech-language pathologists and audiologists whose performance shall be consistent with a professional standard of care and comply with requirements of the State of Florida Department of Health, Division of Medical Quality Assurance, and Board of Professional Regulation for speech, language and audiology requirements of other applicable local, state or federal agencies which may govern the speech-language pathologist's or audiologist's activities on behalf of SBBC.
4. VENDOR shall provide services consistent with the professional standard of care and shall comply with the ethical requirements imposed by the State of Florida Department of Professional Regulations, the Florida State Department of Education and any other federal, state or local regulatory agency.
5. All speech-language pathologists and audiologists, who shall be providing services under this Agreement, throughout **Attachment A**, must be articulate in oral and written English.
6. All speech-language pathologists and audiologists, under this Agreement, throughout **Attachment A**, shall be required to pass the screening of the Broward District Schools Police Department prior to placement of assignment as required by the School Board of Broward County, Florida. (See General Condition 7.30 of the RFP, SBBC Photo Identification Badge). All speech-language pathologists and/or audiologists must utilize the STAR system and/or sign-in/out procedures to document attendance at assigned location.
7. Speech-language pathologist(s) and audiologist(s) providing services shall follow the procedures for the referral, identification, screening, evaluation, eligibility, placement, and dismissal of students with speech-language or hearing impairments as provided in the document Special Programs and Procedures by the ESE/SS Division.
8. Speech-language pathologist(s) and audiologist(s) providing services shall follow procedures for completing required documentation for student attendance, student progress and reporting to parents, reimbursement for Medicaid funding, and other procedures as indicated by the Special Programs and Procedures document and ESE/SS Division.
9. Speech-language pathologist(s) and audiologist(s) providing services shall allow District administrative staff as well as teacher-based resource personnel to review required documentation and observe all provided services.

## SCOPE OF SERVICES

10. Speech-language pathologist(s) and audiologist(s) providing services shall submit, for approval to the school principal or designee, any written communication intended for parents and teachers.
11. Speech-language pathologist(s) and audiologist(s) shall follow all rules and procedures as contained in the employee handbooks of the individual school. Speech-language pathologist(s) and audiologist(s) shall refrain from using school equipment (such as phones, copiers, computers, etc.) for personal or commercial business during service times.
12. Speech-Language pathologist(s) and audiologist(s) shall complete such records as shall be required to document services provided, on a daily basis. VENDOR shall submit timesheets and other documentation needed to substantiate payment through the approved electronic database on an approved voucher form no later than five (5) days following the delivery of service. In order to insure timely payment VENDOR must submit accurate time sheets of service in accordance with the training they receive. These records must be submitted to the ESE/SS Division, Arthur Ashe, Jr. Campus, 1701 NW 23<sup>rd</sup> Avenue, Fort Lauderdale, Florida 33311.
13. VENDOR shall have all new providers use and submit an approved District template to log services until training takes place for the electronic system. VENDOR shall utilize the approved template until such time as they are trained in the electronic database system. Immediately following training all providers, VENDOR shall transfer the data from the district template into the Educational Database System and file the original hard copy in the student's IEP folder at the school site.
14. (SBBC) ESE/SS Division reserves the right to interview all speech-language pathologist(s) and/or audiologist(s) prior to placement. ESE/SS Division reserves the right to refuse to utilize any given speech-language pathologist(s) and/or audiologist(s) if it is in their best interest to do so.
15. VENDOR's Speech-Language Pathologist(s) must attend two (2) scheduled policies/procedures meetings, considered as part of their workday, of not less than three (3) hours as determined by the District. These meetings shall include, but are not limited to, general information on these policies and procedures of the Broward County Special Programs and Procedures, the rights of students with disabilities, and other operational procedures required to carry out the therapy program. VENDOR shall incorporate any cancelled service sessions due to meeting times into their schedule.
16. VENDOR shall, throughout **Attachment A**, execute SBBC's HIPPA Business Associate Agreement as stated in **Attachment B**.
17. VENDOR shall provide speech-language pathologist(s) and/or audiologist(s) who agree to provide therapy services throughout the District at all times and locations designated by SBBC. SBBC reserves the right to request a change in times and locations of services provided by VENDOR (consistent with the written agreement for days and hours worked), during the course of an assignment. Services shall be provided up to 7 hours per day on regular student attendance days. Services provided on employee planning days and early release days must be pre-approved in writing by an authorized representative of the ESE/SS Division. School year calendars may be viewed on the following web link:  
**<http://www.browardschools.com>**. Click on the link "Calendars"

## SCOPE OF SERVICES

18. VENDOR shall, throughout **Attachment A**, provide the requested services within ten school days of verbal/written notice of an assignment by SBBC.
19. Resumes of replacement personnel are to be submitted to the ESE/SS Division for review. All replacement personnel must have written approval by the ESE/SS Division prior to placement. All replacement personnel shall follow the procedures as stated by the ESE/SS Division. All replacement personnel must have the same credentials equivalent to the individuals whom they replace. ESE/SS Division reserves the right to interview replacement personnel prior to approval.
20. The Audiologist's services shall determine the type and degree of hearing impairment and shall implement habilitation and rehabilitation services for the student. Administers and interprets variety of tests, such as air and bone conduction, and speech reception and discrimination tests, to determine type and degree of hearing impairment, site of damage, and effects on comprehension and speech. Evaluates test results in relation to behavioral, social, educational, and medical information obtained from patients, families, teachers, speech pathologists and other professionals to determine communication problems related to hearing disability. Plans and implements prevision, habilitation or rehabilitation services including hearing aid selection and orientation, counseling, auditory training, lip reading, language habilitation, speech conservation and other treatment programs developed in consultation with speech pathologists and other professionals.
21. Clinical Fellowship Year (CFY) candidates with a provisional license will be considered for a school assignment if the VENDOR agrees to provide all supervisory and support requirements for the candidate.
22. VENDOR shall insure that any interruption of services due to a therapist being "unavailable" shall be made up to the best of their ability and shall be documented in the Electronic Based System as "make-up" session.
23. VENDOR shall, throughout **Attachment A**, provide the required ELL training to all candidates assigned to a school site. Training can be provided via the VENDOR's own process or via the District's training for a minimal cost. Training must comply with the requirements of the Florida Consent Decree and the META Agreement.

**HIPAA BUSINESS ASSOCIATE AGREEMENT**

This Business Associate Agreement ("**Agreement**") is made and entered into as of this \_\_\_\_\_ day of \_\_\_\_\_, 2017 (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  
 950 Peninsula Corporate Circle, #1014  
 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 the term is defined at 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 coverage 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 the 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").

**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/or disclosure of PHI and the security of 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.

## ATTACHMENT B

- (b) “**Business Associate**” shall mean Business Associate named above and shall include all successors and assigns, affiliates, subsidiaries, and related companies.
- (c) “**Designed 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 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) “**HIPAA**” means Health Insurance Portability and Accountability Act of 1996.
- (f) “**HITECH Act**” means the Health Information Technology for Economic and Clinical Health Act of 2009.
- (g) “**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).
- (h) “**Minimum Necessary**” means the least amount of PHI needed to accomplish the intended purpose of the use or disclosure.
- (i) “**Omnibus Rule**” means the HIPAA Omnibus Rule of 2013.
- (j) “**Privacy Rule**” shall mean the Standards of Privacy of Individuals Identifiable Health Information as set forth at 45 C.F.R. Parts 160 and 164, subparts A and E.
- (k) “**Protected Health Information**” or “**PHI**” shall have the same meaning as the term “protected health information” in 45 C.F.R. §130.103 (as amended by the HITECH Act) limited to the information created or received by Business Associate from or on behalf of SBBC.
- (l) “**Required by Law**” shall have the same meaning as the term “required by law” in 45 C.F.R. §164.103.
- (m) “**Secretary**” shall mean the Secretary of the Department of Health and Human Services or his or her designee.
- (n) “**Security Rule**” shall mean the Standards for Security of ePHI as set forth 45 C.F.R. Parts 160 and 164 Subpart C.
- (o) “**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 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 substantially the same form as Exhibit A, hereto.
- (e) Business Associate shall promptly inform SBBC of a Breach of Unsecured PHI following the first day on which Business Associate knows of such Breach or following the first day on which Business Associate should have known 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 by Federal and/or Florida law.



## **ATTACHMENT B**

- (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 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 access, at the requires of SBBC, and in the time and manner designated by SBBC, to PHI in a Designated Record Set that is not also in SBBC's possession, to SBBC in order for SBBC to meet the requirements under 45 C.F.R. §164.524.
- (i) Business Associate agrees to make PHI available for amendment and incorporate all amendments to PHI in a Designated Record Set that SBBC directs or agrees to pursuant to 45 C.F.R. §164.526 at the request of SBBC or an Individual 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 a request of SBBC to the Secretary, in a time and manner as designated by SBBC or the Secretary, for the 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 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.

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

- (a) Except as otherwise limited in this Agreement, Business Associate may use or disclose PHI to perform functions, activities or services for, or on behalf of, SBBC as previously agreed to by the parties (the “Service Agreement”) provided that such use or disclosure would not violate the Privacy Rule if done by SBBC.
- (b) Except as otherwise limited in 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 in 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 for 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 in 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
- (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 with ten (10) business days prior written notice to Business Associate to audit Business Associate from time-to-time to verify Business Associate compliance with the terms of this Agreement. SBBC shall be entitled and enabled to inspect the records and other information relevant to Business Associate 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 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 and confidentiality and integrity of ePHI under the Security Standards 45 C.F.R. Part 160 and 164 subpart C.

- (b) Business Associate agrees that it will ensure that agents or subcontractors agree to implement the applicable administrative, physical, and technical safeguards required to protect the confidentiality and integrity of ePHI under the Security Standards 45 C.F.R. Part 164.
- (c) Business Associate agrees to report to SBBC all Security Incidents (as defined 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 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, on behalf of SBBC, it will perform all transactions for which a standard has been developed under the EDI Rule that Business Associate could reasonably be expected to perform in the ordinary course of its functions on behalf of SBBC.

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 in general, shall be deemed to amend this Agreement to incorporate said changes without further action.

**8. Amendment.**

The parties agree to take any and all actions necessary to amend this Agreement from time to time so that SBBC is in compliance with the Privacy Rule, the Security Rule, the HITECH Act, and HIPAA in general. The parties may agree to amend this Agreement from time to time in other respect that 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 as of the Effective Date and shall remain in effect until such time as SBBC exercises its right to 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 of such breach to Business Associate, 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.

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, for example, if SBBC makes illegal demands on Business Associate, 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 Covered Entity.

- (d) ***Effect of Termination.*** Except as set forth in this Section 9(d), upon termination of this Agreement for any reason, at the request of SBBC, 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. In the event that Business Associate determines that returning or destroying the PHI is infeasible, such as in the use of data aggregation, Business Associate shall provide to SBBC written notification of the conditions that make return or destruction infeasible. If 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 make the return or destruction infeasible, 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 while such equipment is on premises owned or controlled by SBBC; or the negligence of Business Associate 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 property, and injury or death of any person whether employed by Business Associate, SBBC or otherwise.

**ARTICLE 3 – GENERAL CONDITIONS****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 waiver of limits to liability or rights existing under Section 768.28, Florida Statutes.

**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 term 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.

**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, FL 33301

With a Copy to: Executive Director, ESE/SS Division  
The School Board of Broward County, Florida  
1701 NW 23<sup>rd</sup> Avenue  
Fort Lauderdale, Florida 33301

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: Janet Sandler  
Speech Rehab Services, LLC  
950 Peninsula Corporate Circle, Suite 1014  
Boca Raton, FL33487

With a Copy to: Janet Sandler  
31454 NW 61<sup>st</sup> Street  
Boca Raton, FL 33496

**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. The person signing on behalf of "Business Associate" has authority to bind "Business Associate" with respect to all provisions contained in this Agreement.

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

No failure or delay by a party hereto in exercising any right, power or remedy under this Agreement, and no course of dealing between the parties hereto, will operate as a waiver of any such right, power or remedy of the party. No single or partial exercise of any right, power or remedy under this Agreement by a party hereto, nor any abandonment or discontinuance of steps to enforce any such right, power or remedy, will preclude such party from any other or further exercise thereof or the exercise of any other right, power or remedy hereunder. The election of any remedy by a party hereto will not constitute a waiver of the right of such party to pursue other available remedies. No notice to or demand on a party not expressly required under this Agreement will entitle the party receiving such notice or demand to any other or further notice or demand in similar or other circumstances or constitute a waiver of the right of the party giving such notice or demand to any other or further action in any circumstances without such notice or demand. The terms and provisions of this Agreement may be waived, or consent for the departure there from granted, only by written document executed by the party entitled to the benefits of such terms or provisions. No such waiver or consent will be deemed to be or will constitute a waiver or consent with respect to any other terms or provisions of this Agreement, whether or not similar. Each such waiver or consent will be effective only in the specific instance and for the purpose for which it was given, and will not constitute a continuing waiver or consent.

**27. Regulatory References.**

A reference in this Agreement to a section in the Privacy Rule, the Security Rule, the HITECH Act, or HIPAA in general means the referenced section or its successor, and for which compliance is required.

**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.

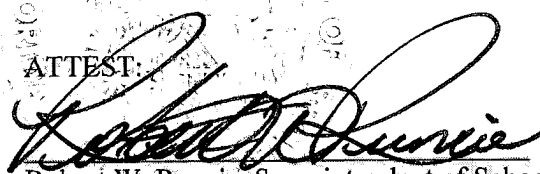
**30. Interpretation.**

Any ambiguity in this Agreement shall be interpreted in a manner that permits SBBC to comply with the Privacy Rule, Security Rule, the HITECH Act, HIPAA in general and any subsequent legislation or regulations otherwise affecting Business Associates.

IN WITNESS WHEREOF, the parties have executed this Business Associate Agreement as of the Effective Date.

(Corporate Seal)

ATTEST:

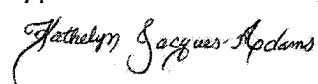
  
Robert W. Runcie, Superintendent of Schools

**FOR SBBC**

THE SCHOOL BOARD OF BROWARD  
COUNTY, FLORIDA

By   
Abby M. Freedman, Chair

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: 2017.05.24 08:52:01 -04'00'

Office of the General Counsel



FOR BUSINESS ASSOCIATE

Janet Sandler  
Signature

Janet L. Sandler / President  
Print Name and Title

Alex Cockrell  
Witness Alexander Cockrell

Toni Williams  
Witness Toni Williams

STATE OF Florida

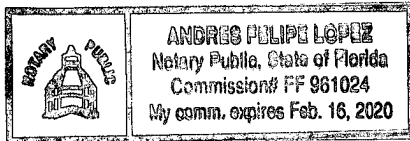
COUNTY OF Palm Beach

The foregoing instrument was acknowledged before me by Janet L. Sandler who is personally known to me or who produced FL Driver License as identification and who did / did not first take an oath this 28 day of April, 20 17.

My Commission Expires:

02/16/2020

Andrés Felipe López  
Signature – Notary Public



Andrés Felipe López  
Notary's Printed Name

FF 961024  
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 13<sup>th</sup> day of June, 2017, 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

### STAFFING OPTIONS AND SOLUTIONS, INC.

(hereinafter referred to as "VENDOR"),

whose principal place of business is

6249 S. East Street, #E

Indianapolis, Indiana 46227

WHEREAS, SBBC issued a Request for Proposal identified as RFP 18-001V – Speech-Language Pathology and Audiology Services (hereinafter referred to as "RFP"), dated December 1, 2016 and amended by Addendum No. 4, dated January 17, 2017, Addendum No. 3, dated January 13, 2017 Addendum No. 2, dated December 19, 2016, and Addendum No. 1, dated December 9, 2016 all of which are incorporated by reference herein, for the purpose of receiving proposals for speech-language pathology and audiology services; and

WHEREAS, VENDOR offered a proposal dated January 27, 2017 (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 3.06 of this Agreement, the term of this Agreement shall commence on **July 1, 2017** and conclude on **June 30, 2020**. The term of the Agreement may, by mutual agreement between SBBC and VENDOR be extended for two additional one-year periods and, if needed, 180 days beyond the expiration date of the renewal period. SBBC's Procurement & Warehousing Services Department, will, if considering renewing, request a letter consenting to renewal from VENDOR, prior to the end of the term. Any renewal period shall be approved by an Amendment to this Agreement executed by both parties.

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

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

- First: This Agreement, then;
- Second: Addendum No. 4, then;
- Third: Addendum No. 3, then;
- Fourth: Addendum No. 2, then;
- Fifth: Addendum No. 1, then;
- Sixth: RFP 18-001V – Speech-Language Pathology and Audiology Services, then;
- Seventh: Proposal submitted in response to the RFP by VENDOR.

2.04 **Cost of Services.** SBBC shall pay VENDOR for cost of services satisfactorily rendered for Speech-Language Pathologist at \$58.00/hr. Costs shall not exceed the amount as stated on the Purchase Order. VENDOR may offer SBBC a special educational discount for pricing and reduce the cost of services during the term of the Agreement. VENDOR may invoice SBBC at an hourly rate less than their original proposal price.

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

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

VENDOR shall enter into SBBC’s HIPAA Business Associate Agreement (“BAA”) substantially in the form attached hereto and incorporated herein as **Attachment B**.

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

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

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

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

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

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

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

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

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

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

To SBBC: Superintendent of Schools  
The School Board of Broward County, Florida  
600 Southeast Third Avenue  
Fort Lauderdale, Florida 33301

With a Copy to: Executive Director, ESE/SS Division  
The School Board of Broward County, Florida  
1701 NW 23<sup>rd</sup> Avenue  
Fort Lauderdale, Florida 33301

To VENDOR: Bret Schoff, Project Manager  
Staffing Options and Solutions, Inc.  
6249 S. East Street, #E  
Indianapolis, IN 46227

2.08 **Background Screening.** Vendor agrees to comply with all requirements of Sections 1012.32 and 1012.465, Florida Statutes, and all of its personnel who (1) are to be permitted access to school grounds when students are present, (2) will have direct contact with students, or (3) have access or control of school funds, will successfully complete the background screening required by the referenced statutes and meet the standards established by the statutes. This background screening will be conducted by SBBC in advance of the 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 the 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.

2.09 **Insurance.** VENDOR shall provide the minimum insurance requirements as provided below:

- a) **GENERAL LIABILITY:** Limits not less than \$1,000,000 per occurrence for Bodily Injury/ Property Damage; \$1,000,000 General Aggregate. Limits not less than \$1,000,000 for Products/Completed Operations Aggregate.
- b) **WORKER'S COMPENSATION:** Florida Statutory limits in accordance with Chapter 440; Employer's Liability limits not less than \$100,000/\$100,000/\$500,000 (each accident/disease-each employee/disease-policy limit).
- c) **PROFESSIONAL LIABILITY:** Limits not less than \$1,000,000 per occurrence covering services provided under this Agreement.

- d) **AUTO LIABILITY:** Owned, Non-Owned and Hired Auto Liability with Bodily Injury and Property Damage limits of not less than \$1,000,000 Combined Single Limit. If VENDOR does not own any vehicles, hired and non-owned automobile liability coverage in the amount of \$1,000,000 will be accepted. In addition, an affidavit signed by the VENDOR must be furnished to SBBC indicating the following:  
VENDOR does not own any vehicles. In the event insured acquires any vehicles throughout the term of this Agreement, insured agrees to provide proof of "Any Auto" coverage effective the date of acquisition. (Fax affidavit with Certificate of Insurance to SBBC Risk Management at 866-897-0424.)
- e) **ACCEPTABILITY OF INSURANCE CARRIERS:** The insurance policies shall be issued by companies qualified to do business in the State of Florida. The insurance companies must be rated 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 Risk Management Department by Certificate of Insurance within 15 days of the date of this Agreement. All certificates (and any required documents) must be received and approved by SBBC before any work commences to permit VENDOR time to remedy any deficiencies. **FAX CERTIFICATES OF INSURANCE TO SBBC RISK MANAGEMENT AT 866-897-0424.**
- g) **REQUIRED CONDITIONS:** Liability policies must contain the following provisions. In addition, the following wording must be included on the Certificate of Insurance:  
**The School Board of Broward County, Florida, its members, officers, employees and agents are added as additional insured.**  
**All liability policies are primary of all other valid and collectable coverage maintained by The School Board of Broward County, Florida.**  
(\*Please include the RFP Number and Title on the Certificate of Insurance.)  
(Certificate Holder: The School Board of Broward County, Florida 600 Southeast Third Avenue, Fort Lauderdale, Florida 33301)
- 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 business days if required insurance is cancelled.
- i) **The School Board of Broward County, Florida reserves the right to review, reject or accept any required policies of insurance, including limits, coverage's or endorsements, herein throughout the term of this Agreement.**

### **ARTICLE 3 – GENERAL CONDITIONS**

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

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

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

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

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

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

3.07 **Default.** The parties agree that, in the event that either party is in default of its obligations under this Agreement, the non-defaulting party shall provide to the defaulting party (30) days written notice to cure the default. However, in the event said default cannot be cured



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

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

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

3.10 **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 transfer 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, Insert Name shall meet all applicable requirements for retaining public records. All records stored electronically must be provided to SBBC, upon request from SBBC's custodian of public records, in a format that is compatible with SBBC's information technology systems.

**IF A PARTY TO THIS AGREEMENT HAS QUESTIONS REGARDING THE APPLICATION OF CHAPTER 119, FLORIDA STATUTES, TO ITS DUTY TO PROVIDE PUBLIC RECORDS RELATING TO THE AGREEMENT, CONTACT THE CUSTODIAN OF PUBLIC RECORDS AT 754-321-1900, REQUEL.BELL@BROWARDSCHOOLS.COM, RISK**

**MANAGEMENT DEPARTMENT, PUBLIC RECORDS DIVISION, 600  
SOUTHEAST THIRD AVENUE, FORT LAUDERDALE, FLORIDA 33301.**

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

**3.12 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.

**3.13 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. VENDOR agrees and admits that the state courts of the Seventeenth Judicial Circuit of Broward County, Florida and the Southern District of Florida shall have jurisdiction over VENDOR.

**3.14 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.

**3.15 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.

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

**3.17 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.

3.18 **Incorporation by Reference.** Attachments A and B are attached hereto and referenced herein shall be deemed to be incorporated into this Agreement by reference.

3.19 **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.

3.20 **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.

3.21 **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.

3.22 **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.

3.23 **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.

3.24 **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.

3.25 **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.

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

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

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

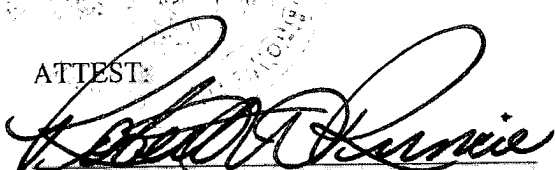
B. By VENDOR: VENDOR agrees to indemnify, hold harmless and defend SBBC, its agents, servants and employees from any and all claims, judgments, costs, and expenses including, but not limited to, reasonable attorney's fees, reasonable investigative and discovery costs, court costs and all other sums which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

3.28 **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.

(Corporate Seal)

ATTEST:

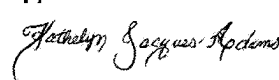
  
Robert W. Runcie, Superintendent of Schools

**FOR SBBC**

THE SCHOOL BOARD OF BROWARD  
COUNTY, FLORIDA

By   
Abby M. Freedman, Chair

Approved as to Form and Legal Content:



Digitally signed by Kathelyn Jacques-Adams,  
Esq. - kathelyn.jacques-  
adams@gbrowardschools.com  
Reason: Staffing Options & Solutions, Inc.  
Date: 2017.05.24 08:57:27 -04'00'

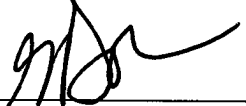
Office of the General Counsel

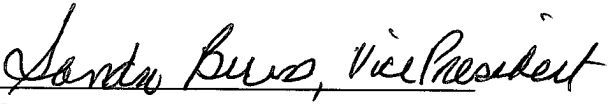
**FOR VENDOR**

(Corporate Seal)

STAFFING OPTIONS AND SOLUTIONS, INC.

ATTEST:

  
\_\_\_\_\_  
Greg Bohac, Secretary/Treasure, Secretary  
-or-

By   
\_\_\_\_\_  
Sandra Burns, Vice President

\_\_\_\_\_  
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 Indianapolis

COUNTY OF Marion

The foregoing instrument was acknowledged before me this 28th day of  
April, 2017 by Sandra Burns, Vice President of

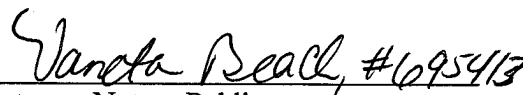
Name of Person

Staffing Options and Solutions, Inc., on behalf of the corporation/agency.

Name of Corporation or Agency

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

My Commission Expires: 1/16/2025

  
\_\_\_\_\_  
Signature – Notary Public

(SEAL)

Vaneta Beach

\_\_\_\_\_  
Printed Name of Notary

695413  
\_\_\_\_\_  
Notary's Commission No.

## SCOPE OF SERVICES

1. VENDOR shall offer services for speech-language pathologist(s) that hold a current, active professional license in speech-language pathology from the Department of Health, Board of Speech-Language Pathology and agree to provide copies of a current active professional license and certifications in speech-language pathology prior to acceptance for placement.
2. VENDOR shall, throughout **Attachment A**, not to hire any individual who is currently employed part-time or full-time by SBBC not to hire any individual who is currently employed part-time or full-time by SBBC as a speech-language pathologist until the completion of the school year. VENDOR shall, throughout **Attachment A**, hold harmless any individual employed by them who elects to become employed by SBBC in the school year following the expiration date of the current Agreement, throughout **Attachment A**, school year.
3. VENDOR shall provide speech-language pathologists whose performance shall be consistent with a professional standard of care and comply with requirements of the State of Florida Department of Health, Division of Medical Quality Assurance, and Board of Professional Regulation for speech, language requirements of other applicable local, state or federal agencies which may govern the speech-language pathologist's activities on behalf of SBBC.
4. VENDOR shall provide services consistent with the professional standard of care and shall comply with the ethical requirements imposed by the State of Florida Department of Professional Regulations, the Florida State Department of Education and any other federal, state or local regulatory agency.
5. All speech-language pathologists, who shall be providing services under this Agreement, throughout **Attachment A**, must be articulate in oral and written English.
6. All speech-language pathologists, under this Agreement, throughout **Attachment A**, shall be required to pass the screening of the Broward District Schools Police Department prior to placement of assignment as required by the School Board of Broward County, Florida. (See General Condition 7.30 of the RFP, SBBC Photo Identification Badge). All speech-language pathologists must utilize the STAR system and/or sign-in/out procedures to document attendance at assigned location.
7. Speech-language pathologist(s) providing services shall follow the procedures for the referral, identification, screening, evaluation, eligibility, placement, and dismissal of students with speech-language impairments as provided in the document Special Programs and Procedures by the ESE/SS Division.
8. Speech-language pathologist(s) providing services shall follow procedures for completing required documentation for student attendance, student progress and reporting to parents, reimbursement for Medicaid funding, and other procedures as indicated by the Special Programs and Procedures document and ESE/SS Division.
9. Speech-language pathologist(s) providing services shall allow District administrative staff as well as teacher-based resource personnel to review required documentation and observe all provided services.

## SCOPE OF SERVICES

10. Speech-language pathologist(s) providing services shall submit, for approval to the school principal or designee, any written communication intended for parents and teachers.
11. Speech-language pathologist(s) shall follow all rules and procedures as contained in the employee handbooks of the individual school. Speech-language pathologist(s) shall refrain from using school equipment (such as phones, copiers, computers, etc.) for personal or commercial business during service times.
12. Speech-Language pathologist(s) shall complete such records as shall be required to document services provided, on a daily basis. VENDOR shall submit timesheets and other documentation needed to substantiate payment through the approved electronic database on an approved voucher form no later than five (5) days following the delivery of service. In order to insure timely payment VENDOR must submit accurate time sheets of service in accordance with the training they receive. These records must be submitted to the ESE/SS Division, Arthur Ashe, Jr. Campus, 1701 NW 23<sup>rd</sup> Avenue, Fort Lauderdale, Florida 33311.
13. VENDOR shall have all new providers use and submit an approved District template to log services until training takes place for the electronic system. VENDOR shall utilize the approved template until such time as they are trained in the electronic database system. Immediately following training all providers, VENDOR shall transfer the data from the district template into the Educational Database System and file the original hard copy in the student's IEP folder at the school site.
14. (SBBC) ESE/SS Division reserves the right to interview all speech-language pathologist(s) prior to placement. ESE/SS Division reserves the right to refuse to utilize any given speech-language pathologist(s) and/or audiologist(s) if it is in their best interest to do so.
15. VENDOR's Speech-Language Pathologist(s) must attend two (2) scheduled policies/procedures meetings, considered as part of their workday, of not less than three (3) hours as determined by the District. These meetings shall include, but are not limited to, general information on these policies and procedures of the Broward County Special Programs and Procedures, the rights of students with disabilities, and other operational procedures required to carry out the therapy program. VENDOR shall incorporate any cancelled service sessions due to meeting times into their schedule.
16. VENDOR shall, throughout **Attachment A**, execute SBBC's HIPPA Business Associate Agreement as stated in **Attachment B**.
17. VENDOR shall provide speech-language pathologist(s) who agree to provide therapy services throughout the District at all times and locations designated by SBBC. SBBC reserves the right to request a change in times and locations of services provided by VENDOR (consistent with the written agreement for days and hours worked), during the course of an assignment. Services shall be provided up to 7 hours per day on regular student attendance days. Services provided on employee planning days and early release days must be pre-approved in writing by an authorized representative of the ESE/SS Division. School year calendars may be viewed on the following web link:  
**<http://www.browardschools.com>. Click on the link "Calendars"**

SCOPE OF SERVICES

18. VENDOR shall, throughout **Attachment A**, provide the requested services within ten school days of verbal/written notice of an assignment by SBBC.
19. Resumes of replacement personnel are to be submitted to the ESE/SS Division for review. All replacement personnel must have written approval by the ESE/SS Division prior to placement. All replacement personnel shall follow the procedures as stated by the ESE/SS Division. All replacement personnel must have the same credentials equivalent to the individuals whom they replace. ESE/SS Division reserves the right to interview replacement personnel prior to approval.
20. Clinical Fellowship Year (CFY) candidates with a provisional license will be considered for a school assignment if the VENDOR agrees to provide all supervisory and support requirements for the candidate.
21. VENDOR shall insure that any interruption of services due to a therapist being "unavailable" shall be made up to the best of their ability and shall be documented in the Electronic Based System as "make-up" session.
22. VENDOR shall, throughout **Attachment A**, provide the required ELL training to all candidates assigned to a school site. Training can be provided via the VENDOR's own process or via the District's training for a minimal cost. Training must comply with the requirements of the Florida Consent Decree and the META Agreement.



**HIPAA BUSINESS ASSOCIATE AGREEMENT**

This Business Associate Agreement ("**Agreement**") is made and entered into as of this \_\_\_\_\_ day of \_\_\_\_\_, 2017 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

**STAFFING OPTIONS AND SOLUTIONS, INC.**

(hereinafter referred to as "**Business Associate**"),  
whose principal place of business is  
6249 S. East Street, #E  
Indianapolis, Indiana 46227

**WHEREAS**, by virtue of some of the services that Business Associate performs for SBBC, Business Associate may be a "business associate", as the term is defined at 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 coverage 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 the 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").

**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/or disclosure of PHI and the security of 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.

## ATTACHMENT B

- (b) “**Business Associate**” shall mean Business Associate named above and shall include all successors and assigns, affiliates, subsidiaries, and related companies.
- (c) “**Designed 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 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) “**HIPAA**” means Health Insurance Portability and Accountability Act of 1996.
- (f) “**HITECH Act**” means the Health Information Technology for Economic and Clinical Health Act of 2009.
- (g) “**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).
- (h) “**Minimum Necessary**” means the least amount of PHI needed to accomplish the intended purpose of the use or disclosure.
- (i) “**Omnibus Rule**” means the HIPAA Omnibus Rule of 2013.
- (j) “**Privacy Rule**” shall mean the Standards of Privacy of Individuals Identifiable Health Information as set forth at 45 C.F.R. Parts 160 and 164, subparts A and E.
- (k) “**Protected Health Information**” or “**PHI**” shall have the same meaning as the term “protected health information” in 45 C.F.R. §130.103 (as amended by the HITECH Act) limited to the information created or received by Business Associate from or on behalf of SBBC.
- (l) “**Required by Law**” shall have the same meaning as the term “required by law” in 45 C.F.R. §164.103.
- (m) “**Secretary**” shall mean the Secretary of the Department of Health and Human Services or his or her designee.
- (n) “**Security Rule**” shall mean the Standards for Security of ePHI as set forth 45 C.F.R. Parts 160 and 164 Subpart C.
- (o) “**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 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 substantially the same form as Exhibit A, hereto.
- (e) Business Associate shall promptly inform SBBC of a Breach of Unsecured PHI following the first day on which Business Associate knows of such Breach or following the first day on which Business Associate should have known 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 by Federal and/or Florida law.

## ATTACHMENT B

- (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 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 access, at the requires of SBBC, and in the time and manner designated by SBBC, to PHI in a Designated Record Set that is not also in SBBC's possession, to SBBC in order for SBBC to meet the requirements under 45 C.F.R. §164.524.
- (i) Business Associate agrees to make PHI available for amendment and incorporate all amendments to PHI in a Designated Record Set that SBBC directs or agrees to pursuant to 45 C.F.R. §164.526 at the request of SBBC or an Individual 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 a request of SBBC to the Secretary, in a time and manner as designated by SBBC or the Secretary, for the 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 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.

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

- (a) Except as otherwise limited in this Agreement, Business Associate may use or disclose PHI to perform functions, activities or services for, or on behalf of, SBBC as previously agreed to by the parties (the “Service Agreement”) provided that such use or disclosure would not violate the Privacy Rule if done by SBBC.
- (b) Except as otherwise limited in 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 in 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 for 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 in 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
- (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 with ten (10) business days prior written notice to Business Associate to audit Business Associate from time-to-time to verify Business Associate compliance with the terms of this Agreement. SBBC shall be entitled and enabled to inspect the records and other information relevant to Business Associate 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 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 and confidentiality and integrity of ePHI under the Security Standards 45 C.F.R. Part 160 and 164 subpart C.

- (b) Business Associate agrees that it will ensure that agents or subcontractors agree to implement the applicable administrative, physical, and technical safeguards required to protect the confidentiality and integrity of ePHI under the Security Standards 45 C.F.R. Part 164.
- (c) Business Associate agrees to report to SBBC all Security Incidents (as defined 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 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, on behalf of SBBC, it will perform all transactions for which a standard has been developed under the EDI Rule that Business Associate could reasonably be expected to perform in the ordinary course of its functions on behalf of SBBC.

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 in general, shall be deemed to amend this Agreement to incorporate said changes without further action.

**8. Amendment.**

The parties agree to take any and all actions necessary to amend this Agreement from time to time so that SBBC is in compliance with the Privacy Rule, the Security Rule, the HITECH Act, and HIPAA in general. The parties may agree to amend this Agreement from time to time in other respect that 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 as of the Effective Date and shall remain in effect until such time as SBBC exercises its right to 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 of such breach to Business Associate, 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.

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, for example, if SBBC makes illegal demands on Business Associate, 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 Covered Entity.

- (d) ***Effect of Termination.*** Except as set forth in this Section 9(d), upon termination of this Agreement for any reason, at the request of SBBC, 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. In the event that Business Associate determines that returning or destroying the PHI is infeasible, such as in the use of data aggregation, Business Associate shall provide to SBBC written notification of the conditions that make return or destruction infeasible. If 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 make the return or destruction infeasible, 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 while such equipment is on premises owned or controlled by SBBC; or the negligence of Business Associate 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 property, and injury or death of any person whether employed by Business Associate, SBBC or otherwise.

**ARTICLE 3 – GENERAL CONDITIONS****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 waiver of limits to liability or rights existing under Section 768.28, Florida Statutes.

**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 term 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.

**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, FL 33301
With a Copy to:	Executive Director, ESE/SS Division The School Board of Broward County, Florida 1701 NW 23 <sup>rd</sup> Avenue Fort Lauderdale, Florida 33301  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:

Bret Schoff, Project Manager  
Staffing Options and Solutions, Inc.  
6249 S. East Street, #E  
Indianapolis, IN 46227

**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. The person signing on behalf of "Business Associate" has authority to bind "Business Associate" with respect to all provisions contained in this Agreement.

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

No failure or delay by a party hereto in exercising any right, power or remedy under this Agreement, and no course of dealing between the parties hereto, will operate as a waiver of any such right, power or remedy of the party. No single or partial exercise of any right, power or remedy under this Agreement by a party hereto, nor any abandonment or discontinuance of steps to enforce any such right, power or remedy, will preclude such party from any other or further exercise thereof or the exercise of any other right, power or remedy hereunder. The election of any remedy by a party hereto will not constitute a waiver of the right of such party to pursue other available remedies. No notice to or demand on a party not expressly required under this Agreement will entitle the party receiving such notice or demand to any other or further notice or demand in similar or other circumstances or constitute a waiver of the right of the party giving such notice or demand to any other or further action in any circumstances without such notice or demand. The terms and provisions of this Agreement may be waived, or consent for the departure there from granted, only by written document executed by the party entitled to the benefits of such terms or provisions. No such waiver or consent will be deemed to be or will constitute a waiver or consent with respect to any other terms or provisions of this Agreement, whether or not similar. Each such waiver or consent will be effective only in the specific instance and for the purpose for which it was given, and will not constitute a continuing waiver or consent.

**27. Regulatory References.**

A reference in this Agreement to a section in the Privacy Rule, the Security Rule, the HITECH Act, or HIPAA in general means the referenced section or its successor, and for which compliance is required.

**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.

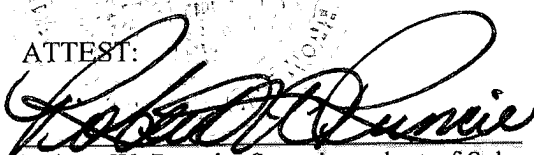
**30. Interpretation.**

Any ambiguity in this Agreement shall be interpreted in a manner that permits SBBC to comply with the Privacy Rule, Security Rule, the HITECH Act, HIPAA in general and any subsequent legislation or regulations otherwise affecting Business Associates.

IN WITNESS WHEREOF, the parties have executed this Business Associate Agreement as of the Effective Date.

(Corporate Seal)

ATTEST:

  
Robert W. Runcie, Superintendent of Schools

**FOR SBBC**

THE SCHOOL BOARD OF BROWARD  
COUNTY, FLORIDA

By   
Abby M. Freedman, Chair

Approved as to Form and Legal Content:



Digitally signed by Kathelyn Jacques-Adams, Esq. -  
kathelyn.jacques-adams@gbrowardschools.com  
Reason: Staffing Options & Solutions, Inc.  
Date: 2017.05.24 08:57:57 -04'00'

Office of the General Counsel

**FOR BUSINESS ASSOCIATE**

Bret Schoff  
Signature

Bret Schoff, Project Manager  
Print Name and Title

Sandra Burns  
Witness

Mari Coffey Hudson  
Witness

STATE OF Indiana

COUNTY OF Marion

The foregoing instrument was acknowledged before me by Bret Schoff who is personally known to me or who produced Drivers License as identification and who did / did not first take an oath this 28th day of April, 2017.

My Commission Expires: 1/16/2025

Vaneta Beach  
Signature – Notary Public

Vaneta Beach  
Notary's Printed Name

695413  
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 13<sup>th</sup> day of June, 2017, 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

### **SUNBELT STAFFING, LLC**

(hereinafter referred to as "VENDOR"),  
whose principal place of business is  
3687 Tampa Road, Suite 200  
Oldsmar, Florida 34677

**WHEREAS**, SBBC issued a Request for Proposal identified as RFP 18-001V – Speech-Language Pathology and Audiology Services (hereinafter referred to as "RFP"), dated December 1, 2016 and amended by Addendum No. 4, dated January 17, 2017, Addendum No. 3, dated January 13, 2017 Addendum No. 2, dated December 19, 2016, and Addendum No. 1, dated December 9, 2016 all of which are incorporated by reference herein, for the purpose of receiving proposals for speech-language pathology and audiology services; and

**WHEREAS**, VENDOR offered a proposal dated January 31, 2017 (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 3.06 of this Agreement, the term of this Agreement shall commence on **July 1, 2017** and conclude on **June 30, 2020**. The term of the Agreement may, by mutual agreement between SBBC and VENDOR be extended for two additional one-year periods and, if needed, 180 days beyond the expiration date of the renewal period. SBBC's Procurement & Warehousing Services Department, will, if considering renewing, request a letter consenting to renewal from VENDOR, prior to the end of the term. Any renewal period shall be approved by an Amendment to this Agreement executed by both parties.

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

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

First: This Agreement, then;  
Second: Addendum No. 4, then;  
Third: Addendum No. 3, then;  
Fourth: Addendum No. 2, then;  
Fifth: Addendum No. 1, then;  
Sixth: RFP 18-001V – Speech-Language Pathology and Audiology Services, then;  
Seventh: Proposal submitted in response to the RFP by VENDOR.

2.04 **Cost of Services.** SBBC shall pay VENDOR for cost of services satisfactorily rendered for Speech-Language Pathologist at \$59.85/hr. and Audiologist at \$60.00/hr. Costs shall not exceed the amount as stated on the Purchase Order. VENDOR may offer SBBC a special educational discount for pricing and reduce the cost of services during the term of the Agreement. VENDOR may invoice SBBC at an hourly rate less than their original proposal price.

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

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

VENDOR shall enter into SBBC’s HIPAA Business Associate Agreement (“BAA”) substantially in the form attached hereto and incorporated herein as **Attachment B.**

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

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

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

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

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

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

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

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

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



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

To SBBC: Superintendent of Schools  
The School Board of Broward County, Florida  
600 Southeast Third Avenue  
Fort Lauderdale, Florida 33301

With a Copy to: Executive Director, ESE/SS Division  
The School Board of Broward County, Florida  
1701 NW 23<sup>rd</sup> Avenue  
Fort Lauderdale, Florida 33301

To VENDOR: Catherine Budzian  
Sunbelt Staffing, LLC  
3687 Tampa Road, Suite 200  
Oldsmar, Florida 34677

With Copy to: Contracts Department  
Sunbelt Staffing, LLC  
10151 Deerwood Park Ave  
Jacksonville, Florida 32256

2.08 **Background Screening.** Vendor agrees to comply with all requirements of Sections 1012.32 and 1012.465, Florida Statutes, and all of its personnel who (1) are to be permitted access to school grounds when students are present, (2) will have direct contact with students, or (3) have access or control of school funds, will successfully complete the background screening required by the referenced statutes and meet the standards established by the statutes. This background screening will be conducted by SBBC in advance of the 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 the 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.

2.09 **Insurance.** VENDOR shall provide the minimum insurance requirements as provided below:

- a) **GENERAL LIABILITY:** Limits not less than \$1,000,000 per occurrence for Bodily Injury/ Property Damage; \$1,000,000 General Aggregate. Limits not less than \$1,000,000 for Products/Completed Operations Aggregate.
- b) **WORKER'S COMPENSATION:** Florida Statutory limits in accordance with Chapter 440; Employer's Liability limits not less than \$100,000/\$100,000/\$500,000 (each accident/disease-each employee/disease-policy limit).
- c) **PROFESSIONAL LIABILITY:** Limits not less than \$1,000,000 per occurrence covering services provided under this Agreement.
- d) **AUTO LIABILITY:** Owned, Non-Owned and Hired Auto Liability with Bodily Injury and Property Damage limits of not less than \$1,000,000 Combined Single Limit. If VENDOR does not own any vehicles, hired and non-owned automobile liability coverage in the amount of \$1,000,000 will be accepted. In addition, an affidavit signed by the VENDOR must be furnished to SBBC indicating the following:  
VENDOR does not own any vehicles. In the event insured acquires any vehicles throughout the term of this Agreement, insured agrees to provide proof of "Any Auto" coverage effective the date of acquisition. (Fax affidavit with Certificate of Insurance to SBBC Risk Management at 866-897-0424.)
- e) **ACCEPTABILITY OF INSURANCE CARRIERS:** The insurance policies shall be issued by companies qualified to do business in the State of Florida. The insurance companies must be rated 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 Risk Management Department by Certificate of Insurance within 15 days of the date of this Agreement. All certificates (and any required documents) must be received and approved by SBBC before any work commences to permit VENDOR time to remedy any deficiencies. **FAX CERTIFICATES OF INSURANCE TO SBBC RISK MANAGEMENT AT 866-897-0424.**
- g) **REQUIRED CONDITIONS:** Liability policies must contain the following provisions. In addition, the following wording must be included on the Certificate of Insurance:  
**The School Board of Broward County, Florida, its members, officers, employees and agents are added as additional insured.**  
**All liability policies are primary of all other valid and collectable coverage maintained by The School Board of Broward County, Florida.**  
(\*Please include the RFP Number and Title on the Certificate of Insurance.)  
(Certificate Holder: The School Board of Broward County, Florida 600 Southeast Third Avenue, Fort Lauderdale, Florida 33301)
- 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 business days if required insurance is cancelled.

- i) **The School Board of Broward County, Florida reserves the right to review, reject or accept any required policies of insurance, including limits, coverage's or endorsements, herein throughout the term of this Agreement.**

### **ARTICLE 3 – GENERAL CONDITIONS**

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

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

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

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

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

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

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

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

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

3.10 **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 transfer 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, Insert Name shall meet all applicable requirements for retaining public records. All records stored electronically must be provided to SBBC, upon request from SBBC's custodian of public records, in a format that is compatible with SBBC's information technology systems.

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

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

3.12 **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.

3.13 **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. . VENDOR agrees and admits that the state courts of the Seventeenth Judicial Circuit of Broward County, Florida and the Southern District of Florida shall have jurisdiction over VENDOR.

3.14 **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.

3.15 **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.

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

3.17 **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.

3.18 **Incorporation by Reference.** **Attachments A and B** are attached hereto and referenced herein shall be deemed to be incorporated into this Agreement by reference.

3.19 **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.

3.20 **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.

3.21 **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.

3.22 **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.

3.23 **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.

3.24 **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.

3.25 **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.

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

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

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

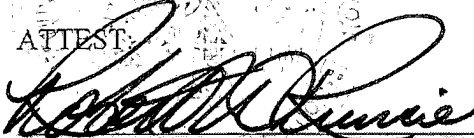
B. By VENDOR: VENDOR agrees to indemnify, hold harmless and defend SBBC, its agents, servants and employees from any and all claims, judgments, costs, and expenses including, but not limited to, reasonable attorney's fees, reasonable investigative and discovery costs, court costs and all other sums which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

3.28 **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.

(Corporate Seal)

ATTEST:

  
Robert W. Runcie, Superintendent of Schools

FOR SBBC

THE SCHOOL BOARD OF BROWARD  
COUNTY, FLORIDA

By   
Abby M. Freedman, Chair

Approved as to Form and Legal Content:  
Digitally signed by Kathelyn Jacques-  
Adams, Esq. - kathelyn.jacques-  
adams@gbrowardschools.com  
Reason: Sunbelt Staffing, LLC  
Date: 2017.05.24 10:08:06 -04'00'

Office of the General Counsel



**FOR VENDOR**

(Corporate Seal)

SUNBELT STAFFING, LLC

ATTEST:

By Kimberly Western

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

-or-

Catherine Bady  
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 Hillsborough

The foregoing instrument was acknowledged before me this 8 day of MAY, 2017 by Kimberly Western of Sunbelt Staffing, on behalf of the corporation/agency.  
Name of Person  
Name of Corporation or Agency

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

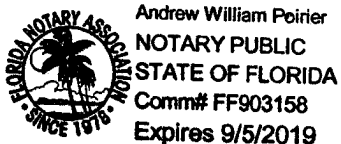
My Commission Expires: 9/5/19

[Signature]  
Signature – Notary Public

(SEAL)

Andrew William Poirier  
Printed Name of Notary

FF 903158  
Notary's Commission No.



## SCOPE OF SERVICES

1. VENDOR shall offer services for speech-language pathologist(s) and audiologists that hold a current, active professional license in speech-language pathology or audiology from the Department of Health, Board of Speech-Language Pathology and Audiology agree to provide copies of a current active professional license and certifications in speech-language pathology and/or audiology prior to acceptance for placement.
2. VENDOR shall, throughout **Attachment A**, not to hire any individual who is currently employed part-time or full-time by SBBC as a speech-language pathologist or audiologist until the completion of the school year. VENDOR shall, throughout **Attachment A**, hold harmless any individual employed by them who elects to become employed by SBBC in the school year following the expiration date of the current Agreement, throughout **Attachment A**, school year.
3. VENDOR shall provide speech-language pathologists and audiologists whose performance shall be consistent with a professional standard of care and comply with requirements of the State of Florida Department of Health, Division of Medical Quality Assurance, and Board of Professional Regulation for speech, language and audiology requirements of other applicable local, state or federal agencies which may govern the speech-language pathologist's or audiologist's activities on behalf of SBBC.
4. VENDOR shall provide services consistent with the professional standard of care and shall comply with the ethical requirements imposed by the State of Florida Department of Professional Regulations, the Florida State Department of Education and any other federal, state or local regulatory agency.
5. All speech-language pathologists and audiologists, who shall be providing services under this Agreement, throughout **Attachment A**, must be articulate in oral and written English.
6. All speech-language pathologists and audiologists, under this Agreement, throughout **Attachment A**, shall be required to pass the screening of the Broward District Schools Police Department prior to placement of assignment as required by the School Board of Broward County, Florida. (See General Condition 7.30 of the RFP, SBBC Photo Identification Badge). All speech-language pathologists and/or audiologists must utilize the STAR system and/or sign-in/out procedures to document attendance at assigned location.
7. Speech-language pathologist(s) and audiologist(s) providing services shall follow the procedures for the referral, identification, screening, evaluation, eligibility, placement, and dismissal of students with speech-language or hearing impairments as provided in the document Special Programs and Procedures by the ESE/SS Division.
8. Speech-language pathologist(s) and audiologist(s) providing services shall follow procedures for completing required documentation for student attendance, student progress and reporting to parents, reimbursement for Medicaid funding, and other procedures as indicated by the Special Programs and Procedures document and ESE/SS Division.
9. Speech-language pathologist(s) and audiologist(s) providing services shall allow District administrative staff as well as teacher-based resource personnel to review required documentation and observe all provided services.

## SCOPE OF SERVICES

10. Speech-language pathologist(s) and audiologist(s) providing services shall submit, for approval to the school principal or designee, any written communication intended for parents and teachers.
11. Speech-language pathologist(s) and audiologist(s) shall follow all rules and procedures as contained in the employee handbooks of the individual school. Speech-language pathologist(s) and audiologist(s) shall refrain from using school equipment (such as phones, copiers, computers, etc.) for personal or commercial business during service times.
12. Speech-Language pathologist(s) and audiologist(s) shall complete such records as shall be required to document services provided, on a daily basis. VENDOR shall submit timesheets and other documentation needed to substantiate payment through the approved electronic database on an approved voucher form no later than five (5) days following the delivery of service. In order to insure timely payment VENDOR must submit accurate time sheets of service in accordance with the training they receive. These records must be submitted to the ESE/SS Division, Arthur Ashe, Jr. Campus, 1701 NW 23<sup>rd</sup> Avenue, Fort Lauderdale, Florida 33311.
13. VENDOR shall have all new providers use and submit an approved District template to log services until training takes place for the electronic system. VENDOR shall utilize the approved template until such time as they are trained in the electronic database system. Immediately following training all providers, VENDOR shall transfer the data from the district template into the Educational Database System and file the original hard copy in the student's IEP folder at the school site.
14. (SBBC) ESE/SS Division reserves the right to interview all speech-language pathologist(s) and/or audiologist(s) prior to placement. ESE/SS Division reserves the right to refuse to utilize any given speech-language pathologist(s) and/or audiologist(s) if it is in their best interest to do so.
15. VENDOR's Speech-Language Pathologist(s) must attend two (2) scheduled policies/procedures meetings, considered as part of their workday, of not less than three (3) hours as determined by the District. These meetings shall include, but are not limited to, general information on these policies and procedures of the Broward County Special Programs and Procedures, the rights of students with disabilities, and other operational procedures required to carry out the therapy program. VENDOR shall incorporate any cancelled service sessions due to meeting times into their schedule.
16. VENDOR shall, throughout **Attachment A**, execute SBBC's HIPPA Business Associate Agreement as stated in **Attachment B**.
17. VENDOR shall provide speech-language pathologist(s) and/or audiologist(s) who agree to provide therapy services throughout the District at all times and locations designated by SBBC. SBBC reserves the right to request a change in times and locations of services provided by VENDOR (consistent with the written agreement for days and hours worked), during the course of an assignment. Services shall be provided up to 7 hours per day on regular student attendance days. Services provided on employee planning days and early release days must be pre-approved in writing by an authorized representative of the ESE/SS Division. School year calendars may be viewed on the following web link:  
**<http://www.browardschools.com>. Click on the link "Calendars"**

## SCOPE OF SERVICES

18. VENDOR shall, throughout **Attachment A**, provide the requested services within ten school days of verbal/written notice of an assignment by SBBC.
19. Resumes of replacement personnel are to be submitted to the ESE/SS Division for review. All replacement personnel must have written approval by the ESE/SS Division prior to placement. All replacement personnel shall follow the procedures as stated by the ESE/SS Division. All replacement personnel must have the same credentials equivalent to the individuals whom they replace. ESE/SS Division reserves the right to interview replacement personnel prior to approval.
20. The Audiologist's services shall determine the type and degree of hearing impairment and shall implement habilitation and rehabilitation services for the student. Administers and interprets variety of tests, such as air and bone conduction, and speech reception and discrimination tests, to determine type and degree of hearing impairment, site of damage, and effects on comprehension and speech. Evaluates test results in relation to behavioral, social, educational, and medical information obtained from patients, families, teachers, speech pathologists and other professionals to determine communication problems related to hearing disability. Plans and implements provision, habilitation or rehabilitation services including hearing aid selection and orientation, counseling, auditory training, lip reading, language habilitation, speech conservation and other treatment programs developed in consultation with speech pathologists and other professionals.
21. Clinical Fellowship Year (CFY) candidates with a provisional license will be considered for a school assignment if the VENDOR agrees to provide all supervisory and support requirements for the candidate.
22. VENDOR shall insure that any interruption of services due to a therapist being "unavailable" shall be made up to the best of their ability and shall be documented in the Electronic Based System as "make-up" session.
23. VENDOR shall, throughout **Attachment A**, provide the required ELL training to all candidates assigned to a school site. Training can be provided via the VENDOR's own process or via the District's training for a minimal cost. Training must comply with the requirements of the Florida Consent Decree and the META Agreement.

## HIPAA BUSINESS ASSOCIATE AGREEMENT

This Business Associate Agreement ("**Agreement**") is made and entered into as of this \_\_\_\_\_ day of \_\_\_\_\_, 2017 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

## SUNBELT STAFFING, LLC

(hereinafter referred to as "**Business Associate**"),  
whose principal place of business is  
3687 Tampa Road, Suite 200  
Oldsmar, Florida 34677

**WHEREAS**, by virtue of some of the services that Business Associate performs for SBBC, Business Associate may be a "business associate", as the term is defined at 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 coverage 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 the 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").

**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/or disclosure of PHI and the security of 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.

## ATTACHMENT A

- (b) “**Business Associate**” shall mean Business Associate named above and shall include all successors and assigns, affiliates, subsidiaries, and related companies.
- (c) “**Designed 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 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) “**HIPAA**” means Health Insurance Portability and Accountability Act of 1996.
- (f) “**HITECH Act**” means the Health Information Technology for Economic and Clinical Health Act of 2009.
- (g) “**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).
- (h) “**Minimum Necessary**” means the least amount of PHI needed to accomplish the intended purpose of the use or disclosure.
- (i) “**Omnibus Rule**” means the HIPAA Omnibus Rule of 2013.
- (j) “**Privacy Rule**” shall mean the Standards of Privacy of Individuals Identifiable Health Information as set forth at 45 C.F.R. Parts 160 and 164, subparts A and E.
- (k) “**Protected Health Information**” or “**PHI**” shall have the same meaning as the term “protected health information” in 45 C.F.R. §130.103 (as amended by the HITECH Act) limited to the information created or received by Business Associate from or on behalf of SBBC.
- (l) “**Required by Law**” shall have the same meaning as the term “required by law” in 45 C.F.R. §164.103.
- (m) “**Secretary**” shall mean the Secretary of the Department of Health and Human Services or his or her designee.
- (n) “**Security Rule**” shall mean the Standards for Security of ePHI as set forth 45 C.F.R. Parts 160 and 164 Subpart C.
- (o) “**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 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 substantially the same form as Exhibit A, hereto.
- (e) Business Associate shall promptly inform SBBC of a Breach of Unsecured PHI following the first day on which Business Associate knows of such Breach or following the first day on which Business Associate should have known 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 by Federal and/or Florida law.

## ATTACHMENT A

- (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 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 access, at the requires of SBBC, and in the time and manner designated by SBBC, to PHI in a Designated Record Set that is not also in SBBC's possession, to SBBC in order for SBBC to meet the requirements under 45 C.F.R. §164.524.
- (i) Business Associate agrees to make PHI available for amendment and incorporate all amendments to PHI in a Designated Record Set that SBBC directs or agrees to pursuant to 45 C.F.R. §164.526 at the request of SBBC or an Individual 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 a request of SBBC to the Secretary, in a time and manner as designated by SBBC or the Secretary, for the 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 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.



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

- (a) Except as otherwise limited in this Agreement, Business Associate may use or disclose PHI to perform functions, activities or services for, or on behalf of, SBBC as previously agreed to by the parties (the “Service Agreement”) provided that such use or disclosure would not violate the Privacy Rule if done by SBBC.
- (b) Except as otherwise limited in 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 in 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 for 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 in 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
- (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 with ten (10) business days prior written notice to Business Associate to audit Business Associate from time-to-time to verify Business Associate compliance with the terms of this Agreement. SBBC shall be entitled and enabled to inspect the records and other information relevant to Business Associate 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 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 and confidentiality and integrity of ePHI under the Security Standards 45 C.F.R. Part 160 and 164 subpart C.

- (b) Business Associate agrees that it will ensure that agents or subcontractors agree to implement the applicable administrative, physical, and technical safeguards required to protect the confidentiality and integrity of ePHI under the Security Standards 45 C.F.R. Part 164.
- (c) Business Associate agrees to report to SBBC all Security Incidents (as defined 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 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, on behalf of SBBC, it will perform all transactions for which a standard has been developed under the EDI Rule that Business Associate could reasonably be expected to perform in the ordinary course of its functions on behalf of SBBC.

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 in general, shall be deemed to amend this Agreement to incorporate said changes without further action.

**8. Amendment.**

The parties agree to take any and all actions necessary to amend this Agreement from time to time so that SBBC is in compliance with the Privacy Rule, the Security Rule, the HITECH Act, and HIPAA in general. The parties may agree to amend this Agreement from time to time in other respect that 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 as of the Effective Date and shall remain in effect until such time as SBBC exercises its right to 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 of such breach to Business Associate, 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.

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, for example, if SBBC makes illegal demands on Business Associate, 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 Covered Entity.

- (d) ***Effect of Termination.*** Except as set forth in this Section 9(d), upon termination of this Agreement for any reason, at the request of SBBC, 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. In the event that Business Associate determines that returning or destroying the PHI is infeasible, such as in the use of data aggregation, Business Associate shall provide to SBBC written notification of the conditions that make return or destruction infeasible. If 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 make the return or destruction infeasible, 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 while such equipment is on premises owned or controlled by SBBC; or the negligence of Business Associate 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 property, and injury or death of any person whether employed by Business Associate, SBBC or otherwise.

**ARTICLE 3 – GENERAL CONDITIONS****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 waiver of limits to liability or rights existing under Section 768.28, Florida Statutes.

**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 term 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.

**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, FL 33301

With a Copy to: Executive Director, ESE/SS Division  
The School Board of Broward County, Florida  
1701 NW 23<sup>rd</sup> Avenue  
Fort Lauderdale, Florida 33301

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: Catherine Budzian  
Sunbelt Staffing, LLC  
3687 Tampa Road, Suite 200  
Oldsmar, Florida 34677

With a Copy to: Contracts Department  
Sunbelt Staffing, LLC  
10151 Deerwood Park Ave  
Jacksonville, Florida 32256

**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. The person signing on behalf of "Business Associate" has authority to bind "Business Associate" with respect to all provisions contained in this Agreement.

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

No failure or delay by a party hereto in exercising any right, power or remedy under this Agreement, and no course of dealing between the parties hereto, will operate as a waiver of any such right, power or remedy of the party. No single or partial exercise of any right, power or remedy under this Agreement by a party hereto, nor any abandonment or discontinuance of steps to enforce any such right, power or remedy, will preclude such party from any other or further exercise thereof or the exercise of any other right, power or remedy hereunder. The election of any remedy by a party hereto will not constitute a waiver of the right of such party to pursue other available remedies. No notice to or demand on a party not expressly required under this Agreement will entitle the party receiving such notice or demand to any other or further notice or demand in similar or other circumstances or constitute a waiver of the right of the party giving such notice or demand to any other or further action in any circumstances without such notice or demand. The terms and provisions of this Agreement may be waived, or consent for the departure there from granted, only by written document executed by the party entitled to the benefits of such terms or provisions. No such waiver or consent will be deemed to be or will constitute a waiver or consent with respect to any other terms or provisions of this Agreement, whether or not similar. Each such waiver or consent will be effective only in the specific instance and for the purpose for which it was given, and will not constitute a continuing waiver or consent.

**27. Regulatory References.**

A reference in this Agreement to a section in the Privacy Rule, the Security Rule, the HITECH Act, or HIPAA in general means the referenced section or its successor, and for which compliance is required.

**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.


**30. Interpretation.**

Any ambiguity in this Agreement shall be interpreted in a manner that permits SBBC to comply with the Privacy Rule, Security Rule, the HITECH Act, HIPAA in general and any subsequent legislation or regulations otherwise affecting Business Associates.

IN WITNESS WHEREOF, the parties have executed this Business Associate Agreement as of the Effective Date.

(Corporate Seal)

ATTEST:

  
Robert W. Runcie, Superintendent of Schools

**FOR SBBC**

THE SCHOOL BOARD OF BROWARD  
COUNTY, FLORIDA

By   
Abby M. Freedman, Chair

Approved as to Form and Legal Content:



Digitally signed by Kathelyn Jacques-Adams, Esq.  
- kathelyn.jacques-  
adams@gbrowardschools.com  
Reason: Sunbelt Staffing, LLC  
Date: 2017.05.24 10:08:37 -04'00'

Office of the General Counsel

FOR BUSINESS ASSOCIATE

Kimberly Western  
Signature

Catherine Bulz  
Witness

William Western  
Witness

Kimberly Western Vice President  
Print Name and Title  
Kimberly Western

STATE OF Florida

COUNTY OF Hillsborough

The foregoing instrument was acknowledged before me by Kimberly Western who is personally known to me or who produced \_\_\_\_\_ as identification and who did / did not first take an oath this 8 day of May, 20 17.

My Commission Expires: 9/5/19

[Signature]  
Signature – Notary Public



Andrew William Poirier  
NOTARY PUBLIC  
STATE OF FLORIDA  
Comm# FF903158  
Expires 9/5/2019

Andrew William Poirier  
Notary's Printed Name

FF903158  
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 13<sup>th</sup> day of June, 2017, 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

### **THERAPIA STAFFING, LLC**

(hereinafter referred to as "VENDOR"),  
whose principal place of business is  
7451 Wiles Road, Suite 107  
Coral Springs, Florida 33076

**WHEREAS**, SBBC issued a Request for Proposal identified as RFP 18-001V – Speech-Language Pathology and Audiology Services (hereinafter referred to as "RFP"), dated December 1, 2016 and amended by Addendum No. 4, dated January 17, 2017, Addendum No. 3, dated January 13, 2017 Addendum No. 2, dated December 19, 2016, and Addendum No. 1, dated December 9, 2016 all of which are incorporated by reference herein, for the purpose of receiving proposals for speech-language pathology and audiology services; and

**WHEREAS**, VENDOR offered a proposal dated January 18, 2017 (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 3.06 of this Agreement, the term of this Agreement shall commence on **July 1, 2017** and conclude on **June 30, 2020**. The term of the Agreement may, by mutual agreement between SBBC and VENDOR be extended for two additional one-year periods and, if needed, 180 days beyond the expiration date of the renewal period. SBBC's Procurement & Warehousing Services Department, will, if considering renewing, request a letter consenting to renewal from VENDOR, prior to the end of the term. Any renewal period shall be approved by an Amendment to this Agreement executed by both parties.

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

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

First: This Agreement, then;  
Second: Addendum No. 4, then;  
Third: Addendum No. 3, then;  
Fourth: Addendum No. 2, then;  
Fifth: Addendum No. 1, then;  
Sixth: RFP 18-001V – Speech-Language Pathology and Audiology Services, then;  
Seventh: Proposal submitted in response to the RFP by VENDOR.

2.04 **Cost of Services.** SBBC shall pay VENDOR for cost of services satisfactorily rendered for Speech-Language Pathologist at \$58.00/hr. and Audiologist at \$56.00/hr. Costs shall not exceed the amount as stated on the Purchase Order. VENDOR may offer SBBC a special educational discount for pricing and reduce the cost of services during the term of the Agreement. VENDOR may invoice SBBC at an hourly rate less than their original proposal price.

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

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

VENDOR shall enter into SBBC’s HIPAA Business Associate Agreement (“BAA”) substantially in the form attached hereto and incorporated herein as **Attachment B.**

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

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

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

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

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

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

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

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

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

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

To SBBC: Superintendent of Schools  
The School Board of Broward County, Florida  
600 Southeast Third Avenue  
Fort Lauderdale, Florida 33301

With a Copy to: Executive Director, ESE/SS Division  
The School Board of Broward County, Florida  
1701 NW 23<sup>rd</sup> Avenue  
Fort Lauderdale, Florida 33301

To VENDOR: Kelsie Beckno  
Therapia Staffing, LLC  
7451 Wiles Road, Suite #107  
Coral Springs, FL 33067

2.08 **Background Screening.** Vendor agrees to comply with all requirements of Sections 1012.32 and 1012.465, Florida Statutes, and all of its personnel who (1) are to be permitted access to school grounds when students are present, (2) will have direct contact with students, or (3) have access or control of school funds, will successfully complete the background screening required by the referenced statutes and meet the standards established by the statutes. This background screening will be conducted by SBBC in advance of the 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 the 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.

2.09 **Insurance.** VENDOR shall provide the minimum insurance requirements as provided below:

- a) **GENERAL LIABILITY:** Limits not less than \$1,000,000 per occurrence for Bodily Injury/ Property Damage; \$1,000,000 General Aggregate. Limits not less than \$1,000,000 for Products/Completed Operations Aggregate.
- b) **WORKER'S COMPENSATION:** Florida Statutory limits in accordance with Chapter 440; Employer's Liability limits not less than \$100,000/\$100,000/\$500,000 (each accident/disease-each employee/disease-policy limit).
- c) **PROFESSIONAL LIABILITY:** Limits not less than \$1,000,000 per occurrence covering services provided under this Agreement.

- d) **AUTO LIABILITY:** Owned, Non-Owned and Hired Auto Liability with Bodily Injury and Property Damage limits of not less than \$1,000,000 Combined Single Limit. If VENDOR does not own any vehicles, hired and non-owned automobile liability coverage in the amount of \$1,000,000 will be accepted. In addition, an affidavit signed by the VENDOR must be furnished to SBBC indicating the following:  
VENDOR does not own any vehicles. In the event insured acquires any vehicles throughout the term of this Agreement, insured agrees to provide proof of "Any Auto" coverage effective the date of acquisition. (Fax affidavit with Certificate of Insurance to SBBC Risk Management at 866-897-0424.)
- e) **ACCEPTABILITY OF INSURANCE CARRIERS:** The insurance policies shall be issued by companies qualified to do business in the State of Florida. The insurance companies must be rated 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 Risk Management Department by Certificate of Insurance within 15 days of the date of this Agreement. All certificates (and any required documents) must be received and approved by SBBC before any work commences to permit VENDOR time to remedy any deficiencies. **FAX CERTIFICATES OF INSURANCE TO SBBC RISK MANAGEMENT AT 866-897-0424.**
- g) **REQUIRED CONDITIONS:** Liability policies must contain the following provisions. In addition, the following wording must be included on the Certificate of Insurance:  
**The School Board of Broward County, Florida, its members, officers, employees and agents are added as additional insured.**  
**All liability policies are primary of all other valid and collectable coverage maintained by The School Board of Broward County, Florida.**  
(\*Please include the RFP Number and Title on the Certificate of Insurance.)  
(Certificate Holder: The School Board of Broward County, Florida 600 Southeast Third Avenue, Fort Lauderdale, Florida 33301)
- 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 business days if required insurance is cancelled.
- i) **The School Board of Broward County, Florida reserves the right to review, reject or accept any required policies of insurance, including limits, coverage's or endorsements, herein throughout the term of this Agreement.**

### **ARTICLE 3 – GENERAL CONDITIONS**

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

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

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

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

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

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

3.07 **Default.** The parties agree that, in the event that either party is in default of its obligations under this Agreement, the non-defaulting party shall provide to the defaulting party (30) days written notice to cure the default. However, in the event said default cannot be cured

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

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

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

3.10 **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 transfer 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, Insert Name shall meet all applicable requirements for retaining public records. All records stored electronically must be provided to SBBC, upon request from SBBC's custodian of public records, in a format that is compatible with SBBC's information technology systems.

**IF A PARTY TO THIS AGREEMENT HAS QUESTIONS REGARDING THE APPLICATION OF CHAPTER 119, FLORIDA STATUTES, TO ITS DUTY TO PROVIDE PUBLIC RECORDS RELATING TO THE AGREEMENT, CONTACT THE CUSTODIAN OF PUBLIC RECORDS AT 754-321-1900, REQUEL.BELL@BROWARDSCHOOLS.COM, RISK**



**MANAGEMENT DEPARTMENT, PUBLIC RECORDS DIVISION, 600  
SOUTHEAST THIRD AVENUE, FORT LAUDERDALE, FLORIDA 33301.**

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

3.12 **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.

3.13 **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. VENDOR agrees and admits that the state courts of the Seventeenth Judicial Circuit of Broward County, Florida and the Southern District of Florida shall have jurisdiction over VENDOR.

3.14 **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.

3.15 **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.

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

3.17 **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.

3.18 **Incorporation by Reference.** Attachments A and B are attached hereto and referenced herein shall be deemed to be incorporated into this Agreement by reference.

3.19 **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.

3.20 **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.

3.21 **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.

3.22 **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.

3.23 **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.

3.24 **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.

3.25 **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.

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

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

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

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

3.28 **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.

(Corporate Seal)

ATTEST:

  
Robert W. Runcie, Superintendent of Schools

**FOR SBBC**

THE SCHOOL BOARD OF BROWARD  
COUNTY, FLORIDA

By   
Abby M. Freedman, Chair

Approved as to Form and Legal Content:



Digitally signed by Kathelyn Jacques-Adams,  
Esq. - kathelyn.jacques-  
adams@browardschools.com  
Reason: Therapia Staffing, LLC  
Date: 2017.05.24 09:11:50 -04'00'

Office of the General Counsel

**FOR VENDOR**

(Corporate Seal)

THERAPIA STAFFING, LLC

ATTEST:

Jennifer Goldstein President  
\_\_\_\_\_, Secretary

By

[Signature]

-or-

\_\_\_\_\_  
Witness

\_\_\_\_\_  
Witness

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

STATE OF Florida

COUNTY OF Broward

The foregoing instrument was acknowledged before me this 2 day of May, 2017 by Jennifer Goldstein of Therapia Staffing, LLC, on behalf of the corporation/agency.  
Name of Person  
Name of Corporation or Agency

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

My Commission Expires: June 26, 2020

[Signature]  
Signature – Notary Public

Danielle Marando  
Printed Name of Notary

(SEAL)



Danielle Marando  
Commission # GG005662  
Expires: June 26, 2020  
Bonded thru Aaron Notary

GG005662  
Notary's Commission No.

## SCOPE OF SERVICES

1. VENDOR shall offer services for speech-language pathologist(s) and audiologists that hold a current, active professional license in speech-language pathology or audiology from the Department of Health, Board of Speech-Language Pathology and Audiology agree to provide copies of a current active professional license and certifications in speech-language pathology and/or audiology prior to acceptance for placement.
2. VENDOR shall, throughout **Attachment A**, not to hire any individual who is currently employed part-time or full-time by SBBC as a speech-language pathologist or audiologist until the completion of the school year. VENDOR shall, throughout **Attachment A**, to hold harmless any individual employed by them who elects to become employed by SBBC in the school year following the expiration date of the current Agreement, throughout **Attachment A**, school year.
3. VENDOR shall provide speech-language pathologists and audiologists whose performance shall be consistent with a professional standard of care and comply with requirements of the State of Florida Department of Health, Division of Medical Quality Assurance, and Board of Professional Regulation for speech, language and audiology requirements of other applicable local, state or federal agencies which may govern the speech-language pathologist's or audiologist's activities on behalf of SBBC.
4. VENDOR shall provide services consistent with the professional standard of care and shall comply with the ethical requirements imposed by the State of Florida Department of Professional Regulations, the Florida State Department of Education and any other federal, state or local regulatory agency.
5. All speech-language pathologists and audiologists, who shall be providing services under this Agreement, throughout **Attachment A**, must be articulate in oral and written English.
6. All speech-language pathologists and audiologists, under this Agreement, throughout **Attachment A**, shall be required to pass the screening of the Broward District Schools Police Department prior to placement of assignment as required by the School Board of Broward County, Florida. (See General Condition 7.30 of the RFP, SBBC Photo Identification Badge). All speech-language pathologists and/or audiologists must utilize the STAR system and/or sign-in/out procedures to document attendance at assigned location.
7. Speech-language pathologist(s) and audiologist(s) providing services shall follow the procedures for the referral, identification, screening, evaluation, eligibility, placement, and dismissal of students with speech-language or hearing impairments as provided in the document Special Programs and Procedures by the ESE/SS Division.
8. Speech-language pathologist(s) and audiologist(s) providing services shall follow procedures for completing required documentation for student attendance, student progress and reporting to parents, reimbursement for Medicaid funding, and other procedures as indicated by the Special Programs and Procedures document and ESE/SS Division.
9. Speech-language pathologist(s) and audiologist(s) providing services shall allow District administrative staff as well as teacher-based resource personnel to review required documentation and observe all provided services.

## SCOPE OF SERVICES

10. Speech-language pathologist(s) and audiologist(s) providing services shall submit, for approval to the school principal or designee, any written communication intended for parents and teachers.
11. Speech-language pathologist(s) and audiologist(s) shall follow all rules and procedures as contained in the employee handbooks of the individual school. Speech-language pathologist(s) and audiologist(s) shall refrain from using school equipment (such as phones, copiers, computers, etc.) for personal or commercial business during service times.
12. Speech-Language pathologist(s) and audiologist(s) shall complete such records as shall be required to document services provided, on a daily basis. VENDOR shall submit timesheets and other documentation needed to substantiate payment through the approved electronic database on an approved voucher form no later than five (5) days following the delivery of service. In order to insure timely payment VENDOR must submit accurate time sheets of service in accordance with the training they receive. These records must be submitted to the ESE/SS Division, Arthur Ashe, Jr. Campus, 1701 NW 23<sup>rd</sup> Avenue, Fort Lauderdale, Florida 33311.
13. VENDOR shall have all new providers use and submit an approved District template to log services until training takes place for the electronic system. VENDOR shall utilize the approved template until such time as they are trained in the electronic database system. Immediately following training all providers, VENDOR shall transfer the data from the district template into the Educational Database System and file the original hard copy in the student's IEP folder at the school site.
14. (SBBC) ESE/SS Division reserves the right to interview all speech-language pathologist(s) and/or audiologist(s) prior to placement. ESE/SS Division reserves the right to refuse to utilize any given speech-language pathologist(s) and/or audiologist(s) if it is in their best interest to do so.
15. VENDOR's Speech-Language Pathologist(s) must attend two (2) scheduled policies/procedures meetings, considered as part of their workday, of not less than three (3) hours as determined by the District. These meetings shall include, but are not limited to, general information on these policies and procedures of the Broward County Special Programs and Procedures, the rights of students with disabilities, and other operational procedures required to carry out the therapy program. VENDOR shall incorporate any cancelled service sessions due to meeting times into their schedule.
16. VENDOR shall, throughout **Attachment A**, execute SBBC's HIPPA Business Associate Agreement as stated in **Attachment B**.
17. VENDOR shall provide speech-language pathologist(s) and/or audiologist(s) who agree to provide therapy services throughout the District at all times and locations designated by SBBC. SBBC reserves the right to request a change in times and locations of services provided by VENDOR (consistent with the written agreement for days and hours worked), during the course of an assignment. Services shall be provided up to 7 hours per day on regular student attendance days. Services provided on employee planning days and early release days must be pre-approved in writing by an authorized representative of the ESE/SS Division. School year calendars may be viewed on the following web link:  
**<http://www.browardschools.com>**. Click on the link "Calendars"

## SCOPE OF SERVICES

18. VENDOR shall, throughout **Attachment A**, provide the requested services within ten school days of verbal/written notice of an assignment by SBBC.
19. Resumes of replacement personnel are to be submitted to the ESE/SS Division for review. All replacement personnel must have written approval by the ESE/SS Division prior to placement. All replacement personnel shall follow the procedures as stated by the ESE/SS Division. All replacement personnel must have the same credentials equivalent to the individuals whom they replace. ESE/SS Division reserves the right to interview replacement personnel prior to approval.
20. The Audiologist's services shall determine the type and degree of hearing impairment and shall implement habilitation and rehabilitation services for the student. Administers and interprets variety of tests, such as air and bone conduction, and speech reception and discrimination tests, to determine type and degree of hearing impairment, site of damage, and effects on comprehension and speech. Evaluates test results in relation to behavioral, social, educational, and medical information obtained from patients, families, teachers, speech pathologists and other professionals to determine communication problems related to hearing disability. Plans and implements prevision, habilitation or rehabilitation services including hearing aid selection and orientation, counseling, auditory training, lip reading, language habilitation, speech conservation and other treatment programs developed in consultation with speech pathologists and other professionals.
21. Clinical Fellowship Year (CFY) candidates with a provisional license will be considered for a school assignment if the VENDOR agrees to provide all supervisory and support requirements for the candidate.
22. VENDOR shall insure that any interruption of services due to a therapist being "unavailable" shall be made up to the best of their ability and shall be documented in the Electronic Based System as "make-up" session.
23. VENDOR shall, throughout **Attachment A**, provide the required ELL training to all candidates assigned to a school site. Training can be provided via the VENDOR's own process or via the District's training for a minimal cost. Training must comply with the requirements of the Florida Consent Decree and the META Agreement.

**HIPAA BUSINESS ASSOCIATE AGREEMENT**

This Business Associate Agreement ("**Agreement**") is made and entered into as of this \_\_\_\_\_ day of \_\_\_\_\_, 2017 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

**THERAPIA STAFFING, LLC**

(hereinafter referred to as "**Business Associate**"),

whose principal place of business is

7451 Wiles Road, Suite 107

Coral Springs, Florida 33076

**WHEREAS**, by virtue of some of the services that Business Associate performs for SBBC, Business Associate may be a "business associate", as the term is defined at 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 coverage 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 the 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").

**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/or disclosure of PHI and the security of 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.



## ATTACHMENT B

- (b) “**Business Associate**” shall mean Business Associate named above and shall include all successors and assigns, affiliates, subsidiaries, and related companies.
- (c) “**Designed 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 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) “**HIPAA**” means Health Insurance Portability and Accountability Act of 1996.
- (f) “**HITECH Act**” means the Health Information Technology for Economic and Clinical Health Act of 2009.
- (g) “**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).
- (h) “**Minimum Necessary**” means the least amount of PHI needed to accomplish the intended purpose of the use or disclosure.
- (i) “**Omnibus Rule**” means the HIPAA Omnibus Rule of 2013.
- (j) “**Privacy Rule**” shall mean the Standards of Privacy of Individuals Identifiable Health Information as set forth at 45 C.F.R. Parts 160 and 164, subparts A and E.
- (k) “**Protected Health Information**” or “**PHI**” shall have the same meaning as the term “protected health information” in 45 C.F.R. §130.103 (as amended by the HITECH Act) limited to the information created or received by Business Associate from or on behalf of SBBC.
- (l) “**Required by Law**” shall have the same meaning as the term “required by law” in 45 C.F.R. §164.103.
- (m) “**Secretary**” shall mean the Secretary of the Department of Health and Human Services or his or her designee.
- (n) “**Security Rule**” shall mean the Standards for Security of ePHI as set forth 45 C.F.R. Parts 160 and 164 Subpart C.
- (o) “**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 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 substantially the same form as Exhibit A, hereto.
- (e) Business Associate shall promptly inform SBBC of a Breach of Unsecured PHI following the first day on which Business Associate knows of such Breach or following the first day on which Business Associate should have known 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 by Federal and/or Florida law.

## **ATTACHMENT B**

- (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 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 access, at the requires of SBBC, and in the time and manner designated by SBBC, to PHI in a Designated Record Set that is not also in SBBC's possession, to SBBC in order for SBBC to meet the requirements under 45 C.F.R. §164.524.
- (i) Business Associate agrees to make PHI available for amendment and incorporate all amendments to PHI in a Designated Record Set that SBBC directs or agrees to pursuant to 45 C.F.R. §164.526 at the request of SBBC or an Individual 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 a request of SBBC to the Secretary, in a time and manner as designated by SBBC or the Secretary, for the 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 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.

**3. Permitted Uses and Disclosures of PHI by "Business Associate"**

- (a) Except as otherwise limited in this Agreement, Business Associate may use or disclose PHI to perform functions, activities or services for, or on behalf of, SBBC as previously agreed to by the parties (the "Service Agreement") provided that such use or disclosure would not violate the Privacy Rule if done by SBBC.
- (b) Except as otherwise limited in 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 in 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 for 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 in 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
- (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 with ten (10) business days prior written notice to Business Associate to audit Business Associate from time-to-time to verify Business Associate compliance with the terms of this Agreement. SBBC shall be entitled and enabled to inspect the records and other information relevant to Business Associate 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 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 and confidentiality and integrity of ePHI under the Security Standards 45 C.F.R. Part 160 and 164 subpart C.

- (b) Business Associate agrees that it will ensure that agents or subcontractors agree to implement the applicable administrative, physical, and technical safeguards required to protect the confidentiality and integrity of ePHI under the Security Standards 45 C.F.R. Part 164.
- (c) Business Associate agrees to report to SBBC all Security Incidents (as defined 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 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, on behalf of SBBC, it will perform all transactions for which a standard has been developed under the EDI Rule that Business Associate could reasonably be expected to perform in the ordinary course of its functions on behalf of SBBC.

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 in general, shall be deemed to amend this Agreement to incorporate said changes without further action.

**8. Amendment.**

The parties agree to take any and all actions necessary to amend this Agreement from time to time so that SBBC is in compliance with the Privacy Rule, the Security Rule, the HITECH Act, and HIPAA in general. The parties may agree to amend this Agreement from time to time in other respect that 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 as of the Effective Date and shall remain in effect until such time as SBBC exercises its right to 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.

## ATTACHMENT B

- (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 of such breach to Business Associate, 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.

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, for example, if SBBC makes illegal demands on Business Associate, 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 Covered Entity.

- (d) ***Effect of Termination.*** Except as set forth in this Section 9(d), upon termination of this Agreement for any reason, at the request of SBBC, 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. In the event that Business Associate determines that returning or destroying the PHI is infeasible, such as in the use of data aggregation, Business Associate shall provide to SBBC written notification of the conditions that make return or destruction infeasible. If 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 make the return or destruction infeasible, 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 while such equipment is on premises owned or controlled by SBBC; or the negligence of Business Associate 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 property, and injury or death of any person whether employed by Business Associate, SBBC or otherwise.

**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.


**30. Interpretation.**

Any ambiguity in this Agreement shall be interpreted in a manner that permits SBBC to comply with the Privacy Rule, Security Rule, the HITECH Act, HIPAA in general and any subsequent legislation or regulations otherwise affecting Business Associates.

IN WITNESS WHEREOF, the parties have executed this Business Associate Agreement as of the Effective Date.

(Corporate Seal)

ATTEST:

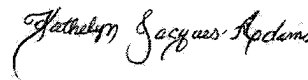
  
Robert W. Runcie, Superintendent of Schools

**FOR SBBC**

THE SCHOOL BOARD OF BROWARD  
COUNTY, FLORIDA

By   
Abby M. Freedman, Chair

Approved as to Form and Legal Content:



Digitally signed by Kathelyn Jacques-Adams,  
Esq. - kathelyn.jacques-  
adams@gbrowardschools.com  
Reason: Therapia Staffing, LLC  
Date: 2017.05.24 09:12:26 -04'00'

Office of the General Counsel

FOR BUSINESS ASSOCIATE

[Signature]  
Signature

\_\_\_\_\_  
Witness

\_\_\_\_\_  
Witness

Jennifer Goldstein - President  
Print Name and Title

STATE OF Florida

COUNTY OF Broward

The foregoing instrument was acknowledged before me by Jennifer Goldstein who is personally known  
to me or who produced \_\_\_\_\_ as identification and who did / did  
not first take an oath this 2 day of may, 2017.

My Commission Expires: June 26, 2020

Danielle Marando  
Signature – Notary Public



Danielle Marando  
Commission # GG005662  
Expires: June 26, 2020  
Bonded thru Aaron Notary

Danielle Marando  
Notary's Printed Name

GG005662  
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 13<sup>th</sup> day of June, 2017, 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

### 3CHORDS, INC.

D/B/A THERAPYTRAVELERS  
(hereinafter referred to as "VENDOR"),  
whose principal place of business is  
355 Redondo Avenue  
Long Beach, California 90807

WHEREAS, SBBC issued a Request for Proposal identified as RFP 18-001V – Speech-Language Pathology and Audiology Services (hereinafter referred to as "RFP"), dated December 1, 2016 and amended by Addendum No. 4, dated January 17, 2017, Addendum No. 3, dated January 13, 2017 Addendum No. 2, dated December 19, 2016, and Addendum No. 1, dated December 9, 2016 all of which are incorporated by reference herein, for the purpose of receiving proposals for speech-language pathology and audiology services; and

WHEREAS, VENDOR offered a proposal dated January 27, 2017 (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 3.06 of this Agreement, the term of this Agreement shall commence on **July 1, 2017** and conclude on **June 30, 2020**. The term of the Agreement may, by mutual agreement between SBBC and VENDOR be extended for two additional one-year periods and, if needed, 180 days beyond the expiration date of the renewal period. SBBC's Procurement & Warehousing Services Department, will, if considering renewing, request a letter consenting to renewal from VENDOR, prior to the end of the term. Any renewal period shall be approved by an Amendment to this Agreement executed by both parties.

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

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

First: This Agreement, then;  
Second: Addendum No. 4, then;  
Third: Addendum No. 3, then;  
Fourth: Addendum No. 2, then;  
Fifth: Addendum No. 1, then;  
Sixth: RFP 18-001V – Speech-Language Pathology and Audiology Services, then;  
Seventh: Proposal submitted in response to the RFP by VENDOR.

2.04 **Cost of Services.** SBBC shall pay VENDOR for cost of services satisfactorily rendered for Speech-Language Pathologist at \$58.50/hr. and Audiologist at \$58.50/hr. Costs shall not exceed the amount as stated on the Purchase Order. VENDOR may offer SBBC a special educational discount for pricing and reduce the cost of services during the term of the Agreement. VENDOR may invoice SBBC at an hourly rate less than their original proposal price.

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

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

VENDOR shall enter into SBBC’s HIPAA Business Associate Agreement (“BAA”) substantially in the form attached hereto and incorporated herein as **Attachment B**.

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

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

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

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

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

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

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

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

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

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

To SBBC: Superintendent of Schools  
The School Board of Broward County, Florida  
600 Southeast Third Avenue  
Fort Lauderdale, Florida 33301

With a Copy to: Executive Director, ESE/SS Division  
The School Board of Broward County, Florida  
1701 NW 23<sup>rd</sup> Avenue  
Fort Lauderdale, Florida 33301

To VENDOR: Geneva Milne  
3Chords, Inc. d/b/a Therapy Travelers  
355 Redondo Avenue  
Long Beach, California 90814

2.08 **Background Screening.** Vendor agrees to comply with all requirements of Sections 1012.32 and 1012.465, Florida Statutes, and all of its personnel who (1) are to be permitted access to school grounds when students are present, (2) will have direct contact with students, or (3) have access or control of school funds, will successfully complete the background screening required by the referenced statutes and meet the standards established by the statutes. This background screening will be conducted by SBBC in advance of the 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 the 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.

2.10 **Insurance.** VENDOR shall provide the minimum insurance requirements as provided below:

- a) **GENERAL LIABILITY:** Limits not less than \$1,000,000 per occurrence for Bodily Injury/ Property Damage; \$1,000,000 General Aggregate. Limits not less than \$1,000,000 for Products/Completed Operations Aggregate.
- b) **WORKER'S COMPENSATION:** Florida Statutory limits in accordance with Chapter 440; Employer's Liability limits not less than \$100,000/\$100,000/\$500,000 (each accident/disease-each employee/disease-policy limit).

- c) **PROFESSIONAL LIABILITY:** Limits not less than \$1,000,000 per occurrence covering services provided under this Agreement.
- d) **AUTO LIABILITY:** Owned, Non-Owned and Hired Auto Liability with Bodily Injury and Property Damage limits of not less than \$1,000,000 Combined Single Limit. If VENDOR does not own any vehicles, hired and non-owned automobile liability coverage in the amount of \$1,000,000 will be accepted. In addition, an affidavit signed by the VENDOR must be furnished to SBBC indicating the following:  
VENDOR does not own any vehicles. In the event insured acquires any vehicles throughout the term of this Agreement, insured agrees to provide proof of "Any Auto" coverage effective the date of acquisition. (Fax affidavit with Certificate of Insurance to SBBC Risk Management at 866-897-0424.)
- e) **ACCEPTABILITY OF INSURANCE CARRIERS:** The insurance policies shall be issued by companies qualified to do business in the State of Florida. The insurance companies must be rated 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 Risk Management Department by Certificate of Insurance within 15 days of the date of this Agreement. All certificates (and any required documents) must be received and approved by SBBC before any work commences to permit VENDOR time to remedy any deficiencies. **FAX CERTIFICATES OF INSURANCE TO SBBC RISK MANAGEMENT AT 866-897-0424.**
- g) **REQUIRED CONDITIONS:** Liability policies must contain the following provisions. In addition, the following wording must be included on the Certificate of Insurance:  
**The School Board of Broward County, Florida, its members, officers, employees and agents are added as additional insured.**  
**All liability policies are primary of all other valid and collectable coverage maintained by The School Board of Broward County, Florida.**  
(\*Please include the RFP Number and Title on the Certificate of Insurance.)  
(Certificate Holder: The School Board of Broward County, Florida 600 Southeast Third Avenue, Fort Lauderdale, Florida 33301)
- 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 business days if required insurance is cancelled.
- i) **The School Board of Broward County, Florida reserves the right to review, reject or accept any required policies of insurance, including limits, coverage's or endorsements, herein throughout the term of this Agreement.**

### **ARTICLE 3 – GENERAL CONDITIONS**

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

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

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

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

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

3.06 **Termination.** This Agreement may be canceled with or without cause by SBBC during the term hereof upon thirty (30) days written notice to the other parties of its desire to terminate this Agreement. SBBC shall have no liability for any property left on SBBC's property by any party to this Agreement after the termination of this Agreement. Any party contracting with SBBC under this Agreement agrees that any of its property placed upon SBBC's

facilities pursuant to this Agreement shall be removed within ten (10) business days following the termination, conclusion or cancellation of this Agreement and that any such property remaining upon SBBC's facilities after that time shall be deemed to be abandoned, title to such property shall pass to SBBC, and SBBC may use or dispose of such property as SBBC deems fit and appropriate.

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

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

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

3.10 **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 transfer 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, Insert Name shall meet all applicable requirements for retaining public records. All records stored electronically must be provided to SBBC, upon request



from SBBC's custodian of public records, in a format that is compatible with SBBC's information technology systems.

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

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

3.12 **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.

3.13 **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. VENDOR agrees and admits that the state courts of the Seventeenth Judicial Circuit of Broward County, Florida and the Southern District of Florida shall have jurisdiction over VENDOR.

3.14 **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.

3.15 **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.

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

3.17 **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.

3.18 **Incorporation by Reference.** **Attachments A and B** are attached hereto and referenced herein shall be deemed to be incorporated into this Agreement by reference.

3.19 **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.

3.20 **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.

3.21 **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.

3.22 **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.

3.23 **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.

3.24 **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.

3.25 **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.

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

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

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

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

3.28 **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.

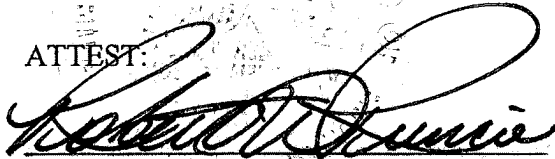
**IN WITNESS WHEREOF**, the Parties hereto have made and executed this Agreement on the date first above written.

**THIS SPACE IS LEFT INTENTIONALY BLANK**


FOR SBBC

(Corporate Seal)

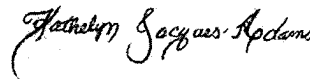
ATTEST:

  
Robert W. Runcie, Superintendent of Schools

THE SCHOOL BOARD OF BROWARD  
COUNTY, FLORIDA

By   
Abby M. Freedman, Chair

Approved as to Form and Legal Content:



Digitally signed by Kathelyn Jacques-Adams, Esq. -  
kathelyn.jacques-adams@gbrowardschools.com  
Reason: 3Chords, Inc. d/b/a Therapytravelers  
Date: 2017.05.24 09:28:18 -04'00'

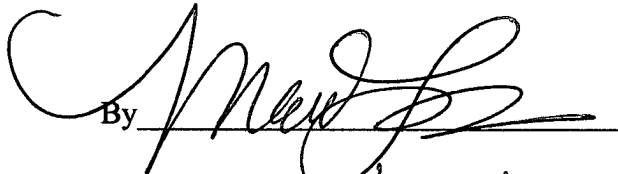
Office of the General Counsel

**FOR VENDOR**

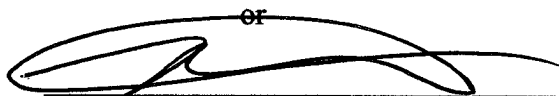
(Corporate Seal)

3CHORDS, INC  
D/B/A THERAPY TRAVELERS

ATTEST:

By   
Maria Lankenau  
Vice President

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

or  
  
Witness

Ellen Haldy  
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 California

COUNTY OF Orange

The foregoing instrument was acknowledged before me this 4<sup>th</sup> day of May, 2017 by Maria Lankenau of

3Chords, Inc. Name of Person  
\_\_\_\_\_, on behalf of the corporation/agency.  
Name of Corporation or Agency

He/She is personally known to me or produced California Driver's License as  
identification and did/did not first take an oath. Type of Identification

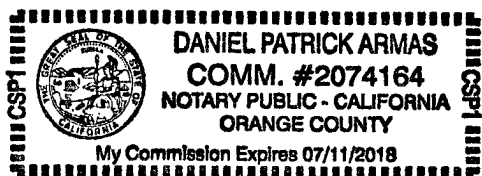
My Commission Expires:  
07/11/2018

  
Signature - Notary Public

(SEAL)

Daniel Patrick Armas  
Printed Name of Notary

2074164  
Notary's Commission No.



## SCOPE OF SERVICES

1. VENDOR shall offer services for speech-language pathologist(s) and audiologists that hold a current, active professional license in speech-language pathology or audiology from the Department of Health, Board of Speech-Language Pathology and Audiology agree to provide copies of a current active professional license and certifications in speech-language pathology and/or audiology prior to acceptance for placement.
2. VENDOR shall, throughout **Attachment A**, not to hire any individual who is currently employed part-time or full-time by SBBC as a speech-language pathologist or audiologist until the completion of the school year. VENDOR shall, throughout **Attachment A**, hold harmless any individual employed by them who elects to become employed by SBBC in the school year following the expiration date of the current Agreement, throughout **Attachment A**, school year.
3. VENDOR shall provide speech-language pathologists and audiologists whose performance shall be consistent with a professional standard of care and comply with requirements of the State of Florida Department of Health, Division of Medical Quality Assurance, and Board of Professional Regulation for speech, language and audiology requirements of other applicable local, state or federal agencies which may govern the speech-language pathologist's or audiologist's activities on behalf of SBBC.
4. VENDOR shall provide services consistent with the professional standard of care and shall comply with the ethical requirements imposed by the State of Florida Department of Professional Regulations, the Florida State Department of Education and any other federal, state or local regulatory agency.
5. All speech-language pathologists and audiologists, who shall be providing services under this Agreement, throughout **Attachment A**, must be articulate in oral and written English.
6. All speech-language pathologists and audiologists, under this Agreement, throughout **Attachment A**, shall be required to pass the screening of the Broward District Schools Police Department prior to placement of assignment as required by the School Board of Broward County, Florida. (See General Condition 7.30 of the RFP, SBBC Photo Identification Badge). All speech-language pathologists and/or audiologists must utilize the STAR system and/or sign-in/out procedures to document attendance at assigned location.
7. Speech-language pathologist(s) and audiologist(s) providing services shall follow the procedures for the referral, identification, screening, evaluation, eligibility, placement, and dismissal of students with speech-language or hearing impairments as provided in the document Special Programs and Procedures by the ESE/SS Division.
8. Speech-language pathologist(s) and audiologist(s) providing services shall follow procedures for completing required documentation for student attendance, student progress and reporting to parents, reimbursement for Medicaid funding, and other procedures as indicated by the Special Programs and Procedures document and ESE/SS Division.

## SCOPE OF SERVICES

9. Speech-language pathologist(s) and audiologist(s) providing services shall allow District administrative staff as well as teacher-based resource personnel to review required documentation and observe all provided services.
10. Speech-language pathologist(s) and audiologist(s) providing services shall submit, for approval to the school principal or designee, any written communication intended for parents and teachers.
11. Speech-language pathologist(s) and audiologist(s) shall follow all rules and procedures as contained in the employee handbooks of the individual school. Speech-language pathologist(s) and audiologist(s) shall refrain from using school equipment (such as phones, copiers, computers, etc.) for personal or commercial business during service times.
12. Speech-Language pathologist(s) and audiologist(s) shall complete such records as shall be required to document services provided, on a daily basis. VENDOR shall submit timesheets and other documentation needed to substantiate payment through the approved electronic database on an approved voucher form no later than five (5) days following the delivery of service. In order to insure timely payment VENDOR must submit accurate time sheets of service in accordance with the training they receive. These records must be submitted to the ESE/SS Division, Arthur Ashe, Jr. Campus, 1701 NW 23<sup>rd</sup> Avenue, Fort Lauderdale, Florida 33311.
13. VENDOR shall have all new providers use and submit an approved District template to log services until training takes place for the electronic system. VENDOR shall utilize the approved template until such time as they are trained in the electronic database system. Immediately following training all providers, VENDOR shall transfer the data from the district template into the Educational Database System and file the original hard copy in the student's IEP folder at the school site.
14. (SBBC) ESE/SS Division reserves the right to interview all speech-language pathologist(s) and/or audiologist(s) prior to placement. ESE/SS Division reserves the right to refuse to utilize any given speech-language pathologist(s) and/or audiologist(s) if it is in their best interest to do so.
15. VENDOR's Speech-Language Pathologist(s) must attend two (2) scheduled policies/procedures meetings, considered as part of their workday, of not less than three (3) hours as determined by the District. These meetings shall include, but are not limited to, general information on these policies and procedures of the Broward County Special Programs and Procedures, the rights of students with disabilities, and other operational procedures required to carry out the therapy program. VENDOR shall incorporate any cancelled service sessions due to meeting times into their schedule.
16. VENDOR shall, throughout **Attachment A**, to execute SBBC's HIPPA Business Associate Agreement as stated in **Attachment B**.

## SCOPE OF SERVICES

17. VENDOR shall provide speech-language pathologist(s) and/or audiologist(s) who agree to provide therapy services throughout the District at all times and locations designated by SBBC. SBBC reserves the right to request a change in times and locations of services provided by VENDOR (consistent with the written agreement for days and hours worked), during the course of an assignment. Services shall be provided up to 7 hours per day on regular student attendance days. Services provided on employee planning days and early release days must be pre-approved in writing by an authorized representative of the ESE/SS Division. School year calendars may be viewed on the following web link:  
**<http://www.browardschools.com>. Click on the link "Calendars"**
18. VENDOR shall, throughout **Attachment A**, to provide the requested services within ten school days of verbal/written notice of an assignment by SBBC.
19. Resumes of replacement personnel are to be submitted to the ESE/SS Division for review. All replacement personnel must have written approval by the ESE/SS Division prior to placement. All replacement personnel shall follow the procedures as stated by the ESE/SS Division. All replacement personnel must have the same credentials equivalent to the individuals whom they replace. ESE/SS Division reserves the right to interview replacement personnel prior to approval.
20. The Audiologist's services shall determine the type and degree of hearing impairment and shall implement habilitation and rehabilitation services for the student. Administers and interprets variety of tests, such as air and bone conduction, and speech reception and discrimination tests, to determine type and degree of hearing impairment, site of damage, and effects on comprehension and speech. Evaluates test results in relation to behavioral, social, educational, and medical information obtained from patients, families, teachers, speech pathologists and other professionals to determine communication problems related to hearing disability. Plans and implements prevision, habilitation or rehabilitation services including hearing aid selection and orientation, counseling, auditory training, lip reading, language habilitation, speech conservation and other treatment programs developed in consultation with speech pathologists and other professionals.
21. Clinical Fellowship Year (CFY) candidates with a provisional license will be considered for a school assignment if the VENDOR agrees to provide all supervisory and support requirements for the candidate.
22. VENDOR shall insure that any interruption of services due to a therapist being "unavailable" shall be made up to the best of their ability and shall be documented in the Electronic Based System as "make-up" session.
23. VENDOR shall, throughout **Attachment A**, to provide the required ELL training to all candidates assigned to a school site. Training can be provided via the VENDOR's own process or via the District's training for a minimal cost. Training must comply with the requirements of the Florida Consent Decree and the META Agreement.



## HIPPA BUSINESS ASSOCIATE AGREEMENT

This Business Associate Agreement ("***Agreement***") is made and entered into as of this \_\_\_\_\_ day of \_\_\_\_\_, 2017 (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

## 3 CORDS, INC. D/B/A THERAPYTRAVELERS

(hereinafter referred to as "***Business Associate***"),

whose principal place of business is

355 Redondo Avenue

Long Beach, California 90807

**WHEREAS**, by virtue of some of the services that Business Associate performs for SBBC, Business Associate may be a "business associate", as the term is defined at 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 coverage subject to regulation under the Health Insurance Portability and Accountability Act of 1996 ("HIPPA"), 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 HIPPA, the Health Information Technology for Economic and Clinical Health Act of 2009 ("HITECH"), the Omnibus Rule of 2013, and the 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").

**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/or disclosure of PHI and the security of 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.

- (b) “**Business Associate**” shall mean Business Associate named above and shall include all successors and assigns, affiliates, subsidiaries, and related companies.
- (c) “**Designed 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 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) “**HIPPA**” means Health Insurance Portability and Accountability Act of 1996.
- (f) “**HITECH Act**” means the Health Information Technology for Economic and Clinical Health Act of 2009.
- (g) “**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).
- (h) “**Minimum Necessary**” means the least amount of PHI needed to accomplish the intended purpose of the use or disclosure.
- (i) “**Omnibus Rule**” means the HIPPA Omnibus Rule of 2013.
- (j) “**Privacy Rule**” shall mean the Standards of Privacy of Individuals Identifiable Health Information as set forth at 45 C.F.R. Parts 160 and 164, subparts A and E.
- (k) “**Protected Health Information**” or “**PHI**” shall have the same meaning as the term “protected health information” in 45 C.F.R. §130.103 (as amended by the HITECH Act) limited to the information created or received by Business Associate from or on behalf of SBBC.
- (l) “**Required by Law**” shall have the same meaning as the term “required by law” in 45 C.F.R. §164.103.
- (m) “**Secretary**” shall mean the Secretary of the Department of Health and Human Services or his or her designee.
- (n) “**Security Rule**” shall mean the Standards for Security of ePHI as set forth 45 C.F.R. Parts 160 and 164 Subpart C.
- (o) “**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 HIPPA or HITECH Act.
- (c) Business Associate agrees to use appropriate safeguards and comply, where applicable, with the HIPPA 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 substantially the same form as Exhibit A, hereto.
- (e) Business Associate shall promptly inform SBBC of a Breach of Unsecured PHI following the first day on which Business Associate knows of such Breach or following the first day on which Business Associate should have known 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 by Federal and/or Florida law.

- (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 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 HIPPA Rules, including the rules to extend the requirements to the agent's or subcontractor's subcontractors.
- (h) Business Associate agrees to provide access, at the requires of SBBC, and in the time and manner designated by SBBC, to PHI in a Designated Record Set that is not also in SBBC's possession, to SBBC in order for SBBC to meet the requirements under 45 C.F.R. §164.524.
- (i) Business Associate agrees to make PHI available for amendment and incorporate all amendments to PHI in a Designated Record Set that SBBC directs or agrees to pursuant to 45 C.F.R. §164.526 at the request of SBBC or an Individual 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 a request of SBBC to the Secretary, in a time and manner as designated by SBBC or the Secretary, for the 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 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.

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

- (a) Except as otherwise limited in this Agreement, Business Associate may use or disclose PHI to perform functions, activities or services for, or on behalf of, SBBC as previously agreed to by the parties (the “Service Agreement”) provided that such use or disclosure would not violate the Privacy Rule if done by SBBC.
- (b) Except as otherwise limited in 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 in 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 for 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 in 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
- (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 with ten (10) business days prior written notice to Business Associate to audit Business Associate from time-to-time to verify Business Associate compliance with the terms of this Agreement. SBBC shall be entitled and enabled to inspect the records and other information relevant to Business Associate 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 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 and confidentiality and integrity of ePHI under the Security Standards 45 C.F.R. Part 160 and 164 subpart C.

- (b) Business Associate agrees that it will ensure that agents or subcontractors agree to implement the applicable administrative, physical, and technical safeguards required to protect the confidentiality and integrity of ePHI under the Security Standards 45 C.F.R. Part 164.
- (c) Business Associate agrees to report to SBBC all Security Incidents (as defined 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 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, on behalf of SBBC, it will perform all transactions for which a standard has been developed under the EDI Rule that Business Associate could reasonably be expected to perform in the ordinary course of its functions on behalf of SBBC.

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 HIPPA.

#### **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 HIPPA in general, shall be deemed to amend this Agreement to incorporate said changes without further action.

#### **8. Amendment.**

The parties agree to take any and all actions necessary to amend this Agreement from time to time so that SBBC is in compliance with the Privacy Rule, the Security Rule, the HITECH Act, and HIPPA in general. The parties may agree to amend this Agreement from time to time in other respect that 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 as of the Effective Date and shall remain in effect until such time as SBBC exercises its right to 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 of such breach to Business Associate, 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.

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, for example, if SBBC makes illegal demands on Business Associate, 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 Covered Entity.

- (d) ***Effect of Termination.*** Except as set forth in this Section 9(d), upon termination of this Agreement for any reason, at the request of SBBC, 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. In the event that Business Associate determines that returning or destroying the PHI is infeasible, such as in the use of data aggregation, Business Associate shall provide to SBBC written notification of the conditions that make return or destruction infeasible. If 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 make the return or destruction infeasible, 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 while such equipment is on premises owned or controlled by SBBC; or the negligence of Business Associate 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 property, and injury or death of any person whether employed by Business Associate, SBBC or otherwise.

**ARTICLE 3 – GENERAL CONDITIONS****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 waiver of limits to liability or rights existing under Section 768.28, Florida Statutes.

**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 term 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.

**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, FL 33301
With a Copy to:	Executive Director, ESE/SS Division The School Board of Broward County, Florida 1701 NW 23 <sup>rd</sup> Avenue Fort Lauderdale, Florida 33301
	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:

Geneva Milne  
3Chords, Inc. d/b/a Therapy Travelers  
355 Redondo Avenue  
Long Beach, California 90814

**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. The person signing on behalf of "Business Associate" has authority to bind "Business Associate" with respect to all provisions contained in this Agreement.

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

No failure or delay by a party hereto in exercising any right, power or remedy under this Agreement, and no course of dealing between the parties hereto, will operate as a waiver of any such right, power or remedy of the party. No single or partial exercise of any right, power or remedy under this Agreement by a party hereto, nor any abandonment or discontinuance of steps to enforce any such right, power or remedy, will preclude such party from any other or further exercise thereof or the exercise of any other right, power or remedy hereunder. The election of any remedy by a party hereto will not constitute a waiver of the right of such party to pursue other available remedies. No notice to or demand on a party not expressly required under this Agreement will entitle the party receiving such notice or demand to any other or further notice or demand in similar or other circumstances or constitute a waiver of the right of the party giving such notice or demand to any other or further action in any circumstances without such notice or demand. The terms and provisions of this Agreement may be waived, or consent for the departure there from granted, only by written document executed by the party entitled to the benefits of such terms or provisions. No such waiver or consent will be deemed to be or will constitute a waiver or consent with respect to any other terms or provisions of this Agreement, whether or not similar. Each such waiver or consent will be effective only in the specific instance and for the purpose for which it was given, and will not constitute a continuing waiver or consent.

**27. Regulatory References.**

A reference in this Agreement to a section in the Privacy Rule, the Security Rule, the HITECH Act, or HIPAA in general means the referenced section or its successor, and for which compliance is required.

**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.

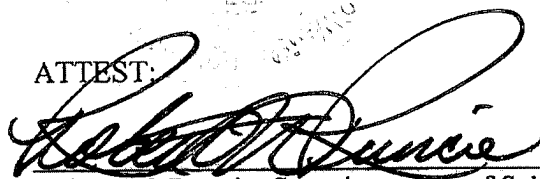
**30. Interpretation.**

Any ambiguity in this Agreement shall be interpreted in a manner that permits SBBC to comply with the Privacy Rule, Security Rule, the HITECH Act, HIPPA in general and any subsequent legislation or regulations otherwise affecting Business Associates.

IN WITNESS WHEREOF, the parties have executed this Business Associate Agreement as of the Effective Date.

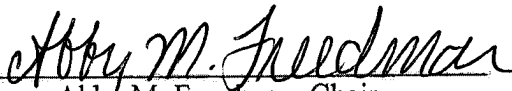
(Corporate Seal)

ATTEST:


  
Robert W. Runcie, Superintendent of Schools

**FOR SBBC**

THE SCHOOL BOARD OF BROWARD  
COUNTY, FLORIDA

By   
Abby M. Freedman, Chair

Approved as to Form and Legal Content:

  
Digitally signed by Kathelyn Jacques-Adams, Esq. -  
kathelyn.jacques-adams@gbrowardschools.com  
Reason: 3Chords, Inc. d/b/a Therapytravelers  
Date: 2017.05.24 09:29:03 -04'00'

Office of the General Counsel

**FOR BUSINESS ASSOCIATE**

Signature

Print Name and Title

Witness

Witness

STATE OF CaliforniaCOUNTY OF Orange

The foregoing instrument was acknowledged before me by Maria Lankenau who is personally known to me or who produced California Driver's License as identification and who did not first take an oath this 4<sup>th</sup> day of May, 2017.

My Commission Expires:

07/11/2018

Signature – Notary Public

Daniel Patrick Armas  
 Notary's Printed Name

2074164  
 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 13<sup>th</sup> day of June, 2017, 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

### **THERA-PEDS, INC.**

(hereinafter referred to as "VENDOR"),  
whose principal place of business is  
1200 West Camino Real  
Boca Raton, Florida 33486

**WHEREAS**, SBBC issued a Request for Proposal identified as RFP 18-001V – Speech-Language Pathology and Audiology Services (hereinafter referred to as "RFP"), dated December 1, 2016 and amended by Addendum No. 4, dated January 17, 2017, Addendum No. 3, dated January 13, 2017 Addendum No. 2, dated December 19, 2016, and Addendum No. 1, dated December 9, 2016 all of which are incorporated by reference herein, for the purpose of receiving proposals for speech-language pathology and audiology services; and

**WHEREAS**, VENDOR offered a proposal dated January 27, 2017 (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 3.06 of this Agreement, the term of this Agreement shall commence on **July 1, 2017** and conclude on **June 30, 2020**. The term of the Agreement may, by mutual agreement between SBBC and VENDOR be extended for two additional one-year periods and, if needed, 180 days beyond the expiration date of the renewal period. SBBC's Procurement & Warehousing Services Department, will, if considering renewing, request a letter consenting to renewal from VENDOR, prior to the end of the term. Any renewal period shall be approved by an Amendment to this Agreement executed by both parties.

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

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

First: This Agreement, then;  
Second: Addendum No. 4, then;  
Third: Addendum No. 3, then;  
Fourth: Addendum No. 2, then;  
Fifth: Addendum No. 1, then;  
Sixth: RFP 18-001V – Speech-Language Pathology and Audiology Services, then;  
Seventh: Proposal submitted in response to the RFP by VENDOR.

2.04 **Cost of Services.** SBBC shall pay VENDOR for cost of services satisfactorily rendered for Speech-Language Pathologist at \$60.00/hr. and Audiologist at \$58.00/hr. Costs shall not exceed the amount as stated on the Purchase Order. VENDOR may offer SBBC a special educational discount for pricing and reduce the cost of services during the term of the Agreement. VENDOR may invoice SBBC at an hourly rate less than their original proposal price.

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

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

VENDOR shall enter into SBBC’s HIPAA Business Associate Agreement (“BAA”) substantially in the form attached hereto and incorporated herein as **Attachment B.**

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

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

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

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

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

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

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

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

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



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

To SBBC: Superintendent of Schools  
The School Board of Broward County, Florida  
600 Southeast Third Avenue  
Fort Lauderdale, Florida 33301

With a Copy to: Executive Director, ESE/SS Division  
The School Board of Broward County, Florida  
1701 NW 23<sup>rd</sup> Avenue  
Fort Lauderdale, Florida 33301

To VENDOR: Shannon Visentin  
Thera-Peds, Inc.  
11651 NW 32<sup>nd</sup> Manor  
Sunrise, FL 33323

With Copy to: Julia Hernandez  
Thera-Peds, Inc.  
11651 NW 32<sup>nd</sup> Manor  
Sunrise, FL 33323

2.08 **Background Screening.** Vendor agrees to comply with all requirements of Sections 1012.32 and 1012.465, Florida Statutes, and all of its personnel who (1) are to be permitted access to school grounds when students are present, (2) will have direct contact with students, or (3) have access or control of school funds, will successfully complete the background screening required by the referenced statutes and meet the standards established by the statutes. This background screening will be conducted by SBBC in advance of the 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 the 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.

2.09 **Insurance.** VENDOR shall provide the minimum insurance requirements as provided below:

- a) **GENERAL LIABILITY:** Limits not less than \$1,000,000 per occurrence for Bodily Injury/ Property Damage; \$1,000,000 General Aggregate. Limits not less than \$1,000,000 for Products/Completed Operations Aggregate.

- b) **WORKER'S COMPENSATION:** Florida Statutory limits in accordance with Chapter 440; Employer's Liability limits not less than \$100,000/\$100,000/\$500,000 (each accident/disease-each employee/disease-policy limit).
- c) **PROFESSIONAL LIABILITY:** Limits not less than \$1,000,000 per occurrence covering services provided under this Agreement.
- d) **AUTO LIABILITY:** Owned, Non-Owned and Hired Auto Liability with Bodily Injury and Property Damage limits of not less than \$1,000,000 Combined Single Limit. If VENDOR does not own any vehicles, hired and non-owned automobile liability coverage in the amount of \$1,000,000 will be accepted. In addition, an affidavit signed by the VENDOR must be furnished to SBBC indicating the following:  
VENDOR does not own any vehicles. In the event insured acquires any vehicles throughout the term of this Agreement, insured agrees to provide proof of "Any Auto" coverage effective the date of acquisition. (Fax affidavit with Certificate of Insurance to SBBC Risk Management at 866-897-0424.)
- e) **ACCEPTABILITY OF INSURANCE CARRIERS:** The insurance policies shall be issued by companies qualified to do business in the State of Florida. The insurance companies must be rated 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 Risk Management Department by Certificate of Insurance within 15 days of the date of this Agreement. All certificates (and any required documents) must be received and approved by SBBC before any work commences to permit VENDOR time to remedy any deficiencies. **FAX CERTIFICATES OF INSURANCE TO SBBC RISK MANAGEMENT AT 866-897-0424.**
- g) **REQUIRED CONDITIONS:** Liability policies must contain the following provisions. In addition, the following wording must be included on the Certificate of Insurance:  
**The School Board of Broward County, Florida, its members, officers, employees and agents are added as additional insured.**  
**All liability policies are primary of all other valid and collectable coverage maintained by The School Board of Broward County, Florida.**  
(\*\*Please include the RFP Number and Title on the Certificate of Insurance.)  
(Certificate Holder: The School Board of Broward County, Florida 600 Southeast Third Avenue, Fort Lauderdale, Florida 33301)
- 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 business days if required insurance is cancelled.
- i) **The School Board of Broward County, Florida reserves the right to review, reject or accept any required policies of insurance, including limits, coverage's or endorsements, herein throughout the term of this Agreement.**

### **ARTICLE 3 – GENERAL CONDITIONS**

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

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

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

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

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

3.06 **Termination.** This Agreement may be canceled with or without cause by SBBC during the term hereof upon thirty (30) days written notice to the other parties of its desire to terminate this Agreement. SBBC shall have no liability for any property left on SBBC's property by any party to this Agreement after the termination of this Agreement. Any party

contracting with SBBC under this Agreement agrees that any of its property placed upon SBBC's facilities pursuant to this Agreement shall be removed within ten (10) business days following the termination, conclusion or cancellation of this Agreement and that any such property remaining upon SBBC's facilities after that time shall be deemed to be abandoned, title to such property shall pass to SBBC, and SBBC may use or dispose of such property as SBBC deems fit and appropriate.

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

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

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

3.10 **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 transfer 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, Insert Name shall meet all applicable requirements for retaining public records. All records stored electronically must be provided to SBBC, upon request

from SBBC's custodian of public records, in a format that is compatible with SBBC's information technology systems.

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

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

3.12 **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.

3.13 **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. VENDOR agrees and admits that the state courts of the Seventeenth Judicial Circuit of Broward County, Florida and the Southern District of Florida shall have jurisdiction over VENDOR.

3.14 **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.

3.15 **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.

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

3.17 **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.

3.18 **Incorporation by Reference.** **Attachments A and B** are attached hereto and referenced herein shall be deemed to be incorporated into this Agreement by reference.

3.19 **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.

3.20 **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.

3.21 **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.

3.22 **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.

3.23 **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.

3.24 **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.

3.25 **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.

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

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

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

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

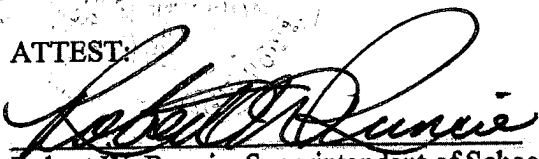
3.28 **Authority.** Each person signing this Agreement on behalf of either party individually warrants that he or she has full legal power to execute this Agreement on behalf of the party for whom he or she is signing, and to bind and obligate such party with respect to all provisions contained in this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

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

**THIS SPACE IS LEFT INTENTIONALLY BLANK**

(Corporate Seal)

ATTEST:

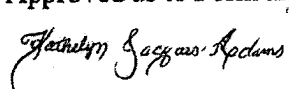
  
Robert W. Runcie, Superintendent of Schools

**FOR SBBC**

THE SCHOOL BOARD OF BROWARD  
COUNTY, FLORIDA

By   
Abby M. Freedman, Chair

Approved as to Form and Legal Content:

  
Digitally signed by Kathelyn Jacques-  
Adams, Esq. - kathelyn.jacques-  
adams@gbrowardschools.com  
Reason: Thera-Peds, Inc.  
Date: 2017.05.24 08:21:21 -04'00'

Office of the General Counsel



**FOR VENDOR**

(Corporate Seal)

THERA-PEDS, INC.

ATTEST:

By

[Signature]

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

-or-

[Signature]  
Witness

[Signature]  
Witness

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

STATE OF Florida

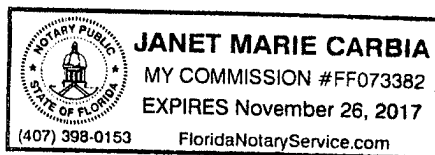
COUNTY OF Palm Beach

The foregoing instrument was acknowledged before me this 12 day of May, 2017 by Shannon Visentin of Thera-peds, Inc on behalf of the corporation/agency.

He/She is personally known to me or produced FL Driver License as identification and did/did not first take an oath.

My Commission Expires:

[Signature]  
Signature - Notary Public



Janet Carbia  
Printed Name of Notary

FF073382

Notary's Commission No.

## SCOPE OF SERVICES

1. VENDOR shall offer services for speech-language pathologist(s) and audiologists that hold a current, active professional license in speech-language pathology or audiology from the Department of Health, Board of Speech-Language Pathology and Audiology agree to provide copies of a current active professional license and certifications in speech-language pathology and/or audiology prior to acceptance for placement.
2. VENDOR shall, throughout **Attachment A**, not to hire any individual who is currently employed part-time or full-time by SBBC as a speech-language pathologist or audiologist until the completion of the school year. VENDOR shall, throughout **Attachment A**, hold harmless any individual employed by them who elects to become employed by SBBC in the school year following the expiration date of the current Agreement, throughout **Attachment A**, school year.
3. VENDOR shall provide speech-language pathologists and audiologists whose performance shall be consistent with a professional standard of care and comply with requirements of the State of Florida Department of Health, Division of Medical Quality Assurance, and Board of Professional Regulation for speech, language and audiology requirements of other applicable local, state or federal agencies which may govern the speech-language pathologist's or audiologist's activities on behalf of SBBC.
4. VENDOR shall provide services consistent with the professional standard of care and shall comply with the ethical requirements imposed by the State of Florida Department of Professional Regulations, the Florida State Department of Education and any other federal, state or local regulatory agency.
5. All speech-language pathologists and audiologists, who shall be providing services under this Agreement, throughout **Attachment A**, must be articulate in oral and written English.
6. All speech-language pathologists and audiologists, under this Agreement, throughout **Attachment A**, shall be required to pass the screening of the Broward District Schools Police Department prior to placement of assignment as required by the School Board of Broward County, Florida. (See General Condition 7.30 of the RFP, SBBC Photo Identification Badge). All speech-language pathologists and/or audiologists must utilize the STAR system and/or sign-in/out procedures to document attendance at assigned location.
7. Speech-language pathologist(s) and audiologist(s) providing services shall follow the procedures for the referral, identification, screening, evaluation, eligibility, placement, and dismissal of students with speech-language or hearing impairments as provided in the document Special Programs and Procedures by the ESE/SS Division.
8. Speech-language pathologist(s) and audiologist(s) providing services shall follow procedures for completing required documentation for student attendance, student progress and reporting to parents, reimbursement for Medicaid funding, and other procedures as indicated by the Special Programs and Procedures document and ESE/SS Division.
9. Speech-language pathologist(s) and audiologist(s) providing services shall allow District administrative staff as well as teacher-based resource personnel to review required documentation and observe all provided services.

## SCOPE OF SERVICES

10. Speech-language pathologist(s) and audiologist(s) providing services shall submit, for approval to the school principal or designee, any written communication intended for parents and teachers.
11. Speech-language pathologist(s) and audiologist(s) shall follow all rules and procedures as contained in the employee handbooks of the individual school. Speech-language pathologist(s) and audiologist(s) shall refrain from using school equipment (such as phones, copiers, computers, etc.) for personal or commercial business during service times.
12. Speech-Language pathologist(s) and audiologist(s) shall complete such records as shall be required to document services provided, on a daily basis. VENDOR shall submit timesheets and other documentation needed to substantiate payment through the approved electronic database on an approved voucher form no later than five (5) days following the delivery of service. In order to insure timely payment VENDOR must submit accurate time sheets of service in accordance with the training they receive. These records must be submitted to the ESE/SS Division, Arthur Ashe, Jr. Campus, 1701 NW 23<sup>rd</sup> Avenue, Fort Lauderdale, Florida 33311.
13. VENDOR shall have all new providers use and submit an approved District template to log services until training takes place for the electronic system. VENDOR shall utilize the approved template until such time as they are trained in the electronic database system. Immediately following training all providers, VENDOR shall transfer the data from the district template into the Educational Database System and file the original hard copy in the student's IEP folder at the school site.
14. (SBBC) ESE/SS Division reserves the right to interview all speech-language pathologist(s) and/or audiologist(s) prior to placement. ESE/SS Division reserves the right to refuse to utilize any given speech-language pathologist(s) and/or audiologist(s) if it is in their best interest to do so.
15. VENDOR's Speech-Language Pathologist(s) must attend two (2) scheduled policies/procedures meetings, considered as part of their workday, of not less than three (3) hours as determined by the District. These meetings shall include, but are not limited to, general information on these policies and procedures of the Broward County Special Programs and Procedures, the rights of students with disabilities, and other operational procedures required to carry out the therapy program. VENDOR shall incorporate any cancelled service sessions due to meeting times into their schedule.
16. VENDOR shall, throughout **Attachment A**, execute SBBC's HIPPA Business Associate Agreement as stated in **Attachment B**.
17. VENDOR shall provide speech-language pathologist(s) and/or audiologist(s) who agree to provide therapy services throughout the District at all times and locations designated by SBBC. SBBC reserves the right to request a change in times and locations of services provided by VENDOR (consistent with the written agreement for days and hours worked), during the course of an assignment. Services shall be provided up to 7 hours per day on regular student attendance days. Services provided on employee planning days and early release days must be pre-approved in writing by an authorized representative of the ESE/SS Division. School year calendars may be viewed on the following web link:  
**<http://www.browardschools.com>. Click on the link "Calendars"**

## SCOPE OF SERVICES

18. VENDOR shall, throughout **Attachment A**, provide the requested services within ten school days of verbal/written notice of an assignment by SBBC.
19. Resumes of replacement personnel are to be submitted to the ESE/SS Division for review. All replacement personnel must have written approval by the ESE/SS Division prior to placement. All replacement personnel shall follow the procedures as stated by the ESE/SS Division. All replacement personnel must have the same credentials equivalent to the individuals whom they replace. ESE/SS Division reserves the right to interview replacement personnel prior to approval.
20. The Audiologist's services shall determine the type and degree of hearing impairment and shall implement habilitation and rehabilitation services for the student. Administers and interprets variety of tests, such as air and bone conduction, and speech reception and discrimination tests, to determine type and degree of hearing impairment, site of damage, and effects on comprehension and speech. Evaluates test results in relation to behavioral, social, educational, and medical information obtained from patients, families, teachers, speech pathologists and other professionals to determine communication problems related to hearing disability. Plans and implements prevision, habilitation or rehabilitation services including hearing aid selection and orientation, counseling, auditory training, lip reading, language habilitation, speech conservation and other treatment programs developed in consultation with speech pathologists and other professionals.
21. Clinical Fellowship Year (CFY) candidates with a provisional license will be considered for a school assignment if the VENDOR agrees to provide all supervisory and support requirements for the candidate.
22. VENDOR shall insure that any interruption of services due to a therapist being "unavailable" shall be made up to the best of their ability and shall be documented in the Electronic Based System as "make-up" session.
23. VENDOR shall, throughout **Attachment A**, provide the required ELL training to all candidates assigned to a school site. Training can be provided via the VENDOR's own process or via the District's training for a minimal cost. Training must comply with the requirements of the Florida Consent Decree and the META Agreement.

**HIPAA BUSINESS ASSOCIATE AGREEMENT**

This Business Associate Agreement ("**Agreement**") is made and entered into as of this \_\_\_\_\_ day of \_\_\_\_\_, 2017 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

**THERA-PEDS, INC.**  
 (hereinafter referred to as "**Business Associate**"),  
 whose principal place of business is  
 1200 West Camino Real  
 Boca Raton, Florida 33486

**WHEREAS**, by virtue of some of the services that Business Associate performs for SBBC, Business Associate may be a "business associate", as the term is defined at 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 coverage 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 the 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").

**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/or disclosure of PHI and the security of 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.

- (b) “**Business Associate**” shall mean Business Associate named above and shall include all successors and assigns, affiliates, subsidiaries, and related companies.
- (c) “**Designed 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 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) “**HIPAA**” means Health Insurance Portability and Accountability Act of 1996.
- (f) “**HITECH Act**” means the Health Information Technology for Economic and Clinical Health Act of 2009.
- (g) “**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).
- (h) “**Minimum Necessary**” means the least amount of PHI needed to accomplish the intended purpose of the use or disclosure.
- (i) “**Omnibus Rule**” means the HIPAA Omnibus Rule of 2013.
- (j) “**Privacy Rule**” shall mean the Standards of Privacy of Individuals Identifiable Health Information as set forth at 45 C.F.R. Parts 160 and 164, subparts A and E.
- (k) “**Protected Health Information**” or “**PHI**” shall have the same meaning as the term “protected health information” in 45 C.F.R. §130.103 (as amended by the HITECH Act) limited to the information created or received by Business Associate from or on behalf of SBBC.
- (l) “**Required by Law**” shall have the same meaning as the term “required by law” in 45 C.F.R. §164.103.
- (m) “**Secretary**” shall mean the Secretary of the Department of Health and Human Services or his or her designee.
- (n) “**Security Rule**” shall mean the Standards for Security of ePHI as set forth 45 C.F.R. Parts 160 and 164 Subpart C.
- (o) “**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.

## **ATTACHMENT B**

- (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 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 access, at the requires of SBBC, and in the time and manner designated by SBBC, to PHI in a Designated Record Set that is not also in SBBC's possession, to SBBC in order for SBBC to meet the requirements under 45 C.F.R. §164.524.
- (i) Business Associate agrees to make PHI available for amendment and incorporate all amendments to PHI in a Designated Record Set that SBBC directs or agrees to pursuant to 45 C.F.R. §164.526 at the request of SBBC or an Individual 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 a request of SBBC to the Secretary, in a time and manner as designated by SBBC or the Secretary, for the 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 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.

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

- (a) Except as otherwise limited in this Agreement, Business Associate may use or disclose PHI to perform functions, activities or services for, or on behalf of, SBBC as previously agreed to by the parties (the “Service Agreement”) provided that such use or disclosure would not violate the Privacy Rule if done by SBBC.
- (b) Except as otherwise limited in 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 in 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 for 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 in 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
- (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 with ten (10) business days prior written notice to Business Associate to audit Business Associate from time-to-time to verify Business Associate compliance with the terms of this Agreement. SBBC shall be entitled and enabled to inspect the records and other information relevant to Business Associate 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 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 and confidentiality and integrity of ePHI under the Security Standards 45 C.F.R. Part 160 and 164 subpart C.



- (b) Business Associate agrees that it will ensure that agents or subcontractors agree to implement the applicable administrative, physical, and technical safeguards required to protect the confidentiality and integrity of ePHI under the Security Standards 45 C.F.R. Part 164.
- (c) Business Associate agrees to report to SBBC all Security Incidents (as defined 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 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, on behalf of SBBC, it will perform all transactions for which a standard has been developed under the EDI Rule that Business Associate could reasonably be expected to perform in the ordinary course of its functions on behalf of SBBC.

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 in general, shall be deemed to amend this Agreement to incorporate said changes without further action.

**8. Amendment.**

The parties agree to take any and all actions necessary to amend this Agreement from time to time so that SBBC is in compliance with the Privacy Rule, the Security Rule, the HITECH Act, and HIPAA in general. The parties may agree to amend this Agreement from time to time in other respect that 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 as of the Effective Date and shall remain in effect until such time as SBBC exercises its right to 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 of such breach to Business Associate, 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.

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, for example, if SBBC makes illegal demands on Business Associate, 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 Covered Entity.

- (d) ***Effect of Termination.*** Except as set forth in this Section 9(d), upon termination of this Agreement for any reason, at the request of SBBC, 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. In the event that Business Associate determines that returning or destroying the PHI is infeasible, such as in the use of data aggregation, Business Associate shall provide to SBBC written notification of the conditions that make return or destruction infeasible. If 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 make the return or destruction infeasible, 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 while such equipment is on premises owned or controlled by SBBC; or the negligence of Business Associate 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 property, and injury or death of any person whether employed by Business Associate, SBBC or otherwise.

**ARTICLE 3 – GENERAL CONDITIONS****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 waiver of limits to liability or rights existing under Section 768.28, Florida Statutes.

**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 term 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.

**27. Regulatory References.**

A reference in this Agreement to a section in the Privacy Rule, the Security Rule, the HITECH Act, or HIPAA in general means the referenced section or its successor, and for which compliance is required.

**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.

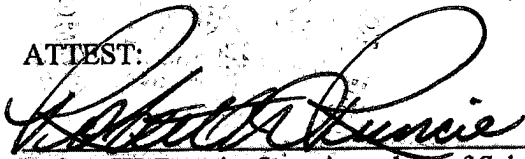
**30. Interpretation.**

Any ambiguity in this Agreement shall be interpreted in a manner that permits SBBC to comply with the Privacy Rule, Security Rule, the HITECH Act, HIPAA in general and any subsequent legislation or regulations otherwise affecting Business Associates.

IN WITNESS WHEREOF, the parties have executed this Business Associate Agreement as of the Effective Date.

(Corporate Seal)

ATTEST:

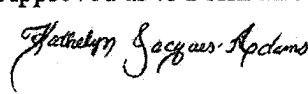
  
Robert W. Runcie, Superintendent of Schools

**FOR SBBC**

THE SCHOOL BOARD OF BROWARD  
COUNTY, FLORIDA

By   
Abby M. Freedman, Chair

Approved as to Form and Legal Content:

  
Digitally signed by Kathelyn Jacques-Adams,  
Esq. - kathelyn.jacques-  
adams@gbrowardschools.com  
Reason: Thera-Peds, Inc.  
Date: 2017.05.24 08:21:52 -04'00'

Office of the General Counsel

**FOR BUSINESS ASSOCIATE**

[Signature]  
Signature

[Signature]  
Witness

[Signature]  
Witness

Shannon Visentin President  
Print Name and Title

STATE OF Florida

COUNTY OF Palm Beach

The foregoing instrument was acknowledged before me by Shannon Visentin who is personally known to me or who produced FL Driver License as identification and who did / did not first take an oath this 12 day of May, 20 17.

My Commission Expires:

[Signature]  
Signature – Notary Public



Janet Carbia  
Notary's Printed Name

FF073382  
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 13<sup>th</sup> day of June, 2017, by and between

### THE SCHOOL BOARD OF BROWARD COUNTY, FLORIDA

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

and

### ALL SOURCE RECRUITING GROUP, INC.

#### D/B/A ARDOR HEALTH SOLUTIONS

(hereinafter referred to as "VENDOR"),  
whose principal place of business is  
5830 Coral Ridge Drive, Suite 300  
Coral Springs, Florida 33076

WHEREAS, SBBC issued a Request for Proposal identified as RFP 18-001V – Speech-Language Pathology and Audiology Services (hereinafter referred to as "RFP"), dated December 1, 2016 and amended by Addendum No. 4, dated January 17, 2017, Addendum No. 3, dated January 13, 2017 Addendum No. 2, dated December 19, 2016, and Addendum No. 1, dated December 9, 2016 all of which are incorporated by reference herein, for the purpose of receiving proposals for speech-language pathology and audiology services; and

WHEREAS, VENDOR offered a proposal dated January 26, 2017 (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 3.06 of this Agreement, the term of this Agreement shall commence on **July 1, 2017** and conclude on **June 30, 2020**. The term of the Agreement may, by mutual agreement between SBBC and VENDOR be extended for two additional one-year periods and, if needed, 180 days beyond the expiration date of the renewal period. SBBC's Procurement & Warehousing Services Department, will, if considering renewing, request a letter consenting to renewal from VENDOR, prior to the end of the term. Any renewal period shall be approved by an Amendment to this Agreement executed by both parties.

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

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

First: This Agreement, then;  
Second: Addendum No. 4, then;  
Third: Addendum No. 3, then;  
Fourth: Addendum No. 2, then;  
Fifth: Addendum No. 1, then;  
Sixth: RFP 18-001V – Speech-Language Pathology and Audiology Services, then;  
Seventh: Proposal submitted in response to the RFP by VENDOR.

2.04 **Cost of Services.** SBBC shall pay VENDOR for cost of services satisfactorily rendered for Speech-Language Pathologist at \$58.00/hour. Costs shall not exceed the amount as stated on the Purchase Order. VENDOR may offer SBBC a special educational discount for pricing and reduce the cost of services during the term of the Agreement. VENDOR may invoice SBBC at an hourly rate less than their original proposal price.

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

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

VENDOR shall enter into SBBC’s HIPAA Business Associate Agreement (“BAA”) substantially in the form attached hereto and incorporated herein as **Attachment B.**

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



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

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

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

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

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

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

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

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

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

To SBBC: Superintendent of Schools  
The School Board of Broward County, Florida  
600 Southeast Third Avenue  
Fort Lauderdale, Florida 33301

With a Copy to: Executive Director, ESE/SS Division  
The School Board of Broward County, Florida  
1701 NW 23<sup>rd</sup> Avenue  
Fort Lauderdale, Florida 33301

To VENDOR: All Source Recruiting Group, Inc. d/b/a Ardor  
Health Solutions  
5830 Coral Ridge Drive, Suite 300  
Coral Springs, Florida 33076

With a Copy to: Maria Aguayo, Business Development and School  
Division Manager  
All Source Recruiting Group, Inc. d/b/a Ardor  
Health Solutions  
5830 Coral Ridge Drive, Suite 300  
Coral Springs, Florida 33076

2.08 **Background Screening.** Vendor agrees to comply with all requirements of Sections 1012.32 and 1012.465, Florida Statutes, and all of its personnel who (1) are to be permitted access to school grounds when students are present, (2) will have direct contact with students, or (3) have access or control of school funds, will successfully complete the background screening required by the referenced statutes and meet the standards established by the statutes. This background screening will be conducted by SBBC in advance of the 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 the 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.

2.09 **Insurance.** VENDOR shall provide the minimum insurance requirements as provided below:

- a) **GENERAL LIABILITY:** Limits not less than \$1,000,000 per occurrence for Bodily Injury/ Property Damage; \$1,000,000 General Aggregate. Limits not less than \$1,000,000 for Products/Completed Operations Aggregate.
- b) **WORKER'S COMPENSATION:** Florida Statutory limits in accordance with Chapter 440; Employer's Liability limits not less than \$100,000/\$100,000/\$500,000 (each accident/disease-each employee/disease-policy limit).
- c) **PROFESSIONAL LIABILITY:** Limits not less than \$1,000,000 per occurrence covering services provided under this Agreement.
- d) **AUTO LIABILITY:** Owned, Non-Owned and Hired Auto Liability with Bodily Injury and Property Damage limits of not less than \$1,000,000 Combined Single Limit. If VENDOR does not own any vehicles, hired and non-owned automobile liability coverage in the amount of \$1,000,000 will be accepted. In addition, an affidavit signed by the VENDOR must be furnished to SBBC indicating the following:  
VENDOR does not own any vehicles. In the event insured acquires any vehicles throughout the term of this Agreement, insured agrees to provide proof of "Any Auto" coverage effective the date of acquisition. (Fax affidavit with Certificate of Insurance to SBBC Risk Management at 866-897-0424.)
- e) **ACCEPTABILITY OF INSURANCE CARRIERS:** The insurance policies shall be issued by companies qualified to do business in the State of Florida. The insurance companies must be rated 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 Risk Management Department by Certificate of Insurance within 15 days of the date of this Agreement. All certificates (and any required documents) must be received and approved by SBBC before any work commences to permit VENDOR time to remedy any deficiencies. **FAX CERTIFICATES OF INSURANCE TO SBBC RISK MANAGEMENT AT 866-897-0424.**
- g) **REQUIRED CONDITIONS:** Liability policies must contain the following provisions. In addition, the following wording must be included on the Certificate of Insurance:  
**The School Board of Broward County, Florida, its members, officers, employees and agents are added as additional insured.**  
**All liability policies are primary of all other valid and collectable coverage maintained by The School Board of Broward County, Florida.**  
(\*Please include the RFP Number and Title on the Certificate of Insurance.)  
**(Certificate Holder: The School Board of Broward County, Florida 600 Southeast Third Avenue, Fort Lauderdale, Florida 33301)**
- 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 business days if required insurance is cancelled.

- i) **The School Board of Broward County, Florida reserves the right to review, reject or accept any required policies of insurance, including limits, coverage's or endorsements, herein throughout the term of this Agreement.**

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

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

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

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

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

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

3.10 **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 transfer 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, Insert Name shall meet all applicable requirements for retaining public records. All records stored electronically must be provided to SBBC, upon request from SBBC's custodian of public records, in a format that is compatible with SBBC's information technology systems.

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

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

3.12 **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.

3.13 **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. VENDOR agrees and admits that the state courts of the Seventeenth Judicial Circuit of Broward County, Florida and the Southern District of Florida shall have jurisdiction over VENDOR.

3.14 **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.

3.15 **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.

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

3.17 **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.

3.18 **Incorporation by Reference.** **Attachments A and B** are attached hereto and referenced herein shall be deemed to be incorporated into this Agreement by reference.

3.19 **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.

3.20 **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.

3.21 **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.

3.22 **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.

3.23 **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.

3.24 **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.

3.25 **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.

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

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

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

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

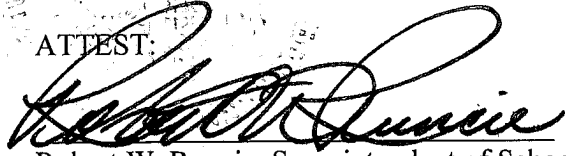
3.28 **Authority.** Each person signing this Agreement on behalf of either party individually warrants that he or she has full legal power to execute this Agreement on behalf of the party for whom he or she is signing, and to bind and obligate such party with respect to all provisions contained in this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

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



(Corporate Seal)

ATTEST:



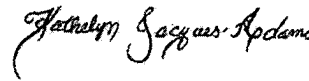
Robert W. Runcie, Superintendent of Schools

FOR SBBC

THE SCHOOL BOARD OF BROWARD  
COUNTY, FLORIDA

By   
Abby M. Freedman, Chair

Approved as to Form and Legal Content:



Digitally signed by Kathelyn Jacques-Adams, Esq. -  
kathelyn.jacques-adams@gbrowardschools.com  
Reason: All Source Recruiting Group, Inc. d/b/a Ardor  
Health Solutions - RFP 18-001V Speech Language  
Pathology and Audiology Services  
Date: 2017.04.27 16:56:11 -04'00'

Office of the General Counsel

**FOR VENDOR**

(Corporate Seal)

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

ATTEST:

Jennifer Miranda  
Secretary  
-or-

By Jennifer Miranda, Director of Administration

Emmarlinde Joachim  
Witness

Maria Aguayo-Amador  
Witness

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

STATE OF Florida

COUNTY OF Broward

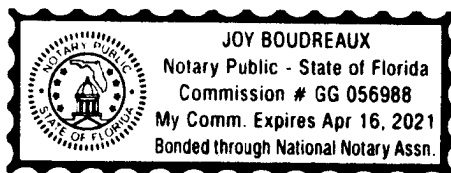
The foregoing instrument was acknowledged before me this 10<sup>th</sup> day of May, 2017 by Jennifer Miranda of All Source Recruiting Group, DBA - Ardor Health Solutions, on behalf of the corporation/agency.  
Name of Person  
Name of Corporation or Agency

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

My Commission Expires:  
4/16/2021

Joy Boudreaux  
Signature - Notary Public  
Joy Boudreaux  
Printed Name of Notary

(SEAL)



66 056988  
Notary's Commission No.

## SCOPE OF SERVICES

1. VENDOR shall offer services for speech-language pathologist(s) that hold a current, active professional license in speech-language pathology from the Department of Health, Board of Speech-Language Pathology and agree to provide copies of a current active professional license and certifications in speech-language pathology prior to acceptance for placement.
2. VENDOR shall, throughout **Attachment A**, not to hire any individual who is currently employed part-time or full-time by SBBC as a speech-language pathologist until the completion of the school year. VENDOR shall, throughout **Attachment A**, hold harmless any individual employed by them who elects to become employed by SBBC in the school year following the expiration date of the current Agreement, throughout **Attachment A**, school year.
3. VENDOR shall provide speech-language pathologists whose performance shall be consistent with a professional standard of care and comply with requirements of the State of Florida Department of Health, Division of Medical Quality Assurance, and Board of Professional Regulation for speech, language requirements of other applicable local, state or federal agencies which may govern the speech-language pathologist's activities on behalf of SBBC.
4. VENDOR shall provide services consistent with the professional standard of care and shall comply with the ethical requirements imposed by the State of Florida Department of Professional Regulations, the Florida State Department of Education and any other federal, state or local regulatory agency.
5. All speech-language pathologists, who shall be providing services under this Agreement, throughout **Attachment A**, must be articulate in oral and written English.
6. All speech-language pathologists, under this Agreement, throughout **Attachment A**, shall be required to pass the screening of the Broward District Schools Police Department prior to placement of assignment as required by the School Board of Broward County, Florida. (See General Condition 7.30 of the RFP, SBBC Photo Identification Badge). All speech-language pathologists must utilize the STAR system and/or sign-in/out procedures to document attendance at assigned location.
7. Speech-language pathologist(s) providing services shall follow the procedures for the referral, identification, screening, evaluation, eligibility, placement, and dismissal of students with speech-language impairments as provided in the document Special Programs and Procedures by the ESE/SS Division.
8. Speech-language pathologist(s) providing services shall follow procedures for completing required documentation for student attendance, student progress and reporting to parents, reimbursement for Medicaid funding, and other procedures as indicated by the Special Programs and Procedures document and ESE/SS Division.
9. Speech-language pathologist(s) providing services shall allow District administrative staff as well as teacher-based resource personnel to review required documentation and observe all provided services.

## SCOPE OF SERVICES

10. Speech-language pathologist(s) providing services shall submit, for approval to the school principal or designee, any written communication intended for parents and teachers.
11. Speech-language pathologist(s) shall follow all rules and procedures as contained in the employee handbooks of the individual school. Speech-language pathologist(s) shall refrain from using school equipment (such as phones, copiers, computers, etc.) for personal or commercial business during service times.
12. Speech-Language pathologist(s) shall complete such records as shall be required to document services provided, on a daily basis. VENDOR shall submit timesheets and other documentation needed to substantiate payment through the approved electronic database on an approved voucher form no later than five (5) days following the delivery of service. In order to insure timely payment VENDOR must submit accurate time sheets of service in accordance with the training they receive. These records must be submitted to the ESE/SS Division, Arthur Ashe, Jr. Campus, 1701 NW 23<sup>rd</sup> Avenue, Fort Lauderdale, Florida 33311.
13. VENDOR shall have all new providers use and submit an approved District template to log services until training takes place for the electronic system. VENDOR shall utilize the approved template until such time as they are trained in the electronic database system. Immediately following training all providers, VENDOR shall transfer the data from the district template into the Educational Database System and file the original hard copy in the student's IEP folder at the school site.
14. (SBBC) ESE/SS Division reserves the right to interview all speech-language pathologist(s) prior to placement. ESE/SS Division reserves the right to refuse to utilize any given speech-language pathologist(s) and/or audiologist(s) if it is in their best interest to do so.
15. VENDOR's Speech-Language Pathologist(s) must attend two (2) scheduled policies/procedures meetings, considered as part of their workday, of not less than three (3) hours as determined by the District. These meetings shall include, but are not limited to, general information on these policies and procedures of the Broward County Special Programs and Procedures, the rights of students with disabilities, and other operational procedures required to carry out the therapy program. VENDOR shall incorporate any cancelled service sessions due to meeting times into their schedule.
16. VENDOR shall, throughout **Attachment A**, execute SBBC's HIPAA Business Associate Agreement as stated in **Attachment B**.
17. VENDOR shall provide speech-language pathologist(s) who agree to provide therapy services throughout the District at all times and locations designated by SBBC. SBBC reserves the right to request a change in times and locations of services provided by VENDOR (consistent with the written agreement for days and hours worked), during the course of an assignment. Services shall be provided up to 7 hours per day on regular student attendance days. Services provided on employee planning days and early release days must be pre-approved in writing by an authorized representative of the ESE/SS Division. School year calendars may be viewed on the following web link:  
**<http://www.browardschools.com>. Click on the link "Calendars"**

**ATTACHMENT A  
SCOPE OF SERVICES**

18. VENDOR shall, throughout **Attachment A**, provide the requested services within ten school days of verbal/written notice of an assignment by SBBC.
19. Resumes of replacement personnel are to be submitted to the ESE/SS Division for review. All replacement personnel must have written approval by the ESE/SS Division prior to placement. All replacement personnel shall follow the procedures as stated by the ESE/SS Division. All replacement personnel must have the same credentials equivalent to the individuals whom they replace. ESE/SS Division reserves the right to interview replacement personnel prior to approval.
20. Clinical Fellowship Year (CFY) candidates with a provisional license will be considered for a school assignment if the VENDOR agrees to provide all supervisory and support requirements for the candidate.
21. VENDOR shall insure that any interruption of services due to a therapist being “unavailable” shall be made up to the best of their ability and shall be documented in the Electronic Based System as “make-up” session.
22. VENDOR shall, throughout **Attachment A**, provide the required ELL training to all candidates assigned to a school site. Training can be provided via the VENDOR’s own process or via the District’s training for a minimal cost. Training must comply with the requirements of the Florida Consent Decree and the META Agreement.

**HIPAA BUSINESS ASSOCIATE AGREEMENT**

This Business Associate Agreement ("**Agreement**") is made and entered into as of this \_\_\_\_\_ day of \_\_\_\_\_, 2017 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

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

**WHEREAS**, by virtue of some of the services that Business Associate performs for SBBC, Business Associate may be a "business associate", as the term is defined at 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 coverage 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 the 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").

**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/or disclosure of PHI and the security of 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.

- (b) “**Business Associate**” shall mean Business Associate named above and shall include all successors and assigns, affiliates, subsidiaries, and related companies.
- (c) “**Designed 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 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) “**HIPAA**” means Health Insurance Portability and Accountability Act of 1996.
- (f) “**HITECH Act**” means the Health Information Technology for Economic and Clinical Health Act of 2009.
- (g) “**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).
- (h) “**Minimum Necessary**” means the least amount of PHI needed to accomplish the intended purpose of the use or disclosure.
- (i) “**Omnibus Rule**” means the HIPAA Omnibus Rule of 2013.
- (j) “**Privacy Rule**” shall mean the Standards of Privacy of Individuals Identifiable Health Information as set forth at 45 C.F.R. Parts 160 and 164, subparts A and E.
- (k) “**Protected Health Information**” or “**PHI**” shall have the same meaning as the term “protected health information” in 45 C.F.R. §130.103 (as amended by the HITECH Act) limited to the information created or received by Business Associate from or on behalf of SBBC.
- (l) “**Required by Law**” shall have the same meaning as the term “required by law” in 45 C.F.R. §164.103.
- (m) “**Secretary**” shall mean the Secretary of the Department of Health and Human Services or his or her designee.
- (n) “**Security Rule**” shall mean the Standards for Security of ePHI as set forth 45 C.F.R. Parts 160 and 164 Subpart C.
- (o) “**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 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 substantially the same form as Exhibit A, hereto.
- (e) Business Associate shall promptly inform SBBC of a Breach of Unsecured PHI following the first day on which Business Associate knows of such Breach or following the first day on which Business Associate should have known 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 by Federal and/or Florida law.



## **ATTACHMENT B**

- (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 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 access, at the requires of SBBC, and in the time and manner designated by SBBC, to PHI in a Designated Record Set that is not also in SBBC's possession, to SBBC in order for SBBC to meet the requirements under 45 C.F.R. §164.524.
- (i) Business Associate agrees to make PHI available for amendment and incorporate all amendments to PHI in a Designated Record Set that SBBC directs or agrees to pursuant to 45 C.F.R. §164.526 at the request of SBBC or an Individual 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 a request of SBBC to the Secretary, in a time and manner as designated by SBBC or the Secretary, for the 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 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.

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

- (a) Except as otherwise limited in this Agreement, Business Associate may use or disclose PHI to perform functions, activities or services for, or on behalf of, SBBC as previously agreed to by the parties (the “Service Agreement”) provided that such use or disclosure would not violate the Privacy Rule if done by SBBC.
- (b) Except as otherwise limited in 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 in 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 for 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 in 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
- (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 with ten (10) business days prior written notice to Business Associate to audit Business Associate from time-to-time to verify Business Associate compliance with the terms of this Agreement. SBBC shall be entitled and enabled to inspect the records and other information relevant to Business Associate 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 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 and confidentiality and integrity of ePHI under the Security Standards 45 C.F.R. Part 160 and 164 subpart C.

- (b) Business Associate agrees that it will ensure that agents or subcontractors agree to implement the applicable administrative, physical, and technical safeguards required to protect the confidentiality and integrity of ePHI under the Security Standards 45 C.F.R. Part 164.
- (c) Business Associate agrees to report to SBBC all Security Incidents (as defined 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 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, on behalf of SBBC, it will perform all transactions for which a standard has been developed under the EDI Rule that Business Associate could reasonably be expected to perform in the ordinary course of its functions on behalf of SBBC.

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 in general, shall be deemed to amend this Agreement to incorporate said changes without further action.

**8. Amendment.**

The parties agree to take any and all actions necessary to amend this Agreement from time to time so that SBBC is in compliance with the Privacy Rule, the Security Rule, the HITECH Act, and HIPAA in general. The parties may agree to amend this Agreement from time to time in other respect that 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 as of the Effective Date and shall remain in effect until such time as SBBC exercises its right to 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 of such breach to Business Associate, 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.

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, for example, if SBBC makes illegal demands on Business Associate, 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 Covered Entity.

- (d) ***Effect of Termination.*** Except as set forth in this Section 9(d), upon termination of this Agreement for any reason, at the request of SBBC, 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. In the event that Business Associate determines that returning or destroying the PHI is infeasible, such as in the use of data aggregation, Business Associate shall provide to SBBC written notification of the conditions that make return or destruction infeasible. If 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 make the return or destruction infeasible, 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 while such equipment is on premises owned or controlled by SBBC; or the negligence of Business Associate 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 property, and injury or death of any person whether employed by Business Associate, SBBC or otherwise.

**ARTICLE 3 – GENERAL CONDITIONS****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 waiver of limits to liability or rights existing under Section 768.28, Florida Statutes.

**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 term 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.

**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, FL 33301
With a Copy to:	Executive Director, ESE/SS Division The School Board of Broward County, Florida 1701 NW 23 <sup>rd</sup> Avenue Fort Lauderdale, Florida 33301  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: All Source Recruiting Group, Inc. d/b/a Ardor Health Solutions  
5830 Coral Ridge Drive, Suite 300  
Coral Springs, Florida 33076

With a Copy to: Maria Aguayo, Business Development and School Division Manager  
All Source Recruiting Group, Inc. d/b/a Ardor Health Solutions  
5830 Coral Ridge Drive, Suite 300  
Coral Springs, Florida 33076

**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. The person signing on behalf of "Business Associate" has authority to bind "Business Associate" with respect to all provisions contained in this Agreement.

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

No failure or delay by a party hereto in exercising any right, power or remedy under this Agreement, and no course of dealing between the parties hereto, will operate as a waiver of any such right, power or remedy of the party. No single or partial exercise of any right, power or remedy under this Agreement by a party hereto, nor any abandonment or discontinuance of steps to enforce any such right, power or remedy, will preclude such party from any other or further exercise thereof or the exercise of any other right, power or remedy hereunder. The election of any remedy by a party hereto will not constitute a waiver of the right of such party to pursue other available remedies. No notice to or demand on a party not expressly required under this Agreement will entitle the party receiving such notice or demand to any other or further notice or demand in similar or other circumstances or constitute a waiver of the right of the party giving such notice or demand to any other or further action in any circumstances without such notice or demand. The terms and provisions of this Agreement may be waived, or consent for the departure there from granted, only by written document executed by the party entitled to the benefits of such terms or provisions. No such waiver or consent will be deemed to be or will constitute a waiver or consent with respect to any other terms or provisions of this Agreement, whether or not similar. Each such waiver or consent will be effective only in the specific instance and for the purpose for which it was given, and will not constitute a continuing waiver or consent.

**27. Regulatory References.**

A reference in this Agreement to a section in the Privacy Rule, the Security Rule, the HITECH Act, or HIPAA in general means the referenced section or its successor, and for which compliance is required.

**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.


**30. Interpretation.**

Any ambiguity in this Agreement shall be interpreted in a manner that permits SBBC to comply with the Privacy Rule, Security Rule, the HITECH Act, HIPAA in general and any subsequent legislation or regulations otherwise affecting Business Associates.

**IN WITNESS WHEREOF**, the parties have executed this Business Associate Agreement as of the Effective Date:


(Corporate Seal)

ATTEST:


  
Robert W. Runcie, Superintendent of Schools

**FOR SBBC**

THE SCHOOL BOARD OF BROWARD  
COUNTY, FLORIDA

By   
Abby M. Freedman, Chair

Approved as to Form and Legal Content:



Digitally signed by Kathelyn Jacques-Adams, Esq. -  
kathelyn.jacques-adams@gbrowardschools.com  
Reason: All Source Recruiting Group, Inc. d/b/a Ardor Health  
Solutions - RFP 18-001V Speech Language Pathology and  
Audiology Services  
Date: 2017.04.27 16:56:46 -04'00'

Office of the General Counsel



FOR BUSINESS ASSOCIATE

Jennifer Miranda  
Signature

Jennifer Miranda, Director of Administration  
Print Name and Title

Emisorlinde Joachim  
Witness

Maria Aguayo-Amador  
Witness

STATE OF Florida

COUNTY OF Broward

The foregoing instrument was acknowledged before me by Jennifer Miranda who is personally known to me or who produced personally as identification and who did / did not first take an oath this 10<sup>th</sup> day of May, 20 17.

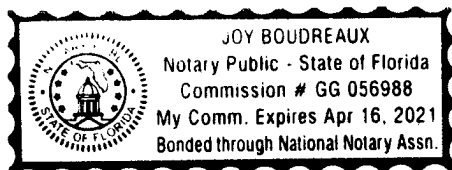
My Commission Expires:

4/16/2021

[Signature]  
Signature - Notary Public

Joy Boudreaux  
Notary's Printed Name

GG 056988  
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 12<sup>th</sup> day of June, 2017, by and between

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

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

and

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

#### **D/B/A BOCA SPEECH CENTER**

(hereinafter referred to as "VENDOR"),  
whose principal place of business is  
160 NW 4<sup>th</sup> Street  
Boca Raton, Florida 33432

**WHEREAS**, SBBC issued a Request for Proposal identified as RFP 18-001V – Speech-Language Pathology and Audiology Services (hereinafter referred to as "RFP"), dated December 1, 2016 and amended by Addendum No. 4, dated January 17, 2017, Addendum No. 3, dated January 13, 2017 Addendum No. 2, dated December 19, 2016, and Addendum No. 1, dated December 9, 2016 all of which are incorporated by reference herein, for the purpose of receiving proposals for speech-language pathology and audiology services; and

**WHEREAS**, VENDOR offered a proposal dated January 25, 2017 (hereinafter referred to as "Proposal") which is incorporated by reference herein, in response to this RFP.

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

### **ARTICLE 1 – RECITALS**

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

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

2.01 **Term of Agreement.** Unless terminated earlier pursuant to Section 3.05 of this Agreement, the term of this Agreement shall commence on **July 1, 2017** and conclude on **June 30, 2020**. The term of the Agreement may, by mutual agreement between SBBC and VENDOR be extended for two additional one-year periods and, if needed, 180 days beyond the expiration date of the renewal period. SBBC's Procurement & Warehousing Services Department, will, if considering renewing, request a letter consenting to renewal from VENDOR, prior to the end of the term. Any renewal period shall be approved by an Amendment to this Agreement executed by both parties.

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

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

First: This Agreement, then;  
Second: Addendum No. 4, then;  
Third: Addendum No. 3, then;  
Fourth: Addendum No. 2, then;  
Fifth: Addendum No. 1, then;  
Sixth: RFP 18-001V – Speech-Language Pathology and Audiology Services, then;  
Seventh: Proposal submitted in response to the RFP by VENDOR.

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

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

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

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

VENDOR shall enter into SBBC’s HIPAA Business Associate Agreement (“BAA”) substantially in the form attached hereto and incorporated herein as **Attachment B.**

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

evaluation, analysis, verification and reconciliation of any and all expenditures under this Agreement without regard to funding sources.

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

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

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

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

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

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

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

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

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

To SBBC: Superintendent of Schools  
The School Board of Broward County, Florida  
600 Southeast Third Avenue  
Fort Lauderdale, Florida 33301

With a Copy to: Executive Director, ESE/SS Division  
The School Board of Broward County, Florida  
1701 NW 23<sup>rd</sup> Avenue  
Fort Lauderdale, Florida 33301

To VENDOR: Audrey B. Greenwald M.S., CCC, P.A.  
d/b/a Boca Speech Center  
160 NW 4<sup>th</sup> Street  
Boca Raton, Florida 33432

2.09 **Background Screening.** Vendor agrees to comply with all requirements of Sections 1012.32 and 1012.465, Florida Statutes, and all of its personnel who (1) are to be permitted access to school grounds when students are present, (2) will have direct contact with students, or (3) have access or control of school funds, will successfully complete the background screening required by the referenced statutes and meet the standards established by the statutes. This background screening will be conducted by SBBC in advance of the 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 the 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.

2.10 **Insurance.** VENDOR shall provide the minimum insurance requirements as provided below:

- a) **GENERAL LIABILITY:** Limits not less than \$1,000,000 per occurrence for Bodily Injury/ Property Damage; \$1,000,000 General Aggregate. Limits not less than \$1,000,000 for Products/Completed Operations Aggregate.

- b) **WORKER'S COMPENSATION:** Florida Statutory limits in accordance with Chapter 440; Employer's Liability limits not less than \$100,000/\$100,000/\$500,000 (each accident/disease-each employee/disease-policy limit).
- c) **PROFESSIONAL LIABILITY:** Limits not less than \$1,000,000 per occurrence covering services provided under this Agreement.
- d) **AUTO LIABILITY:** Owned, Non-Owned and Hired Auto Liability with Bodily Injury and Property Damage limits of not less than \$1,000,000 Combined Single Limit. If VENDOR does not own any vehicles, hired and non-owned automobile liability coverage in the amount of \$1,000,000 will be accepted. In addition, an affidavit signed by the VENDOR must be furnished to SBBC indicating the following:  
VENDOR does not own any vehicles. In the event insured acquires any vehicles throughout the term of this Agreement, insured agrees to provide proof of "Any Auto" coverage effective the date of acquisition. (Fax affidavit with Certificate of Insurance to SBBC Risk Management at 866-897-0424.)
- e) **ACCEPTABILITY OF INSURANCE CARRIERS:** The insurance policies shall be issued by companies qualified to do business in the State of Florida. The insurance companies must be rated 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 Risk Management Department by Certificate of Insurance within 15 days of the date of this Agreement. All certificates (and any required documents) must be received and approved by SBBC before any work commences to permit VENDOR time to remedy any deficiencies. **FAX CERTIFICATES OF INSURANCE TO SBBC RISK MANAGEMENT AT 866-897-0424.**
- g) **REQUIRED CONDITIONS:** Liability policies must contain the following provisions. In addition, the following wording must be included on the Certificate of Insurance:  
**The School Board of Broward County, Florida, its members, officers, employees and agents are added as additional insured.**  
**All liability policies are primary of all other valid and collectable coverage maintained by The School Board of Broward County, Florida.**  
(\*Please include the RFP Number and Title on the Certificate of Insurance.)  
(Certificate Holder: The School Board of Broward County, Florida 600 Southeast Third Avenue, Fort Lauderdale, Florida 33301)
- 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 business days if required insurance is cancelled.
- i) **The School Board of Broward County, Florida reserves the right to review, reject or accept any required policies of insurance, including limits, coverage's or endorsements, herein throughout the term of this Agreement.**

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

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

3.06 **Default.** The parties agree that, in the event that either party is in default of its obligations under this Agreement, the non-defaulting party shall provide to the defaulting party (30) days written notice to cure the default. However, in the event said default cannot be cured within said thirty (30) day period and the defaulting party is diligently attempting in good faith to cure same, the time period shall be reasonably extended to allow the defaulting party additional cure time. Upon the occurrence of a default that is not cured during the applicable cure period, this Agreement may be terminated by the non-defaulting party upon thirty (30) days notice. This remedy is not intended to be exclusive of any other remedy, and each and every such remedy shall



be cumulative and shall be in addition to every other remedy now or hereafter existing at law or in equity or by statute or otherwise. No single or partial exercise by any party of any right, power, or remedy hereunder shall preclude any other or future exercise thereof. Nothing in this section shall be construed to preclude termination for convenience pursuant to Section 3.05.

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

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

3.09 **Public Records:** The following provisions are required by Section 119.0701, Florida Statutes, and may not be amended. 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 transfer 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, Insert Name shall meet all applicable requirements for retaining public records. All records stored electronically must be provided to SBBC, upon request from SBBC's custodian of public records, in a format that is compatible with SBBC's information technology systems.

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

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

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

3.12 **Place of Performance.** All obligations of SBBC under the terms of this Agreement are reasonably susceptible of being performed in Broward County, Florida and shall be payable and performable in Broward County, Florida. VENDOR agrees and admits that the state courts of the Seventeenth Judicial Circuit of Broward County, Florida and the Southern District of Florida shall have jurisdiction over VENDOR.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

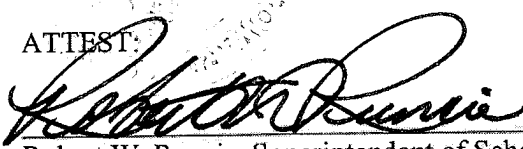
B. By VENDOR: VENDOR agrees to indemnify, hold harmless and defend SBBC, its agents, servants and employees from any and all claims, judgments, costs, and expenses including, but not limited to, reasonable attorney's fees, reasonable investigative and discovery costs, court costs and all other sums which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

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

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

(Corporate Seal)

ATTEST:

  
Robert W. Runcie, Superintendent of Schools

**FOR SBBC**

THE SCHOOL BOARD OF BROWARD  
COUNTY, FLORIDA

By   
Abby M. Freedman, Chair

Approved as to Form and Legal Content:



Digitally signed by Kathelyn Jacques-Adams, Esq.,  
kathelyn.jacques-adams@gbrowardschools.com  
Reason: Audrey B. Greenwald, M.S., CCC, P.A. d/b/a  
Boca Speech Center  
Date: 2017.05.24 09:36:11 -04'00'

Office of the General Counsel

**FOR VENDOR**

(Corporate Seal)

AUDREY B. GREENWALD, M.S., CCC., P.A.  
D/B/A BOCA SPEECH CENTER

ATTEST:

By Audrey B Greenwald, M.S.C.C. PA

[Signature], Secretary

-or-

[Signature]  
Witness

\_\_\_\_\_  
Witness

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

STATE OF Florida

COUNTY OF Palm Beach

The foregoing instrument was acknowledged before me this 28<sup>th</sup> day of April, 2017 by Audrey Greenwald of

Name of Person

Boca Speech Center, on behalf of the corporation/agency.

Name of Corporation or Agency

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

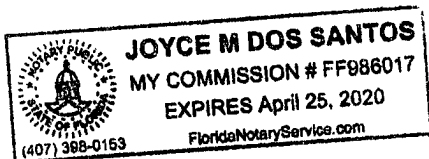
My Commission Expires:

[Signature]  
Signature - Notary Public

(SEAL)

Joyce dos Santos  
Printed Name of Notary

FF 986017  
Notary's Commission No.



## SCOPE OF SERVICES

1. VENDOR shall offer services for speech-language pathologist(s) that hold a current, active professional license in speech-language pathology from the Department of Health, Board of Speech-Language Pathology and agree to provide copies of a current active professional license and certifications in speech-language pathology prior to acceptance for placement.
2. VENDOR shall, throughout **Attachment A**, not to hire any individual who is currently employed part-time or full-time by SBBC as a speech-language pathologist until the completion of the school year. VENDOR shall, throughout **Attachment A**, hold harmless any individual employed by them who elects to become employed by SBBC in the school year following the expiration date of the current Agreement, throughout **Attachment A**, school year.
3. VENDOR shall provide speech-language pathologists whose performance shall be consistent with a professional standard of care and comply with requirements of the State of Florida Department of Health, Division of Medical Quality Assurance, and Board of Professional Regulation for speech, language requirements of other applicable local, state or federal agencies which may govern the speech-language pathologist's activities on behalf of SBBC.
4. VENDOR shall provide services consistent with the professional standard of care and shall comply with the ethical requirements imposed by the State of Florida Department of Professional Regulations, the Florida State Department of Education and any other federal, state or local regulatory agency.
5. All speech-language pathologists, who shall be providing services under this Agreement, throughout **Attachment A**, must be articulate in oral and written English.
6. All speech-language pathologists, under this Agreement, throughout **Attachment A**, shall be required to pass the screening of the Broward District Schools Police Department prior to placement of assignment as required by the School Board of Broward County, Florida. (See General Condition 7.30 of the RFP, SBBC Photo Identification Badge). All speech-language pathologists must utilize the STAR system and/or sign-in/out procedures to document attendance at assigned location.
7. Speech-language pathologist(s) providing services shall follow the procedures for the referral, identification, screening, evaluation, eligibility, placement, and dismissal of students with speech-language impairments as provided in the document Special Programs and Procedures by the ESE/SS Division.
8. Speech-language pathologist(s) providing services shall follow procedures for completing required documentation for student attendance, student progress and reporting to parents, reimbursement for Medicaid funding, and other procedures as indicated by the Special Programs and Procedures document and ESE/SS Division.
9. Speech-language pathologist(s) providing services shall allow District administrative staff as well as teacher-based resource personnel to review required documentation and observe all provided services.

## SCOPE OF SERVICES

10. Speech-language pathologist(s) providing services shall submit, for approval to the school principal or designee, any written communication intended for parents and teachers.
11. Speech-language pathologist(s) shall follow all rules and procedures as contained in the employee handbooks of the individual school. Speech-language pathologist(s) shall refrain from using school equipment (such as phones, copiers, computers, etc.) for personal or commercial business during service times.
12. Speech-Language pathologist(s) shall complete such records as shall be required to document services provided, on a daily basis. VENDOR shall submit timesheets and other documentation needed to substantiate payment through the approved electronic database on an approved voucher form no later than five (5) days following the delivery of service. In order to insure timely payment VENDOR must submit accurate time sheets of service in accordance with the training they receive. These records must be submitted to the ESE/SS Division, Arthur Ashe, Jr. Campus, 1701 NW 23<sup>rd</sup> Avenue, Fort Lauderdale, Florida 33311.
13. VENDOR shall have all new providers use and submit an approved District template to log services until training takes place for the electronic system. VENDOR shall utilize the approved template until such time as they are trained in the electronic database system. Immediately following training all providers, VENDOR shall transfer the data from the district template into the Educational Database System and file the original hard copy in the student's IEP folder at the school site.
14. (SBBC) ESE/SS Division reserves the right to interview all speech-language pathologist(s) prior to placement. ESE/SS Division reserves the right to refuse to utilize any given speech-language pathologist(s) and/or audiologist(s) if it is in their best interest to do so.
15. VENDOR's Speech-Language Pathologist(s) must attend two (2) scheduled policies/procedures meetings, considered as part of their workday, of not less than three (3) hours as determined by the District. These meetings shall include, but are not limited to, general information on these policies and procedures of the Broward County Special Programs and Procedures, the rights of students with disabilities, and other operational procedures required to carry out the therapy program. VENDOR shall incorporate any cancelled service sessions due to meeting times into their schedule.
16. VENDOR shall, throughout **Attachment A**, execute SBBC's HIPAA Business Associate Agreement as stated in **Attachment B**.
17. VENDOR shall provide speech-language pathologist(s) who agree to provide therapy services throughout the District at all times and locations designated by SBBC. SBBC reserves the right to request a change in times and locations of services provided by VENDOR (consistent with the written agreement for days and hours worked), during the course of an assignment. Services shall be provided up to 7 hours per day on regular student attendance days. Services provided on employee planning days and early release days must be pre-approved in writing by an authorized representative of the ESE/SS Division. School year calendars may be viewed on the following web link:  
**<http://www.browardschools.com>. Click on the link "Calendars"**

**SCOPE OF SERVICES**

18. **VENDOR** shall, throughout **Attachment A**, to provide the requested services within ten school days of verbal/written notice of an assignment by SBBC.
19. Resumes of replacement personnel are to be submitted to the ESE/SS Division for review. All replacement personnel must have written approval by the ESE/SS Division prior to placement. All replacement personnel shall follow the procedures as stated by the ESE/SS Division. All replacement personnel must have the same credentials equivalent to the individuals whom they replace. ESE/SS Division reserves the right to interview replacement personnel prior to approval.
20. Clinical Fellowship Year (CFY) candidates with a provisional license will be considered for a school assignment if the **VENDOR** agrees to provide all supervisory and support requirements for the candidate.
21. **VENDOR** shall insure that any interruption of services due to a therapist being “unavailable” shall be made up to the best of their ability and shall be documented in the Electronic Based System as “make-up” session.
22. **VENDOR** shall, throughout **Attachment A**, provide the required ELL training to all candidates assigned to a school site. Training can be provided via the **VENDOR**’s own process or via the District’s training for a minimal cost. Training must comply with the requirements of the Florida Consent Decree and the META Agreement.



## HIPAA BUSINESS ASSOCIATE AGREEMENT

This Business Associate Agreement ("**Agreement**") is made and entered into as of this \_\_\_\_\_ day of \_\_\_\_\_, 2017 (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

**AUDREY B. GREENWALD, M.S., CCC, P.A.****D/B/A BOCA SPEECH CENTER**

(hereinafter referred to as "**Business Associate**"),

whose principal place of business is

160 NW 4<sup>th</sup> Street

Boca Raton, Florida 33432

**WHEREAS**, by virtue of some of the services that Business Associate performs for SBBC, Business Associate may be a "business associate", as the term is defined at 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 coverage 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 the 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").

**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/or disclosure of PHI and the security of 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.

## ATTACHMENT B

- (b) “**Business Associate**” shall mean Business Associate named above and shall include all successors and assigns, affiliates, subsidiaries, and related companies.
- (c) “**Designed 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 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) “**HIPAA**” means Health Insurance Portability and Accountability Act of 1996.
- (f) “**HITECH Act**” means the Health Information Technology for Economic and Clinical Health Act of 2009.
- (g) “**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).
- (h) “**Minimum Necessary**” means the least amount of PHI needed to accomplish the intended purpose of the use or disclosure.
- (i) “**Omnibus Rule**” means the HIPAA Omnibus Rule of 2013.
- (j) “**Privacy Rule**” shall mean the Standards of Privacy of Individuals Identifiable Health Information as set forth at 45 C.F.R. Parts 160 and 164, subparts A and E.
- (k) “**Protected Health Information**” or “**PHI**” shall have the same meaning as the term “protected health information” in 45 C.F.R. §130.103 (as amended by the HITECH Act) limited to the information created or received by Business Associate from or on behalf of SBBC.
- (l) “**Required by Law**” shall have the same meaning as the term “required by law” in 45 C.F.R. §164.103.
- (m) “**Secretary**” shall mean the Secretary of the Department of Health and Human Services or his or her designee.
- (n) “**Security Rule**” shall mean the Standards for Security of ePHI as set forth 45 C.F.R. Parts 160 and 164 Subpart C.
- (o) “**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 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 substantially the same form as Exhibit A, hereto.
- (e) Business Associate shall promptly inform SBBC of a Breach of Unsecured PHI following the first day on which Business Associate knows of such Breach or following the first day on which Business Associate should have known 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 by Federal and/or Florida law.

## **ATTACHMENT B**

- (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 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 access, at the requires of SBBC, and in the time and manner designated by SBBC, to PHI in a Designated Record Set that is not also in SBBC's possession, to SBBC in order for SBBC to meet the requirements under 45 C.F.R. §164.524.
- (i) Business Associate agrees to make PHI available for amendment and incorporate all amendments to PHI in a Designated Record Set that SBBC directs or agrees to pursuant to 45 C.F.R. §164.526 at the request of SBBC or an Individual 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 a request of SBBC to the Secretary, in a time and manner as designated by SBBC or the Secretary, for the 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 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.

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

- (a) Except as otherwise limited in this Agreement, Business Associate may use or disclose PHI to perform functions, activities or services for, or on behalf of, SBBC as previously agreed to by the parties (the “Service Agreement”) provided that such use or disclosure would not violate the Privacy Rule if done by SBBC.
- (b) Except as otherwise limited in 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 in 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 for 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 in 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
- (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 with ten (10) business days prior written notice to Business Associate to audit Business Associate from time-to-time to verify Business Associate compliance with the terms of this Agreement. SBBC shall be entitled and enabled to inspect the records and other information relevant to Business Associate 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 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 and confidentiality and integrity of ePHI under the Security Standards 45 C.F.R. Part 160 and 164 subpart C.

- (b) Business Associate agrees that it will ensure that agents or subcontractors agree to implement the applicable administrative, physical, and technical safeguards required to protect the confidentiality and integrity of ePHI under the Security Standards 45 C.F.R. Part 164.
- (c) Business Associate agrees to report to SBBC all Security Incidents (as defined 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 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, on behalf of SBBC, it will perform all transactions for which a standard has been developed under the EDI Rule that Business Associate could reasonably be expected to perform in the ordinary course of its functions on behalf of SBBC.

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 in general, shall be deemed to amend this Agreement to incorporate said changes without further action.

**8. Amendment.**

The parties agree to take any and all actions necessary to amend this Agreement from time to time so that SBBC is in compliance with the Privacy Rule, the Security Rule, the HITECH Act, and HIPAA in general. The parties may agree to amend this Agreement from time to time in other respect that 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 as of the Effective Date and shall remain in effect until such time as SBBC exercises its right to 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 of such breach to Business Associate, 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.

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, for example, if SBBC makes illegal demands on Business Associate, 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 Covered Entity.

- (d) ***Effect of Termination.*** Except as set forth in this Section 9(d), upon termination of this Agreement for any reason, at the request of SBBC, 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. In the event that Business Associate determines that returning or destroying the PHI is infeasible, such as in the use of data aggregation, Business Associate shall provide to SBBC written notification of the conditions that make return or destruction infeasible. If 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 make the return or destruction infeasible, 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 while such equipment is on premises owned or controlled by SBBC; or the negligence of Business Associate 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 property, and injury or death of any person whether employed by Business Associate, SBBC or otherwise.

**ARTICLE 3 – GENERAL CONDITIONS****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 waiver of limits to liability or rights existing under Section 768.28, Florida Statutes.

**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 term 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.

**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, FL 33301
With a Copy to:	Executive Director, ESE/SS Division The School Board of Broward County, Florida 1701 NW 23 <sup>rd</sup> Avenue Fort Lauderdale, Florida 33301
	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:

Audrey B. Greenwald M.S., CCC, P.A.  
d/b/a Boca Speech Center  
160 NW 4<sup>th</sup> Street  
Boca Raton, Florida 33432

**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. The person signing on behalf of "Business Associate" has authority to bind "Business Associate" with respect to all provisions contained in this Agreement.

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

No failure or delay by a party hereto in exercising any right, power or remedy under this Agreement, and no course of dealing between the parties hereto, will operate as a waiver of any such right, power or remedy of the party. No single or partial exercise of any right, power or remedy under this Agreement by a party hereto, nor any abandonment or discontinuance of steps to enforce any such right, power or remedy, will preclude such party from any other or further exercise thereof or the exercise of any other right, power or remedy hereunder. The election of any remedy by a party hereto will not constitute a waiver of the right of such party to pursue other available remedies. No notice to or demand on a party not expressly required under this Agreement will entitle the party receiving such notice or demand to any other or further notice or demand in similar or other circumstances or constitute a waiver of the right of the party giving such notice or demand to any other or further action in any circumstances without such notice or demand. The terms and provisions of this Agreement may be waived, or consent for the departure there from granted, only by written document executed by the party entitled to the benefits of such terms or provisions. No such waiver or consent will be deemed to be or will constitute a waiver or consent with respect to any other terms or provisions of this Agreement, whether or not similar. Each such waiver or consent will be effective only in the specific instance and for the purpose for which it was given, and will not constitute a continuing waiver or consent.

**27. Regulatory References.**

A reference in this Agreement to a section in the Privacy Rule, the Security Rule, the HITECH Act, or HIPAA in general means the referenced section or its successor, and for which compliance is required.

**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.

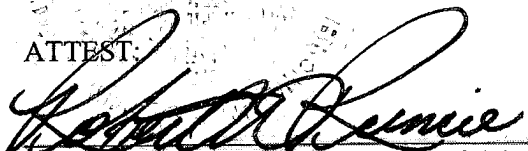
**30. Interpretation.**

Any ambiguity in this Agreement shall be interpreted in a manner that permits SBBC to comply with the Privacy Rule, Security Rule, the HITECH Act, HIPAA in general and any subsequent legislation or regulations otherwise affecting Business Associates.

IN WITNESS WHEREOF, the parties have executed this Business Associate Agreement as of the Effective Date.

(Corporate Seal)

ATTEST:

  
Robert W. Runcie, Superintendent of Schools

**FOR SBBC**

THE SCHOOL BOARD OF BROWARD  
COUNTY, FLORIDA

By   
Abby M. Freedman, Chair

Approved as to Form and Legal Content:



Digitally signed by Kathelyn Jacques-Adams, Esq.  
- kathelyn.jacques-adams@gbrowardschools.com  
Reason: Audrey B. Greenwald, M.S., CCC, P.A. d/b/  
a Boca Speech Center  
Date: 2017.05.24 09:36:47 -04'00'

Office of the General Counsel

**FOR BUSINESS ASSOCIATE**Audrey Greenwald

Signature

Audrey Greenwald / Owner

Print Name and Title

Witness

Nikki Barham

Witness

STATE OF

Florida

COUNTY OF

Palm Beach

The foregoing instrument was acknowledged before me by Audrey Greenwald who is personally known to me or who produced personally known as identification and who did / did not first take an oath this 25<sup>th</sup> day of April, 2017.

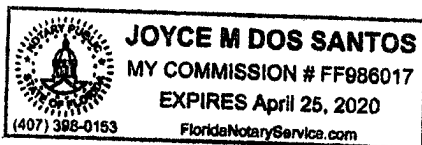
My Commission Expires:

J Santos

Signature – Notary Public

Joyce dos Santos

Notary's Printed Name

FF 986017

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 13<sup>th</sup> day of June, 2017, 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

### CELL STAFF, LLC

(hereinafter referred to as "VENDOR"),  
whose principal place of business is  
1715 N. Westshore Boulevard, Suite #410  
Tampa, Florida 33607

**WHEREAS**, SBBC issued a Request for Proposal identified as RFP 18-001V – Speech-Language Pathology and Audiology Services (hereinafter referred to as "RFP"), dated December 1, 2016 and amended by Addendum No. 4, dated January 17, 2017, Addendum No. 3, dated January 13, 2017 Addendum No. 2, dated December 19, 2016, and Addendum No. 1, dated December 9, 2016 all of which are incorporated by reference herein, for the purpose of receiving proposals for speech-language pathology and audiology services; and

**WHEREAS**, VENDOR offered a proposal dated February 1, 2017 (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 3.06 of this Agreement, the term of this Agreement shall commence on **July 1, 2017** and conclude on **June 30, 2020**. The term of the Agreement may, by mutual agreement between SBBC and VENDOR be extended for two additional one-year periods and, if needed, 180 days beyond the expiration date of the renewal period. SBBC's Procurement & Warehousing Services Department, will, if considering renewing, request a letter consenting to renewal from VENDOR, prior to the end of the term. Any renewal period shall be approved by an Amendment to this Agreement executed by both parties.

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

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

First: This Agreement, then;  
Second: Addendum No. 4, then;  
Third: Addendum No. 3, then;  
Fourth: Addendum No. 2, then;  
Fifth: Addendum No. 1, then;  
Sixth: RFP 18-001V – Speech-Language Pathology and Audiology Services, then;  
Seventh: Proposal submitted in response to the RFP by VENDOR.

2.04 **Cost of Services.** SBBC shall pay VENDOR for cost of services satisfactorily rendered for Speech-Language Pathologist at \$58.50/hour and Audiologist at \$58.50/hr. Costs shall not exceed the amount as stated on the Purchase Order. VENDOR may offer SBBC a special educational discount for pricing and reduce the cost of services during the term of the Agreement. VENDOR may invoice SBBC at an hourly rate less than their original proposal price.

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

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

VENDOR shall enter into SBBC’s HIPAA Business Associate Agreement (“BAA”) substantially in the form attached hereto and incorporated herein as **Attachment B.**

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

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

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

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

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

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

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

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

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



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

To SBBC: Superintendent of Schools  
The School Board of Broward County, Florida  
600 Southeast Third Avenue  
Fort Lauderdale, Florida 33301

With a Copy to: Executive Director, ESE/SS Division  
The School Board of Broward County, Florida  
1701 NW 23<sup>rd</sup> Avenue  
Fort Lauderdale, Florida 33301

To VENDOR: Cell Staff, LLC  
1715 N. Westshore Boulevard, Suite #410  
Tampa, Florida 33607

2.08 **Background Screening.** Vendor agrees to comply with all requirements of Sections 1012.32 and 1012.465, Florida Statutes, and all of its personnel who (1) are to be permitted access to school grounds when students are present, (2) will have direct contact with students, or (3) have access or control of school funds, will successfully complete the background screening required by the referenced statutes and meet the standards established by the statutes. This background screening will be conducted by SBBC in advance of the 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 the 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.

2.09 **Insurance.** VENDOR shall provide the minimum insurance requirements as provided below:

- a) **GENERAL LIABILITY:** Limits not less than \$1,000,000 per occurrence for Bodily Injury/ Property Damage; \$1,000,000 General Aggregate. Limits not less than \$1,000,000 for Products/Completed Operations Aggregate.
- b) **WORKER'S COMPENSATION:** Florida Statutory limits in accordance with Chapter 440; Employer's Liability limits not less than \$100,000/\$100,000/\$500,000 (each accident/disease-each employee/disease-policy limit).
- c) **PROFESSIONAL LIABILITY:** Limits not less than \$1,000,000 per occurrence covering services provided under this Agreement.

- d) **AUTO LIABILITY:** Owned, Non-Owned and Hired Auto Liability with Bodily Injury and Property Damage limits of not less than \$1,000,000 Combined Single Limit. If VENDOR does not own any vehicles, hired and non-owned automobile liability coverage in the amount of \$1,000,000 will be accepted. In addition, an affidavit signed by the VENDOR must be furnished to SBBC indicating the following:  
VENDOR does not own any vehicles. In the event insured acquires any vehicles throughout the term of this Agreement, insured agrees to provide proof of "Any Auto" coverage effective the date of acquisition. (Fax affidavit with Certificate of Insurance to SBBC Risk Management at 866-897-0424.)
- e) **ACCEPTABILITY OF INSURANCE CARRIERS:** The insurance policies shall be issued by companies qualified to do business in the State of Florida. The insurance companies must be rated 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 Risk Management Department by Certificate of Insurance within 15 days of the date of this Agreement. All certificates (and any required documents) must be received and approved by SBBC before any work commences to permit VENDOR time to remedy any deficiencies. **FAX CERTIFICATES OF INSURANCE TO SBBC RISK MANAGEMENT AT 866-897-0424.**
- g) **REQUIRED CONDITIONS:** Liability policies must contain the following provisions. In addition, the following wording must be included on the Certificate of Insurance:  
**The School Board of Broward County, Florida, its members, officers, employees and agents are added as additional insured.**  
**All liability policies are primary of all other valid and collectable coverage maintained by The School Board of Broward County, Florida.**  
(\*Please include the RFP Number and Title on the Certificate of Insurance.)  
**(Certificate Holder: The School Board of Broward County, Florida 600 Southeast Third Avenue, Fort Lauderdale, Florida 33301)**
- 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 business days if required insurance is cancelled.
- i) **The School Board of Broward County, Florida reserves the right to review, reject or accept any required policies of insurance, including limits, coverage's or endorsements, herein throughout the term of this Agreement.**

### **ARTICLE 3 – GENERAL CONDITIONS**

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

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

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

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

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

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

3.07 **Default.** The parties agree that, in the event that either party is in default of its obligations under this Agreement, the non-defaulting party shall provide to the defaulting party (30) days written notice to cure the default. However, in the event said default cannot be cured

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

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

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

3.10 **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 transfer 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, Insert Name shall meet all applicable requirements for retaining public records. All records stored electronically must be provided to SBBC, upon request from SBBC's custodian of public records, in a format that is compatible with SBBC's information technology systems.

**IF A PARTY TO THIS AGREEMENT HAS QUESTIONS REGARDING THE APPLICATION OF CHAPTER 119, FLORIDA STATUTES, TO ITS DUTY TO PROVIDE PUBLIC RECORDS RELATING TO THE AGREEMENT, CONTACT THE CUSTODIAN OF PUBLIC RECORDS AT 754-321-1900, REQUEL.BELL@BROWARDSCHOOLS.COM, RISK**

**MANAGEMENT DEPARTMENT, PUBLIC RECORDS DIVISION, 600  
SOUTHEAST THIRD AVENUE, FORT LAUDERDALE, FLORIDA 33301.**

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

3.12 **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. VENDOR agrees and admits that the state courts of the Seventeenth Judicial Circuit of Broward County, Florida and the Southern District of Florida shall have jurisdiction over VENDOR.

3.13 **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.

3.14 **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.

3.15 **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.

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

3.17 **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.

3.18 **Incorporation by Reference.** Attachments A and B are attached hereto and referenced herein shall be deemed to be incorporated into this Agreement by reference.

3.19 **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.

3.20 **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.

3.21 **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.

3.22 **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.

3.23 **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.

3.24 **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.

3.25 **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.

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

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

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

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

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

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

**FOR SBBC**

THE SCHOOL BOARD OF BROWARD  
COUNTY, FLORIDA

By Abby M. Freedman  
Abby M. Freedman, Chair

ATTEST:

Robert W. Runcie  
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: Cell Staff, LLC  
Date: 2017.05.23 16:10:20 -04'00'

Office of the General Counsel

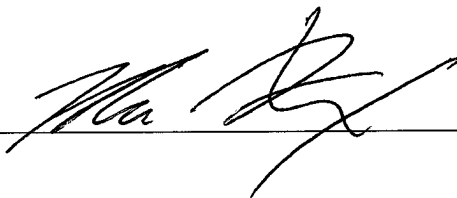
**FOR VENDOR**

(Corporate Seal)

CELL STAFF, LLC

ATTEST:

By



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

-or-

Witness

Witness

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

STATE OF Florida

COUNTY OF Hillsborough

The foregoing instrument was acknowledged before me this 27<sup>th</sup> day of April, 2017 by Mc Donell Lomax of Cell Staff, llc, on behalf of the corporation/agency.

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

My Commission Expires:

Signature – Notary Public

(SEAL)

ELIZABETH CARTON  
Printed Name of Notary

FF245651  
Notary's Commission No.





**SCOPE OF SERVICES**

1. VENDOR shall offer services for speech-language pathologist(s) and audiologists that hold a current, active professional license in speech-language pathology or audiology from the Department of Health, Board of Speech-Language Pathology and Audiology agree to provide copies of a current active professional license and certifications in speech-language pathology and/or audiology prior to acceptance for placement.
2. VENDOR shall, throughout **Attachment A**, not to hire any individual who is currently employed part-time or full-time by SBBC as a speech-language pathologist or audiologist until the completion of the school year. VENDOR shall, throughout **Attachment A**, hold harmless any individual employed by them who elects to become employed by SBBC in the school year following the expiration date of the current Agreement, throughout **Attachment A**, school year.
3. VENDOR shall provide speech-language pathologists and audiologists whose performance shall be consistent with a professional standard of care and comply with requirements of the State of Florida Department of Health, Division of Medical Quality Assurance, and Board of Professional Regulation for speech, language and audiology requirements of other applicable local, state or federal agencies which may govern the speech-language pathologist's or audiologist's activities on behalf of SBBC.
4. VENDOR shall provide services consistent with the professional standard of care and shall comply with the ethical requirements imposed by the State of Florida Department of Professional Regulations, the Florida State Department of Education and any other federal, state or local regulatory agency.
5. All speech-language pathologists and audiologists, who shall be providing services under this Agreement, throughout **Attachment A**, must be articulate in oral and written English.
6. All speech-language pathologists and audiologists, under this Agreement, throughout **Attachment A**, shall be required to pass the screening of the Broward District Schools Police Department prior to placement of assignment as required by the School Board of Broward County, Florida. (See General Condition 7.30 of the RFP, SBBC Photo Identification Badge). All speech-language pathologists and/or audiologists must utilize the STAR system and/or sign-in/out procedures to document attendance at assigned location.
7. Speech-language pathologist(s) and audiologist(s) providing services shall follow the procedures for the referral, identification, screening, evaluation, eligibility, placement, and dismissal of students with speech-language or hearing impairments as provided in the document Special Programs and Procedures by the ESE/SS Division.
8. Speech-language pathologist(s) and audiologist(s) providing services shall follow procedures for completing required documentation for student attendance, student progress and reporting to parents, reimbursement for Medicaid funding, and other procedures as indicated by the Special Programs and Procedures document and ESE/SS Division.
9. Speech-language pathologist(s) and audiologist(s) providing services shall allow District administrative staff as well as teacher-based resource personnel to review required documentation and observe all provided services.

## SCOPE OF SERVICES

10. Speech-language pathologist(s) and audiologist(s) providing services shall submit, for approval to the school principal or designee, any written communication intended for parents and teachers.
11. Speech-language pathologist(s) and audiologist(s) shall follow all rules and procedures as contained in the employee handbooks of the individual school. Speech-language pathologist(s) and audiologist(s) shall refrain from using school equipment (such as phones, copiers, computers, etc.) for personal or commercial business during service times.
12. Speech-Language pathologist(s) and audiologist(s) shall complete such records as shall be required to document services provided, on a daily basis. VENDOR shall submit timesheets and other documentation needed to substantiate payment through the approved electronic database on an approved voucher form no later than five (5) days following the delivery of service. In order to insure timely payment VENDOR must submit accurate time sheets of service in accordance with the training they receive. These records must be submitted to the ESE/SS Division, Arthur Ashe, Jr. Campus, 1701 NW 23<sup>rd</sup> Avenue, Fort Lauderdale, Florida 33311.
13. VENDOR shall have all new providers use and submit an approved District template to log services until training takes place for the electronic system. VENDOR shall utilize the approved template until such time as they are trained in the electronic database system. Immediately following training all providers, VENDOR shall transfer the data from the district template into the Educational Database System and file the original hard copy in the student's IEP folder at the school site.
14. (SBBC) ESE/SS Division reserves the right to interview all speech-language pathologist(s) and/or audiologist(s) prior to placement. ESE/SS Division reserves the right to refuse to utilize any given speech-language pathologist(s) and/or audiologist(s) if it is in their best interest to do so.
15. VENDOR's Speech-Language Pathologist(s) must attend two (2) scheduled policies/procedures meetings, considered as part of their workday, of not less than three (3) hours as determined by the District. These meetings shall include, but are not limited to, general information on these policies and procedures of the Broward County Special Programs and Procedures, the rights of students with disabilities, and other operational procedures required to carry out the therapy program. VENDOR shall incorporate any cancelled service sessions due to meeting times into their schedule.
16. VENDOR shall, throughout **Attachment A**, execute SBBC's HIPPA Business Associate Agreement as stated in **Attachment B**.
17. VENDOR shall provide speech-language pathologist(s) and/or audiologist(s) who agree to provide therapy services throughout the District at all times and locations designated by SBBC. SBBC reserves the right to request a change in times and locations of services provided by VENDOR (consistent with the written agreement for days and hours worked), during the course of an assignment. Services shall be provided up to 7 hours per day on regular student attendance days. Services provided on employee planning days and early release days must be pre-approved in writing by an authorized representative of the ESE/SS Division. School year calendars may be viewed on the following web link:  
**<http://www.browardschools.com>. Click on the link "Calendars"**

**ATTACHMENT A  
SCOPE OF SERVICES**

18. VENDOR shall, throughout **Attachment A**, provide the requested services within ten school days of verbal/written notice of an assignment by SBBC.
19. Resumes of replacement personnel are to be submitted to the ESE/SS Division for review. All replacement personnel must have written approval by the ESE/SS Division prior to placement. All replacement personnel shall follow the procedures as stated by the ESE/SS Division. All replacement personnel must have the same credentials equivalent to the individuals whom they replace. ESE/SS Division reserves the right to interview replacement personnel prior to approval.
20. The Audiologist's services shall determine the type and degree of hearing impairment and shall implement habilitation and rehabilitation services for the student. Administers and interprets variety of tests, such as air and bone conduction, and speech reception and discrimination tests, to determine type and degree of hearing impairment, site of damage, and effects on comprehension and speech. Evaluates test results in relation to behavioral, social, educational, and medical information obtained from patients, families, teachers, speech pathologists and other professionals to determine communication problems related to hearing disability. Plans and implements provision, habilitation or rehabilitation services including hearing aid selection and orientation, counseling, auditory training, lip reading, language habilitation, speech conservation and other treatment programs developed in consultation with speech pathologists and other professionals.
21. Clinical Fellowship Year (CFY) candidates with a provisional license will be considered for a school assignment if the VENDOR agrees to provide all supervisory and support requirements for the candidate.
22. VENDOR shall insure that any interruption of services due to a therapist being "unavailable" shall be made up to the best of their ability and shall be documented in the Electronic Based System as "make-up" session.
23. VENDOR shall, throughout **Attachment A**, provide the required ELL training to all candidates assigned to a school site. Training can be provided via the VENDOR's own process or via the District's training for a minimal cost. Training must comply with the requirements of the Florida Consent Decree and the META Agreement.

**HIPPA BUSINESS ASSOCIATE AGREEMENT**

This Business Associate Agreement ("**Agreement**") is made and entered into as of this \_\_\_\_\_ day of \_\_\_\_\_, 2017 (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

**CELL STAFF, LLC**

(hereinafter referred to as "**Business Associate**"),  
whose principal place of business is  
1715 N. Westshore Boulevard, Suite #410  
Tampa, Florida 33607

**WHEREAS**, by virtue of some of the services that Business Associate performs for SBBC, Business Associate may be a "business associate", as the term is defined at 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 coverage subject to regulation under the Health Insurance Portability and Accountability Act of 1996 ("HIPPA"), 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 HIPPA, the Health Information Technology for Economic and Clinical Health Act of 2009 ("HITECH"), the Omnibus Rule of 2013, and the 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").

**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/or disclosure of PHI and the security of 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.

## ATTACHMENT B

- (b) “**Business Associate**” shall mean Business Associate named above and shall include all successors and assigns, affiliates, subsidiaries, and related companies.
- (c) “**Designed 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 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) “**HIPPA**” means Health Insurance Portability and Accountability Act of 1996.
- (f) “**HITECH Act**” means the Health Information Technology for Economic and Clinical Health Act of 2009.
- (g) “**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).
- (h) “**Minimum Necessary**” means the least amount of PHI needed to accomplish the intended purpose of the use or disclosure.
- (i) “**Omnibus Rule**” means the HIPPA Omnibus Rule of 2013.
- (j) “**Privacy Rule**” shall mean the Standards of Privacy of Individuals Identifiable Health Information as set forth at 45 C.F.R. Parts 160 and 164, subparts A and E.
- (k) “**Protected Health Information**” or “**PHI**” shall have the same meaning as the term “protected health information” in 45 C.F.R. §130.103 (as amended by the HITECH Act) limited to the information created or received by Business Associate from or on behalf of SBBC.
- (l) “**Required by Law**” shall have the same meaning as the term “required by law” in 45 C.F.R. §164.103.
- (m) “**Secretary**” shall mean the Secretary of the Department of Health and Human Services or his or her designee.
- (n) “**Security Rule**” shall mean the Standards for Security of ePHI as set forth 45 C.F.R. Parts 160 and 164 Subpart C.
- (o) “**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 HIPPA or HITECH Act.
- (c) Business Associate agrees to use appropriate safeguards and comply, where applicable, with the HIPPA 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 substantially the same form as Exhibit A, hereto.
- (e) Business Associate shall promptly inform SBBC of a Breach of Unsecured PHI following the first day on which Business Associate knows of such Breach or following the first day on which Business Associate should have known 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 by Federal and/or Florida law.

## **ATTACHMENT B**

- (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 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 HIPPA Rules, including the rules to extend the requirements to the agent's or subcontractor's subcontractors.
- (h) Business Associate agrees to provide access, at the requires of SBBC, and in the time and manner designated by SBBC, to PHI in a Designated Record Set that is not also in SBBC's possession, to SBBC in order for SBBC to meet the requirements under 45 C.F.R. §164.524.
- (i) Business Associate agrees to make PHI available for amendment and incorporate all amendments to PHI in a Designated Record Set that SBBC directs or agrees to pursuant to 45 C.F.R. §164.526 at the request of SBBC or an Individual 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 a request of SBBC to the Secretary, in a time and manner as designated by SBBC or the Secretary, for the 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 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.

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

- (a) Except as otherwise limited in this Agreement, Business Associate may use or disclose PHI to perform functions, activities or services for, or on behalf of, SBBC as previously agreed to by the parties (the “Service Agreement”) provided that such use or disclosure would not violate the Privacy Rule if done by SBBC.
- (b) Except as otherwise limited in 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 in 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 for 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 in 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
- (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 with ten (10) business days prior written notice to Business Associate to audit Business Associate from time-to-time to verify Business Associate compliance with the terms of this Agreement. SBBC shall be entitled and enabled to inspect the records and other information relevant to Business Associate 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 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 and confidentiality and integrity of ePHI under the Security Standards 45 C.F.R. Part 160 and 164 subpart C.



- (b) Business Associate agrees that it will ensure that agents or subcontractors agree to implement the applicable administrative, physical, and technical safeguards required to protect the confidentiality and integrity of ePHI under the Security Standards 45 C.F.R. Part 164.
- (c) Business Associate agrees to report to SBBC all Security Incidents (as defined 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 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, on behalf of SBBC, it will perform all transactions for which a standard has been developed under the EDI Rule that Business Associate could reasonably be expected to perform in the ordinary course of its functions on behalf of SBBC.

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 HIPPA.

**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 HIPPA in general, shall be deemed to amend this Agreement to incorporate said changes without further action.

**8. Amendment.**

The parties agree to take any and all actions necessary to amend this Agreement from time to time so that SBBC is in compliance with the Privacy Rule, the Security Rule, the HITECH Act, and HIPPA in general. The parties may agree to amend this Agreement from time to time in other respect that 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 as of the Effective Date and shall remain in effect until such time as SBBC exercises its right to 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 of such breach to Business Associate, 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.

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, for example, if SBBC makes illegal demands on Business Associate, 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 Covered Entity.

- (d) ***Effect of Termination.*** Except as set forth in this Section 9(d), upon termination of this Agreement for any reason, at the request of SBBC, 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. In the event that Business Associate determines that returning or destroying the PHI is infeasible, such as in the use of data aggregation, Business Associate shall provide to SBBC written notification of the conditions that make return or destruction infeasible. If 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 make the return or destruction infeasible, 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 while such equipment is on premises owned or controlled by SBBC; or the negligence of Business Associate 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 property, and injury or death of any person whether employed by Business Associate, SBBC or otherwise.

**ARTICLE 3 – GENERAL CONDITIONS****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 waiver of limits to liability or rights existing under Section 768.28, Florida Statutes.

**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 term 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.

**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, FL 33301
With a Copy to:	Executive Director, ESE/SS Division The School Board of Broward County, Florida 1701 NW 23 <sup>rd</sup> Avenue Fort Lauderdale, Florida 33301
	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: Cell Staff, LLC  
1715 N. Westshore Boulevard, Suite #410  
Tampa, Florida 33607

**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. The person signing on behalf of "Business Associate" has authority to bind "Business Associate" with respect to all provisions contained in this Agreement.

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

No failure or delay by a party hereto in exercising any right, power or remedy under this Agreement, and no course of dealing between the parties hereto, will operate as a waiver of any such right, power or remedy of the party. No single or partial exercise of any right, power or remedy under this Agreement by a party hereto, nor any abandonment or discontinuance of steps to enforce any such right, power or remedy, will preclude such party from any other or further exercise thereof or the exercise of any other right, power or remedy hereunder. The election of any remedy by a party hereto will not constitute a waiver of the right of such party to pursue other available remedies. No notice to or demand on a party not expressly required under this Agreement will entitle the party receiving such notice or demand to any other or further notice or demand in similar or other circumstances or constitute a waiver of the right of the party giving such notice or demand to any other or further action in any circumstances without such notice or demand. The terms and provisions of this Agreement may be waived, or consent for the departure there from granted, only by written document executed by the party entitled to the benefits of such terms or provisions. No such waiver or consent will be deemed to be or will constitute a waiver or consent with respect to any other terms or provisions of this Agreement, whether or not similar. Each such waiver or consent will be effective only in the specific instance and for the purpose for which it was given, and will not constitute a continuing waiver or consent.

**27. Regulatory References.**

A reference in this Agreement to a section in the Privacy Rule, the Security Rule, the HITECH Act, or HIPAA in general means the referenced section or its successor, and for which compliance is required.

FOR BUSINESS ASSOCIATE

[Signature]  
Signature

[Signature]  
Witness

[Signature]  
Witness

Mac Lomax - President  
Print Name and Title

STATE OF Florida

COUNTY OF Hillsborough

The foregoing instrument was acknowledged before me by McDonell Lomax who is personally known to me or who produced personally known as identification and who did / did not first take an oath this 27<sup>th</sup> day of April, 2017.

My Commission Expires:

[Signature]  
Signature – Notary Public

ELIZABETH CARTON  
Notary's Printed Name

FF245651  
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 13<sup>th</sup> day of June, 2017, 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

### **COBB PEDIATRIC SPEECH SERVICES, INC.**

(hereinafter referred to as "VENDOR"),  
whose principal place of business is  
1925 Vaughan Road, NW, Suite 200  
Kennesaw, Georgia 30144

**WHEREAS**, SBBC issued a Request for Proposal identified as RFP 18-001V – Speech-Language Pathology and Audiology Services (hereinafter referred to as "RFP"), dated December 1, 2016 and amended by Addendum No. 4, dated January 17, 2017, Addendum No. 3, dated January 13, 2017 Addendum No. 2, dated December 19, 2016, and Addendum No. 1, dated December 9, 2016 all of which are incorporated by reference herein, for the purpose of receiving proposals for speech-language pathology and audiology services; and

**WHEREAS**, VENDOR offered a proposal dated January 23, 2017 (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 3.06 of this Agreement, the term of this Agreement shall commence on **July 1, 2017** and conclude on **June 30, 2020**. The term of the Agreement may, by mutual agreement between SBBC and VENDOR be extended for two additional one-year periods and, if needed, 180 days beyond the expiration date of the renewal period. SBBC's Procurement & Warehousing Services Department, will, if considering renewing, request a letter consenting to renewal from VENDOR, prior to the end of the term. Any renewal period shall be approved by an Amendment to this Agreement executed by both parties.



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

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

First: This Agreement, then;  
Second: Addendum No. 4, then;  
Third: Addendum No. 3, then;  
Fourth: Addendum No. 2, then;  
Fifth: Addendum No. 1, then;  
Sixth: RFP 18-001V – Speech-Language Pathology and Audiology Services, then;  
Seventh: Proposal submitted in response to the RFP by VENDOR.

2.04 **Cost of Services.** SBBC shall pay VENDOR for cost of services satisfactorily rendered for Speech-Language Pathologist at \$60.00/hr. Costs shall not exceed the amount as stated on the Purchase Order. VENDOR may offer SBBC a special educational discount for pricing and reduce the cost of services during the term of the Agreement. VENDOR may invoice SBBC at an hourly rate less than their original proposal price.

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

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

VENDOR shall enter into SBBC’s HIPAA Business Associate Agreement (“BAA”) substantially in the form attached hereto and incorporated herein as **Attachment B.**

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

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

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

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

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

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

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

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

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

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

To SBBC: Superintendent of Schools  
The School Board of Broward County, Florida  
600 Southeast Third Avenue  
Fort Lauderdale, Florida 33301

With a Copy to: Executive Director, ESE/SS Division  
The School Board of Broward County, Florida  
1701 NW 23<sup>rd</sup> Avenue  
Fort Lauderdale, Florida 33301

To VENDOR: Cobb Pediatric Speech Services, Inc.  
1925 Vaughn Road, Suite 200  
Kennesaw, Georgia 30144

2.08 **Background Screening.** Vendor agrees to comply with all requirements of Sections 1012.32 and 1012.465, Florida Statutes, and all of its personnel who (1) are to be permitted access to school grounds when students are present, (2) will have direct contact with students, or (3) have access or control of school funds, will successfully complete the background screening required by the referenced statutes and meet the standards established by the statutes. This background screening will be conducted by SBBC in advance of the 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 the 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.

2.09 **Insurance.** VENDOR shall provide the minimum insurance requirements as provided below:

- a) **GENERAL LIABILITY:** Limits not less than \$1,000,000 per occurrence for Bodily Injury/ Property Damage; \$1,000,000 General Aggregate. Limits not less than \$1,000,000 for Products/Completed Operations Aggregate.
- b) **WORKER'S COMPENSATION:** Florida Statutory limits in accordance with Chapter 440; Employer's Liability limits not less than \$100,000/\$100,000/\$500,000 (each accident/disease-each employee/disease-policy limit).
- c) **PROFESSIONAL LIABILITY:** Limits not less than \$1,000,000 per occurrence covering services provided under this Agreement.

- d) **AUTO LIABILITY:** Owned, Non-Owned and Hired Auto Liability with Bodily Injury and Property Damage limits of not less than \$1,000,000 Combined Single Limit. If VENDOR does not own any vehicles, hired and non-owned automobile liability coverage in the amount of \$1,000,000 will be accepted. In addition, an affidavit signed by the VENDOR must be furnished to SBBC indicating the following:  
VENDOR does not own any vehicles. In the event insured acquires any vehicles throughout the term of this Agreement, insured agrees to provide proof of "Any Auto" coverage effective the date of acquisition. (Fax affidavit with Certificate of Insurance to SBBC Risk Management at 866-897-0424.)
- e) **ACCEPTABILITY OF INSURANCE CARRIERS:** The insurance policies shall be issued by companies qualified to do business in the State of Florida. The insurance companies must be rated 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 Risk Management Department by Certificate of Insurance within 15 days of the date of this Agreement. All certificates (and any required documents) must be received and approved by SBBC before any work commences to permit VENDOR time to remedy any deficiencies. **FAX CERTIFICATES OF INSURANCE TO SBBC RISK MANAGEMENT AT 866-897-0424.**
- g) **REQUIRED CONDITIONS:** Liability policies must contain the following provisions. In addition, the following wording must be included on the Certificate of Insurance:  
**The School Board of Broward County, Florida, its members, officers, employees and agents are added as additional insured.**  
**All liability policies are primary of all other valid and collectable coverage maintained by The School Board of Broward County, Florida.**  
(\*\*Please include the RFP Number and Title on the Certificate of Insurance.)  
(Certificate Holder: The School Board of Broward County, Florida 600 Southeast Third Avenue, Fort Lauderdale, Florida 33301)
- 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 business days if required insurance is cancelled.
- i) **The School Board of Broward County, Florida reserves the right to review, reject or accept any required policies of insurance, including limits, coverage's or endorsements, herein throughout the term of this Agreement.**

### **ARTICLE 3 – GENERAL CONDITIONS**

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

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

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

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

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

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

3.07 **Default.** The parties agree that, in the event that either party is in default of its obligations under this Agreement, the non-defaulting party shall provide to the defaulting party (30) days written notice to cure the default. However, in the event said default cannot be cured

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

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

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

**3.10 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 transfer 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, Insert Name shall meet all applicable requirements for retaining public records. All records stored electronically must be provided to SBBC, upon request from SBBC's custodian of public records, in a format that is compatible with SBBC's information technology systems.

**IF A PARTY TO THIS AGREEMENT HAS QUESTIONS REGARDING THE APPLICATION OF CHAPTER 119, FLORIDA STATUTES, TO ITS DUTY TO PROVIDE PUBLIC RECORDS RELATING TO THE AGREEMENT, CONTACT THE CUSTODIAN OF PUBLIC RECORDS AT 754-321-1900, REQUEL.BELL@BROWARDSCHOOLS.COM, RISK**

**MANAGEMENT DEPARTMENT, PUBLIC RECORDS DIVISION, 600  
SOUTHEAST THIRD AVENUE, FORT LAUDERDALE, FLORIDA 33301.**

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

3.12 **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.

3.13 **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. VENDOR agrees and admits that the state courts of the Seventeenth Judicial Circuit of Broward County, Florida and the Southern District of Florida shall have jurisdiction over VENDOR.

3.14 **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.

3.15 **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.

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

3.17 **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.

3.18 **Incorporation by Reference.** Attachments A and B are attached hereto and referenced herein shall be deemed to be incorporated into this Agreement by reference.

3.19 **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.

3.20 **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.

3.21 **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.

3.22 **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.

3.23 **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.

3.24 **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.

3.25 **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.



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

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

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

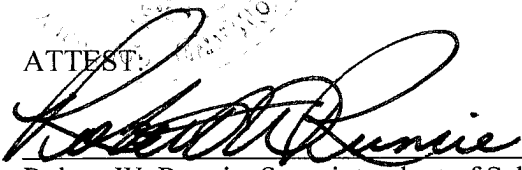
B. By VENDOR: VENDOR agrees to indemnify, hold harmless and defend SBBC, its agents, servants and employees from any and all claims, judgments, costs, and expenses including, but not limited to, reasonable attorney's fees, reasonable investigative and discovery costs, court costs and all other sums which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

3.28 **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.

(Corporate Seal)

ATTEST:



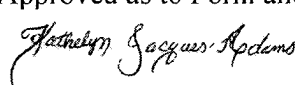
Robert W. Runcie, Superintendent of Schools

**FOR SBBC**

THE SCHOOL BOARD OF BROWARD  
COUNTY, FLORIDA

By   
Abby M. Freedman, Chair

Approved as to Form and Legal Content:

  
Digitally signed by Kathelyn Jacques-Adams,  
Esq. - kathelyn.jacques-  
adams@gbrowardschools.com  
Reason: Cobb Pediatric Speech Services, Inc.  
Date: 2017.05.24 15:00:32 -04'00'

Office of the General Counsel

**FOR VENDOR**

(Corporate Seal)

COBB PEDIATRIC SPEECH SERVICES, INC.

ATTEST:

By Mark Norris

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

-or-

Suzanne Baxter  
Witness

Angelika Emery  
Witness

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

STATE OF Georgia

COUNTY OF Cobb

The foregoing instrument was acknowledged before me this 24th day of May, 20 17 by Mark Norris of

Name of Person

Cobb Pediatric Speech Services, Inc., on behalf of the corporation/agency.

Name of Corporation or Agency

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

My Commission Expires:

Jaleesa Gregory  
Signature – Notary Public

Jaleesa Gregory  
Printed Name of Notary

N/A  
Notary's Commission No.

(SEAL)



## SCOPE OF SERVICES

1. VENDOR shall offer services for speech-language pathologist(s) that hold a current, active professional license in speech-language pathology from the Department of Health, Board of Speech-Language Pathology and agree to provide copies of a current active professional license and certifications in speech-language pathology prior to acceptance for placement.
2. VENDOR shall, throughout **Attachment A**, not to hire any individual who is currently employed part-time or full-time by SBBC as a speech-language pathologist until the completion of the school year. VENDOR shall, throughout **Attachment A**, hold harmless any individual employed by them who elects to become employed by SBBC in the school year following the expiration date of the Agreement, throughout **Attachment A**, school year.
3. VENDOR shall provide speech-language pathologists whose performance shall be consistent with a professional standard of care and comply with requirements of the State of Florida Department of Health, Division of Medical Quality Assurance, and Board of Professional Regulation for speech, language requirements of other applicable local, state or federal agencies which may govern the speech-language pathologist's activities on behalf of SBBC.
4. VENDOR shall provide services consistent with the professional standard of care and shall comply with the ethical requirements imposed by the State of Florida Department of Professional Regulations, the Florida State Department of Education and any other federal, state or local regulatory agency.
5. All speech-language pathologists, who shall be providing services under this Agreement, throughout **Attachment A**, must be articulate in oral and written English.
6. All speech-language pathologists, under this Agreement, throughout **Attachment A**, shall be required to pass the screening of the Broward District Schools Police Department prior to placement of assignment as required by the School Board of Broward County, Florida. (See General Condition 7.30 of the RFP, SBBC Photo Identification Badge). All speech-language pathologists must utilize the STAR system and/or sign-in/out procedures to document attendance at assigned location.
7. Speech-language pathologist(s) providing services shall follow the procedures for the referral, identification, screening, evaluation, eligibility, placement, and dismissal of students with speech-language impairments as provided in the document Special Programs and Procedures by the ESE/SS Division.
8. Speech-language pathologist(s) providing services shall follow procedures for completing required documentation for student attendance, student progress and reporting to parents, reimbursement for Medicaid funding, and other procedures as indicated by the Special Programs and Procedures document and ESE/SS Division.
9. Speech-language pathologist(s) providing services shall allow District administrative staff as well as teacher-based resource personnel to review required documentation and observe all provided services.

## SCOPE OF SERVICES

10. Speech-language pathologist(s) providing services shall submit, for approval to the school principal or designee, any written communication intended for parents and teachers.
11. Speech-language pathologist(s) shall follow all rules and procedures as contained in the employee handbooks of the individual school. Speech-language pathologist(s) shall refrain from using school equipment (such as phones, copiers, computers, etc.) for personal or commercial business during service times.
12. Speech-Language pathologist(s) shall complete such records as shall be required to document services provided, on a daily basis. VENDOR shall submit timesheets and other documentation needed to substantiate payment through the approved electronic database on an approved voucher form no later than five (5) days following the delivery of service. In order to insure timely payment VENDOR must submit accurate time sheets of service in accordance with the training they receive. These records must be submitted to the ESE/SS Division, Arthur Ashe, Jr. Campus, 1701 NW 23<sup>rd</sup> Avenue, Fort Lauderdale, Florida 33311.
13. VENDOR shall have all new providers use and submit an approved District template to log services until training takes place for the electronic system. VENDOR shall utilize the approved template until such time as they are trained in the electronic database system. Immediately following training all providers, VENDOR shall transfer the data from the district template into the Educational Database System and file the original hard copy in the student's IEP folder at the school site.
14. (SBBC) ESE/SS Division reserves the right to interview all speech-language pathologist(s) prior to placement. ESE/SS Division reserves the right to refuse to utilize any given speech-language pathologist(s) and/or audiologist(s) if it is in their best interest to do so.
15. VENDOR's Speech-Language Pathologist(s) must attend two (2) scheduled policies/procedures meetings, considered as part of their workday, of not less than three (3) hours as determined by the District. These meetings shall include, but are not limited to, general information on these policies and procedures of the Broward County Special Programs and Procedures, the rights of students with disabilities, and other operational procedures required to carry out the therapy program. VENDOR shall incorporate any cancelled service sessions due to meeting times into their schedule.
16. VENDOR shall, throughout **Attachment A**, execute SBBC's HIPAA Business Associate Agreement as stated in **Attachment B**.
17. VENDOR shall provide speech-language pathologist(s) who agree to provide therapy services throughout the District at all times and locations designated by SBBC. SBBC reserves the right to request a change in times and locations of services provided by VENDOR (consistent with the written agreement for days and hours worked), during the course of an assignment. Services shall be provided up to 7 hours per day on regular student attendance days. Services provided on employee planning days and early release days must be pre-approved in writing by an authorized representative of the ESE/SS Division. School year calendars may be viewed on the following web link:  
**<http://www.browardschools.com>. Click on the link "Calendars"**

SCOPE OF SERVICES

18. VENDOR shall, throughout **Attachment A**, provide the requested services within ten school days of verbal/written notice of an assignment by SBBC.
19. Resumes of replacement personnel are to be submitted to the ESE/SS Division for review. All replacement personnel must have written approval by the ESE/SS Division prior to placement. All replacement personnel shall follow the procedures as stated by the ESE/SS Division. All replacement personnel must have the same credentials equivalent to the individuals whom they replace. ESE/SS Division reserves the right to interview replacement personnel prior to approval.
20. Clinical Fellowship Year (CFY) candidates with a provisional license will be considered for a school assignment if the VENDOR agrees to provide all supervisory and support requirements for the candidate.
21. VENDOR shall insure that any interruption of services due to a therapist being “unavailable” shall be made up to the best of their ability and shall be documented in the Electronic Based System as “make-up” session.
22. VENDOR shall, throughout **Attachment A**, provide the required ELL training to all candidates assigned to a school site. Training can be provided via the VENDOR’s own process or via the District’s training for a minimal cost. Training must comply with the requirements of the Florida Consent Decree and the META Agreement.

## HIPAA BUSINESS ASSOCIATE AGREEMENT

This Business Associate Agreement (“*Agreement*”) is made and entered into as of this \_\_\_\_\_ day of \_\_\_\_\_, 2017 (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

## COBB PEDIATRIC SPEECH SERVICES, INC.

(hereinafter referred to as “*Business Associate*”),

whose principal place of business is

1925 Vaughan Road, NW, Suite 200

Kennesaw, Georgia 30144

**WHEREAS**, by virtue of some of the services that Business Associate performs for SBBC, Business Associate may be a “business associate”, as the term is defined at 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 coverage 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 the 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”).

**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/or disclosure of PHI and the security of 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.

- (b) “**Business Associate**” shall mean Business Associate named above and shall include all successors and assigns, affiliates, subsidiaries, and related companies.
- (c) “**Designed 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 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) “**HIPAA**” means Health Insurance Portability and Accountability Act of 1996.
- (f) “**HITECH Act**” means the Health Information Technology for Economic and Clinical Health Act of 2009.
- (g) “**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).
- (h) “**Minimum Necessary**” means the least amount of PHI needed to accomplish the intended purpose of the use or disclosure.
- (i) “**Omnibus Rule**” means the HIPAA Omnibus Rule of 2013.
- (j) “**Privacy Rule**” shall mean the Standards of Privacy of Individuals Identifiable Health Information as set forth at 45 C.F.R. Parts 160 and 164, subparts A and E.
- (k) “**Protected Health Information**” or “**PHI**” shall have the same meaning as the term “protected health information” in 45 C.F.R. §130.103 (as amended by the HITECH Act) limited to the information created or received by Business Associate from or on behalf of SBBC.
- (l) “**Required by Law**” shall have the same meaning as the term “required by law” in 45 C.F.R. §164.103.
- (m) “**Secretary**” shall mean the Secretary of the Department of Health and Human Services or his or her designee.
- (n) “**Security Rule**” shall mean the Standards for Security of ePHI as set forth 45 C.F.R. Parts 160 and 164 Subpart C.
- (o) “**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 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 substantially the same form as Exhibit A, hereto.
- (e) Business Associate shall promptly inform SBBC of a Breach of Unsecured PHI following the first day on which Business Associate knows of such Breach or following the first day on which Business Associate should have known 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 by Federal and/or Florida law.



## **ATTACHMENT B**

- (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 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 access, at the requires of SBBC, and in the time and manner designated by SBBC, to PHI in a Designated Record Set that is not also in SBBC's possession, to SBBC in order for SBBC to meet the requirements under 45 C.F.R. §164.524.
- (i) Business Associate agrees to make PHI available for amendment and incorporate all amendments to PHI in a Designated Record Set that SBBC directs or agrees to pursuant to 45 C.F.R. §164.526 at the request of SBBC or an Individual 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 a request of SBBC to the Secretary, in a time and manner as designated by SBBC or the Secretary, for the 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 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.

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

- (a) Except as otherwise limited in this Agreement, Business Associate may use or disclose PHI to perform functions, activities or services for, or on behalf of, SBBC as previously agreed to by the parties (the “Service Agreement”) provided that such use or disclosure would not violate the Privacy Rule if done by SBBC.
- (b) Except as otherwise limited in 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 in 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 for 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 in 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
- (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 with ten (10) business days prior written notice to Business Associate to audit Business Associate from time-to-time to verify Business Associate compliance with the terms of this Agreement. SBBC shall be entitled and enabled to inspect the records and other information relevant to Business Associate 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 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 and confidentiality and integrity of ePHI under the Security Standards 45 C.F.R. Part 160 and 164 subpart C.

- (b) Business Associate agrees that it will ensure that agents or subcontractors agree to implement the applicable administrative, physical, and technical safeguards required to protect the confidentiality and integrity of ePHI under the Security Standards 45 C.F.R. Part 164.
- (c) Business Associate agrees to report to SBBC all Security Incidents (as defined 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 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, on behalf of SBBC, it will perform all transactions for which a standard has been developed under the EDI Rule that Business Associate could reasonably be expected to perform in the ordinary course of its functions on behalf of SBBC.

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 in general, shall be deemed to amend this Agreement to incorporate said changes without further action.

**8. Amendment.**

The parties agree to take any and all actions necessary to amend this Agreement from time to time so that SBBC is in compliance with the Privacy Rule, the Security Rule, the HITECH Act, and HIPAA in general. The parties may agree to amend this Agreement from time to time in other respect that 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 as of the Effective Date and shall remain in effect until such time as SBBC exercises its right to 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 of such breach to Business Associate, 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.

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, for example, if SBBC makes illegal demands on Business Associate, 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 Covered Entity.

- (d) ***Effect of Termination.*** Except as set forth in this Section 9(d), upon termination of this Agreement for any reason, at the request of SBBC, 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. In the event that Business Associate determines that returning or destroying the PHI is infeasible, such as in the use of data aggregation, Business Associate shall provide to SBBC written notification of the conditions that make return or destruction infeasible. If 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 make the return or destruction infeasible, 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 while such equipment is on premises owned or controlled by SBBC; or the negligence of Business Associate 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 property, and injury or death of any person whether employed by Business Associate, SBBC or otherwise.

**ARTICLE 3 – GENERAL CONDITIONS****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 waiver of limits to liability or rights existing under Section 768.28, Florida Statutes.

**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 term 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.

**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, FL 33301
With a Copy to:	Executive Director, ESE/SS Division The School Board of Broward County, Florida 1701 NW 23 <sup>rd</sup> Avenue Fort Lauderdale, Florida 33301
	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:

Cobb Pediatric Speech Services, Inc.  
1925 Vaughn Road, Suite 200  
Kennesaw, Georgia 30144

**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. The person signing on behalf of "Business Associate" has authority to bind "Business Associate" with respect to all provisions contained in this Agreement.

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

No failure or delay by a party hereto in exercising any right, power or remedy under this Agreement, and no course of dealing between the parties hereto, will operate as a waiver of any such right, power or remedy of the party. No single or partial exercise of any right, power or remedy under this Agreement by a party hereto, nor any abandonment or discontinuance of steps to enforce any such right, power or remedy, will preclude such party from any other or further exercise thereof or the exercise of any other right, power or remedy hereunder. The election of any remedy by a party hereto will not constitute a waiver of the right of such party to pursue other available remedies. No notice to or demand on a party not expressly required under this Agreement will entitle the party receiving such notice or demand to any other or further notice or demand in similar or other circumstances or constitute a waiver of the right of the party giving such notice or demand to any other or further action in any circumstances without such notice or demand. The terms and provisions of this Agreement may be waived, or consent for the departure there from granted, only by written document executed by the party entitled to the benefits of such terms or provisions. No such waiver or consent will be deemed to be or will constitute a waiver or consent with respect to any other terms or provisions of this Agreement, whether or not similar. Each such waiver or consent will be effective only in the specific instance and for the purpose for which it was given, and will not constitute a continuing waiver or consent.

**27. Regulatory References.**

A reference in this Agreement to a section in the Privacy Rule, the Security Rule, the HITECH Act, or HIPAA in general means the referenced section or its successor, and for which compliance is required.

**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.

**30. Interpretation.**

Any ambiguity in this Agreement shall be interpreted in a manner that permits SBBC to comply with the Privacy Rule, Security Rule, the HITECH Act, HIPAA in general and any subsequent legislation or regulations otherwise affecting Business Associates.

**IN WITNESS WHEREOF**, the parties have executed this Business Associate Agreement as of the Effective Date.

**FOR SBBC**

THE SCHOOL BOARD OF BROWARD  
COUNTY, FLORIDA

By Abby M. Freedman  
Abby M. Freedman, Chair

Approved as to Form and Legal Content:

Kathelyn Jacques-Adams

Digitally signed by Kathelyn Jacques-Adams,  
Esq. - kathelyn.jacques-  
adams@gbrowardschools.com  
Reason: Cobb Pediatric Speech Services, Inc.  
Date: 2017.05.24 15:01:38 -04'00'

Office of the General Counsel

(Corporate Seal)

ATTEST:

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



**FOR BUSINESS ASSOCIATE**Mark Norris

Signature

Mark Norris, President

Print Name and Title

Stephanie Baxter

Witness

Angela Smer

Witness

STATE OF GeorgiaCOUNTY OF Cobb

The foregoing instrument was acknowledged before me by Mark Norris who is personally known to me or who produced \_\_\_\_\_ as identification and who did / did not first take an oath this 24th day of May, 20 17.

My Commission Expires: June 7, 2020Jaleesa Gregory

Signature – Notary Public

Jaleesa Gregory

Notary's Printed Name

N/A

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 3<sup>rd</sup> day of June, 2017, 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 18-001V – Speech-Language Pathology and Audiology Services (hereinafter referred to as "RFP"), dated December 1, 2016 and amended by Addendum No. 4, dated January 17, 2017, Addendum No. 3, dated January 13, 2017 Addendum No. 2, dated December 19, 2016, and Addendum No. 1, dated December 9, 2016 all of which are incorporated by reference herein, for the purpose of receiving proposals for speech-language pathology and audiology services; and

**WHEREAS**, VENDOR offered a proposal dated January 31, 2017 (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 3.06 of this Agreement, the term of this Agreement shall commence on **July 1, 2017** and conclude on **June 30, 2020**. The term of the Agreement may, by mutual agreement between SBBC and VENDOR be extended for two additional one-year periods and, if needed, 180 days beyond the expiration date of the renewal period. SBBC's Procurement & Warehousing Services Department, will, if considering renewing, request a letter consenting to renewal from VENDOR, prior to the end of the term. Any renewal period shall be approved by an Amendment to this Agreement executed by both parties.

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

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

First: This Agreement, then;  
Second: Addendum No. 4, then;  
Third: Addendum No. 3, then;  
Fourth: Addendum No. 2, then;  
Fifth: Addendum No. 1, then;  
Sixth: RFP 18-001V – Speech-Language Pathology and Audiology Services, then;  
Seventh: Proposal submitted in response to the RFP by VENDOR.

2.04 **Cost of Services.** SBBC shall pay VENDOR for cost of services satisfactorily rendered for Speech-Language Pathologist at \$59.50/hr. and for Audiologist \$50.00/hr. Costs shall not exceed the amount as stated on the Purchase Order. VENDOR may offer SBBC a special educational discount for pricing and reduce the cost of services during the term of the Agreement. VENDOR may invoice SBBC at an hourly rate less than their original proposal price.

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

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

VENDOR shall enter into SBBC’s HIPAA Business Associate Agreement (“BAA”) substantially in the form attached hereto and incorporated herein as **Attachment B**.

2.06 **M/WBE Participation.** As consideration for being awarded this Agreement, VENDOR shall maintain House of Promos at 100% participation, Certificate #7007-6935 for promotional materials for professional conventions, conferences and other events to increase recruiting efforts.

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

2.07 **Inspection of VENDOR’s Records by SBBC:** VENDOR shall establish and maintain books, records and documents (including electronic storage media) sufficient to reflect all income and expenditures of funds provided by SBBC under this Agreement. All VENDOR’s Records, regardless of the form in which they are kept, shall be open to inspection and subject to

audit, inspection, examination, evaluation and/or reproduction, during normal working hours, by SBBC's agent or its authorized representative to permit SBBC to evaluate, analyze and verify the satisfactory performance of the terms and conditions of this Agreement and to evaluate, analyze and verify any and all invoices, billings, payments and/or claims submitted by VENDOR or any of VENDOR's payees pursuant to this Agreement. VENDOR's Records subject to examination shall include, without limitation, those records necessary to evaluate and verify direct and indirect costs (including overhead allocations) as they may apply to costs associated with this Agreement. VENDOR's Records subject to this section shall include any and all documents pertinent to the evaluation, analysis, verification and reconciliation of any and all expenditures under this Agreement without regard to funding sources.

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

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

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

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

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

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

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

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

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

To SBBC: Superintendent of Schools  
The School Board of Broward County, Florida  
600 Southeast Third Avenue  
Fort Lauderdale, Florida 33301

With a Copy to: Executive Director, ESE/SS Division  
The School Board of Broward County, Florida  
1701 NW 23<sup>rd</sup> Avenue  
Fort Lauderdale, Florida 33301

To VENDOR: Kelly McDonnell, CEO  
Community Rehab Associates, Inc.  
3950 3<sup>rd</sup> Street North, Suite D  
Saint Petersburg, Florida 33703

2.09 **Background Screening.** Vendor agrees to comply with all requirements of Sections 1012.32 and 1012.465, Florida Statutes, and all of its personnel who (1) are to be permitted access to school grounds when students are present, (2) will have direct contact with students, or (3) have access or control of school funds, will successfully complete the background screening required by the referenced statutes and meet the standards established by the statutes. This background screening will be conducted by SBBC in advance of the 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 the 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.

2.09 **Insurance.** VENDOR shall provide the minimum insurance requirements as provided below:

- a) **GENERAL LIABILITY:** Limits not less than \$1,000,000 per occurrence for Bodily Injury/ Property Damage; \$1,000,000 General Aggregate. Limits not less than \$1,000,000 for Products/Completed Operations Aggregate.
- b) **WORKER'S COMPENSATION:** Florida Statutory limits in accordance with Chapter 440; Employer's Liability limits not less than \$100,000/\$100,000/\$500,000 (each accident/disease-each employee/disease-policy limit).
- c) **PROFESSIONAL LIABILITY:** Limits not less than \$1,000,000 per occurrence covering services provided under this Agreement.
- d) **AUTO LIABILITY:** Owned, Non-Owned and Hired Auto Liability with Bodily Injury and Property Damage limits of not less than \$1,000,000 Combined Single Limit. If VENDOR does not own any vehicles, hired and non-owned automobile liability coverage in the amount of \$1,000,000 will be accepted. In addition, an affidavit signed by the VENDOR must be furnished to SBBC indicating the following:  
VENDOR does not own any vehicles. In the event insured acquires any vehicles throughout the term of this Agreement, insured agrees to provide proof of "Any Auto" coverage effective the date of acquisition. (Fax affidavit with Certificate of Insurance to SBBC Risk Management at 866-897-0424.)
- e) **ACCEPTABILITY OF INSURANCE CARRIERS:** The insurance policies shall be issued by companies qualified to do business in the State of Florida. The insurance companies must be rated 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 Risk Management Department by Certificate of Insurance within 15 days of the date of this Agreement. All certificates (and any required documents) must be received and approved by SBBC before any work commences to permit VENDOR time to remedy any deficiencies. **FAX CERTIFICATES OF INSURANCE TO SBBC RISK MANAGEMENT AT 866-897-0424.**
- g) **REQUIRED CONDITIONS:** Liability policies must contain the following provisions. In addition, the following wording must be included on the Certificate of Insurance:  
**The School Board of Broward County, Florida, its members, officers, employees and agents are added as additional insured.**  
**All liability policies are primary of all other valid and collectable coverage maintained by The School Board of Broward County, Florida.**  
(\*Please include the RFP Number and Title on the Certificate of Insurance.)  
(Certificate Holder: The School Board of Broward County, Florida 600 Southeast Third Avenue, Fort Lauderdale, Florida 33301)

- 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 business days if required insurance is cancelled.
- i) **The School Board of Broward County, Florida reserves the right to review, reject or accept any required policies of insurance, including limits, coverage's or endorsements, herein throughout the term of this Agreement.**

### **ARTICLE 3 – GENERAL CONDITIONS**

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

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

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

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

3.05 **M/WBE Commitment.** Throughout the term of the Agreement, VENDOR shall take commercially reasonable steps and use commercially reasonable resources to identify SBBC-certified M/WBE vendors who may be engaged to fulfill various aspects of the Agreement, including, for instance, without limitation, M/WBE vendors to provide office supplies, travel, printing, janitorial supplies/services, consulting services, trade services, installation and repair services, medical supplies, where feasible. VENDOR agrees to provide monthly reports and to conduct quarterly meetings with SBBC to discuss progress in meeting the SBBC's objectives regarding M/WBE participation, including dollars spent on M/WBE vendors for the quarter; and



to continue to assess throughout the term of the Agreement new possibilities for M/WBE vendor participation suggested by SBBC. If at any time during the term the parties agree that it is reasonably feasible to include a specific dollar figure for M/WBE participation, the Agreement shall be amended to include the dollar participation objective.

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

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

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

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

**3.10 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 transfer 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, Insert Name shall meet all applicable requirements for retaining public records. All records stored electronically must be provided to SBBC, upon request from SBBC's custodian of public records, in a format that is compatible with SBBC's information technology systems.

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

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

3.12 **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.

3.13 **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.

3.14 **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.

3.15 **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.

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

3.17 **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.

3.18 **Incorporation by Reference.** **Attachments A and B** are attached hereto and referenced herein shall be deemed to be incorporated into this Agreement by reference.

3.19 **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.

3.20 **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.

3.21 **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.

3.22 **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.

3.23 **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.

3.24 **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.

3.25 **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.

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

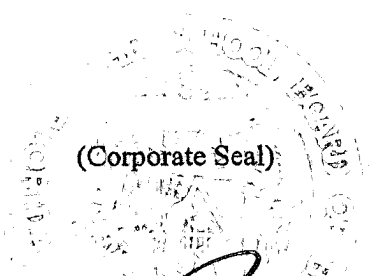
3.27 **Liability.** This section shall survive the termination of all performance or obligations under this Agreement and shall be fully binding until such time as any proceeding brought on account of this Agreement is barred by any applicable statute of limitations.

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

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

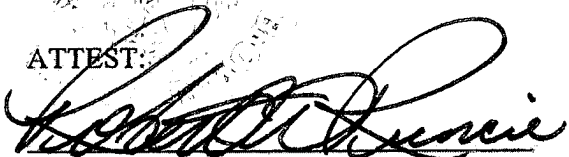
3.28 **Authority.** Each person signing this Agreement on behalf of either party individually warrants that he or she has full legal power to execute this Agreement on behalf of the party for whom he or she is signing, and to bind and obligate such party with respect to all provisions contained in this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

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



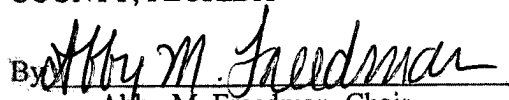
(Corporate Seal)

ATTEST:

  
Robert W. Runcie, Superintendent of Schools

**FOR SBBC**

THE SCHOOL BOARD OF BROWARD  
COUNTY, FLORIDA

By   
Abby M. Freedman, Chair

Approved as to Form and Legal Content:



Digitally signed by Kathelyn Jacques-Adams, Esq.  
kathelyn.jacques-adams@gbrowardschools.com  
Reason: Community Rehab Associates, Inc.  
Date: 2017.05.24 12:21:46 -04'00'

Office of the General Counsel

**FOR VENDOR**

(Corporate Seal)

COMMUNITY REHAB ASSOCIATES, INC.

ATTEST:

By Kelly McDonnell

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

\_\_\_\_\_  
Witness TRAN PERCY  
\_\_\_\_\_  
Witness DEBIE MONTE

**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

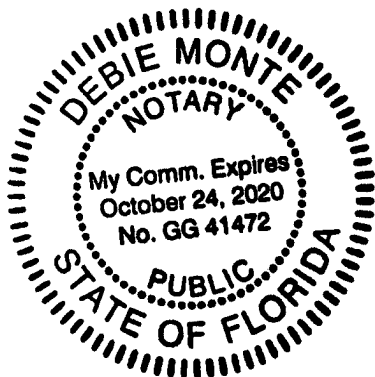
COUNTY OF PINELAS

The foregoing instrument was acknowledged before me this 1st day of May, 2017 by KELLY McDONNELL of COMMUNITY REHAB ASSOCIATES, INC. on behalf of the corporation/agency.

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

My Commission Expires: 10/24/2020  
Signature – Notary Public Debie Monte

(SEAL)



Printed Name of Notary DEBIE MONTE

GG 41472  
Notary's Commission No.

## SCOPE OF SERVICES

1. VENDOR shall offer services for speech-language pathologist(s) and audiologists that hold a current, active professional license in speech-language pathology or audiology from the Department of Health, Board of Speech-Language Pathology and Audiology agree to provide copies of a current active professional license and certifications in speech-language pathology and/or audiology prior to acceptance for placement.
2. VENDOR shall, throughout **Attachment A**, not to hire any individual who is currently employed part-time or full-time by SBBC as a speech-language pathologist or audiologist until the completion of the school year. VENDOR shall, throughout **Attachment A**, hold harmless any individual employed by them who elects to become employed by SBBC in the school year following the expiration date of the current Agreement, throughout **Attachment A**, school year.
3. VENDOR shall provide speech-language pathologists and audiologists whose performance shall be consistent with a professional standard of care and comply with requirements of the State of Florida Department of Health, Division of Medical Quality Assurance, and Board of Professional Regulation for speech, language and audiology requirements of other applicable local, state or federal agencies which may govern the speech-language pathologist's or audiologist's activities on behalf of SBBC.
4. VENDOR shall provide services consistent with the professional standard of care and shall comply with the ethical requirements imposed by the State of Florida Department of Professional Regulations, the Florida State Department of Education and any other federal, state or local regulatory agency.
5. All speech-language pathologists and audiologists, who shall be providing services under this Agreement, throughout **Attachment A**, must be articulate in oral and written English.
6. All speech-language pathologists and audiologists, under this Agreement, throughout **Attachment A**, shall be required to pass the screening of the Broward District Schools Police Department prior to placement of assignment as required by the School Board of Broward County, Florida. (See General Condition 7.30 of the RFP, SBBC Photo Identification Badge). All speech-language pathologists and/or audiologists must utilize the STAR system and/or sign-in/out procedures to document attendance at assigned location.
7. Speech-language pathologist(s) and audiologist(s) providing services shall follow the procedures for the referral, identification, screening, evaluation, eligibility, placement, and dismissal of students with speech-language or hearing impairments as provided in the document Special Programs and Procedures by the ESE/SS Division.
8. Speech-language pathologist(s) and audiologist(s) providing services shall follow procedures for completing required documentation for student attendance, student progress and reporting to parents, reimbursement for Medicaid funding, and other procedures as indicated by the Special Programs and Procedures document and ESE/SS Division.
9. Speech-language pathologist(s) and audiologist(s) providing services shall allow District administrative staff as well as teacher-based resource personnel to review required documentation and observe all provided services.

## SCOPE OF SERVICES

10. Speech-language pathologist(s) and audiologist(s) providing services shall submit, for approval to the school principal or designee, any written communication intended for parents and teachers.
11. Speech-language pathologist(s) and audiologist(s) shall follow all rules and procedures as contained in the employee handbooks of the individual school. Speech-language pathologist(s) and audiologist(s) shall refrain from using school equipment (such as phones, copiers, computers, etc.) for personal or commercial business during service times.
12. Speech-Language pathologist(s) and audiologist(s) shall complete such records as shall be required to document services provided, on a daily basis. VENDOR shall submit timesheets and other documentation needed to substantiate payment through the approved electronic database on an approved voucher form no later than five (5) days following the delivery of service. In order to insure timely payment VENDOR must submit accurate time sheets of service in accordance with the training they receive. These records must be submitted to the ESE/SS Division, Arthur Ashe, Jr. Campus, 1701 NW 23<sup>rd</sup> Avenue, Fort Lauderdale, Florida 33311.
13. VENDOR shall have all new providers use and submit an approved District template to log services until training takes place for the electronic system. VENDOR shall utilize the approved template until such time as they are trained in the electronic database system. Immediately following training all providers, VENDOR shall transfer the data from the district template into the Educational Database System and file the original hard copy in the student's IEP folder at the school site.
14. (SBBC) ESE/SS Division reserves the right to interview all speech-language pathologist(s) and/or audiologist(s) prior to placement. ESE/SS Division reserves the right to refuse to utilize any given speech-language pathologist(s) and/or audiologist(s) if it is in their best interest to do so.
15. VENDOR's Speech-Language Pathologist(s) must attend two (2) scheduled policies/procedures meetings, considered as part of their workday, of not less than three (3) hours as determined by the District. These meetings shall include, but are not limited to, general information on these policies and procedures of the Broward County Special Programs and Procedures, the rights of students with disabilities, and other operational procedures required to carry out the therapy program. VENDOR shall incorporate any cancelled service sessions due to meeting times into their schedule.
16. VENDOR shall, throughout **Attachment A**, execute SBBC's HIPPA Business Associate Agreement as stated in **Attachment B**.
17. VENDOR shall provide speech-language pathologist(s) and/or audiologist(s) who agree to provide therapy services throughout the District at all times and locations designated by SBBC. SBBC reserves the right to request a change in times and locations of services provided by VENDOR (consistent with the written agreement for days and hours worked), during the course of an assignment. Services shall be provided up to 7 hours per day on regular student attendance days. Services provided on employee planning days and early release days must be pre-approved in writing by an authorized representative of the ESE/SS Division. School year calendars may be viewed on the following web link:  
**<http://www.browardschools.com>. Click on the link "Calendars"**



## SCOPE OF SERVICES

18. VENDOR shall, throughout **Attachment A**, provide the requested services within ten school days of verbal/written notice of an assignment by SBBC.
19. Resumes of replacement personnel are to be submitted to the ESE/SS Division for review. All replacement personnel must have written approval by the ESE/SS Division prior to placement. All replacement personnel shall follow the procedures as stated by the ESE/SS Division. All replacement personnel must have the same credentials equivalent to the individuals whom they replace. ESE/SS Division reserves the right to interview replacement personnel prior to approval.
20. The Audiologist's services shall determine the type and degree of hearing impairment and shall implement habilitation and rehabilitation services for the student. Administers and interprets variety of tests, such as air and bone conduction, and speech reception and discrimination tests, to determine type and degree of hearing impairment, site of damage, and effects on comprehension and speech. Evaluates test results in relation to behavioral, social, educational, and medical information obtained from patients, families, teachers, speech pathologists and other professionals to determine communication problems related to hearing disability. Plans and implements prevision, habilitation or rehabilitation services including hearing aid selection and orientation, counseling, auditory training, lip reading, language habilitation, speech conservation and other treatment programs developed in consultation with speech pathologists and other professionals.
21. Clinical Fellowship Year (CFY) candidates with a provisional license will be considered for a school assignment if the VENDOR agrees to provide all supervisory and support requirements for the candidate.
22. VENDOR shall insure that any interruption of services due to a therapist being "unavailable" shall be made up to the best of their ability and shall be documented in the Electronic Based System as "make-up" session.
23. VENDOR shall, throughout **Attachment A**, provide the required ELL training to all candidates assigned to a school site. Training can be provided via the VENDOR's own process or via the District's training for a minimal cost. Training must comply with the requirements of the Florida Consent Decree and the META Agreement.

**HIPPA BUSINESS ASSOCIATE AGREEMENT**

This Business Associate Agreement ("**Agreement**") is made and entered into as of this \_\_\_\_\_ day of \_\_\_\_\_, 2017 (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 "**Business Associate**"),

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 the term is defined at 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 coverage subject to regulation under the Health Insurance Portability and Accountability Act of 1996 ("HIPPA"), 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 HIPPA, the Health Information Technology for Economic and Clinical Health Act of 2009 ("HITECH"), the Omnibus Rule of 2013, and the 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").

**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/or disclosure of PHI and the security of 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.

- (b) “**Business Associate**” shall mean Business Associate named above and shall include all successors and assigns, affiliates, subsidiaries, and related companies.
- (c) “**Designed 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 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) “**HIPPA**” means Health Insurance Portability and Accountability Act of 1996.
- (f) “**HITECH Act**” means the Health Information Technology for Economic and Clinical Health Act of 2009.
- (g) “**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).
- (h) “**Minimum Necessary**” means the least amount of PHI needed to accomplish the intended purpose of the use or disclosure.
- (i) “**Omnibus Rule**” means the HIPPA Omnibus Rule of 2013.
- (j) “**Privacy Rule**” shall mean the Standards of Privacy of Individuals Identifiable Health Information as set forth at 45 C.F.R. Parts 160 and 164, subparts A and E.
- (k) “**Protected Health Information**” or “**PHI**” shall have the same meaning as the term “protected health information” in 45 C.F.R. §130.103 (as amended by the HITECH Act) limited to the information created or received by Business Associate from or on behalf of SBBC.
- (l) “**Required by Law**” shall have the same meaning as the term “required by law” in 45 C.F.R. §164.103.
- (m) “**Secretary**” shall mean the Secretary of the Department of Health and Human Services or his or her designee.
- (n) “**Security Rule**” shall mean the Standards for Security of ePHI as set forth 45 C.F.R. Parts 160 and 164 Subpart C.
- (o) “**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 HIPPA or HITECH Act.
- (c) Business Associate agrees to use appropriate safeguards and comply, where applicable, with the HIPPA 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 substantially the same form as Exhibit A, hereto.
- (e) Business Associate shall promptly inform SBBC of a Breach of Unsecured PHI following the first day on which Business Associate knows of such Breach or following the first day on which Business Associate should have known 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 by Federal and/or Florida law.

## **ATTACHMENT B**

- (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 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 HIPPA Rules, including the rules to extend the requirements to the agent's or subcontractor's subcontractors.
- (h) Business Associate agrees to provide access, at the requires of SBBC, and in the time and manner designated by SBBC, to PHI in a Designated Record Set that is not also in SBBC's possession, to SBBC in order for SBBC to meet the requirements under 45 C.F.R. §164.524.
- (i) Business Associate agrees to make PHI available for amendment and incorporate all amendments to PHI in a Designated Record Set that SBBC directs or agrees to pursuant to 45 C.F.R. §164.526 at the request of SBBC or an Individual 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 a request of SBBC to the Secretary, in a time and manner as designated by SBBC or the Secretary, for the 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 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.

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

- (a) Except as otherwise limited in this Agreement, Business Associate may use or disclose PHI to perform functions, activities or services for, or on behalf of, SBBC as previously agreed to by the parties (the “Service Agreement”) provided that such use or disclosure would not violate the Privacy Rule if done by SBBC.
- (b) Except as otherwise limited in 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 in 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 for 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 in 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
- (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 with ten (10) business days prior written notice to Business Associate to audit Business Associate from time-to-time to verify Business Associate compliance with the terms of this Agreement. SBBC shall be entitled and enabled to inspect the records and other information relevant to Business Associate 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 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 and confidentiality and integrity of ePHI under the Security Standards 45 C.F.R. Part 160 and 164 subpart C.

- (b) Business Associate agrees that it will ensure that agents or subcontractors agree to implement the applicable administrative, physical, and technical safeguards required to protect the confidentiality and integrity of ePHI under the Security Standards 45 C.F.R. Part 164.
- (c) Business Associate agrees to report to SBBC all Security Incidents (as defined 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 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, on behalf of SBBC, it will perform all transactions for which a standard has been developed under the EDI Rule that Business Associate could reasonably be expected to perform in the ordinary course of its functions on behalf of SBBC.

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 HIPPA.

**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 HIPPA in general, shall be deemed to amend this Agreement to incorporate said changes without further action.

**8. Amendment.**

The parties agree to take any and all actions necessary to amend this Agreement from time to time so that SBBC is in compliance with the Privacy Rule, the Security Rule, the HITECH Act, and HIPPA in general. The parties may agree to amend this Agreement from time to time in other respect that 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 as of the Effective Date and shall remain in effect until such time as SBBC exercises its right to 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 of such breach to Business Associate, 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.

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, for example, if SBBC makes illegal demands on Business Associate, 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 Covered Entity.

- (d) ***Effect of Termination.*** Except as set forth in this Section 9(d), upon termination of this Agreement for any reason, at the request of SBBC, 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. In the event that Business Associate determines that returning or destroying the PHI is infeasible, such as in the use of data aggregation, Business Associate shall provide to SBBC written notification of the conditions that make return or destruction infeasible. If 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 make the return or destruction infeasible, 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 while such equipment is on premises owned or controlled by SBBC; or the negligence of Business Associate 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 property, and injury or death of any person whether employed by Business Associate, SBBC or otherwise.



**ARTICLE 3 – GENERAL CONDITIONS****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 waiver of limits to liability or rights existing under Section 768.28, Florida Statutes.

**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 term 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.

FOR BUSINESS ASSOCIATE

Signature

Kelly McDonnell CEO  
 Print Name and Title

Witness

TRAN PERCAY  
Monte  
 Witness DEBIE MONTE

STATE OF FLORIDACOUNTY OF PINELAS

The foregoing instrument was acknowledged before me by KELLY McDONNELL who is personally known to me or who produced FL drivers license as identification and who did / did not first take an oath this 1st day of May, 2017.

My Commission Expires: 10/24/2020

Monte  
 Signature - Notary Public



DEBIE MONTE  
 Notary's Printed Name

66 414 72  
 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 13<sup>th</sup> day of June, 2017, by and between

### THE SCHOOL BOARD OF BROWARD COUNTY, FLORIDA

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

and

### COMPREHENSIVE THERAPY CONSULTANTS, INC.

(hereinafter referred to as "VENDOR"),  
whose principal place of business is  
3725 Jaillette Road  
College Park, Georgia 30349

**WHEREAS**, SBBC issued a Request for Proposal identified as RFP 18-001V – Speech-Language Pathology and Audiology Services (hereinafter referred to as "RFP"), dated December 1, 2016 and amended by Addendum No. 4, dated January 17, 2017, Addendum No. 3, dated January 13, 2017 Addendum No. 2, dated December 19, 2016, and Addendum No. 1, dated December 9, 2016 all of which are incorporated by reference herein, for the purpose of receiving proposals for speech-language pathology and audiology services; and

**WHEREAS**, VENDOR offered a proposal dated January 25, 2017 (hereinafter referred to as "Proposal") which is incorporated by reference herein, in response to this RFP.

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

### ARTICLE 1 – RECITALS

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

### ARTICLE 2 – SPECIAL CONDITIONS

2.01 **Term of Agreement.** Unless terminated earlier pursuant to Section 3.05 of this Agreement, the term of this Agreement shall commence on **July 1, 2017** and conclude on **June 30, 2020**. The term of the Agreement may, by mutual agreement between SBBC and VENDOR be extended for two additional one-year periods and, if needed, 180 days beyond the expiration date of the renewal period. SBBC's Procurement & Warehousing Services Department, will, if considering renewing, request a letter consenting to renewal from VENDOR, prior to the end of the term. Any renewal period shall be approved by an Amendment to this Agreement executed by both parties.

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

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

First: This Agreement, then;  
Second: Addendum No. 4, then;  
Third: Addendum No. 3, then;  
Fourth: Addendum No. 2, then;  
Fifth: Addendum No. 1, then;  
Sixth: RFP 18-001V – Speech-Language Pathology and Audiology Services, then;  
Seventh: Proposal submitted in response to the RFP by VENDOR.

2.04 **Cost of Services.** SBBC shall pay VENDOR for cost of services satisfactorily rendered for Speech-Language Pathologist at \$59.00/hr. Costs shall not exceed the amount as stated on the Purchase Order. VENDOR may offer SBBC a special educational discount for pricing and reduce the cost of services during the term of the Agreement. VENDOR may invoice SBBC at an hourly rate less than their original proposal price.

2.05 **M/WBE Participation.** VENDOR is a current Certified MWBE, African American, with SBBC, Certificate #7007-7138.

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

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

VENDOR shall enter into SBBC’s HIPAA Business Associate Agreement (“BAA”) substantially in the form attached hereto and incorporated herein as **Attachment B.**

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

evaluation, analysis, verification and reconciliation of any and all expenditures under this Agreement without regard to funding sources.

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

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

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

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

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

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

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

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

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

To SBBC: Superintendent of Schools  
The School Board of Broward County, Florida  
600 Southeast Third Avenue  
Fort Lauderdale, Florida 33301

With a Copy to: Executive Director, ESE/SS Division  
The School Board of Broward County, Florida  
1701 NW 23<sup>rd</sup> Avenue  
Fort Lauderdale, Florida 33301

To VENDOR: NeShanta Wilburn, CEO  
Comprehensive Therapy Consultants, Inc.  
3725 Jailette Road  
Atlanta, Georgia 31131

2.09 **Background Screening.** Vendor agrees to comply with all requirements of Sections 1012.32 and 1012.465, Florida Statutes, and all of its personnel who (1) are to be permitted access to school grounds when students are present, (2) will have direct contact with students, or (3) have access or control of school funds, will successfully complete the background screening required by the referenced statutes and meet the standards established by the statutes. This background screening will be conducted by SBBC in advance of the 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 the 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.

2.10 **Insurance.** VENDOR shall provide the minimum insurance requirements as provided below:

- a) **GENERAL LIABILITY:** Limits not less than \$1,000,000 per occurrence for Bodily Injury/ Property Damage; \$1,000,000 General Aggregate. Limits not less than \$1,000,000 for Products/Completed Operations Aggregate.

- b) **WORKER'S COMPENSATION:** Florida Statutory limits in accordance with Chapter 440; Employer's Liability limits not less than \$100,000/\$100,000/\$500,000 (each accident/disease-each employee/disease-policy limit).
- c) **PROFESSIONAL LIABILITY:** Limits not less than \$1,000,000 per occurrence covering services provided under this Agreement.
- d) **AUTO LIABILITY:** Owned, Non-Owned and Hired Auto Liability with Bodily Injury and Property Damage limits of not less than \$1,000,000 Combined Single Limit. If VENDOR does not own any vehicles, hired and non-owned automobile liability coverage in the amount of \$1,000,000 will be accepted. In addition, an affidavit signed by the VENDOR must be furnished to SBBC indicating the following:  
VENDOR does not own any vehicles. In the event insured acquires any vehicles throughout the term of this Agreement, insured agrees to provide proof of "Any Auto" coverage effective the date of acquisition. (Fax affidavit with Certificate of Insurance to SBBC Risk Management at 866-897-0424.)
- e) **ACCEPTABILITY OF INSURANCE CARRIERS:** The insurance policies shall be issued by companies qualified to do business in the State of Florida. The insurance companies must be rated 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 Risk Management Department by Certificate of Insurance within 15 days of the date of this Agreement. All certificates (and any required documents) must be received and approved by SBBC before any work commences to permit VENDOR time to remedy any deficiencies. **FAX CERTIFICATES OF INSURANCE TO SBBC RISK MANAGEMENT AT 866-897-0424.**
- g) **REQUIRED CONDITIONS:** Liability policies must contain the following provisions. In addition, the following wording must be included on the Certificate of Insurance:  
**The School Board of Broward County, Florida, its members, officers, employees and agents are added as additional insured.**  
**All liability policies are primary of all other valid and collectable coverage maintained by The School Board of Broward County, Florida.**  
(\*Please include the RFP Number and Title on the Certificate of Insurance.)  
**(Certificate Holder: The School Board of Broward County, Florida 600 Southeast Third Avenue, Fort Lauderdale, Florida 33301)**
- 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 business days if required insurance is cancelled.
- i) **The School Board of Broward County, Florida reserves the right to review, reject or accept any required policies of insurance, including limits, coverage's or endorsements, herein throughout the term of this Agreement.**

### **ARTICLE 3 – GENERAL CONDITIONS**



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

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

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

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

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

3.06 **Default.** The parties agree that, in the event that either party is in default of its obligations under this Agreement, the non-defaulting party shall provide to the defaulting party (30) days written notice to cure the default. However, in the event said default cannot be cured within said thirty (30) day period and the defaulting party is diligently attempting in good faith to cure same, the time period shall be reasonably extended to allow the defaulting party additional cure time. Upon the occurrence of a default that is not cured during the applicable cure period, this Agreement may be terminated by the non-defaulting party upon thirty (30) days notice. This remedy is not intended to be exclusive of any other remedy, and each and every such remedy shall be cumulative and shall be in addition to every other remedy now or hereafter existing at law or in equity or by statute or otherwise. No single or partial exercise by any party of any right, power,

or remedy hereunder shall preclude any other or future exercise thereof. Nothing in this section shall be construed to preclude termination for convenience pursuant to Section 3.05.

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

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

3.09 **Public Records:** 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 transfer 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, Insert Name shall meet all applicable requirements for retaining public records. All records stored electronically must be provided to SBBC, upon request from SBBC's custodian of public records, in a format that is compatible with SBBC's information technology systems.

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

3.10 **Student Records.** Notwithstanding any provision to the contrary within this Agreement, any party contracting with SBBC under this Agreement shall fully comply with the requirements of Sections 1002.22 and 1002.221, Florida Statutes; FERPA, and any other state or federal law or regulation regarding the confidentiality of student information and records. Each

such party agrees, for itself, its officers, employees, agents, representatives, contractors or subcontractors, to fully indemnify and hold harmless SBBC and its officers and employees for any violation of this section, including, without limitation, defending SBBC and its officers and employees against any complaint, administrative or judicial proceeding, payment of any penalty imposed upon SBBC, or payment of any and all costs, damages, judgments or losses incurred by or imposed upon SBBC arising out of a breach of this covenant by the party, or an officer, employee, agent, representative, contractor, or sub-contractor of the party to the extent that the party or an officer, employee, agent, representative, contractor, or sub-contractor of the party shall either intentionally or negligently violate the provisions of this section or of Sections 1002.22 and/or 1002.221, Florida Statutes.

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

3.12 **Place of Performance.** All obligations of SBBC under the terms of this Agreement are reasonably susceptible of being performed in Broward County, Florida and shall be payable and performable in Broward County, Florida. . VENDOR agrees and admits that the state courts of the Seventeenth Judicial Circuit of Broward County, Florida and the Southern District of Florida shall have jurisdiction over VENDOR.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

**FOR SBBC**

THE SCHOOL BOARD OF BROWARD  
COUNTY, FLORIDA

By Abby M. Freedman  
Abby M. Freedman, Chair

Approved as to Form and Legal Content:

Kathelyn Jacques-Adams

Digitally signed by Kathelyn Jacques-Adams, Esq. -  
kathelyn.jacques-adams@gbrowardschools.com  
Reason: Comprehensive Therapy Consultants, Inc.  
Date: 2017.05.24 10:27:40 -04'00'

Office of the General Counsel

(Corporate Seal)

ATTEST:

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

**FOR VENDOR**

(Corporate Seal)

COMPREHENSIVE THERAPY CONSULTANTS, INC.

ATTEST:

Neshata Wilborn  
\_\_\_\_\_, Secretary

By Neshata Wilborn

-or-

W  
\_\_\_\_\_  
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 GA

COUNTY OF Douglas

The foregoing instrument was acknowledged before me this 10 day of May, 2017 by NESHATA WILBORN of

\_\_\_\_\_  
Name of Person

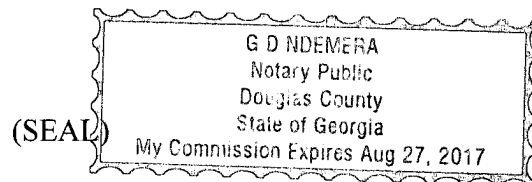
\_\_\_\_\_, on behalf of the corporation/agency.

\_\_\_\_\_  
Name of Corporation or Agency

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

My Commission Expires: 8/27/17

G D Ndemera  
\_\_\_\_\_  
Signature - Notary Public



GRIFFITHS D. NDEMER  
\_\_\_\_\_  
Printed Name of Notary

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

## SCOPE OF SERVICES

1. VENDOR shall offer services for speech-language pathologist(s) that hold a current, active professional license in speech-language pathology from the Department of Health, Board of Speech-Language Pathology and agree to provide copies of a current active professional license and certifications in speech-language pathology prior to acceptance for placement.
2. VENDOR shall, throughout **Attachment A**, not to hire any individual who is currently employed part-time or full-time by SBBC as a speech-language pathologist until the completion of the school year. VENDOR shall, throughout **Attachment A**, hold harmless any individual employed by them who elects to become employed by SBBC in the school year following the expiration date of the current Agreement, throughout **Attachment A**, school year.
3. VENDOR shall provide speech-language pathologists whose performance shall be consistent with a professional standard of care and comply with requirements of the State of Florida Department of Health, Division of Medical Quality Assurance, and Board of Professional Regulation for speech, language requirements of other applicable local, state or federal agencies which may govern the speech-language pathologist's activities on behalf of SBBC.
4. VENDOR shall provide services consistent with the professional standard of care and shall comply with the ethical requirements imposed by the State of Florida Department of Professional Regulations, the Florida State Department of Education and any other federal, state or local regulatory agency.
5. All speech-language pathologists, who shall be providing services under this Agreement, throughout **Attachment A**, must be articulate in oral and written English.
6. All speech-language pathologists, under this Agreement, throughout **Attachment A**, shall be required to pass the screening of the Broward District Schools Police Department prior to placement of assignment as required by the School Board of Broward County, Florida. (See General Condition 7.30 of the RFP, SBBC Photo Identification Badge). All speech-language pathologists must utilize the STAR system and/or sign-in/out procedures to document attendance at assigned location.
7. Speech-language pathologist(s) providing services shall follow the procedures for the referral, identification, screening, evaluation, eligibility, placement, and dismissal of students with speech-language impairments as provided in the document Special Programs and Procedures by the ESE/SS Division.
8. Speech-language pathologist(s) providing services shall follow procedures for completing required documentation for student attendance, student progress and reporting to parents, reimbursement for Medicaid funding, and other procedures as indicated by the Special Programs and Procedures document and ESE/SS Division.
9. Speech-language pathologist(s) providing services shall allow District administrative staff as well as teacher-based resource personnel to review required documentation and observe all provided services.

## SCOPE OF SERVICES

10. Speech-language pathologist(s) providing services shall submit, for approval to the school principal or designee, any written communication intended for parents and teachers.
11. Speech-language pathologist(s) shall follow all rules and procedures as contained in the employee handbooks of the individual school. Speech-language pathologist(s) shall refrain from using school equipment (such as phones, copiers, computers, etc.) for personal or commercial business during service times.
12. Speech-Language pathologist(s) shall complete such records as shall be required to document services provided, on a daily basis. VENDOR shall submit timesheets and other documentation needed to substantiate payment through the approved electronic database on an approved voucher form no later than five (5) days following the delivery of service. In order to insure timely payment VENDOR must submit accurate time sheets of service in accordance with the training they receive. These records must be submitted to the ESE/SS Division, Arthur Ashe, Jr. Campus, 1701 NW 23<sup>rd</sup> Avenue, Fort Lauderdale, Florida 33311.
13. VENDOR shall have all new providers use and submit an approved District template to log services until training takes place for the electronic system. VENDOR shall utilize the approved template until such time as they are trained in the electronic database system. Immediately following training all providers, VENDOR shall transfer the data from the district template into the Educational Database System and file the original hard copy in the student's IEP folder at the school site.
14. (SBBC) ESE/SS Division reserves the right to interview all speech-language pathologist(s) prior to placement. ESE/SS Division reserves the right to refuse to utilize any given speech-language pathologist(s) and/or audiologist(s) if it is in their best interest to do so.
15. VENDOR's Speech-Language Pathologist(s) must attend two (2) scheduled policies/procedures meetings, considered as part of their workday, of not less than three (3) hours as determined by the District. These meetings shall include, but are not limited to, general information on these policies and procedures of the Broward County Special Programs and Procedures, the rights of students with disabilities, and other operational procedures required to carry out the therapy program. VENDOR shall incorporate any cancelled service sessions due to meeting times into their schedule.
16. VENDOR shall, throughout **Attachment A**, execute SBBC's HIPPA Business Associate Agreement as stated in **Attachment B**.
17. VENDOR shall provide speech-language pathologist(s) who agree to provide therapy services throughout the District at all times and locations designated by SBBC. SBBC reserves the right to request a change in times and locations of services provided by VENDOR (consistent with the written agreement for days and hours worked), during the course of an assignment. Services shall be provided up to 7 hours per day on regular student attendance days. Services provided on employee planning days and early release days must be pre-approved in writing by an authorized representative of the ESE/SS Division. School year calendars may be viewed on the following web link:  
**<http://www.browardschools.com>. Click on the link "Calendars"**



**SCOPE OF SERVICES**

18. VENDOR shall, throughout **Attachment A**, provide the requested services within ten school days of verbal/written notice of an assignment by SBBC.
19. Resumes of replacement personnel are to be submitted to the ESE/SS Division for review. All replacement personnel must have written approval by the ESE/SS Division prior to placement. All replacement personnel shall follow the procedures as stated by the ESE/SS Division. All replacement personnel must have the same credentials equivalent to the individuals whom they replace. ESE/SS Division reserves the right to interview replacement personnel prior to approval.
20. Clinical Fellowship Year (CFY) candidates with a provisional license will be considered for a school assignment if the VENDOR agrees to provide all supervisory and support requirements for the candidate.
21. VENDOR shall insure that any interruption of services due to a therapist being “unavailable” shall be made up to the best of their ability and shall be documented in the Electronic Based System as “make-up” session.
22. VENDOR shall, throughout **Attachment A**, provide the required ELL training to all candidates assigned to a school site. Training can be provided via the VENDOR’s own process or via the District’s training for a minimal cost. Training must comply with the requirements of the Florida Consent Decree and the META Agreement.

**HIPPA BUSINESS ASSOCIATE AGREEMENT**

This Business Associate Agreement ("**Agreement**") is made and entered into as of this \_\_\_\_\_ day of \_\_\_\_\_, 2017 (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

**COMPREHENSIVE THERAPY CONSULTANTS, INC.**

(hereinafter referred to as "**Business Associate**"),  
whose principal place of business is  
3725 Jailette Road  
College Park, Georgia 30349

**WHEREAS**, by virtue of some of the services that Business Associate performs for SBBC, Business Associate may be a "business associate", as the term is defined at 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 coverage subject to regulation under the Health Insurance Portability and Accountability Act of 1996 ("HIPPA"), 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 HIPPA, the Health Information Technology for Economic and Clinical Health Act of 2009 ("HITECH"), the Omnibus Rule of 2013, and the 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").

**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/or disclosure of PHI and the security of 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.

- (b) “**Business Associate**” shall mean Business Associate named above and shall include all successors and assigns, affiliates, subsidiaries, and related companies.
- (c) “**Designed 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 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) “**HIPPA**” means Health Insurance Portability and Accountability Act of 1996.
- (f) “**HITECH Act**” means the Health Information Technology for Economic and Clinical Health Act of 2009.
- (g) “**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).
- (h) “**Minimum Necessary**” means the least amount of PHI needed to accomplish the intended purpose of the use or disclosure.
- (i) “**Omnibus Rule**” means the HIPPA Omnibus Rule of 2013.
- (j) “**Privacy Rule**” shall mean the Standards of Privacy of Individuals Identifiable Health Information as set forth at 45 C.F.R. Parts 160 and 164, subparts A and E.
- (k) “**Protected Health Information**” or “**PHI**” shall have the same meaning as the term “protected health information” in 45 C.F.R. §130.103 (as amended by the HITECH Act) limited to the information created or received by Business Associate from or on behalf of SBBC.
- (l) “**Required by Law**” shall have the same meaning as the term “required by law” in 45 C.F.R. §164.103.
- (m) “**Secretary**” shall mean the Secretary of the Department of Health and Human Services or his or her designee.
- (n) “**Security Rule**” shall mean the Standards for Security of ePHI as set forth 45 C.F.R. Parts 160 and 164 Subpart C.
- (o) “**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 HIPPA or HITECH Act.
- (c) Business Associate agrees to use appropriate safeguards and comply, where applicable, with the HIPPA 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 substantially the same form as Exhibit A, hereto.
- (e) Business Associate shall promptly inform SBBC of a Breach of Unsecured PHI following the first day on which Business Associate knows of such Breach or following the first day on which Business Associate should have known 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 by Federal and/or Florida law.

- (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 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 HIPPA Rules, including the rules to extend the requirements to the agent's or subcontractor's subcontractors.
- (h) Business Associate agrees to provide access, at the requires of SBBC, and in the time and manner designated by SBBC, to PHI in a Designated Record Set that is not also in SBBC's possession, to SBBC in order for SBBC to meet the requirements under 45 C.F.R. §164.524.
- (i) Business Associate agrees to make PHI available for amendment and incorporate all amendments to PHI in a Designated Record Set that SBBC directs or agrees to pursuant to 45 C.F.R. §164.526 at the request of SBBC or an Individual 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 a request of SBBC to the Secretary, in a time and manner as designated by SBBC or the Secretary, for the 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 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.

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

- (a) Except as otherwise limited in this Agreement, Business Associate may use or disclose PHI to perform functions, activities or services for, or on behalf of, SBBC as previously agreed to by the parties (the “Service Agreement”) provided that such use or disclosure would not violate the Privacy Rule if done by SBBC.
- (b) Except as otherwise limited in 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 in 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 for 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 in 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
- (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 with ten (10) business days prior written notice to Business Associate to audit Business Associate from time-to-time to verify Business Associate compliance with the terms of this Agreement. SBBC shall be entitled and enabled to inspect the records and other information relevant to Business Associate 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 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 and confidentiality and integrity of ePHI under the Security Standards 45 C.F.R. Part 160 and 164 subpart C.

- (b) Business Associate agrees that it will ensure that agents or subcontractors agree to implement the applicable administrative, physical, and technical safeguards required to protect the confidentiality and integrity of ePHI under the Security Standards 45 C.F.R. Part 164.
- (c) Business Associate agrees to report to SBBC all Security Incidents (as defined 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 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, on behalf of SBBC, it will perform all transactions for which a standard has been developed under the EDI Rule that Business Associate could reasonably be expected to perform in the ordinary course of its functions on behalf of SBBC.

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 HIPPA.

**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 HIPPA in general, shall be deemed to amend this Agreement to incorporate said changes without further action.

**8. Amendment.**

The parties agree to take any and all actions necessary to amend this Agreement from time to time so that SBBC is in compliance with the Privacy Rule, the Security Rule, the HITECH Act, and HIPPA in general. The parties may agree to amend this Agreement from time to time in other respect that 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 as of the Effective Date and shall remain in effect until such time as SBBC exercises its right to 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 of such breach to Business Associate, 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.

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, for example, if SBBC makes illegal demands on Business Associate, 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 Covered Entity.

- (d) ***Effect of Termination.*** Except as set forth in this Section 9(d), upon termination of this Agreement for any reason, at the request of SBBC, 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. In the event that Business Associate determines that returning or destroying the PHI is infeasible, such as in the use of data aggregation, Business Associate shall provide to SBBC written notification of the conditions that make return or destruction infeasible. If 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 make the return or destruction infeasible, 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 while such equipment is on premises owned or controlled by SBBC; or the negligence of Business Associate 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 property, and injury or death of any person whether employed by Business Associate, SBBC or otherwise.



**ARTICLE 3 – GENERAL CONDITIONS****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 waiver of limits to liability or rights existing under Section 768.28, Florida Statutes.

**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 term 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.

**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, FL 33301
With a Copy to:	Executive Director, ESE/SS Division The School Board of Broward County, Florida 1701 NW 23 <sup>rd</sup> Avenue Fort Lauderdale, Florida 33301
	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: NeShanta Wilburn, CEO  
Comprehensive Therapy Consultants, Inc.  
3725 Jailette Road  
Atlanta, Georgia 31131

**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. The person signing on behalf of "Business Associate" has authority to bind "Business Associate" with respect to all provisions contained in this Agreement.

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

No failure or delay by a party hereto in exercising any right, power or remedy under this Agreement, and no course of dealing between the parties hereto, will operate as a waiver of any such right, power or remedy of the party. No single or partial exercise of any right, power or remedy under this Agreement by a party hereto, nor any abandonment or discontinuance of steps to enforce any such right, power or remedy, will preclude such party from any other or further exercise thereof or the exercise of any other right, power or remedy hereunder. The election of any remedy by a party hereto will not constitute a waiver of the right of such party to pursue other available remedies. No notice to or demand on a party not expressly required under this Agreement will entitle the party receiving such notice or demand to any other or further notice or demand in similar or other circumstances or constitute a waiver of the right of the party giving such notice or demand to any other or further action in any circumstances without such notice or demand. The terms and provisions of this Agreement may be waived, or consent for the departure there from granted, only by written document executed by the party entitled to the benefits of such terms or provisions. No such waiver or consent will be deemed to be or will constitute a waiver or consent with respect to any other terms or provisions of this Agreement, whether or not similar. Each such waiver or consent will be effective only in the specific instance and for the purpose for which it was given, and will not constitute a continuing waiver or consent.

**27. Regulatory References.**

A reference in this Agreement to a section in the Privacy Rule, the Security Rule, the HITECH Act, or HIPAA in general means the referenced section or its successor, and for which compliance is required.

**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.

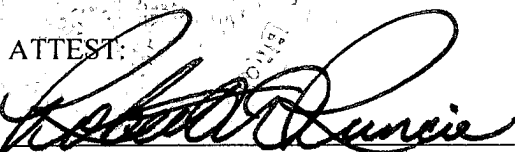
**30. Interpretation.**

Any ambiguity in this Agreement shall be interpreted in a manner that permits SBBC to comply with the Privacy Rule, Security Rule, the HITECH Act, HIPPA in general and any subsequent legislation or regulations otherwise affecting Business Associates.

IN WITNESS WHEREOF, the parties have executed this Business Associate Agreement as of the Effective Date.


(Corporate Seal)

ATTEST:

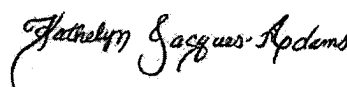
  
Robert W. Runcie, Superintendent of Schools

**FOR SBBC**

THE SCHOOL BOARD OF BROWARD  
COUNTY, FLORIDA

By   
Abby M. Freedman, Chair

Approved as to Form and Legal Content:

  
Digitally signed by Kathelyn Jacques-Adams, Esq. -  
kathelyn.jacques-adams@gbrowardschools.com  
Reason: Comprehensive Therapy Consultants, Inc.  
Date: 2017.05.24 10:28:19 -04'00'

Office of the General Counsel

**FOR BUSINESS ASSOCIATE**

NeShanta Wilburn  
Signature

NeShanta Wilburn, CEO  
Print Name and Title

[Signature]  
Witness

\_\_\_\_\_  
Witness

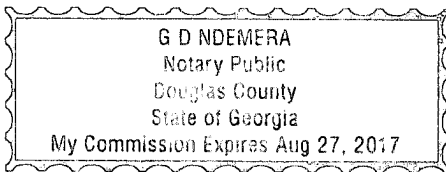
STATE OF \_\_\_\_\_

COUNTY OF \_\_\_\_\_

The foregoing instrument was acknowledged before me by NEShanta Wilburn who is personally known to me or who produced GAID as identification and who did / did not first take an oath this 10 day of May, 2017

My Commission Expires:

[Signature]  
Signature – Notary Public



Goufatis D. Ndemera  
Notary's Printed Name

\_\_\_\_\_  
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 13<sup>th</sup> day of June, 2017, 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 18-001V – Speech-Language Pathology and Audiology Services (hereinafter referred to as "RFP"), dated December 1, 2016 and amended by Addendum No. 4, dated January 17, 2017, Addendum No. 3, dated January 13, 2017 Addendum No. 2, dated December 19, 2016, and Addendum No. 1, dated December 9, 2016 all of which are incorporated by reference herein, for the purpose of receiving proposals for speech-language pathology and audiology services; and

WHEREAS, VENDOR offered a proposal dated January 20, 2017 (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 3.06 of this Agreement, the term of this Agreement shall commence on **July 1, 2017** and conclude on **June 30, 2020**. The term of the Agreement may, by mutual agreement between SBBC and VENDOR be extended for two additional one-year periods and, if needed, 180 days beyond the expiration date of the renewal period. SBBC's Procurement & Warehousing Services Department, will, if considering renewing, request a letter consenting to renewal from VENDOR, prior to the end of the term. Any renewal period shall be approved by an Amendment to this Agreement executed by both parties.

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

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

First: This Agreement, then;  
Second: Addendum No. 4, then;  
Third: Addendum No. 3, then;  
Fourth: Addendum No. 2, then;  
Fifth: Addendum No. 1, then;  
Sixth: RFP 18-001V – Speech-Language Pathology and Audiology Services, then;  
Seventh: Proposal submitted in response to the RFP by VENDOR.

2.04 **Cost of Services.** SBBC shall pay VENDOR for cost of services satisfactorily rendered for Speech-Language Pathologist at \$60.00/hr. and Audiologist at \$58.00/hr. Costs shall not exceed the amount as stated on the Purchase Order. VENDOR may offer SBBC a special educational discount for pricing and reduce the cost of services during the term of the Agreement. VENDOR may invoice SBBC at an hourly rate less than their original proposal price.

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

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

VENDOR shall enter into SBBC’s HIPAA Business Associate Agreement (“BAA”) substantially in the form attached hereto and incorporated herein as **Attachment B.**

2.06 **M/WBE Participation.** As consideration for being awarded this Agreement, VENDOR shall maintain Fascinations Imprinted Advertising Products at a 15% participation, Certificate #7007-3995 to provide imprinted promotional products, advertising specialties, and/or embroidered and silk-screening for VENDOR as needed under this Agreement.

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

2.07 **Inspection of VENDOR’s Records by SBBC:** VENDOR shall establish and maintain books, records and documents (including electronic storage media) sufficient to reflect all income and expenditures of funds provided by SBBC under this Agreement. All VENDOR’s Records, regardless of the form in which they are kept, shall be open to inspection and subject to



audit, inspection, examination, evaluation and/or reproduction, during normal working hours, by SBBC's agent or its authorized representative to permit SBBC to evaluate, analyze and verify the satisfactory performance of the terms and conditions of this Agreement and to evaluate, analyze and verify any and all invoices, billings, payments and/or claims submitted by VENDOR or any of VENDOR's payees pursuant to this Agreement. VENDOR's Records subject to examination shall include, without limitation, those records necessary to evaluate and verify direct and indirect costs (including overhead allocations) as they may apply to costs associated with this Agreement. VENDOR's Records subject to this section shall include any and all documents pertinent to the evaluation, analysis, verification and reconciliation of any and all expenditures under this Agreement without regard to funding sources.

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

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

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

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

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

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

(g) Inspection of Subcontractor's Records. VENDOR shall require any and all subcontractors, insurance agents and material suppliers (hereafter referred to as "Payees") providing services or goods with regard to this Agreement to comply with the requirements of this section by insertion of such requirements in any written subcontract. Failure by VENDOR to

include such requirements in any subcontract shall constitute grounds for termination of this Agreement by SBBC for cause and shall be grounds for the exclusion of some or all of any Payee's costs from amounts payable by SBBC to VENDOR pursuant to this Agreement and such excluded costs shall become the liability of the VENDOR.

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

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

To SBBC: Superintendent of Schools  
The School Board of Broward County, Florida  
600 Southeast Third Avenue  
Fort Lauderdale, Florida 33301

With a Copy to: Executive Director, ESE/SS Division  
The School Board of Broward County, Florida  
1701 NW 23<sup>rd</sup> Avenue  
Fort Lauderdale, Florida 33301

To VENDOR: EBS Healthcare Staffing Services, Inc.  
200 Skiles Road  
West Chester, Pennsylvania 19382

2.09 Background Screening. Vendor agrees to comply with all requirements of Sections 1012.32 and 1012.465, Florida Statutes, and all of its personnel who (1) are to be permitted access to school grounds when students are present, (2) will have direct contact with students, or (3) have access or control of school funds, will successfully complete the background screening required by the referenced statutes and meet the standards established by the statutes. This background screening will be conducted by SBBC in advance of the 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 the 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.

2.10 Insurance. VENDOR shall provide the minimum insurance requirements as provided below:

- a) **GENERAL LIABILITY:** Limits not less than \$1,000,000 per occurrence for Bodily Injury/ Property Damage; \$1,000,000 General Aggregate. Limits not less than \$1,000,000 for Products/Completed Operations Aggregate.
- b) **WORKER'S COMPENSATION:** Florida Statutory limits in accordance with Chapter 440; Employer's Liability limits not less than \$100,000/\$100,000/\$500,000 (each accident/disease-each employee/disease-policy limit).
- c) **PROFESSIONAL LIABILITY:** Limits not less than \$1,000,000 per occurrence covering services provided under this Agreement.
- d) **AUTO LIABILITY:** Owned, Non-Owned and Hired Auto Liability with Bodily Injury and Property Damage limits of not less than \$1,000,000 Combined Single Limit. If VENDOR does not own any vehicles, hired and non-owned automobile liability coverage in the amount of \$1,000,000 will be accepted. In addition, an affidavit signed by the VENDOR must be furnished to SBBC indicating the following:  
VENDOR does not own any vehicles. In the event insured acquires any vehicles throughout the term of this Agreement, insured agrees to provide proof of "Any Auto" coverage effective the date of acquisition. (Fax affidavit with Certificate of Insurance to SBBC Risk Management at 866-897-0424.)
- e) **ACCEPTABILITY OF INSURANCE CARRIERS:** The insurance policies shall be issued by companies qualified to do business in the State of Florida. The insurance companies must be rated 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 Risk Management Department by Certificate of Insurance within 15 days of the date of this Agreement. All certificates (and any required documents) must be received and approved by SBBC before any work commences to permit VENDOR time to remedy any deficiencies. **FAX CERTIFICATES OF INSURANCE TO SBBC RISK MANAGEMENT AT 866-897-0424.**
- g) **REQUIRED CONDITIONS:** Liability policies must contain the following provisions. In addition, the following wording must be included on the Certificate of Insurance:  
**The School Board of Broward County, Florida, its members, officers, employees and agents are added as additional insured.**  
**All liability policies are primary of all other valid and collectable coverage maintained by The School Board of Broward County, Florida.**  
**(\*\*Please include the RFP Number and Title on the Certificate of Insurance.)**  
**(Certificate Holder: The School Board of Broward County, Florida 600 Southeast Third Avenue, Fort Lauderdale, Florida 33301)**
- 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 business days if required insurance is cancelled.

- i) **The School Board of Broward County, Florida reserves the right to review, reject or accept any required policies of insurance, including limits, coverage's or endorsements, herein throughout the term of this Agreement.**

### **ARTICLE 3 – GENERAL CONDITIONS**

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

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

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

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

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

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

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

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

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

3.10 **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 transfer 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, Insert Name shall meet all applicable requirements for retaining public records. All records stored electronically must be provided to SBBC, upon request from SBBC's custodian of public records, in a format that is compatible with SBBC's information technology systems.

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

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

3.12 **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.

3.13 **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. VENDOR agrees and admits that the state courts of the Seventeenth Judicial Circuit of Broward County, Florida and the Southern District of Florida shall have jurisdiction over VENDOR.

3.14 **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.

3.15 **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.

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

3.17 **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.

3.18 **Incorporation by Reference.** Attachments A and B are attached hereto and referenced herein shall be deemed to be incorporated into this Agreement by reference.

3.19 **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.

3.20 **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.

3.21 **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.

3.22 **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.

3.23 **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.

3.24 **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.

3.25 **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.

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

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

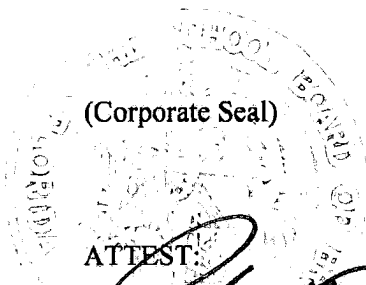
A. By SBBC: SBBC agrees to be fully responsible up to the limits of Section 768.28, Florida Statutes, for its acts of negligence, or its employees' acts of negligence when acting within the scope of their employment and agrees to be liable for any damages resulting from said negligence.

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

3.28 **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.

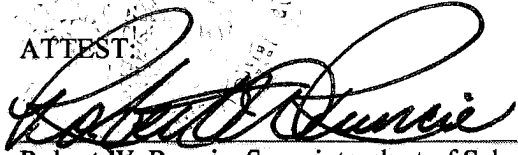
**IN WITNESS WHEREOF**, the Parties hereto have made and executed this Agreement on the date first above written.





(Corporate Seal)

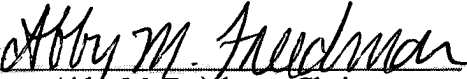
ATTEST:



Robert W. Runcie, Superintendent of Schools

**FOR SBBC**

THE SCHOOL BOARD OF BROWARD  
COUNTY, FLORIDA

By   
Abby M. Freedman, Chair

Approved as to Form and Legal Content:



Digitally signed by Kathelyn Jacques-Adams,  
Esq. - kathelyn.jacques-  
adams@gbrowardschools.com  
Reason: EBS Healthcare Staffing Services, Inc.  
Date: 2017.05.24 15:36:02 -04'00'

Office of the General Counsel

**FOR VENDOR**

(Corporate Seal)

EBS HEALTHCARE STAFFING SERVICES, INC.

ATTEST:

By John Gumpert

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

-or-

Jody E. Fomicino  
Witness

Neil Gule  
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 this 5 day of May, 20 17 by JOHN GUMPERT of

Name of Person

EBS HEALTHCARE, on behalf of the corporation/agency.  
Name of Corporation or Agency

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

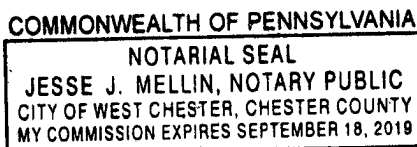
My Commission Expires: 9/18/2019

Jesse J. Mellin  
Signature Notary Public

(SEAL)

Jesse J. Mellin  
Printed Name of Notary

1293122  
Notary's Commission No.



**SCOPE OF SERVICES**

1. VENDOR shall offer services for speech-language pathologist(s) and audiologists that hold a current, active professional license in speech-language pathology or audiology from the Department of Health, Board of Speech-Language Pathology and Audiology agree to provide copies of a current active professional license and certifications in speech-language pathology and/or audiology prior to acceptance for placement.
2. VENDOR shall, throughout **Attachment A**, not to hire any individual who is currently employed part-time or full-time by SBBC as a speech-language pathologist or audiologist until the completion of the school year. VENDOR shall, throughout **Attachment A**, hold harmless any individual employed by them who elects to become employed by SBBC in the school year following the expiration date of the current Agreement, throughout **Attachment A**, school year.
3. VENDOR shall provide speech-language pathologists and audiologists whose performance shall be consistent with a professional standard of care and comply with requirements of the State of Florida Department of Health, Division of Medical Quality Assurance, and Board of Professional Regulation for speech, language and audiology requirements of other applicable local, state or federal agencies which may govern the speech-language pathologist's or audiologist's activities on behalf of SBBC.
4. VENDOR shall provide services consistent with the professional standard of care and shall comply with the ethical requirements imposed by the State of Florida Department of Professional Regulations, the Florida State Department of Education and any other federal, state or local regulatory agency.
5. All speech-language pathologists and audiologists, who shall be providing services under this Agreement, throughout **Attachment A**, must be articulate in oral and written English.
6. All speech-language pathologists and audiologists, under this Agreement, throughout **Attachment A**, shall be required to pass the screening of the Broward District Schools Police Department prior to placement of assignment as required by the School Board of Broward County, Florida. (See General Condition 7.30 of the RFP, SBBC Photo Identification Badge). All speech-language pathologists and/or audiologists must utilize the STAR system and/or sign-in/out procedures to document attendance at assigned location.
7. Speech-language pathologist(s) and audiologist(s) providing services shall follow the procedures for the referral, identification, screening, evaluation, eligibility, placement, and dismissal of students with speech-language or hearing impairments as provided in the document Special Programs and Procedures by the ESE/SS Division.
8. Speech-language pathologist(s) and audiologist(s) providing services shall follow procedures for completing required documentation for student attendance, student progress and reporting to parents, reimbursement for Medicaid funding, and other procedures as indicated by the Special Programs and Procedures document and ESE/SS Division.
9. Speech-language pathologist(s) and audiologist(s) providing services shall allow District administrative staff as well as teacher-based resource personnel to review required documentation and observe all provided services.

## SCOPE OF SERVICES

10. Speech-language pathologist(s) and audiologist(s) providing services shall submit, for approval to the school principal or designee, any written communication intended for parents and teachers.
11. Speech-language pathologist(s) and audiologist(s) shall follow all rules and procedures as contained in the employee handbooks of the individual school. Speech-language pathologist(s) and audiologist(s) shall refrain from using school equipment (such as phones, copiers, computers, etc.) for personal or commercial business during service times.
12. Speech-Language pathologist(s) and audiologist(s) shall complete such records as shall be required to document services provided, on a daily basis. VENDOR shall submit timesheets and other documentation needed to substantiate payment through the approved electronic database on an approved voucher form no later than five (5) days following the delivery of service. In order to insure timely payment VENDOR must submit accurate time sheets of service in accordance with the training they receive. These records must be submitted to the ESE/SS Division, Arthur Ashe, Jr. Campus, 1701 NW 23<sup>rd</sup> Avenue, Fort Lauderdale, Florida 33311.
13. VENDOR shall have all new providers use and submit an approved District template to log services until training takes place for the electronic system. VENDOR shall utilize the approved template until such time as they are trained in the electronic database system. Immediately following training all providers, VENDOR shall transfer the data from the district template into the Educational Database System and file the original hard copy in the student's IEP folder at the school site.
14. (SBBC) ESE/SS Division reserves the right to interview all speech-language pathologist(s) and/or audiologist(s) prior to placement. ESE/SS Division reserves the right to refuse to utilize any given speech-language pathologist(s) and/or audiologist(s) if it is in their best interest to do so.
15. VENDOR's Speech-Language Pathologist(s) must attend two (2) scheduled policies/procedures meetings, considered as part of their workday, of not less than three (3) hours as determined by the District. These meetings shall include, but are not limited to, general information on these policies and procedures of the Broward County Special Programs and Procedures, the rights of students with disabilities, and other operational procedures required to carry out the therapy program. VENDOR shall incorporate any cancelled service sessions due to meeting times into their schedule.
16. VENDOR shall, throughout **Attachment A**, execute SBBC's HIPPA Business Associate Agreement as stated in **Attachment B**.
17. VENDOR shall provide speech-language pathologist(s) and/or audiologist(s) who agree to provide therapy services throughout the District at all times and locations designated by SBBC. SBBC reserves the right to request a change in times and locations of services provided by VENDOR (consistent with the written agreement for days and hours worked), during the course of an assignment. Services shall be provided up to 7 hours per day on regular student attendance days. Services provided on employee planning days and early release days must be pre-approved in writing by an authorized representative of the ESE/SS Division. School year calendars may be viewed on the following web link:  
**<http://www.browardschools.com>. Click on the link "Calendars"**

SCOPE OF SERVICES

18. VENDOR shall, throughout **Attachment A**, to provide the requested services within ten school days of verbal/written notice of an assignment by SBBC.
19. Resumes of replacement personnel are to be submitted to the ESE/SS Division for review. All replacement personnel must have written approval by the ESE/SS Division prior to placement. All replacement personnel shall follow the procedures as stated by the ESE/SS Division. All replacement personnel must have the same credentials equivalent to the individuals whom they replace. ESE/SS Division reserves the right to interview replacement personnel prior to approval.
20. The Audiologist's services shall determine the type and degree of hearing impairment and shall implement habilitation and rehabilitation services for the student. Administers and interprets variety of tests, such as air and bone conduction, and speech reception and discrimination tests, to determine type and degree of hearing impairment, site of damage, and effects on comprehension and speech. Evaluates test results in relation to behavioral, social, educational, and medical information obtained from patients, families, teachers, speech pathologists and other professionals to determine communication problems related to hearing disability. Plans and implements provision, habilitation or rehabilitation services including hearing aid selection and orientation, counseling, auditory training, lip reading, language habilitation, speech conservation and other treatment programs developed in consultation with speech pathologists and other professionals.
21. Clinical Fellowship Year (CFY) candidates with a provisional license will be considered for a school assignment if the VENDOR agrees to provide all supervisory and support requirements for the candidate.
22. VENDOR shall insure that any interruption of services due to a therapist being "unavailable" shall be made up to the best of their ability and shall be documented in the Electronic Based System as "make-up" session.
23. VENDOR shall, throughout **Attachment A**, provide the required ELL training to all candidates assigned to a school site. Training can be provided via the VENDOR's own process or via the District's training for a minimal cost. Training must comply with the requirements of the Florida Consent Decree and the META Agreement.

**HIPPA BUSINESS ASSOCIATE AGREEMENT**

This Business Associate Agreement ("**Agreement**") is made and entered into as of this \_\_\_\_\_ day of \_\_\_\_\_, 2017 (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 "**Business Associate**"),

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 the term is defined at 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 coverage subject to regulation under the Health Insurance Portability and Accountability Act of 1996 ("HIPPA"), 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 HIPPA, the Health Information Technology for Economic and Clinical Health Act of 2009 ("HITECH"), the Omnibus Rule of 2013, and the 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").

**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/or disclosure of PHI and the security of 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.

## ATTACHMENT B

- (b) “**Business Associate**” shall mean Business Associate named above and shall include all successors and assigns, affiliates, subsidiaries, and related companies.
- (c) “**Designed 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 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) “**HIPPA**” means Health Insurance Portability and Accountability Act of 1996.
- (f) “**HITECH Act**” means the Health Information Technology for Economic and Clinical Health Act of 2009.
- (g) “**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).
- (h) “**Minimum Necessary**” means the least amount of PHI needed to accomplish the intended purpose of the use or disclosure.
- (i) “**Omnibus Rule**” means the HIPPA Omnibus Rule of 2013.
- (j) “**Privacy Rule**” shall mean the Standards of Privacy of Individuals Identifiable Health Information as set forth at 45 C.F.R. Parts 160 and 164, subparts A and E.
- (k) “**Protected Health Information**” or “**PHI**” shall have the same meaning as the term “protected health information” in 45 C.F.R. §130.103 (as amended by the HITECH Act) limited to the information created or received by Business Associate from or on behalf of SBBC.
- (l) “**Required by Law**” shall have the same meaning as the term “required by law” in 45 C.F.R. §164.103.
- (m) “**Secretary**” shall mean the Secretary of the Department of Health and Human Services or his or her designee.
- (n) “**Security Rule**” shall mean the Standards for Security of ePHI as set forth 45 C.F.R. Parts 160 and 164 Subpart C.
- (o) “**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 HIPPA or HITECH Act.
- (c) Business Associate agrees to use appropriate safeguards and comply, where applicable, with the HIPPA 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 substantially the same form as Exhibit A, hereto.
- (e) Business Associate shall promptly inform SBBC of a Breach of Unsecured PHI following the first day on which Business Associate knows of such Breach or following the first day on which Business Associate should have known 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 by Federal and/or Florida law.



## **ATTACHMENT B**

- (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 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 HIPPA Rules, including the rules to extend the requirements to the agent's or subcontractor's subcontractors.
- (h) Business Associate agrees to provide access, at the requires of SBBC, and in the time and manner designated by SBBC, to PHI in a Designated Record Set that is not also in SBBC's possession, to SBBC in order for SBBC to meet the requirements under 45 C.F.R. §164.524.
- (i) Business Associate agrees to make PHI available for amendment and incorporate all amendments to PHI in a Designated Record Set that SBBC directs or agrees to pursuant to 45 C.F.R. §164.526 at the request of SBBC or an Individual 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 a request of SBBC to the Secretary, in a time and manner as designated by SBBC or the Secretary, for the 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 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.

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

- (a) Except as otherwise limited in this Agreement, Business Associate may use or disclose PHI to perform functions, activities or services for, or on behalf of, SBBC as previously agreed to by the parties (the “Service Agreement”) provided that such use or disclosure would not violate the Privacy Rule if done by SBBC.
- (b) Except as otherwise limited in 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 in 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 for 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 in 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
- (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 with ten (10) business days prior written notice to Business Associate to audit Business Associate from time-to-time to verify Business Associate compliance with the terms of this Agreement. SBBC shall be entitled and enabled to inspect the records and other information relevant to Business Associate 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 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 and confidentiality and integrity of ePHI under the Security Standards 45 C.F.R. Part 160 and 164 subpart C.

- (b) Business Associate agrees that it will ensure that agents or subcontractors agree to implement the applicable administrative, physical, and technical safeguards required to protect the confidentiality and integrity of ePHI under the Security Standards 45 C.F.R. Part 164.
- (c) Business Associate agrees to report to SBBC all Security Incidents (as defined 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 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, on behalf of SBBC, it will perform all transactions for which a standard has been developed under the EDI Rule that Business Associate could reasonably be expected to perform in the ordinary course of its functions on behalf of SBBC.

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 HIPPA.

**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 HIPPA in general, shall be deemed to amend this Agreement to incorporate said changes without further action.

**8. Amendment.**

The parties agree to take any and all actions necessary to amend this Agreement from time to time so that SBBC is in compliance with the Privacy Rule, the Security Rule, the HITECH Act, and HIPPA in general. The parties may agree to amend this Agreement from time to time in other respect that 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 as of the Effective Date and shall remain in effect until such time as SBBC exercises its right to 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 of such breach to Business Associate, 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.

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, for example, if SBBC makes illegal demands on Business Associate, 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 Covered Entity.

- (d) ***Effect of Termination.*** Except as set forth in this Section 9(d), upon termination of this Agreement for any reason, at the request of SBBC, 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. In the event that Business Associate determines that returning or destroying the PHI is infeasible, such as in the use of data aggregation, Business Associate shall provide to SBBC written notification of the conditions that make return or destruction infeasible. If 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 make the return or destruction infeasible, 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 while such equipment is on premises owned or controlled by SBBC; or the negligence of Business Associate 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 property, and injury or death of any person whether employed by Business Associate, SBBC or otherwise.

**ARTICLE 3 – GENERAL CONDITIONS****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 waiver of limits to liability or rights existing under Section 768.28, Florida Statutes.

**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 term 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.

FOR BUSINESS ASSOCIATE

John Gumpert  
Signature

JOHN GUMPERT, Special Ed Coordinator  
Print Name and Title

Jody E. Finamore  
Witness

Me gill  
Witness

STATE OF PENNSYLVANIA

COUNTY OF CHESTER

The foregoing instrument was acknowledged before me by JOHN GUMPERT who is personally known to me or who produced PERSONALLY KNOWN as identification and who did / did not first take an oath this 5 day of MAY, 20 17.

My Commission Expires: 9/18/2019

Don J. Mellin  
Signature — Notary Public

COMMONWEALTH OF PENNSYLVANIA

NOTARIAL SEAL

JESSE J. MELLIN, NOTARY PUBLIC  
CITY OF WEST CHESTER, CHESTER COUNTY  
MY COMMISSION EXPIRES SEPTEMBER 18, 2019

JESSE J MELLIN  
Notary's Printed Name

1293122  
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 13<sup>th</sup> day of June, 2017, 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

### EDU HEALTHCARE, LLC

(hereinafter referred to as "VENDOR"),  
whose principal place of business is  
7930 W. Kenton Circle #220  
Huntersville, North Carolina 28269

**WHEREAS**, SBBC issued a Request for Proposal identified as RFP 18-001V – Speech-Language Pathology and Audiology Services (hereinafter referred to as "RFP"), dated December 1, 2016 and amended by Addendum No. 4, dated January 17, 2017, Addendum No. 3, dated January 13, 2017 Addendum No. 2, dated December 19, 2016, and Addendum No. 1, dated December 9, 2016 all of which are incorporated by reference herein, for the purpose of receiving proposals for speech-language pathology and audiology services; and

**WHEREAS**, VENDOR offered a proposal dated January 26, 2017 (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 3.06 of this Agreement, the term of this Agreement shall commence on **July 1, 2017** and conclude on **June 30, 2020**. The term of the Agreement may, by mutual agreement between SBBC and VENDOR be extended for two additional one-year periods and, if needed, 180 days beyond the expiration date of the renewal period. SBBC's Procurement & Warehousing Services Department, will, if considering renewing, request a letter consenting to renewal from VENDOR, prior to the end of the term. Any renewal period shall be approved by an Amendment to this Agreement executed by both parties.



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

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

First: This Agreement, then;  
Second: Addendum No. 4, then;  
Third: Addendum No. 3, then;  
Fourth: Addendum No. 2, then;  
Fifth: Addendum No. 1, then;  
Sixth: RFP 18-001V – Speech-Language Pathology and Audiology Services, then;  
Seventh: Proposal submitted in response to the RFP by VENDOR.

2.04 **Cost of Services.** SBBC shall pay VENDOR for cost of services satisfactorily rendered for Speech-Language Pathologist at \$59.00/hr. and Audiologist at \$59.00/hr. Costs shall not exceed the amount as stated on the Purchase Order. VENDOR may offer SBBC a special educational discount for pricing and reduce the cost of services during the term of the Agreement. VENDOR may invoice SBBC at an hourly rate less than their original proposal price.

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

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

VENDOR shall enter into SBBC’s HIPAA Business Associate Agreement (“BAA”) substantially in the form attached hereto and incorporated herein as **Attachment B.**

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

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

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

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

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

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

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

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

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

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

To SBBC: Superintendent of Schools  
The School Board of Broward County, Florida  
600 Southeast Third Avenue  
Fort Lauderdale, Florida 33301

With a Copy to: Executive Director, ESE/SS Division  
The School Board of Broward County, Florida  
1701 NW 23<sup>rd</sup> Avenue  
Fort Lauderdale, Florida 33301

To VENDOR: Matthew Lewis, VP/COO  
EDU Healthcare, LLC  
P.O. Box 480384  
Charlotte, NC 28269

2.08 **Background Screening.** Vendor agrees to comply with all requirements of Sections 1012.32 and 1012.465, Florida Statutes, and all of its personnel who (1) are to be permitted access to school grounds when students are present, (2) will have direct contact with students, or (3) have access or control of school funds, will successfully complete the background screening required by the referenced statutes and meet the standards established by the statutes. This background screening will be conducted by SBBC in advance of the 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 the 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.

2.09 **Insurance.** VENDOR shall provide the minimum insurance requirements as provided below:

- a) **GENERAL LIABILITY:** Limits not less than \$1,000,000 per occurrence for Bodily Injury/ Property Damage; \$1,000,000 General Aggregate. Limits not less than \$1,000,000 for Products/Completed Operations Aggregate.
- b) **WORKER'S COMPENSATION:** Florida Statutory limits in accordance with Chapter 440; Employer's Liability limits not less than \$100,000/\$100,000/\$500,000 (each accident/disease-each employee/disease-policy limit).

- c) **PROFESSIONAL LIABILITY:** Limits not less than \$1,000,000 per occurrence covering services provided under this Agreement.
- d) **AUTO LIABILITY:** Owned, Non-Owned and Hired Auto Liability with Bodily Injury and Property Damage limits of not less than \$1,000,000 Combined Single Limit. If VENDOR does not own any vehicles, hired and non-owned automobile liability coverage in the amount of \$1,000,000 will be accepted. In addition, an affidavit signed by the VENDOR must be furnished to SBBC indicating the following:  
VENDOR does not own any vehicles. In the event insured acquires any vehicles throughout the term of this Agreement, insured agrees to provide proof of "Any Auto" coverage effective the date of acquisition. (Fax affidavit with Certificate of Insurance to SBBC Risk Management at 866-897-0424.)
- e) **ACCEPTABILITY OF INSURANCE CARRIERS:** The insurance policies shall be issued by companies qualified to do business in the State of Florida. The insurance companies must be rated 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 Risk Management Department by Certificate of Insurance within 15 days of the date of this Agreement. All certificates (and any required documents) must be received and approved by SBBC before any work commences to permit VENDOR time to remedy any deficiencies. **FAX CERTIFICATES OF INSURANCE TO SBBC RISK MANAGEMENT AT 866-897-0424.**
- g) **REQUIRED CONDITIONS:** Liability policies must contain the following provisions. In addition, the following wording must be included on the Certificate of Insurance:  
**The School Board of Broward County, Florida, its members, officers, employees and agents are added as additional insured.**  
**All liability policies are primary of all other valid and collectable coverage maintained by The School Board of Broward County, Florida.**  
(\*\*Please include the RFP Number and Title on the Certificate of Insurance.)  
**(Certificate Holder: The School Board of Broward County, Florida 600 Southeast Third Avenue, Fort Lauderdale, Florida 33301)**
- 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 business days if required insurance is cancelled.
- i) **The School Board of Broward County, Florida reserves the right to review, reject or accept any required policies of insurance, including limits, coverage's or endorsements, herein throughout the term of this Agreement.**

### **ARTICLE 3 – GENERAL CONDITIONS**

3.01 **No Waiver of Sovereign Immunity.** Nothing herein is intended to serve as a waiver of sovereign immunity by any agency or political subdivision to which sovereign immunity may be applicable or of any rights or limits to liability existing under Section 768.28, Florida Statutes. This section shall survive the termination of all performance or obligations under

this Agreement and shall be fully binding until such time as any proceeding brought on account of this Agreement is barred by any applicable statute of limitations.

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

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

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

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

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

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

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

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

3.10 **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 transfer 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, Insert Name shall meet all applicable requirements for retaining public records. All records stored electronically must be provided to SBBC, upon request from SBBC's custodian of public records, in a format that is compatible with SBBC's information technology systems.

**IF A PARTY TO THIS AGREEMENT HAS QUESTIONS REGARDING THE APPLICATION OF CHAPTER 119, FLORIDA STATUTES, TO ITS DUTY TO PROVIDE PUBLIC RECORDS RELATING TO THE**

**AGREEMENT, CONTACT THE CUSTODIAN OF PUBLIC RECORDS AT 754-321-1900, REQUEL.BELL@BROWARDSCHOOLS.COM, RISK MANAGEMENT DEPARTMENT, PUBLIC RECORDS DIVISION, 600 SOUTHEAST THIRD AVENUE, FORT LAUDERDALE, FLORIDA 33301.**

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

3.12 **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.

3.13 **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.

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

3.15 **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.

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

3.17 **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.

3.18 **Incorporation by Reference.** Attachments A and B are attached hereto and referenced herein shall be deemed to be incorporated into this Agreement by reference.

3.19 **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.

3.20 **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.

3.21 **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.

3.22 **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.

3.23 **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.

3.24 **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.

3.25 **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.

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



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

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


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

3.28 **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.

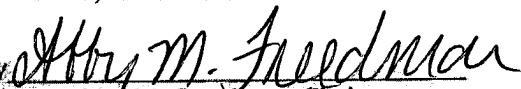
(Corporate Seal)

ATTEST:

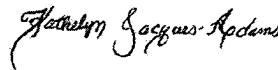
  
Robert W. Runcie, Superintendent of Schools

**FOR SBBC**

THE SCHOOL BOARD OF BROWARD  
COUNTY, FLORIDA

By   
Abby M. Freedman, Chair

Approved as to Form and Legal Content:



Digitally signed by Kathelyn Jacques-Adams, Esq.  
kathelyn.jacques-adams@gbrowardschools.com  
Reason: Edu Healthcare, LLC  
Date: 2017.05.24 09:17:55 -04'00'

Office of the General Counsel

**FOR VENDOR**

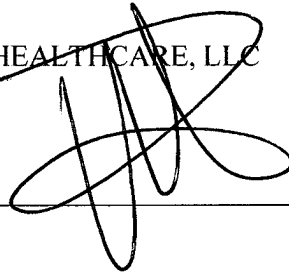
(Corporate Seal)

EDU HEALTHCARE, LLC

ATTEST:

Bernamy Nyre  
Bernamy Nyre, Secretary  
-or-

By



\_\_\_\_\_  
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 NORTH CAROLINA

COUNTY OF MECKLENBURG

The foregoing instrument was acknowledged before me this 5<sup>th</sup> day of  
MAY, 2017 by MATTHEW LEWIS of  
Name of Person  
EDU HEALTHCARE, on behalf of the corporation/agency.  
Name of Corporation or Agency

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

My Commission Expires: 08-13-17

Laura Rene  
Signature - Notary Public

(SEAL)

LAURA RENE  
Printed Name of Notary

03570  
Notary's Commission No.

SCOPE OF SERVICES

1. VENDOR shall offer services for speech-language pathologist(s) and audiologists that hold a current, active professional license in speech-language pathology or audiology from the Department of Health, Board of Speech-Language Pathology and Audiology agree to provide copies of a current active professional license and certifications in speech-language pathology and/or audiology prior to acceptance for placement.
2. VENDOR shall, throughout **Attachment A**, not to hire any individual who is currently employed part-time or full-time by SBBC as a speech-language pathologist or audiologist until the completion of the school year. VENDOR shall, throughout **Attachment A**, hold harmless any individual employed by them who elects to become employed by SBBC in the school year following the expiration date of the current Agreement, throughout **Attachment A**, school year.
3. VENDOR shall provide speech-language pathologists and audiologists whose performance shall be consistent with a professional standard of care and comply with requirements of the State of Florida Department of Health, Division of Medical Quality Assurance, and Board of Professional Regulation for speech, language and audiology requirements of other applicable local, state or federal agencies which may govern the speech-language pathologist's or audiologist's activities on behalf of SBBC.
4. VENDOR shall provide services consistent with the professional standard of care and shall comply with the ethical requirements imposed by the State of Florida Department of Professional Regulations, the Florida State Department of Education and any other federal, state or local regulatory agency.
5. All speech-language pathologists and audiologists, who shall be providing services under this Agreement, throughout **Attachment A**, must be articulate in oral and written English.
6. All speech-language pathologists and audiologists, under this Agreement, throughout **Attachment A**, shall be required to pass the screening of the Broward District Schools Police Department prior to placement of assignment as required by the School Board of Broward County, Florida. (See General Condition 7.30 of the RFP, SBBC Photo Identification Badge). All speech-language pathologists and/or audiologists must utilize the STAR system and/or sign-in/out procedures to document attendance at assigned location.
7. Speech-language pathologist(s) and audiologist(s) providing services shall follow the procedures for the referral, identification, screening, evaluation, eligibility, placement, and dismissal of students with speech-language or hearing impairments as provided in the document Special Programs and Procedures by the ESE/SS Division.
8. Speech-language pathologist(s) and audiologist(s) providing services shall follow procedures for completing required documentation for student attendance, student progress and reporting to parents, reimbursement for Medicaid funding, and other procedures as indicated by the Special Programs and Procedures document and ESE/SS Division.
9. Speech-language pathologist(s) and audiologist(s) providing services shall allow District administrative staff as well as teacher-based resource personnel to review required documentation and observe all provided services.

## SCOPE OF SERVICES

10. Speech-language pathologist(s) and audiologist(s) providing services shall submit, for approval to the school principal or designee, any written communication intended for parents and teachers.
11. Speech-language pathologist(s) and audiologist(s) shall follow all rules and procedures as contained in the employee handbooks of the individual school. Speech-language pathologist(s) and audiologist(s) shall refrain from using school equipment (such as phones, copiers, computers, etc.) for personal or commercial business during service times.
12. Speech-Language pathologist(s) and audiologist(s) shall complete such records as shall be required to document services provided, on a daily basis. VENDOR shall submit timesheets and other documentation needed to substantiate payment through the approved electronic database on an approved voucher form no later than five (5) days following the delivery of service. In order to insure timely payment VENDOR must submit accurate time sheets of service in accordance with the training they receive. These records must be submitted to the ESE/SS Division, Arthur Ashe, Jr. Campus, 1701 NW 23<sup>rd</sup> Avenue, Fort Lauderdale, Florida 33311.
13. VENDOR shall have all new providers use and submit an approved District template to log services until training takes place for the electronic system. VENDOR shall utilize the approved template until such time as they are trained in the electronic database system. Immediately following training all providers, VENDOR shall transfer the data from the district template into the Educational Database System and file the original hard copy in the student's IEP folder at the school site.
14. (SBBC) ESE/SS Division reserves the right to interview all speech-language pathologist(s) and/or audiologist(s) prior to placement. ESE/SS Division reserves the right to refuse to utilize any given speech-language pathologist(s) and/or audiologist(s) if it is in their best interest to do so.
15. VENDOR's Speech-Language Pathologist(s) must attend two (2) scheduled policies/procedures meetings, considered as part of their workday, of not less than three (3) hours as determined by the District. These meetings shall include, but are not limited to, general information on these policies and procedures of the Broward County Special Programs and Procedures, the rights of students with disabilities, and other operational procedures required to carry out the therapy program. VENDOR shall incorporate any cancelled service sessions due to meeting times into their schedule.
16. VENDOR shall, throughout **Attachment A**, execute SBBC's HIPPA Business Associate Agreement as stated in **Attachment B**.
17. VENDOR shall provide speech-language pathologist(s) and/or audiologist(s) who agree to provide therapy services throughout the District at all times and locations designated by SBBC. SBBC reserves the right to request a change in times and locations of services provided by VENDOR (consistent with the written agreement for days and hours worked), during the course of an assignment. Services shall be provided up to 7 hours per day on regular student attendance days. Services provided on employee planning days and early release days must be pre-approved in writing by an authorized representative of the ESE/SS Division. School year calendars may be viewed on the following web link:  
**<http://www.browardschools.com>. Click on the link "Calendars"**

## SCOPE OF SERVICES

18. VENDOR shall, throughout **Attachment A**, provide the requested services within ten school days of verbal/written notice of an assignment by SBBC.
19. Resumes of replacement personnel are to be submitted to the ESE/SS Division for review. All replacement personnel must have written approval by the ESE/SS Division prior to placement. All replacement personnel shall follow the procedures as stated by the ESE/SS Division. All replacement personnel must have the same credentials equivalent to the individuals whom they replace. ESE/SS Division reserves the right to interview replacement personnel prior to approval.
20. The Audiologist's services shall determine the type and degree of hearing impairment and shall implement habilitation and rehabilitation services for the student. Administers and interprets variety of tests, such as air and bone conduction, and speech reception and discrimination tests, to determine type and degree of hearing impairment, site of damage, and effects on comprehension and speech. Evaluates test results in relation to behavioral, social, educational, and medical information obtained from patients, families, teachers, speech pathologists and other professionals to determine communication problems related to hearing disability. Plans and implements provision, habilitation or rehabilitation services including hearing aid selection and orientation, counseling, auditory training, lip reading, language habilitation, speech conservation and other treatment programs developed in consultation with speech pathologists and other professionals.
21. Clinical Fellowship Year (CFY) candidates with a provisional license will be considered for a school assignment if the VENDOR agrees to provide all supervisory and support requirements for the candidate.
22. VENDOR shall insure that any interruption of services due to a therapist being "unavailable" shall be made up to the best of their ability and shall be documented in the Electronic Based System as "make-up" session.
23. VENDOR shall, throughout **Attachment A**, provide the required ELL training to all candidates assigned to a school site. Training can be provided via the VENDOR's own process or via the District's training for a minimal cost. Training must comply with the requirements of the Florida Consent Decree and the META Agreement.

**HIPPA BUSINESS ASSOCIATE AGREEMENT**

This Business Associate Agreement ("**Agreement**") is made and entered into as of this \_\_\_\_\_ day of \_\_\_\_\_, 2017 (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

**EDU HEALTHCARE, LLC**

(hereinafter referred to as "**Business Associate**"),

whose principal place of business is

7930 W. Kenton Circle #220

Huntersville, North Carolina 28269

**WHEREAS**, by virtue of some of the services that Business Associate performs for SBBC, Business Associate may be a "business associate", as the term is defined at 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 coverage subject to regulation under the Health Insurance Portability and Accountability Act of 1996 ("HIPPA"), 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 HIPPA, the Health Information Technology for Economic and Clinical Health Act of 2009 ("HITECH"), the Omnibus Rule of 2013, and the 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").

**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/or disclosure of PHI and the security of 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.

## ATTACHMENT B

- (b) “**Business Associate**” shall mean Business Associate named above and shall include all successors and assigns, affiliates, subsidiaries, and related companies.
- (c) “**Designed 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 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) “**HIPPA**” means Health Insurance Portability and Accountability Act of 1996.
- (f) “**HITECH Act**” means the Health Information Technology for Economic and Clinical Health Act of 2009.
- (g) “**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).
- (h) “**Minimum Necessary**” means the least amount of PHI needed to accomplish the intended purpose of the use or disclosure.
- (i) “**Omnibus Rule**” means the HIPPA Omnibus Rule of 2013.
- (j) “**Privacy Rule**” shall mean the Standards of Privacy of Individuals Identifiable Health Information as set forth at 45 C.F.R. Parts 160 and 164, subparts A and E.
- (k) “**Protected Health Information**” or “**PHI**” shall have the same meaning as the term “protected health information” in 45 C.F.R. §130.103 (as amended by the HITECH Act) limited to the information created or received by Business Associate from or on behalf of SBBC.
- (l) “**Required by Law**” shall have the same meaning as the term “required by law” in 45 C.F.R. §164.103.
- (m) “**Secretary**” shall mean the Secretary of the Department of Health and Human Services or his or her designee.
- (n) “**Security Rule**” shall mean the Standards for Security of ePHI as set forth 45 C.F.R. Parts 160 and 164 Subpart C.
- (o) “**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 HIPPA or HITECH Act.
- (c) Business Associate agrees to use appropriate safeguards and comply, where applicable, with the HIPPA 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 substantially the same form as Exhibit A, hereto.
- (e) Business Associate shall promptly inform SBBC of a Breach of Unsecured PHI following the first day on which Business Associate knows of such Breach or following the first day on which Business Associate should have known 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 by Federal and/or Florida law.



## **ATTACHMENT B**

- (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 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 HIPPA Rules, including the rules to extend the requirements to the agent's or subcontractor's subcontractors.
- (h) Business Associate agrees to provide access, at the requires of SBBC, and in the time and manner designated by SBBC, to PHI in a Designated Record Set that is not also in SBBC's possession, to SBBC in order for SBBC to meet the requirements under 45 C.F.R. §164.524.
- (i) Business Associate agrees to make PHI available for amendment and incorporate all amendments to PHI in a Designated Record Set that SBBC directs or agrees to pursuant to 45 C.F.R. §164.526 at the request of SBBC or an Individual 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 a request of SBBC to the Secretary, in a time and manner as designated by SBBC or the Secretary, for the 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 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.

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

- (a) Except as otherwise limited in this Agreement, Business Associate may use or disclose PHI to perform functions, activities or services for, or on behalf of, SBBC as previously agreed to by the parties (the “Service Agreement”) provided that such use or disclosure would not violate the Privacy Rule if done by SBBC.
- (b) Except as otherwise limited in 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 in 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 for 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 in 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
- (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 with ten (10) business days prior written notice to Business Associate to audit Business Associate from time-to-time to verify Business Associate compliance with the terms of this Agreement. SBBC shall be entitled and enabled to inspect the records and other information relevant to Business Associate 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 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 and confidentiality and integrity of ePHI under the Security Standards 45 C.F.R. Part 160 and 164 subpart C.

- (b) Business Associate agrees that it will ensure that agents or subcontractors agree to implement the applicable administrative, physical, and technical safeguards required to protect the confidentiality and integrity of ePHI under the Security Standards 45 C.F.R. Part 164.
- (c) Business Associate agrees to report to SBBC all Security Incidents (as defined 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 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, on behalf of SBBC, it will perform all transactions for which a standard has been developed under the EDI Rule that Business Associate could reasonably be expected to perform in the ordinary course of its functions on behalf of SBBC.

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 HIPPA.

**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 HIPPA in general, shall be deemed to amend this Agreement to incorporate said changes without further action.

**8. Amendment.**

The parties agree to take any and all actions necessary to amend this Agreement from time to time so that SBBC is in compliance with the Privacy Rule, the Security Rule, the HITECH Act, and HIPPA in general. The parties may agree to amend this Agreement from time to time in other respect that 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 as of the Effective Date and shall remain in effect until such time as SBBC exercises its right to 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 of such breach to Business Associate, 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.

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, for example, if SBBC makes illegal demands on Business Associate, 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 Covered Entity.

- (d) ***Effect of Termination.*** Except as set forth in this Section 9(d), upon termination of this Agreement for any reason, at the request of SBBC, 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. In the event that Business Associate determines that returning or destroying the PHI is infeasible, such as in the use of data aggregation, Business Associate shall provide to SBBC written notification of the conditions that make return or destruction infeasible. If 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 make the return or destruction infeasible, 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 while such equipment is on premises owned or controlled by SBBC; or the negligence of Business Associate 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 property, and injury or death of any person whether employed by Business Associate, SBBC or otherwise.

**ARTICLE 3 – GENERAL CONDITIONS****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 waiver of limits to liability or rights existing under Section 768.28, Florida Statutes.

**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 term 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.

**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, FL 33301

With a Copy to: Executive Director, ESE/SS Division  
The School Board of Broward County, Florida  
1701 NW 23<sup>rd</sup> Avenue  
Fort Lauderdale, Florida 33301  
  
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: Matthew Lewis, VP/COO  
EDU Healthcare, LLC  
P.O. Box 480384  
Charlotte, NC 28269

**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. The person signing on behalf of "Business Associate" has authority to bind "Business Associate" with respect to all provisions contained in this Agreement.

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

No failure or delay by a party hereto in exercising any right, power or remedy under this Agreement, and no course of dealing between the parties hereto, will operate as a waiver of any such right, power or remedy of the party. No single or partial exercise of any right, power or remedy under this Agreement by a party hereto, nor any abandonment or discontinuance of steps to enforce any such right, power or remedy, will preclude such party from any other or further exercise thereof or the exercise of any other right, power or remedy hereunder. The election of any remedy by a party hereto will not constitute a waiver of the right of such party to pursue other available remedies. No notice to or demand on a party not expressly required under this Agreement will entitle the party receiving such notice or demand to any other or further notice or demand in similar or other circumstances or constitute a waiver of the right of the party giving such notice or demand to any other or further action in any circumstances without such notice or demand. The terms and provisions of this Agreement may be waived, or consent for the departure there from granted, only by written document executed by the party entitled to the benefits of such terms or provisions. No such waiver or consent will be deemed to be or will constitute a waiver or consent with respect to any other terms or provisions of this Agreement, whether or not similar. Each such waiver or consent will be effective only in the specific instance and for the purpose for which it was given, and will not constitute a continuing waiver or consent.

**27. Regulatory References.**

A reference in this Agreement to a section in the Privacy Rule, the Security Rule, the HITECH Act, or HIPAA in general means the referenced section or its successor, and for which compliance is required.

**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.


**30. Interpretation.**

Any ambiguity in this Agreement shall be interpreted in a manner that permits SBBC to comply with the Privacy Rule, Security Rule, the HITECH Act, HIPPA in general and any subsequent legislation or regulations otherwise affecting Business Associates.

IN WITNESS WHEREOF, the parties have executed this Business Associate Agreement as of the Effective Date.

(Corporate Seal)

ATTEST:

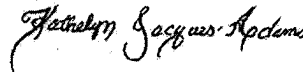
  
Robert W. Runcie, Superintendent of Schools

**FOR SBBC**

THE SCHOOL BOARD OF BROWARD  
COUNTY, FLORIDA

By   
Abby M. Freedman, Chair

Approved as to Form and Legal Content:



Digitally signed by Kathelyn Jacques-Adams, Esq.  
- kathelyn.jacques-adams@gbrowardschools.com  
Reason: Edu Healthcare, LLC  
Date: 2017.05.24 09:18:24 -04'00'

Office of the General Counsel



FOR BUSINESS ASSOCIATE

Signature

Witness

Witness

Print Name and Title

M. Matthews, VP for EDU HEALTHCARE, LLC

STATE OF NORTH CAROLINACOUNTY OF Mecklenburg

The foregoing instrument was acknowledged before me by MATTHEW LEWIS who is personally known to me or who produced DRIVERS LICENSE as identification and who did / did not first take an oath this 5<sup>th</sup> day of MAY, 2017.

My Commission Expires:

8/13/17

Signature – Notary Public

Notary's Printed Name

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 13<sup>th</sup> day of June, 2017, by and between

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

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

and

### **THE EXECU/SEARCH GROUP, LLC**

(hereinafter referred to as "VENDOR"),  
whose principal place of business is  
675 Third Avenue, 5<sup>th</sup> Floor  
New York, New York 10017

**WHEREAS**, SBBC issued a Request for Proposal identified as RFP 18-001V – Speech-Language Pathology and Audiology Services (hereinafter referred to as "RFP"), dated December 1, 2016 and amended by Addendum No. 4, dated January 17, 2017, Addendum No. 3, dated January 13, 2017 Addendum No. 2, dated December 19, 2016, and Addendum No. 1, dated December 9, 2016 all of which are incorporated by reference herein, for the purpose of receiving proposals for speech-language pathology and audiology services; and

**WHEREAS**, VENDOR offered a proposal dated February 2, 2017 (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 3.06 of this Agreement, the term of this Agreement shall commence on **July 1, 2017** and conclude on **June 30, 2020**. The term of the Agreement may, by mutual agreement between SBBC and VENDOR be extended for two additional one-year periods and, if needed, 180 days beyond the expiration date of the renewal period. SBBC's Procurement & Warehousing Services Department, will, if considering renewing, request a letter consenting to renewal from VENDOR, prior to the end of the term. Any renewal period shall be approved by an Amendment to this Agreement executed by both parties.

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

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

First: This Agreement, then;  
Second: Addendum No. 4, then;  
Third: Addendum No. 3, then;  
Fourth: Addendum No. 2, then;  
Fifth: Addendum No. 1, then;  
Sixth: RFP 18-001V – Speech-Language Pathology and Audiology Services, then;  
Seventh: Proposal submitted in response to the RFP by VENDOR.

2.04 **Cost of Services.** SBBC shall pay VENDOR for cost of services satisfactorily rendered for Speech-Language Pathologist at \$57.50/hr. and Audiologist at \$57.50/hr. Costs shall not exceed the amount as stated on the Purchase Order. VENDOR may offer SBBC a special educational discount for pricing and reduce the cost of services during the term of the Agreement. VENDOR may invoice SBBC at an hourly rate less than their original proposal price.

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

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

VENDOR shall enter into SBBC’s HIPAA Business Associate Agreement (“BAA”) substantially in the form attached hereto and incorporated herein as **Attachment B**.

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

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

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

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

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

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

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

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

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

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

To SBBC: Superintendent of Schools  
The School Board of Broward County, Florida  
600 Southeast Third Avenue  
Fort Lauderdale, Florida 33301

With a Copy to: Executive Director, ESE/SS Division  
The School Board of Broward County, Florida  
1701 NW 23<sup>rd</sup> Avenue  
Fort Lauderdale, Florida 33301

To VENDOR: The Execu/Search Group, LLC  
675 Third Avenue, 5<sup>th</sup> Floor  
New York, NY 10017

With Copy to: Jason Niad, Senior Managing Director  
The Execu/Search Group, LL  
600 Corporate Drive, Suite 310  
Fort Lauderdale, FL 33334

2.08 **Background Screening.** Vendor agrees to comply with all requirements of Sections 1012.32 and 1012.465, Florida Statutes, and all of its personnel who (1) are to be permitted access to school grounds when students are present, (2) will have direct contact with students, or (3) have access or control of school funds, will successfully complete the background screening required by the referenced statutes and meet the standards established by the statutes. This background screening will be conducted by SBBC in advance of the 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 the 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.

2.09 **Insurance.** VENDOR shall provide the minimum insurance requirements as provided below:

- a) **GENERAL LIABILITY:** Limits not less than \$1,000,000 per occurrence for Bodily Injury/ Property Damage; \$1,000,000 General Aggregate. Limits not less than \$1,000,000 for Products/Completed Operations Aggregate.

- b) **WORKER'S COMPENSATION:** Florida Statutory limits in accordance with Chapter 440; Employer's Liability limits not less than \$100,000/\$100,000/\$500,000 (each accident/disease-each employee/disease-policy limit).
- c) **PROFESSIONAL LIABILITY:** Limits not less than \$1,000,000 per occurrence covering services provided under this Agreement.
- d) **AUTO LIABILITY:** Owned, Non-Owned and Hired Auto Liability with Bodily Injury and Property Damage limits of not less than \$1,000,000 Combined Single Limit. If VENDOR does not own any vehicles, hired and non-owned automobile liability coverage in the amount of \$1,000,000 will be accepted. In addition, an affidavit signed by the VENDOR must be furnished to SBBC indicating the following:  
VENDOR does not own any vehicles. In the event insured acquires any vehicles throughout the term of this Agreement, insured agrees to provide proof of "Any Auto" coverage effective the date of acquisition. (Fax affidavit with Certificate of Insurance to SBBC Risk Management at 866-897-0424.)
- e) **ACCEPTABILITY OF INSURANCE CARRIERS:** The insurance policies shall be issued by companies qualified to do business in the State of Florida. The insurance companies must be rated 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 Risk Management Department by Certificate of Insurance within 15 days of the date of this Agreement. All certificates (and any required documents) must be received and approved by SBBC before any work commences to permit VENDOR time to remedy any deficiencies. **FAX CERTIFICATES OF INSURANCE TO SBBC RISK MANAGEMENT AT 866-897-0424.**
- g) **REQUIRED CONDITIONS:** Liability policies must contain the following provisions. In addition, the following wording must be included on the Certificate of Insurance:  
**The School Board of Broward County, Florida, its members, officers, employees and agents are added as additional insured.**  
**All liability policies are primary of all other valid and collectable coverage maintained by The School Board of Broward County, Florida.**  
(\*Please include the RFP Number and Title on the Certificate of Insurance.)  
**(Certificate Holder: The School Board of Broward County, Florida 600 Southeast Third Avenue, Fort Lauderdale, Florida 33301)**
- 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 business days if required insurance is cancelled.
- i) **The School Board of Broward County, Florida reserves the right to review, reject or accept any required policies of insurance, including limits, coverage's or endorsements, herein throughout the term of this Agreement.**

### **ARTICLE 3 – GENERAL CONDITIONS**

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

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

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

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

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

3.06 **Termination.** This Agreement may be canceled with or without cause by SBBC during the term hereof upon thirty (30) days written notice to the other parties of its desire to terminate this Agreement. SBBC shall have no liability for any property left on SBBC's property by any party to this Agreement after the termination of this Agreement. Any party



contracting with SBBC under this Agreement agrees that any of its property placed upon SBBC's facilities pursuant to this Agreement shall be removed within ten (10) business days following the termination, conclusion or cancellation of this Agreement and that any such property remaining upon SBBC's facilities after that time shall be deemed to be abandoned, title to such property shall pass to SBBC, and SBBC may use or dispose of such property as SBBC deems fit and appropriate.

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

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

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

3.10 **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 transfer 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, Insert Name shall meet all applicable requirements for retaining public records. All records stored electronically must be provided to SBBC, upon request

from SBBC's custodian of public records, in a format that is compatible with SBBC's information technology systems.

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

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

3.12 **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.

3.13 **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. VENDOR agrees and admits that the state courts of the Seventeenth Judicial Circuit of Broward County, Florida and the Southern District of Florida shall have jurisdiction over VENDOR.

3.14 **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.

3.15 **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.

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

3.17 **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.

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

3.19 **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.

3.20 **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.

3.21 **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.

3.22 **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.

3.23 **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.

3.24 **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.

3.25 **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.

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

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

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

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

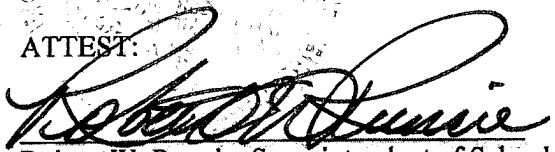
3.28 **Authority.** Each person signing this Agreement on behalf of either party individually warrants that he or she has full legal power to execute this Agreement on behalf of the party for whom he or she is signing, and to bind and obligate such party with respect to all provisions contained in this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

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

**THIS AREA IS INTENTIONALLY LEFT BLANK**


(Corporate Seal)

ATTEST:

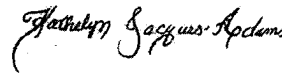
  
Robert W. Runcie, Superintendent of Schools

**FOR SBBC**

THE SCHOOL BOARD OF BROWARD  
COUNTY, FLORIDA

By   
Abby M. Freedman, Chair

Approved as to Form and Legal Content:



Digitally signed by Kathelyn Jacques-Adams,  
Esq. - kathelyn.jacques-  
adams@gbrowardschools.com  
Reason: The Execu/Search Group, LLC  
Date: 2017.05.24 09:06:04 -04'00'

Office of the General Counsel

**FOR VENDOR**

(Corporate Seal)

THE EXECU/SEARCH GROUP, LLC

ATTEST:

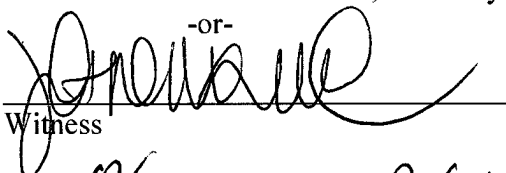
By



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

-or-

Witness



Witness

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

STATE OF Florida

COUNTY OF Broward

The foregoing instrument was acknowledged before me this 1st day of May, 2017 by Jason Nisch of

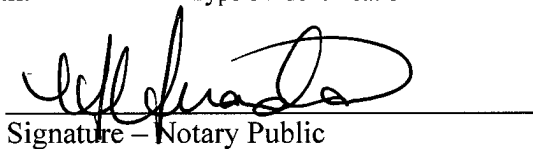
Name of Person

THE EXECU/SEARCH GROUP, LLC, on behalf of the corporation/agency.

Name of Corporation or Agency

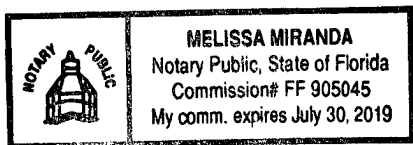
He/She is personally known to me or produced #1 Driver License as  
- identification and did/did not first take an oath. Type of Identification

My Commission Expires:

  
Signature - Notary Public

Melissa Miranda  
Printed Name of Notary

(SEAL)



July 30 2019  
Notary's Commission No.

## SCOPE OF SERVICES

1. VENDOR shall offer services for speech-language pathologist(s) and audiologists that hold a current, active professional license in speech-language pathology or audiology from the Department of Health, Board of Speech-Language Pathology and Audiology agree to provide copies of a current active professional license and certifications in speech-language pathology and/or audiology prior to acceptance for placement.
2. VENDOR shall, throughout **Attachment A**, not to hire any individual who is currently employed part-time or full-time by SBBC as a speech-language pathologist or audiologist until the completion of the school year. VENDOR shall, throughout **Attachment A**, hold harmless any individual employed by them who elects to become employed by SBBC in the school year following the expiration date of the current Agreement, throughout **Attachment A**, school year.
3. VENDOR shall provide speech-language pathologists and audiologists whose performance shall be consistent with a professional standard of care and comply with requirements of the State of Florida Department of Health, Division of Medical Quality Assurance, and Board of Professional Regulation for speech, language and audiology requirements of other applicable local, state or federal agencies which may govern the speech-language pathologist's or audiologist's activities on behalf of SBBC.
4. VENDOR shall provide services consistent with the professional standard of care and shall comply with the ethical requirements imposed by the State of Florida Department of Professional Regulations, the Florida State Department of Education and any other federal, state or local regulatory agency.
5. All speech-language pathologists and audiologists, who shall be providing services under this Agreement, throughout **Attachment A**, must be articulate in oral and written English.
6. All speech-language pathologists and audiologists, under this Agreement, throughout **Attachment A**, shall be required to pass the screening of the Broward District Schools Police Department prior to placement of assignment as required by the School Board of Broward County, Florida. (See General Condition 7.30 of the RFP, SBBC Photo Identification Badge). All speech-language pathologists and/or audiologists must utilize the STAR system and/or sign-in/out procedures to document attendance at assigned location.
7. Speech-language pathologist(s) and audiologist(s) providing services shall follow the procedures for the referral, identification, screening, evaluation, eligibility, placement, and dismissal of students with speech-language or hearing impairments as provided in the document Special Programs and Procedures by the ESE/SS Division.
8. Speech-language pathologist(s) and audiologist(s) providing services shall follow procedures for completing required documentation for student attendance, student progress and reporting to parents, reimbursement for Medicaid funding, and other procedures as indicated by the Special Programs and Procedures document and ESE/SS Division.
9. Speech-language pathologist(s) and audiologist(s) providing services shall allow District administrative staff as well as teacher-based resource personnel to review required documentation and observe all provided services.

## SCOPE OF SERVICES

10. Speech-language pathologist(s) and audiologist(s) providing services shall submit, for approval to the school principal or designee, any written communication intended for parents and teachers.
11. Speech-language pathologist(s) and audiologist(s) shall follow all rules and procedures as contained in the employee handbooks of the individual school. Speech-language pathologist(s) and audiologist(s) shall refrain from using school equipment (such as phones, copiers, computers, etc.) for personal or commercial business during service times.
12. Speech-Language pathologist(s) and audiologist(s) shall complete such records as shall be required to document services provided, on a daily basis. VENDOR shall submit timesheets and other documentation needed to substantiate payment through the approved electronic database on an approved voucher form no later than five (5) days following the delivery of service. In order to insure timely payment VENDOR must submit accurate time sheets of service in accordance with the training they receive. These records must be submitted to the ESE/SS Division, Arthur Ashe, Jr. Campus, 1701 NW 23<sup>rd</sup> Avenue, Fort Lauderdale, Florida 33311.
13. VENDOR shall have all new providers use and submit an approved District template to log services until training takes place for the electronic system. VENDOR shall utilize the approved template until such time as they are trained in the electronic database system. Immediately following training all providers, VENDOR shall transfer the data from the district template into the Educational Database System and file the original hard copy in the student's IEP folder at the school site.
14. (SBBC) ESE/SS Division reserves the right to interview all speech-language pathologist(s) and/or audiologist(s) prior to placement. ESE/SS Division reserves the right to refuse to utilize any given speech-language pathologist(s) and/or audiologist(s) if it is in their best interest to do so.
15. VENDOR's Speech-Language Pathologist(s) must attend two (2) scheduled policies/procedures meetings, considered as part of their workday, of not less than three (3) hours as determined by the District. These meetings shall include, but are not limited to, general information on these policies and procedures of the Broward County Special Programs and Procedures, the rights of students with disabilities, and other operational procedures required to carry out the therapy program. VENDOR shall incorporate any cancelled service sessions due to meeting times into their schedule.
16. VENDOR shall, throughout **Attachment A**, execute SBBC's HIPPA Business Associate Agreement as stated in **Attachment B**.
17. VENDOR shall provide speech-language pathologist(s) and/or audiologist(s) who agree to provide therapy services throughout the District at all times and locations designated by SBBC. SBBC reserves the right to request a change in times and locations of services provided by VENDOR (consistent with the written agreement for days and hours worked), during the course of an assignment. Services shall be provided up to 7 hours per day on regular student attendance days. Services provided on employee planning days and early release days must be pre-approved in writing by an authorized representative of the ESE/SS Division. School year calendars may be viewed on the following web link:  
**<http://www.browardschools.com>. Click on the link "Calendars"**



## SCOPE OF SERVICES

18. VENDOR shall, throughout **Attachment A**, provide the requested services within ten school days of verbal/written notice of an assignment by SBBC.
19. Resumes of replacement personnel are to be submitted to the ESE/SS Division for review. All replacement personnel must have written approval by the ESE/SS Division prior to placement. All replacement personnel shall follow the procedures as stated by the ESE/SS Division. All replacement personnel must have the same credentials equivalent to the individuals whom they replace. ESE/SS Division reserves the right to interview replacement personnel prior to approval.
20. The Audiologist's services shall determine the type and degree of hearing impairment and shall implement habilitation and rehabilitation services for the student. Administers and interprets variety of tests, such as air and bone conduction, and speech reception and discrimination tests, to determine type and degree of hearing impairment, site of damage, and effects on comprehension and speech. Evaluates test results in relation to behavioral, social, educational, and medical information obtained from patients, families, teachers, speech pathologists and other professionals to determine communication problems related to hearing disability. Plans and implements prevision, habilitation or rehabilitation services including hearing aid selection and orientation, counseling, auditory training, lip reading, language habilitation, speech conservation and other treatment programs developed in consultation with speech pathologists and other professionals.
21. Clinical Fellowship Year (CFY) candidates with a provisional license will be considered for a school assignment if the VENDOR agrees to provide all supervisory and support requirements for the candidate.
22. VENDOR shall insure that any interruption of services due to a therapist being "unavailable" shall be made up to the best of their ability and shall be documented in the Electronic Based System as "make-up" session.
23. VENDOR shall, throughout **Attachment A**, provide the required ELL training to all candidates assigned to a school site. Training can be provided via the VENDOR's own process or via the District's training for a minimal cost. Training must comply with the requirements of the Florida Consent Decree and the META Agreement.

**HIPAA BUSINESS ASSOCIATE AGREEMENT**

This Business Associate Agreement ("**Agreement**") is made and entered into as of this \_\_\_\_\_ day of \_\_\_\_\_, 2017 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

**THE EXECU/SEARCH GROUP, LLC**

(hereinafter referred to as "**Business Associate**"),

whose principal place of business is

675 Third Avenue, 5<sup>th</sup> Floor

New York, New York 10017

**WHEREAS**, by virtue of some of the services that Business Associate performs for SBBC, Business Associate may be a "business associate", as the term is defined at 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 coverage 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 the 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").

**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/or disclosure of PHI and the security of 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.

- (b) “**Business Associate**” shall mean Business Associate named above and shall include all successors and assigns, affiliates, subsidiaries, and related companies.
- (c) “**Designed 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 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) “**HIPAA**” means Health Insurance Portability and Accountability Act of 1996.
- (f) “**HITECH Act**” means the Health Information Technology for Economic and Clinical Health Act of 2009.
- (g) “**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).
- (h) “**Minimum Necessary**” means the least amount of PHI needed to accomplish the intended purpose of the use or disclosure.
- (i) “**Omnibus Rule**” means the HIPAA Omnibus Rule of 2013.
- (j) “**Privacy Rule**” shall mean the Standards of Privacy of Individuals Identifiable Health Information as set forth at 45 C.F.R. Parts 160 and 164, subparts A and E.
- (k) “**Protected Health Information**” or “**PHI**” shall have the same meaning as the term “protected health information” in 45 C.F.R. §130.103 (as amended by the HITECH Act) limited to the information created or received by Business Associate from or on behalf of SBBC.
- (l) “**Required by Law**” shall have the same meaning as the term “required by law” in 45 C.F.R. §164.103.
- (m) “**Secretary**” shall mean the Secretary of the Department of Health and Human Services or his or her designee.
- (n) “**Security Rule**” shall mean the Standards for Security of ePHI as set forth 45 C.F.R. Parts 160 and 164 Subpart C.
- (o) “**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 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 substantially the same form as Exhibit A, hereto.
- (e) Business Associate shall promptly inform SBBC of a Breach of Unsecured PHI following the first day on which Business Associate knows of such Breach or following the first day on which Business Associate should have known 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 by Federal and/or Florida law.

## ATTACHMENT B

- (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 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 access, at the requires of SBBC, and in the time and manner designated by SBBC, to PHI in a Designated Record Set that is not also in SBBC's possession, to SBBC in order for SBBC to meet the requirements under 45 C.F.R. §164.524.
- (i) Business Associate agrees to make PHI available for amendment and incorporate all amendments to PHI in a Designated Record Set that SBBC directs or agrees to pursuant to 45 C.F.R. §164.526 at the request of SBBC or an Individual 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 a request of SBBC to the Secretary, in a time and manner as designated by SBBC or the Secretary, for the 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 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.

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

- (a) Except as otherwise limited in this Agreement, Business Associate may use or disclose PHI to perform functions, activities or services for, or on behalf of, SBBC as previously agreed to by the parties (the “Service Agreement”) provided that such use or disclosure would not violate the Privacy Rule if done by SBBC.
- (b) Except as otherwise limited in 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 in 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 for 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 in 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
- (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 with ten (10) business days prior written notice to Business Associate to audit Business Associate from time-to-time to verify Business Associate compliance with the terms of this Agreement. SBBC shall be entitled and enabled to inspect the records and other information relevant to Business Associate 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 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 and confidentiality and integrity of ePHI under the Security Standards 45 C.F.R. Part 160 and 164 subpart C.

- (b) Business Associate agrees that it will ensure that agents or subcontractors agree to implement the applicable administrative, physical, and technical safeguards required to protect the confidentiality and integrity of ePHI under the Security Standards 45 C.F.R. Part 164.
- (c) Business Associate agrees to report to SBBC all Security Incidents (as defined 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 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, on behalf of SBBC, it will perform all transactions for which a standard has been developed under the EDI Rule that Business Associate could reasonably be expected to perform in the ordinary course of its functions on behalf of SBBC.

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 in general, shall be deemed to amend this Agreement to incorporate said changes without further action.

**8. Amendment.**

The parties agree to take any and all actions necessary to amend this Agreement from time to time so that SBBC is in compliance with the Privacy Rule, the Security Rule, the HITECH Act, and HIPAA in general. The parties may agree to amend this Agreement from time to time in other respect that 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 as of the Effective Date and shall remain in effect until such time as SBBC exercises its right to 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 of such breach to Business Associate, 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.

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, for example, if SBBC makes illegal demands on Business Associate, 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 Covered Entity.

- (d) ***Effect of Termination.*** Except as set forth in this Section 9(d), upon termination of this Agreement for any reason, at the request of SBBC, 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. In the event that Business Associate determines that returning or destroying the PHI is infeasible, such as in the use of data aggregation, Business Associate shall provide to SBBC written notification of the conditions that make return or destruction infeasible. If 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 make the return or destruction infeasible, 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 while such equipment is on premises owned or controlled by SBBC; or the negligence of Business Associate 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 property, and injury or death of any person whether employed by Business Associate, SBBC or otherwise.



**ARTICLE 3 – GENERAL CONDITIONS****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 waiver of limits to liability or rights existing under Section 768.28, Florida Statutes.

**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 term 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.

**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, FL 33301

With a Copy to: Executive Director, ESE/SS Division  
The School Board of Broward County, Florida  
1701 NW 23<sup>rd</sup> Avenue  
Fort Lauderdale, Florida 33301

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:                   The Execu/Search Group, LLC  
675 Third Avenue, 5<sup>th</sup> Floor  
New York, NY 10017

With a Copy to:                         Jason Niad, Senior Managing Director  
The Execu/Search Group, LL  
600 Corporate Drive, Suite 310  
Fort Lauderdale, FL 33334

**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. The person signing on behalf of "Business Associate" has authority to bind "Business Associate" with respect to all provisions contained in this Agreement.

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

No failure or delay by a party hereto in exercising any right, power or remedy under this Agreement, and no course of dealing between the parties hereto, will operate as a waiver of any such right, power or remedy of the party. No single or partial exercise of any right, power or remedy under this Agreement by a party hereto, nor any abandonment or discontinuance of steps to enforce any such right, power or remedy, will preclude such party from any other or further exercise thereof or the exercise of any other right, power or remedy hereunder. The election of any remedy by a party hereto will not constitute a waiver of the right of such party to pursue other available remedies. No notice to or demand on a party not expressly required under this Agreement will entitle the party receiving such notice or demand to any other or further notice or demand in similar or other circumstances or constitute a waiver of the right of the party giving such notice or demand to any other or further action in any circumstances without such notice or demand. The terms and provisions of this Agreement may be waived, or consent for the departure there from granted, only by written document executed by the party entitled to the benefits of such terms or provisions. No such waiver or consent will be deemed to be or will constitute a waiver or consent with respect to any other terms or provisions of this Agreement, whether or not similar. Each such waiver or consent will be effective only in the specific instance and for the purpose for which it was given, and will not constitute a continuing waiver or consent.

**27. Regulatory References.**

A reference in this Agreement to a section in the Privacy Rule, the Security Rule, the HITECH Act, or HIPAA in general means the referenced section or its successor, and for which compliance is required.

**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.

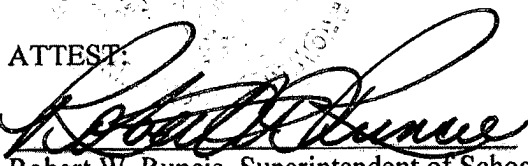
**30. Interpretation.**

Any ambiguity in this Agreement shall be interpreted in a manner that permits SBBC to comply with the Privacy Rule, Security Rule, the HITECH Act, HIPAA in general and any subsequent legislation or regulations otherwise affecting Business Associates.

IN WITNESS WHEREOF, the parties have executed this Business Associate Agreement as of the Effective Date.

(Corporate Seal)

ATTEST:

  
Robert W. Runcie, Superintendent of Schools

**FOR SBBC**

THE SCHOOL BOARD OF BROWARD  
COUNTY, FLORIDA

By   
Abby M. Freedman, Chair

Approved as to Form and Legal Content:



Digitally signed by Kathelyn Jacques-Adams, Esq. -  
kathelyn.jacques-adams@gbrowardschools.com  
Reason: The Execu/Search Group, LLC  
Date: 2017.05.24 09:06:42 -04'00'

Office of the General Counsel

FOR BUSINESS ASSOCIATE

Signature \_\_\_\_\_  
 Witness \_\_\_\_\_  
 Witness Delia Zoya Delaeri

Jason Nied - Senior Managing Director  
 Print Name and Title

STATE OF Florida  
 COUNTY OF Broward

The foregoing instrument was acknowledged before me by Jason Nied who is personally known to me or who produced FL Driver License as identification and who did / did not first take an oath this 1st day of May, 2017.

My Commission Expires:



Signature \_\_\_\_\_  
 Signature - Notary Public

Melissa Miranda  
 Notary's Printed Name

FF905045  
 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 13<sup>th</sup> day of June, 2017, 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 18-001V – Speech-Language Pathology and Audiology Services (hereinafter referred to as "RFP"), dated December 1, 2016 and amended by Addendum No. 4, dated January 17, 2017, Addendum No. 3, dated January 13, 2017 Addendum No. 2, dated December 19, 2016, and Addendum No. 1, dated December 9, 2016 all of which are incorporated by reference herein, for the purpose of receiving proposals for speech-language pathology and audiology services; and

**WHEREAS**, VENDOR offered a proposal dated January 30, 2017 (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 3.06 of this Agreement, the term of this Agreement shall commence on **July 1, 2017** and conclude on **June 30, 2020**. The term of the Agreement may, by mutual agreement between SBBC and VENDOR be extended for two additional one-year periods and, if needed, 180 days beyond the expiration date of the renewal period. SBBC's Procurement & Warehousing Services Department, will, if considering renewing, request a letter consenting to renewal from VENDOR, prior to the end of the term. Any renewal period shall be approved by an Amendment to this Agreement executed by both parties

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

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

First: This Agreement, then;  
Second: Addendum No. 4, then;  
Third: Addendum No. 3, then;  
Fourth: Addendum No. 2, then;  
Fifth: Addendum No. 1, then;  
Sixth: RFP 18-001V – Speech-Language Pathology and Audiology Services, then;  
Seventh: Proposal submitted in response to the RFP by VENDOR.

2.04 **Cost of Services.** SBBC shall pay VENDOR for cost of services satisfactorily rendered for Speech-Language Pathologist at \$59.00/hr. and Audiologist at \$59.00/hr. Costs shall not exceed the amount as stated on the Purchase Order. VENDOR may offer SBBC a special educational discount for pricing and reduce the cost of services during the term of the Agreement. VENDOR may invoice SBBC at an hourly rate less than their original proposal price.

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

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

VENDOR shall enter into SBBC’s HIPAA Business Associate Agreement (“BAA”) substantially in the form attached hereto and incorporated herein as **Attachment B.**

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



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

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

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

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

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

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

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

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

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

To SBBC: Superintendent of Schools  
The School Board of Broward County, Florida  
600 Southeast Third Avenue  
Fort Lauderdale, Florida 33301

With a Copy to: Executive Director, ESE/SS Division  
The School Board of Broward County, Florida  
1701 NW 23<sup>rd</sup> Avenue  
Fort Lauderdale, Florida 33301

To VENDOR: Invo Healthcare Associates, LLC  
1780 Kendarbren Drive  
Jamison, Pennsylvania 18929

2.08 **Background Screening.** Vendor agrees to comply with all requirements of Sections 1012.32 and 1012.465, Florida Statutes, and all of its personnel who (1) are to be permitted access to school grounds when students are present, (2) will have direct contact with students, or (3) have access or control of school funds, will successfully complete the background screening required by the referenced statutes and meet the standards established by the statutes. This background screening will be conducted by SBBC in advance of the 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 the 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.

2.09 **Insurance.** VENDOR shall provide the minimum insurance requirements as provided below:

- a) **GENERAL LIABILITY:** Limits not less than \$1,000,000 per occurrence for Bodily Injury/ Property Damage; \$1,000,000 General Aggregate. Limits not less than \$1,000,000 for Products/Completed Operations Aggregate.
- b) **WORKER'S COMPENSATION:** Florida Statutory limits in accordance with Chapter 440; Employer's Liability limits not less than \$100,000/\$100,000/\$500,000 (each accident/disease-each employee/disease-policy limit).
- c) **PROFESSIONAL LIABILITY:** Limits not less than \$1,000,000 per occurrence covering services provided under this Agreement.

- d) **AUTO LIABILITY:** Owned, Non-Owned and Hired Auto Liability with Bodily Injury and Property Damage limits of not less than \$1,000,000 Combined Single Limit. If VENDOR does not own any vehicles, hired and non-owned automobile liability coverage in the amount of \$1,000,000 will be accepted. In addition, an affidavit signed by the VENDOR must be furnished to SBBC indicating the following:  
VENDOR does not own any vehicles. In the event insured acquires any vehicles throughout the term of this Agreement, insured agrees to provide proof of "Any Auto" coverage effective the date of acquisition. (Fax affidavit with Certificate of Insurance to SBBC Risk Management at 866-897-0424.)
- e) **ACCEPTABILITY OF INSURANCE CARRIERS:** The insurance policies shall be issued by companies qualified to do business in the State of Florida. The insurance companies must be rated 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 Risk Management Department by Certificate of Insurance within 15 days of the date of this Agreement. All certificates (and any required documents) must be received and approved by SBBC before any work commences to permit VENDOR time to remedy any deficiencies. **FAX CERTIFICATES OF INSURANCE TO SBBC RISK MANAGEMENT AT 866-897-0424.**
- g) **REQUIRED CONDITIONS:** Liability policies must contain the following provisions. In addition, the following wording must be included on the Certificate of Insurance:  
**The School Board of Broward County, Florida, its members, officers, employees and agents are added as additional insured.**  
**All liability policies are primary of all other valid and collectable coverage maintained by The School Board of Broward County, Florida.**  
(\*Please include the RFP Number and Title on the Certificate of Insurance.)  
(Certificate Holder: The School Board of Broward County, Florida 600 Southeast Third Avenue, Fort Lauderdale, Florida 33301)
- 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 business days if required insurance is cancelled.
- i) **The School Board of Broward County, Florida reserves the right to review, reject or accept any required policies of insurance, including limits, coverage's or endorsements, herein throughout the term of this Agreement.**

### **ARTICLE 3 – GENERAL CONDITIONS**

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

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

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

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

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

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

3.07 **Default.** The parties agree that, in the event that either party is in default of its obligations under this Agreement, the non-defaulting party shall provide to the defaulting party (30) days written notice to cure the default. However, in the event said default cannot be cured

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

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

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

3.10 **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 transfer 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, Insert Name shall meet all applicable requirements for retaining public records. All records stored electronically must be provided to SBBC, upon request from SBBC's custodian of public records, in a format that is compatible with SBBC's information technology systems.

**IF A PARTY TO THIS AGREEMENT HAS QUESTIONS REGARDING THE APPLICATION OF CHAPTER 119, FLORIDA STATUTES, TO ITS DUTY TO PROVIDE PUBLIC RECORDS RELATING TO THE AGREEMENT, CONTACT THE CUSTODIAN OF PUBLIC RECORDS AT 754-321-1900, REQUEL.BELL@BROWARDSCHOOLS.COM, RISK**

**MANAGEMENT DEPARTMENT, PUBLIC RECORDS DIVISION, 600  
SOUTHEAST THIRD AVENUE, FORT LAUDERDALE, FLORIDA 33301.**

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

3.12 **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.

3.13 **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.

3.14 **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.

3.15 **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.

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

3.17 **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.

3.18 **Incorporation by Reference.** **Attachments A and B** are attached hereto and referenced herein shall be deemed to be incorporated into this Agreement by reference.

3.19 **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.

3.20 **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.

3.21 **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.

3.22 **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.

3.23 **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.

3.24 **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.

3.25 **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.

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

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

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

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

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

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

**FOR SBBC**

(Corporate Seal)

THE SCHOOL BOARD OF BROWARD  
COUNTY, FLORIDA

By Abby M. Freedman  
Abby M. Freedman, Chair

ATTEST:

Robert W. Runcie  
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@browardschools.com  
Reason: Invo Healthcare Associates, LLC  
Date: 2017.05.24 08:29:15 -04'00'

Office of the General Counsel

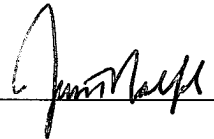


**FOR VENDOR**

(Corporate Seal)


INVO HEALTHCARE ASSOCIATES, LLC

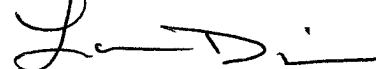
ATTEST:

By 

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

-or-

Witness 

Witness 

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

STATE OF Pennsylvania

COUNTY OF Bucks

The foregoing instrument was acknowledged before me this 27 day of April, 20 17 by Jason T. Ralph of Invo Healthcare Associates, on behalf of the corporation/agency.  
Name of Person  
Name of Corporation or Agency

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

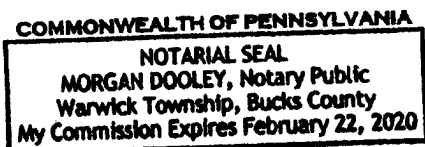
My Commission Expires:

  
Signature of Notary Public

(SEAL)

Morgan Dooley  
Printed Name of Notary

1239982  
Notary's Commission No.



## SCOPE OF SERVICES

1. VENDOR shall offer services for speech-language pathologist(s) and audiologists that hold a current, active professional license in speech-language pathology or audiology from the Department of Health, Board of Speech-Language Pathology and Audiology agree to provide copies of a current active professional license and certifications in speech-language pathology and/or audiology prior to acceptance for placement.
2. VENDOR shall, throughout **Attachment A**, not to hire any individual who is currently employed part-time or full-time by SBBC as a speech-language pathologist or audiologist until the completion of the school year. VENDOR shall, throughout **Attachment A**, hold harmless any individual employed by them who elects to become employed by SBBC in the school year following the expiration date of the Agreement, throughout **Attachment A**, contract school year.
3. VENDOR shall provide speech-language pathologists and audiologists whose performance shall be consistent with a professional standard of care and comply with requirements of the State of Florida Department of Health, Division of Medical Quality Assurance, and Board of Professional Regulation for speech, language and audiology requirements of other applicable local, state or federal agencies which may govern the speech-language pathologist's or audiologist's activities on behalf of SBBC.
4. VENDOR shall provide services consistent with the professional standard of care and shall comply with the ethical requirements imposed by the State of Florida Department of Professional Regulations, the Florida State Department of Education and any other federal, state or local regulatory agency.
5. All speech-language pathologists and audiologists, who shall be providing services under this Agreement, throughout **Attachment A**, must be articulate in oral and written English.
6. All speech-language pathologists and audiologists, under this Agreement, throughout **Attachment A**, shall be required to pass the screening of the Broward District Schools Police Department prior to placement of assignment as required by the School Board of Broward County, Florida. (See General Condition 7.30 of the RFP, SBBC Photo Identification Badge). All speech-language pathologists and/or audiologists must utilize the STAR system and/or sign-in/out procedures to document attendance at assigned location.
7. Speech-language pathologist(s) and audiologist(s) providing services shall follow the procedures for the referral, identification, screening, evaluation, eligibility, placement, and dismissal of students with speech-language or hearing impairments as provided in the document Special Programs and Procedures by the ESE/SS Division.
8. Speech-language pathologist(s) and audiologist(s) providing services shall follow procedures for completing required documentation for student attendance, student progress and reporting to parents, reimbursement for Medicaid funding, and other procedures as indicated by the Special Programs and Procedures document and ESE/SS Division.
9. Speech-language pathologist(s) and audiologist(s) providing services shall allow District administrative staff as well as teacher-based resource personnel to review required documentation and observe all provided services.

## SCOPE OF SERVICES

10. Speech-language pathologist(s) and audiologist(s) providing services shall submit, for approval to the school principal or designee, any written communication intended for parents and teachers.
11. Speech-language pathologist(s) and audiologist(s) shall follow all rules and procedures as contained in the employee handbooks of the individual school. Speech-language pathologist(s) and audiologist(s) shall refrain from using school equipment (such as phones, copiers, computers, etc.) for personal or commercial business during service times.
12. Speech-Language pathologist(s) and audiologist(s) shall complete such records as shall be required to document services provided, on a daily basis. VENDOR shall submit timesheets and other documentation needed to substantiate payment through the approved electronic database on an approved voucher form no later than five (5) days following the delivery of service. In order to insure timely payment VENDOR must submit accurate time sheets of service in accordance with the training they receive. These records must be submitted to the ESE/SS Division, Arthur Ashe, Jr. Campus, 1701 NW 23<sup>rd</sup> Avenue, Fort Lauderdale, Florida 33311.
13. VENDOR shall have all new providers use and submit an approved District template to log services until training takes place for the electronic system. VENDOR shall utilize the approved template until such time as they are trained in the electronic database system. Immediately following training all providers, VENDOR shall transfer the data from the district template into the Educational Database System and file the original hard copy in the student's IEP folder at the school site.
14. (SBBC) ESE/SS Division reserves the right to interview all speech-language pathologist(s) and/or audiologist(s) prior to placement. ESE/SS Division reserves the right to refuse to utilize any given speech-language pathologist(s) and/or audiologist(s) if it is in their best interest to do so.
15. VENDOR's Speech-Language Pathologist(s) must attend two (2) scheduled policies/procedures meetings, considered as part of their workday, of not less than three (3) hours as determined by the District. These meetings shall include, but are not limited to, general information on these policies and procedures of the Broward County Special Programs and Procedures, the rights of students with disabilities, and other operational procedures required to carry out the therapy program. VENDOR shall incorporate any cancelled service sessions due to meeting times into their schedule.
16. VENDOR shall, throughout **Attachment A**, execute SBBC's HIPPA Business Associate Agreement as stated in **Attachment B**.
17. VENDOR shall provide speech-language pathologist(s) and/or audiologist(s) who agree to provide therapy services throughout the District at all times and locations designated by SBBC. SBBC reserves the right to request a change in times and locations of services provided by VENDOR (consistent with the written agreement for days and hours worked), during the course of an assignment. Services shall be provided up to 7 hours per day on regular student attendance days. Services provided on employee planning days and early release days must be pre-approved in writing by an authorized representative of the ESE/SS Division. School year calendars may be viewed on the following web link:  
**<http://www.browardschools.com>. Click on the link "Calendars"**

## SCOPE OF SERVICES

18. VENDOR shall, throughout **Attachment A**, to provide the requested services within ten school days of verbal/written notice of an assignment by SBBC.
19. Resumes of replacement personnel are to be submitted to the ESE/SS Division for review. All replacement personnel must have written approval by the ESE/SS Division prior to placement. All replacement personnel shall follow the procedures as stated by the ESE/SS Division. All replacement personnel must have the same credentials equivalent to the individuals whom they replace. ESE/SS Division reserves the right to interview replacement personnel prior to approval.
20. The Audiologist's services shall determine the type and degree of hearing impairment and shall implement habilitation and rehabilitation services for the student. Administers and interprets variety of tests, such as air and bone conduction, and speech reception and discrimination tests, to determine type and degree of hearing impairment, site of damage, and effects on comprehension and speech. Evaluates test results in relation to behavioral, social, educational, and medical information obtained from patients, families, teachers, speech pathologists and other professionals to determine communication problems related to hearing disability. Plans and implements provision, habilitation or rehabilitation services including hearing aid selection and orientation, counseling, auditory training, lip reading, language habilitation, speech conservation and other treatment programs developed in consultation with speech pathologists and other professionals.
21. Clinical Fellowship Year (CFY) candidates with a provisional license will be considered for a school assignment if the VENDOR agrees to provide all supervisory and support requirements for the candidate.
22. VENDOR shall insure that any interruption of services due to a therapist being "unavailable" shall be made up to the best of their ability and shall be documented in the Electronic Based System as "make-up" session.
23. VENDOR shall, throughout **Attachment A**, to provide the required ELL training to all candidates assigned to a school site. Training can be provided via the VENDOR's own process or via the District's training for a minimal cost. Training must comply with the requirements of the Florida Consent Decree and the META Agreement.

**HIPPA BUSINESS ASSOCIATE AGREEMENT**

This Business Associate Agreement ("**Agreement**") is made and entered into as of this \_\_\_\_\_ day of \_\_\_\_\_, 2017 (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 the term is defined at 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 coverage subject to regulation under the Health Insurance Portability and Accountability Act of 1996 ("HIPPA"), 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 HIPPA, the Health Information Technology for Economic and Clinical Health Act of 2009 ("HITECH"), the Omnibus Rule of 2013, and the 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").

**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/or disclosure of PHI and the security of 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.

- (b) “**Business Associate**” shall mean Business Associate named above and shall include all successors and assigns, affiliates, subsidiaries, and related companies.
- (c) “**Designed 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 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) “**HIPPA**” means Health Insurance Portability and Accountability Act of 1996.
- (f) “**HITECH Act**” means the Health Information Technology for Economic and Clinical Health Act of 2009.
- (g) “**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).
- (h) “**Minimum Necessary**” means the least amount of PHI needed to accomplish the intended purpose of the use or disclosure.
- (i) “**Omnibus Rule**” means the HIPPA Omnibus Rule of 2013.
- (j) “**Privacy Rule**” shall mean the Standards of Privacy of Individuals Identifiable Health Information as set forth at 45 C.F.R. Parts 160 and 164, subparts A and E.
- (k) “**Protected Health Information**” or “**PHI**” shall have the same meaning as the term “protected health information” in 45 C.F.R. §130.103 (as amended by the HITECH Act) limited to the information created or received by Business Associate from or on behalf of SBBC.
- (l) “**Required by Law**” shall have the same meaning as the term “required by law” in 45 C.F.R. §164.103.
- (m) “**Secretary**” shall mean the Secretary of the Department of Health and Human Services or his or her designee.
- (n) “**Security Rule**” shall mean the Standards for Security of ePHI as set forth 45 C.F.R. Parts 160 and 164 Subpart C.
- (o) “**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 HIPPA or HITECH Act.
- (c) Business Associate agrees to use appropriate safeguards and comply, where applicable, with the HIPPA 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 substantially the same form as Exhibit A, hereto.
- (e) Business Associate shall promptly inform SBBC of a Breach of Unsecured PHI following the first day on which Business Associate knows of such Breach or following the first day on which Business Associate should have known 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 by Federal and/or Florida law.

**ATTACHMENT B**

- (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 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 HIPPA Rules, including the rules to extend the requirements to the agent's or subcontractor's subcontractors.
- (h) Business Associate agrees to provide access, at the requires of SBBC, and in the time and manner designated by SBBC, to PHI in a Designated Record Set that is not also in SBBC's possession, to SBBC in order for SBBC to meet the requirements under 45 C.F.R. §164.524.
- (i) Business Associate agrees to make PHI available for amendment and incorporate all amendments to PHI in a Designated Record Set that SBBC directs or agrees to pursuant to 45 C.F.R. §164.526 at the request of SBBC or an Individual 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 a request of SBBC to the Secretary, in a time and manner as designated by SBBC or the Secretary, for the 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 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.



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

- (a) Except as otherwise limited in this Agreement, Business Associate may use or disclose PHI to perform functions, activities or services for, or on behalf of, SBBC as previously agreed to by the parties (the “Service Agreement”) provided that such use or disclosure would not violate the Privacy Rule if done by SBBC.
- (b) Except as otherwise limited in 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 in 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 for 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 in 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
- (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 with ten (10) business days prior written notice to Business Associate to audit Business Associate from time-to-time to verify Business Associate compliance with the terms of this Agreement. SBBC shall be entitled and enabled to inspect the records and other information relevant to Business Associate 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 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 and confidentiality and integrity of ePHI under the Security Standards 45 C.F.R. Part 160 and 164 subpart C.

- (b) Business Associate agrees that it will ensure that agents or subcontractors agree to implement the applicable administrative, physical, and technical safeguards required to protect the confidentiality and integrity of ePHI under the Security Standards 45 C.F.R. Part 164.
- (c) Business Associate agrees to report to SBBC all Security Incidents (as defined 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 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, on behalf of SBBC, it will perform all transactions for which a standard has been developed under the EDI Rule that Business Associate could reasonably be expected to perform in the ordinary course of its functions on behalf of SBBC.

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 HIPPA.

#### **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 HIPPA in general, shall be deemed to amend this Agreement to incorporate said changes without further action.

#### **8. Amendment.**

The parties agree to take any and all actions necessary to amend this Agreement from time to time so that SBBC is in compliance with the Privacy Rule, the Security Rule, the HITECH Act, and HIPPA in general. The parties may agree to amend this Agreement from time to time in other respect that 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 as of the Effective Date and shall remain in effect until such time as SBBC exercises its right to 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 of such breach to Business Associate, 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.

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, for example, if SBBC makes illegal demands on Business Associate, 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 Covered Entity.

- (d) ***Effect of Termination.*** Except as set forth in this Section 9(d), upon termination of this Agreement for any reason, at the request of SBBC, 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. In the event that Business Associate determines that returning or destroying the PHI is infeasible, such as in the use of data aggregation, Business Associate shall provide to SBBC written notification of the conditions that make return or destruction infeasible. If 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 make the return or destruction infeasible, 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 while such equipment is on premises owned or controlled by SBBC; or the negligence of Business Associate 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 property, and injury or death of any person whether employed by Business Associate, SBBC or otherwise.

**ARTICLE 3 – GENERAL CONDITIONS****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 waiver of limits to liability or rights existing under Section 768.28, Florida Statutes.

**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 term 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.

**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, FL 33301

With a Copy to: Executive Director, ESE/SS Division  
The School Board of Broward County, Florida  
1701 NW 23<sup>rd</sup> Avenue  
Fort Lauderdale, Florida 33301

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: Invo Healthcare Associates, LLC  
1780 Kendarbren Drive  
Jamison, Pennsylvania 18929

**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. The person signing on behalf of "Business Associate" has authority to bind "Business Associate" with respect to all provisions contained in this Agreement.

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

No failure or delay by a party hereto in exercising any right, power or remedy under this Agreement, and no course of dealing between the parties hereto, will operate as a waiver of any such right, power or remedy of the party. No single or partial exercise of any right, power or remedy under this Agreement by a party hereto, nor any abandonment or discontinuance of steps to enforce any such right, power or remedy, will preclude such party from any other or further exercise thereof or the exercise of any other right, power or remedy hereunder. The election of any remedy by a party hereto will not constitute a waiver of the right of such party to pursue other available remedies. No notice to or demand on a party not expressly required under this Agreement will entitle the party receiving such notice or demand to any other or further notice or demand in similar or other circumstances or constitute a waiver of the right of the party giving such notice or demand to any other or further action in any circumstances without such notice or demand. The terms and provisions of this Agreement may be waived, or consent for the departure there from granted, only by written document executed by the party entitled to the benefits of such terms or provisions. No such waiver or consent will be deemed to be or will constitute a waiver or consent with respect to any other terms or provisions of this Agreement, whether or not similar. Each such waiver or consent will be effective only in the specific instance and for the purpose for which it was given, and will not constitute a continuing waiver or consent.

**27. Regulatory References.**

A reference in this Agreement to a section in the Privacy Rule, the Security Rule, the HITECH Act, or HIPAA in general means the referenced section or its successor, and for which compliance is required.

**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.

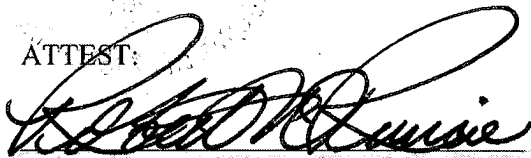
**30. Interpretation.**

Any ambiguity in this Agreement shall be interpreted in a manner that permits SBBC to comply with the Privacy Rule, Security Rule, the HITECH Act, HIPPA in general and any subsequent legislation or regulations otherwise affecting Business Associates.

IN WITNESS WHEREOF, the parties have executed this Business Associate Agreement as of the Effective Date.


(Corporate Seal)

ATTEST:

  
Robert W. Runcie, Superintendent of Schools

**FOR SBBC**

THE SCHOOL BOARD OF BROWARD  
COUNTY, FLORIDA

By   
Abby M. Freedman, Chair

Approved as to Form and Legal Content:



Digitally signed by Kathelyn Jacques-Adams, Esq. - kathelyn.jacques-adams@gbrowardschools.com  
Reason: Invo Healthcare Associates, LLC  
Date: 2017.05.24 08:29:45 -04'00'

Office of the General Counsel

FOR BUSINESS ASSOCIATE

[Signature]  
Signature

Jason T. Ralph, COO  
Print Name and Title

[Signature]  
Witness

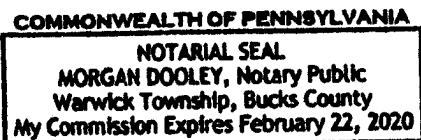
[Signature]  
Witness

STATE OF Pennsylvania  
COUNTY OF Bucks

The foregoing instrument was acknowledged before me by Jason T. Ralph who is personally known to me or who produced \_\_\_\_\_ as identification and who did / did not first take an oath this 27 day of April, 2017.

My Commission Expires:

[Signature]  
Signature (Notary Public)



Morgan Dooley  
Notary's Printed Name

1239982  
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 13<sup>th</sup> day of June, 2017, 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

### MG THERAPY, INC.

(hereinafter referred to as "VENDOR"),  
whose principal place of business is  
304 Indian Trace, Suite 324  
Weston, Florida 33326

**WHEREAS**, SBBC issued a Request for Proposal identified as RFP 18-001V – Speech-Language Pathology and Audiology Services (hereinafter referred to as "RFP"), dated December 1, 2016 and amended by Addendum No. 4, dated January 17, 2017, Addendum No. 3, dated January 13, 2017 Addendum No. 2, dated December 19, 2016, and Addendum No. 1, dated December 9, 2016 all of which are incorporated by reference herein, for the purpose of receiving proposals for speech-language pathology and audiology services; and

**WHEREAS**, VENDOR offered a proposal dated January 16, 2017 (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 3.06 of this Agreement, the term of this Agreement shall commence on **July 1, 2017** and conclude on **June 30, 2020**. The term of the Agreement may, by mutual agreement between SBBC and VENDOR be extended for two additional one-year periods and, if needed, 180 days beyond the expiration date of the renewal period. SBBC's Procurement & Warehousing Services Department, will, if considering renewing, request a letter consenting to renewal from VENDOR, prior to the end of the term. Any renewal period shall be approved by an Amendment to this Agreement executed by both parties.

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

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

- First: This Agreement, then;
- Second: Addendum No. 4, then;
- Third: Addendum No. 3, then;
- Fourth: Addendum No. 2, then;
- Fifth: Addendum No. 1, then;
- Sixth: RFP 18-001V – Speech-Language Pathology and Audiology Services, then;
- Seventh: Proposal submitted in response to the RFP by VENDOR.

2.04 **Cost of Services.** SBBC shall pay VENDOR for cost of services satisfactorily rendered for Speech-Language Pathologist at \$59.00/hr. Costs shall not exceed the amount as stated on the Purchase Order. VENDOR may offer SBBC a special educational discount for pricing and reduce the cost of services during the term of the Agreement. VENDOR may invoice SBBC at an hourly rate less than their original proposal price.

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

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

VENDOR shall enter into SBBC’s HIPAA Business Associate Agreement (“BAA”) substantially in the form attached hereto and incorporated herein as **Attachment B.**

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

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

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

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

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

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

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

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

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

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

To SBBC: Superintendent of Schools  
The School Board of Broward County, Florida  
600 Southeast Third Avenue  
Fort Lauderdale, Florida 33301

With a Copy to: Executive Director, ESE/SS Division  
The School Board of Broward County, Florida  
1701 NW 23<sup>rd</sup> Avenue  
Fort Lauderdale, Florida 33301

To VENDOR: Maria Eugenia Gurfinkel / Owner  
MG Therapy, Inc.  
304 Indian Trace, Suite 324  
Weston, Florida 33326

2.08 **Background Screening.** Vendor agrees to comply with all requirements of Sections 1012.32 and 1012.465, Florida Statutes, and all of its personnel who (1) are to be permitted access to school grounds when students are present, (2) will have direct contact with students, or (3) have access or control of school funds, will successfully complete the background screening required by the referenced statutes and meet the standards established by the statutes. This background screening will be conducted by SBBC in advance of the 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 the 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.

2.09 **Insurance.** VENDOR shall provide the minimum insurance requirements as provided below:

- a) **GENERAL LIABILITY:** Limits not less than \$1,000,000 per occurrence for Bodily Injury/ Property Damage; \$1,000,000 General Aggregate. Limits not less than \$1,000,000 for Products/Completed Operations Aggregate.
- b) **WORKER'S COMPENSATION:** Florida Statutory limits in accordance with Chapter 440; Employer's Liability limits not less than \$100,000/\$100,000/\$500,000 (each accident/disease-each employee/disease-policy limit).
- c) **PROFESSIONAL LIABILITY:** Limits not less than \$1,000,000 per occurrence covering services provided under this Agreement.

- d) **AUTO LIABILITY:** Owned, Non-Owned and Hired Auto Liability with Bodily Injury and Property Damage limits of not less than \$1,000,000 Combined Single Limit. If VENDOR does not own any vehicles, hired and non-owned automobile liability coverage in the amount of \$1,000,000 will be accepted. In addition, an affidavit signed by the VENDOR must be furnished to SBBC indicating the following:  
VENDOR does not own any vehicles. In the event insured acquires any vehicles throughout the term of this Agreement, insured agrees to provide proof of "Any Auto" coverage effective the date of acquisition. (Fax affidavit with Certificate of Insurance to SBBC Risk Management at 866-897-0424.)
- e) **ACCEPTABILITY OF INSURANCE CARRIERS:** The insurance policies shall be issued by companies qualified to do business in the State of Florida. The insurance companies must be rated 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 Risk Management Department by Certificate of Insurance within 15 days of the date of this Agreement. All certificates (and any required documents) must be received and approved by SBBC before any work commences to permit VENDOR time to remedy any deficiencies. **FAX CERTIFICATES OF INSURANCE TO SBBC RISK MANAGEMENT AT 866-897-0424.**
- g) **REQUIRED CONDITIONS:** Liability policies must contain the following provisions. In addition, the following wording must be included on the Certificate of Insurance:  
**The School Board of Broward County, Florida, its members, officers, employees and agents are added as additional insured.**  
**All liability policies are primary of all other valid and collectable coverage maintained by The School Board of Broward County, Florida.**  
(\*\*Please include the RFP Number and Title on the Certificate of Insurance.)  
(Certificate Holder: The School Board of Broward County, Florida 600 Southeast Third Avenue, Fort Lauderdale, Florida 33301)
- 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 business days if required insurance is cancelled.
- i) **The School Board of Broward County, Florida reserves the right to review, reject or accept any required policies of insurance, including limits, coverage's or endorsements, herein throughout the term of this Agreement.**

### **ARTICLE 3 – GENERAL CONDITIONS**

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

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

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

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

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

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

3.07 **Default.** The parties agree that, in the event that either party is in default of its obligations under this Agreement, the non-defaulting party shall provide to the defaulting party (30) days written notice to cure the default. However, in the event said default cannot be cured

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

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

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

3.10 **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 transfer 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, Insert Name shall meet all applicable requirements for retaining public records. All records stored electronically must be provided to SBBC, upon request from SBBC's custodian of public records, in a format that is compatible with SBBC's information technology systems.

**IF A PARTY TO THIS AGREEMENT HAS QUESTIONS REGARDING THE APPLICATION OF CHAPTER 119, FLORIDA STATUTES, TO ITS DUTY TO PROVIDE PUBLIC RECORDS RELATING TO THE AGREEMENT, CONTACT THE CUSTODIAN OF PUBLIC RECORDS AT 754-321-1900, REQUEL.BELL@BROWARDSCHOOLS.COM, RISK**



**MANAGEMENT DEPARTMENT, PUBLIC RECORDS DIVISION, 600  
SOUTHEAST THIRD AVENUE, FORT LAUDERDALE, FLORIDA 33301.**

3.11 **Student Records.** Notwithstanding any provision to the contrary within this Agreement, any party contracting with SBBC under this Agreement shall fully comply with the requirements of Sections 1002.22 and 1002.221, Florida Statutes; FERPA, and any other state or federal law or regulation regarding the confidentiality of student information and records. Each such party agrees, for itself, its officers, employees, agents, representatives, contractors or subcontractors, to fully indemnify and hold harmless SBBC and its officers and employees for any violation of this section, including, without limitation, defending SBBC and its officers and employees against any complaint, administrative or judicial proceeding, payment of any penalty imposed upon SBBC, or payment of any and all costs, damages, judgments or losses incurred by or imposed upon SBBC arising out of a breach of this covenant by the party, or an officer, employee, agent, representative, contractor, or sub-contractor of the party to the extent that the party or an officer, employee, agent, representative, contractor, or sub-contractor of the party shall either intentionally or negligently violate the provisions of this section or of Sections 1002.22 and/or 1002.221, Florida Statutes.

3.12 **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.

3.13 **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.

3.14 **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.

3.15 **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.

3.16 **Binding Effect.** This Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective successors and assigns.

3.17 **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.

3.18 **Incorporation by Reference.** **Attachments A and B** are attached hereto and referenced herein shall be deemed to be incorporated into this Agreement by reference.

3.19 **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.

3.20 **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.

3.21 **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.

3.22 **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.

3.23 **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.

3.24 **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.

3.25 **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.

3.26 **Contract Administration.** SBBC has delegated authority to the Superintendent of Schools or his/her designee to take any actions necessary to implement and administer this Agreement.

3.27 **Liability.** This section shall survive the termination of all performance or obligations under this Agreement and shall be fully binding until such time as any proceeding brought on account of this Agreement is barred by any applicable statute of limitations.

A. By SBBC: SBBC agrees to be fully responsible up to the limits of Section 768.28, Florida Statutes, for its acts of negligence, or its employees' acts of negligence when acting within the scope of their employment and agrees to be liable for any damages resulting from said negligence.

B. By VENDOR: VENDOR agrees to indemnify, hold harmless and defend SBBC, its agents, servants and employees from any and all claims, judgments, costs, and expenses including, but not limited to, reasonable attorney's fees, reasonable investigative and discovery costs, court costs and all other sums which SBBC, its agents, servants and employees may pay or become obligated to pay on account of any, all and every claim or demand, or assertion of liability, or any claim or action founded thereon, arising or alleged to have arisen out of the products, goods or services furnished by VENDOR, its agents, servants or employees; the equipment of VENDOR, its agents, servants or employees while such equipment is on premises owned or controlled by SBBC; or the negligence of VENDOR or the negligence of VENDOR'S agents when acting within the scope of their employment, whether such claims, judgments, costs and expenses be for damages, damage to property including SBBC's property, and injury or death of any person whether employed by VENDOR, SBBC or otherwise.

3.28 **Authority.** Each person signing this Agreement on behalf of either party individually warrants that he or she has full legal power to execute this Agreement on behalf of the party for whom he or she is signing, and to bind and obligate such party with respect to all provisions contained in this Agreement.

**IN WITNESS WHEREOF**, the Parties hereto have made and executed this Agreement on the date first above written.

**FOR SBBC**

(Corporate Seal)

THE SCHOOL BOARD OF BROWARD  
COUNTY, FLORIDA

By Abby M. Freedman  
Abby M. Freedman, Chair

ATTEST:

Robert W. Runcie  
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: MG Therapy, Inc.  
Date: 2017.05.24 08:35:21 -04'00'

Office of the General Counsel

**FOR VENDOR**

(Corporate Seal)

MG THERAPY, INC.

ATTEST:

By [Signature]  
Maria E. Gurfinkel

\_\_\_\_\_, Secretary

-or-  
[Signature]  
Witness Daniela Sanchez  
[Signature]  
Witness Daniela Wertheim

**The Following Notarization is Required for Every Agreement Without Regard to Whether the Party Chose to Use a Secretary's Attestation or Two (2) Witnesses.**

STATE OF Florida

COUNTY OF Broward

The foregoing instrument was acknowledged before me this 1 day of May, 2017 by Maria E Gurfinkel of MG Therapy INC, on behalf of the corporation/agency.  
Name of Person  
Name of Corporation or Agency

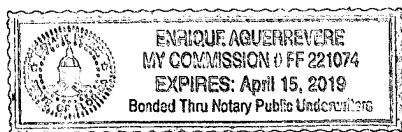
He/She is personally known to me or produced FL Driver's License as identification and did/did not first take an oath. Type of Identification

My Commission Expires: April 15, 2019

[Signature]  
Signature - Notary Public

Enrique Aguerrevere  
Printed Name of Notary

(SEAL)



FF 221074  
Notary's Commission No.

## SCOPE OF SERVICES

1. VENDOR shall offer services for speech-language pathologist(s) that hold a current, active professional license in speech-language pathology from the Department of Health, Board of Speech-Language Pathology and agree to provide copies of a current active professional license and certifications in speech-language pathology prior to acceptance for placement.
2. VENDOR shall, throughout **Attachment A**, not to hire any individual who is currently employed part-time or full-time by SBBC as a speech-language pathologist until the completion of the school year. VENDOR shall, throughout **Attachment A**, hold harmless any individual employed by them who elects to become employed by SBBC in the school year following the expiration date of the current Agreement, throughout **Attachment A**, school year.
3. VENDOR shall provide speech-language pathologists whose performance shall be consistent with a professional standard of care and comply with requirements of the State of Florida Department of Health, Division of Medical Quality Assurance, and Board of Professional Regulation for speech, language requirements of other applicable local, state or federal agencies which may govern the speech-language pathologist's activities on behalf of SBBC.
4. VENDOR shall provide services consistent with the professional standard of care and shall comply with the ethical requirements imposed by the State of Florida Department of Professional Regulations, the Florida State Department of Education and any other federal, state or local regulatory agency.
5. All speech-language pathologists, who shall be providing services under this Agreement, throughout **Attachment A**, must be articulate in oral and written English.
6. All speech-language pathologists, under this Agreement, throughout **Attachment A**, shall be required to pass the screening of the Broward District Schools Police Department prior to placement of assignment as required by the School Board of Broward County, Florida. (See General Condition 7.30 of the RFP, SBBC Photo Identification Badge). All speech-language pathologists must utilize the STAR system and/or sign-in/out procedures to document attendance at assigned location.
7. Speech-language pathologist(s) providing services shall follow the procedures for the referral, identification, screening, evaluation, eligibility, placement, and dismissal of students with speech-language impairments as provided in the document Special Programs and Procedures by the ESE/SS Division.
8. Speech-language pathologist(s) providing services shall follow procedures for completing required documentation for student attendance, student progress and reporting to parents, reimbursement for Medicaid funding, and other procedures as indicated by the Special Programs and Procedures document and ESE/SS Division.
9. Speech-language pathologist(s) providing services shall allow District administrative staff as well as teacher-based resource personnel to review required documentation and observe all provided services.

## SCOPE OF SERVICES

10. Speech-language pathologist(s) providing services shall submit, for approval to the school principal or designee, any written communication intended for parents and teachers.
11. Speech-language pathologist(s) shall follow all rules and procedures as contained in the employee handbooks of the individual school. Speech-language pathologist(s) shall refrain from using school equipment (such as phones, copiers, computers, etc.) for personal or commercial business during service times.
12. Speech-Language pathologist(s) shall complete such records as shall be required to document services provided, on a daily basis. VENDOR shall submit timesheets and other documentation needed to substantiate payment through the approved electronic database on an approved voucher form no later than five (5) days following the delivery of service. In order to insure timely payment VENDOR must submit accurate time sheets of service in accordance with the training they receive. These records must be submitted to the ESE/SS Division, Arthur Ashe, Jr. Campus, 1701 NW 23<sup>rd</sup> Avenue, Fort Lauderdale, Florida 33311.
13. VENDOR shall have all new providers use and submit an approved District template to log services until training takes place for the electronic system. VENDOR shall utilize the approved template until such time as they are trained in the electronic database system. Immediately following training all providers, VENDOR shall transfer the data from the district template into the Educational Database System and file the original hard copy in the student's IEP folder at the school site.
14. (SBBC) ESE/SS Division reserves the right to interview all speech-language pathologist(s) prior to placement. ESE/SS Division reserves the right to refuse to utilize any given speech-language pathologist(s) and/or audiologist(s) if it is in their best interest to do so.
15. VENDOR's Speech-Language Pathologist(s) must attend two (2) scheduled policies/procedures meetings, considered as part of their workday, of not less than three (3) hours as determined by the District. These meetings shall include, but are not limited to, general information on these policies and procedures of the Broward County Special Programs and Procedures, the rights of students with disabilities, and other operational procedures required to carry out the therapy program. VENDOR shall incorporate any cancelled service sessions due to meeting times into their schedule.
16. VENDOR shall, throughout **Attachment A**, execute SBBC's HIPPA Business Associate Agreement as stated in **Attachment B**.
17. VENDOR shall provide speech-language pathologist(s) who agree to provide therapy services throughout the District at all times and locations designated by SBBC. SBBC reserves the right to request a change in times and locations of services provided by VENDOR (consistent with the written agreement for days and hours worked), during the course of an assignment. Services shall be provided up to 7 hours per day on regular student attendance days. Services provided on employee planning days and early release days must be pre-approved in writing by an authorized representative of the ESE/SS Division. School year calendars may be viewed on the following web link:  
**<http://www.browardschools.com>. Click on the link "Calendars"**

**SCOPE OF SERVICES**

18. VENDOR shall, throughout **Attachment A**, provide the requested services within ten school days of verbal/written notice of an assignment by SBBC.
19. Resumes of replacement personnel are to be submitted to the ESE/SS Division for review. All replacement personnel must have written approval by the ESE/SS Division prior to placement. All replacement personnel shall follow the procedures as stated by the ESE/SS Division. All replacement personnel must have the same credentials equivalent to the individuals whom they replace. ESE/SS Division reserves the right to interview replacement personnel prior to approval.
20. Clinical Fellowship Year (CFY) candidates with a provisional license will be considered for a school assignment if the VENDOR agrees to provide all supervisory and support requirements for the candidate.
21. VENDOR shall insure that any interruption of services due to a therapist being "unavailable" shall be made up to the best of their ability and shall be documented in the Electronic Based System as "make-up" session.
22. VENDOR shall, throughout **Attachment A**, provide the required ELL training to all candidates assigned to a school site. Training can be provided via the VENDOR's own process or via the District's training for a minimal cost. Training must comply with the requirements of the Florida Consent Decree and the META Agreement.

**HIPPA BUSINESS ASSOCIATE AGREEMENT**

This Business Associate Agreement ("**Agreement**") is made and entered into as of this \_\_\_\_\_ day of \_\_\_\_\_, 2017 (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

**MG THERAPY, INC.**

(hereinafter referred to as "**Business Associate**"),

whose principal place of business is

304 Indian Trace, Suite 324

Weston, Florida 33326

**WHEREAS**, by virtue of some of the services that Business Associate performs for SBBC, Business Associate may be a "business associate", as the term is defined at 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 coverage subject to regulation under the Health Insurance Portability and Accountability Act of 1996 ("HIPPA"), 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 HIPPA, the Health Information Technology for Economic and Clinical Health Act of 2009 ("HITECH"), the Omnibus Rule of 2013, and the 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").

**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/or disclosure of PHI and the security of 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.



## ATTACHMENT B

- (b) “**Business Associate**” shall mean Business Associate named above and shall include all successors and assigns, affiliates, subsidiaries, and related companies.
- (c) “**Designed 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 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) “**HIPPA**” means Health Insurance Portability and Accountability Act of 1996.
- (f) “**HITECH Act**” means the Health Information Technology for Economic and Clinical Health Act of 2009.
- (g) “**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).
- (h) “**Minimum Necessary**” means the least amount of PHI needed to accomplish the intended purpose of the use or disclosure.
- (i) “**Omnibus Rule**” means the HIPPA Omnibus Rule of 2013.
- (j) “**Privacy Rule**” shall mean the Standards of Privacy of Individuals Identifiable Health Information as set forth at 45 C.F.R. Parts 160 and 164, subparts A and E.
- (k) “**Protected Health Information**” or “**PHI**” shall have the same meaning as the term “protected health information” in 45 C.F.R. §130.103 (as amended by the HITECH Act) limited to the information created or received by Business Associate from or on behalf of SBBC.
- (l) “**Required by Law**” shall have the same meaning as the term “required by law” in 45 C.F.R. §164.103.
- (m) “**Secretary**” shall mean the Secretary of the Department of Health and Human Services or his or her designee.
- (n) “**Security Rule**” shall mean the Standards for Security of ePHI as set forth 45 C.F.R. Parts 160 and 164 Subpart C.
- (o) “**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 HIPPA or HITECH Act.
- (c) Business Associate agrees to use appropriate safeguards and comply, where applicable, with the HIPPA 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 substantially the same form as Exhibit A, hereto.
- (e) Business Associate shall promptly inform SBBC of a Breach of Unsecured PHI following the first day on which Business Associate knows of such Breach or following the first day on which Business Associate should have known 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 by Federal and/or Florida law.

## **ATTACHMENT B**

- (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 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 access, at the requires of SBBC, and in the time and manner designated by SBBC, to PHI in a Designated Record Set that is not also in SBBC's possession, to SBBC in order for SBBC to meet the requirements under 45 C.F.R. §164.524.
- (i) Business Associate agrees to make PHI available for amendment and incorporate all amendments to PHI in a Designated Record Set that SBBC directs or agrees to pursuant to 45 C.F.R. §164.526 at the request of SBBC or an Individual 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 a request of SBBC to the Secretary, in a time and manner as designated by SBBC or the Secretary, for the 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 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.

**3. Permitted Uses and Disclosures of PHI by "Business Associate"**

- (a) Except as otherwise limited in this Agreement, Business Associate may use or disclose PHI to perform functions, activities or services for, or on behalf of, SBBC as previously agreed to by the parties (the "Service Agreement") provided that such use or disclosure would not violate the Privacy Rule if done by SBBC.
- (b) Except as otherwise limited in 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 in 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 for 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 in 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
- (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 with ten (10) business days prior written notice to Business Associate to audit Business Associate from time-to-time to verify Business Associate compliance with the terms of this Agreement. SBBC shall be entitled and enabled to inspect the records and other information relevant to Business Associate 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 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 and confidentiality and integrity of ePHI under the Security Standards 45 C.F.R. Part 160 and 164 subpart C.

- (b) Business Associate agrees that it will ensure that agents or subcontractors agree to implement the applicable administrative, physical, and technical safeguards required to protect the confidentiality and integrity of ePHI under the Security Standards 45 C.F.R. Part 164.
- (c) Business Associate agrees to report to SBBC all Security Incidents (as defined 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 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, on behalf of SBBC, it will perform all transactions for which a standard has been developed under the EDI Rule that Business Associate could reasonably be expected to perform in the ordinary course of its functions on behalf of SBBC.

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 HIPPA.

**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 HIPPA in general, shall be deemed to amend this Agreement to incorporate said changes without further action.

**8. Amendment.**

The parties agree to take any and all actions necessary to amend this Agreement from time to time so that SBBC is in compliance with the Privacy Rule, the Security Rule, the HITECH Act, and HIPPA in general. The parties may agree to amend this Agreement from time to time in other respect that 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 as of the Effective Date and shall remain in effect until such time as SBBC exercises its right to 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 of such breach to Business Associate, 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.

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, for example, if SBBC makes illegal demands on Business Associate, 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 Covered Entity.

- (d) ***Effect of Termination.*** Except as set forth in this Section 9(d), upon termination of this Agreement for any reason, at the request of SBBC, 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. In the event that Business Associate determines that returning or destroying the PHI is infeasible, such as in the use of data aggregation, Business Associate shall provide to SBBC written notification of the conditions that make return or destruction infeasible. If 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 make the return or destruction infeasible, 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 while such equipment is on premises owned or controlled by SBBC; or the negligence of Business Associate 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 property, and injury or death of any person whether employed by Business Associate, SBBC or otherwise.

**ARTICLE 3 – GENERAL CONDITIONS****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 waiver of limits to liability or rights existing under Section 768.28, Florida Statutes.

**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 term 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.

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, FL 33301
With a Copy to:	Executive Director, ESE/SS Division The School Board of Broward County, Florida 1701 NW 23 <sup>rd</sup> Avenue Fort Lauderdale, Florida 33301
	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: Maria Eugenia Gurfinkel / Owner  
MG Therapy, Inc.  
304 Indian Trace, Suite 324  
Weston, Florida 33326

**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. The person signing on behalf of "Business Associate" has authority to bind "Business Associate" with respect to all provisions contained in this Agreement.

**26. No Waiver of Rights, Powers and Remedies.**

No failure or delay by a party hereto in exercising any right, power or remedy under this Agreement, and no course of dealing between the parties hereto, will operate as a waiver of any such right, power or remedy of the party. No single or partial exercise of any right, power or remedy under this Agreement by a party hereto, nor any abandonment or discontinuance of steps to enforce any such right, power or remedy, will preclude such party from any other or further exercise thereof or the exercise of any other right, power or remedy hereunder. The election of any remedy by a party hereto will not constitute a waiver of the right of such party to pursue other available remedies. No notice to or demand on a party not expressly required under this Agreement will entitle the party receiving such notice or demand to any other or further notice or demand in similar or other circumstances or constitute a waiver of the right of the party giving such notice or demand to any other or further action in any circumstances without such notice or demand. The terms and provisions of this Agreement may be waived, or consent for the departure there from granted, only by written document executed by the party entitled to the benefits of such terms or provisions. No such waiver or consent will be deemed to be or will constitute a waiver or consent with respect to any other terms or provisions of this Agreement, whether or not similar. Each such waiver or consent will be effective only in the specific instance and for the purpose for which it was given, and will not constitute a continuing waiver or consent.

**27. Regulatory References.**

A reference in this Agreement to a section in the Privacy Rule, the Security Rule, the HITECH Act, or HIPAA in general means the referenced section or its successor, and for which compliance is required.

**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.


**30. Interpretation.**

Any ambiguity in this Agreement shall be interpreted in a manner that permits SBBC to comply with the Privacy Rule, Security Rule, the HITECH Act, HIPPA in general and any subsequent legislation or regulations otherwise affecting Business Associates.

IN WITNESS WHEREOF, the parties have executed this Business Associate Agreement as of the Effective Date.


(Corporate Seal)

ATTEST:

  
Robert W. Runcie, Superintendent of Schools

**FOR SBBC**

THE SCHOOL BOARD OF BROWARD  
COUNTY, FLORIDA

By   
Abby M. Freedman, Chair

Approved as to Form and Legal Content:



Digitally signed by Kathelyn Jacques-Adams, Esq. - kathelyn.jacques-adams@gbrowardschools.com  
Reason: MG Therapy, Inc.  
Date: 2017.05.24 08:35:57 -04'00'

Office of the General Counsel

FOR BUSINESS ASSOCIATE

Signature

Print Name and Title

Witness Daniela Sanchez

Witness Daniela Wertheim

STATE OF

Florida

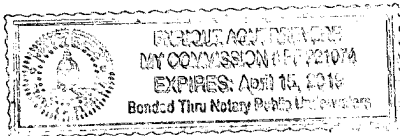
COUNTY OF

Broward

The foregoing instrument was acknowledged before me by Maria E Gurfinkel who is personally known to me or who produced FL Driver's License as identification and who did / did not first take an oath this 1 day of May, 2014

My Commission Expires: Apr: 11, 2019

Signature – Notary Public



Notary's Printed Name

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 13<sup>th</sup> day of June, 2017, 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

### MYTHERAPYCOMPANY LLC

(hereinafter referred to as "VENDOR"),  
whose principal place of business is  
207 West Canyon Boulevard, Suite 202  
Boulder, Colorado 80302

WHEREAS, SBBC issued a Request for Proposal identified as RFP 18-001V – Speech-Language Pathology and Audiology Services (hereinafter referred to as "RFP"), dated December 1, 2016 and amended by Addendum No. 4, dated January 17, 2017, Addendum No. 3, dated January 13, 2017 Addendum No. 2, dated December 19, 2016, and Addendum No. 1, dated December 9, 2016 all of which are incorporated by reference herein, for the purpose of receiving proposals for speech-language pathology and audiology services; and

WHEREAS, VENDOR offered a proposal dated January 30, 2017 (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 3.06 of this Agreement, the term of this Agreement shall commence on **July 1, 2017** and conclude on **June 30, 2020**. The term of the Agreement may, by mutual agreement between SBBC and VENDOR be extended for two additional one-year periods and, if needed, 180 days beyond the expiration date of the renewal period. SBBC's Procurement & Warehousing Services Department, will, if considering renewing, request a letter consenting to renewal from VENDOR, prior to the end of the term. Any renewal period shall be approved by an Amendment to this Agreement executed by both parties.

2.02 **Description of Services Provided.** VENDOR shall provide SBBC with the Scope of Services as proposed in its Proposal and in compliance with this Agreement and the RFP and its Addenda and as specified in **Attachment A – Scope of Services.**

2.03 **Priority Documents:** In the event of a conflict between documents, the following priority of documents shall govern.

First: This Agreement, then;  
Second: Addendum No. 4, then;  
Third: Addendum No. 3, then;  
Fourth: Addendum No. 2, then;  
Fifth: Addendum No. 1, then;  
Sixth: RFP 18-001V – Speech-Language Pathology and Audiology Services, then;  
Seventh: Proposal submitted in response to the RFP by VENDOR.

2.04 **Cost of Services.** SBBC shall pay VENDOR for cost of services satisfactorily rendered for Speech-Language Pathologist at \$59.00/hr. and Audiologist at \$55.00/hr. Costs shall not exceed the amount as stated on the Purchase Order. VENDOR may offer SBBC a special educational discount for pricing and reduce the cost of services during the term of the Agreement. VENDOR may invoice SBBC at an hourly rate less than their original proposal price.

2.05 **Health Insurance Portability and Accountability Act (HIPAA) Compliance.** VENDOR further acknowledges that the federal Health Insurance Portability and Accountability Act of 1996 (“HIPAA”) and the Health Information Technology for Economic and Clinical Health Act of 2009 (“HITECH Act”) (HIPAA and HITECH Act are collectively referred to herein as “HIPAA”) protect the privacy of students’ individually Identifiable Health Information (“PHI”) and may be applicable to student records in certain circumstances. PHI may be used and disclosed only in compliance with HIPAA, where required by law.

VENDOR shall safeguard students’ PHI through administrative, physical and technological safety standards and ensure adequate controls are in place to protect students’ PHI in accordance with HIPAA’s privacy requirements.

VENDOR shall enter into SBBC’s HIPAA Business Associate Agreement (“BAA”) substantially in the form attached hereto and incorporated herein as **Attachment B.**

2.06 **Inspection of VENDOR’s Records by SBBC:** VENDOR shall establish and maintain books, records and documents (including electronic storage media) sufficient to reflect all income and expenditures of funds provided by SBBC under this Agreement. All VENDOR’s Records, regardless of the form in which they are kept, shall be open to inspection and subject to audit, inspection, examination, evaluation and/or reproduction, during normal working hours, by SBBC’s agent or its authorized representative to permit SBBC to evaluate, analyze and verify the satisfactory performance of the terms and conditions of this Agreement and to evaluate, analyze and verify any and all invoices, billings, payments and/or claims submitted by VENDOR or any of VENDOR’s payees pursuant to this Agreement. VENDOR’s Records subject to examination shall include, without limitation, those records necessary to evaluate and verify direct and indirect costs (including overhead allocations) as they may apply to costs associated with this Agreement. VENDOR’s Records subject to this section shall include any and all documents pertinent to the evaluation, analysis, verification and reconciliation of any and all expenditures under this Agreement without regard to funding sources.

(a) VENDOR's Records Defined. For the purposes of this Agreement, the term "VENDOR's Records" shall include, without limitation, accounting records, payroll time sheets, cancelled payroll checks, W-2 forms, written policies and procedures, computer records, disks and software, videos, photographs, executed subcontracts, subcontract files (including proposals of successful and unsuccessful bidders), original estimates, estimating worksheets, correspondence, change order files (including sufficient supporting documentation and documentation covering negotiated settlements), and any other supporting documents that would substantiate, reconcile or refute any charges and/or expenditures related to this Agreement.

(b) Duration of Right to Inspect. For the purpose of such audits, inspections, examinations, evaluations and/or reproductions, SBBC's agent or authorized representative shall have access to VENDOR Records from the effective date of this Agreement, for the duration of the term of this Agreement, and until the later of five (5) years after the termination of this Agreement or five (5) years after the date of final payment by SBBC to VENDOR pursuant to this Agreement.

(c) Notice of Inspection. SBBC's agent or its authorized representative shall provide VENDOR reasonable advance notice (not to exceed two (2) weeks) of any intended audit, inspection, examination, evaluation and or reproduction.

(d) Audit Site Conditions. SBBC's agent or its authorized representative shall have access to the VENDOR's facilities and to any and all records related to this Agreement, and shall be provided adequate and appropriate work space in order to exercise the rights permitted under this section.

(e) Failure to Permit Inspection. Failure by VENDOR to permit audit, inspection, examination, evaluation and/or reproduction as permitted under this Section shall constitute grounds for termination of this Agreement by SBBC for cause and shall be grounds for the denial of some or all of any VENDOR's claims for payment by SBBC.

(f) Overcharges and Unauthorized Charges. If an audit conducted in accordance with this Section discloses overcharges or unauthorized charges to SBBC by VENDOR in excess of two percent (2%) of the total billings under this Agreement, the actual cost of SBBC's audit shall be paid by the VENDOR. If the audit discloses billings or charges to which the VENDOR is not contractually entitled, the VENDOR shall pay said sum to SBBC within twenty (20) days of receipt of written demand under otherwise agreed to in writing by both parties.

(g) Inspection of Subcontractor's Records. VENDOR shall require any and all subcontractors, insurance agents and material suppliers (hereafter referred to as "Payees") providing services or goods with regard to this Agreement to comply with the requirements of this section by insertion of such requirements in any written subcontract. Failure by VENDOR to include such requirements in any subcontract shall constitute grounds for termination of this Agreement by SBBC for cause and shall be grounds for the exclusion of some or all of any Payee's costs from amounts payable by SBBC to VENDOR pursuant to this Agreement and such excluded costs shall become the liability of the VENDOR.

(h) Inspector General Audits. VENDOR shall comply and cooperate immediately with any inspections, reviews, investigations, or audits deemed necessary by the Florida Office of the Inspector General or by any other state or federal officials.

2.07 **Notice:** When any of the parties desire to give notice to the other, such notice must be in writing, sent by U.S. Mail, postage prepaid, addressed to the party for whom it is intended at the place last specified; the place for giving notice shall remain such until it is changed by written notice in compliance with the provisions of this paragraph. For the present, the Parties designate the following as the respective places for giving notice:

To SBBC: Superintendent of Schools  
The School Board of Broward County, Florida  
600 Southeast Third Avenue  
Fort Lauderdale, Florida 33301

With a Copy to: Executive Director, ESE/SS Division  
The School Board of Broward County, Florida  
1701 NW 23<sup>rd</sup> Avenue  
Fort Lauderdale, Florida 33301

To VENDOR: MyTherapyCompany LLC  
Attn: Laurie McCloskey  
207 West Canyon Boulevard, Suite 202  
Boulder, Colorado

2.08 **Background Screening.** Vendor agrees to comply with all requirements of Sections 1012.32 and 1012.465, Florida Statutes, and all of its personnel who (1) are to be permitted access to school grounds when students are present, (2) will have direct contact with students, or (3) have access or control of school funds, will successfully complete the background screening required by the referenced statutes and meet the standards established by the statutes. This background screening will be conducted by SBBC in advance of the 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 the 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.

2.09 **Insurance.** VENDOR shall provide the minimum insurance requirements as provided below:

- a) **GENERAL LIABILITY:** Limits not less than \$1,000,000 per occurrence for Bodily Injury/ Property Damage; \$1,000,000 General Aggregate. Limits not less than \$1,000,000 for Products/Completed Operations Aggregate.
- b) **WORKER'S COMPENSATION:** Florida Statutory limits in accordance with Chapter 440; Employer's Liability limits not less than \$100,000/\$100,000/\$500,000 (each accident/disease-each employee/disease-policy limit).
- c) **PROFESSIONAL LIABILITY:** Limits not less than \$1,000,000 per occurrence covering services provided under this Agreement.



- d) **AUTO LIABILITY:** Owned, Non-Owned and Hired Auto Liability with Bodily Injury and Property Damage limits of not less than \$1,000,000 Combined Single Limit. If VENDOR does not own any vehicles, hired and non-owned automobile liability coverage in the amount of \$1,000,000 will be accepted. In addition, an affidavit signed by the VENDOR must be furnished to SBBC indicating the following:  
VENDOR does not own any vehicles. In the event insured acquires any vehicles throughout the term of this Agreement, insured agrees to provide proof of "Any Auto" coverage effective the date of acquisition. (Fax affidavit with Certificate of Insurance to SBBC Risk Management at 866-897-0424.)
- e) **ACCEPTABILITY OF INSURANCE CARRIERS:** The insurance policies shall be issued by companies qualified to do business in the State of Florida. The insurance companies must be rated 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 Risk Management Department by Certificate of Insurance within 15 days of the date of this Agreement. All certificates (and any required documents) must be received and approved by SBBC before any work commences to permit VENDOR time to remedy any deficiencies. **FAX CERTIFICATES OF INSURANCE TO SBBC RISK MANAGEMENT AT 866-897-0424.**
- g) **REQUIRED CONDITIONS:** Liability policies must contain the following provisions. In addition, the following wording must be included on the Certificate of Insurance:  
**The School Board of Broward County, Florida, its members, officers, employees and agents are added as additional insured.**  
**All liability policies are primary of all other valid and collectable coverage maintained by The School Board of Broward County, Florida.**  
(\*\*Please include the RFP Number and Title on the Certificate of Insurance.)  
(Certificate Holder: The School Board of Broward County, Florida 600 Southeast Third Avenue, Fort Lauderdale, Florida 33301)
- 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 business days if required insurance is cancelled.
- i) **The School Board of Broward County, Florida reserves the right to review, reject or accept any required policies of insurance, including limits, coverage's or endorsements, herein throughout the term of this Agreement.**

### **ARTICLE 3 – GENERAL CONDITIONS**

**3.01 No Waiver of Sovereign Immunity.** Nothing herein is intended to serve as a waiver of sovereign immunity by any agency or political subdivision to which sovereign immunity may be applicable or of any rights or limits to liability existing under Section 768.28, Florida Statutes. This section shall survive the termination of all performance or obligations under this Agreement and shall be fully binding until such time as any proceeding brought on account of this Agreement is barred by any applicable statute of limitations.

3.02 **No Third Party Beneficiaries.** The parties expressly acknowledge that it is not their intent to create or confer any rights or obligations in or upon any third person or entity under this Agreement. None of the parties intend to directly or substantially benefit a third party by this Agreement. The parties agree that there are no third party beneficiaries to this Agreement and that no third party shall be entitled to assert a claim against any of the parties based upon this Agreement. Nothing herein shall be construed as consent by an agency or political subdivision of the State of Florida to be sued by third parties in any matter arising out of any contract.

3.03 **Independent Contractor.** The parties to this agreement shall at all times be acting in the capacity of independent contractors and not as an officer, employee or agent of one another. Neither party or its respective agents, employees, subcontractors or assignees shall represent to others that it has the authority to bind the other party unless specifically authorized in writing to do so. No right to SBBC retirement, leave benefits or any other benefits of SBBC employees shall exist as a result of the performance of any duties or responsibilities under this Agreement. SBBC shall not be responsible for social security, withholding taxes, contributions to unemployment compensation funds or insurance for the other party or the other party's officers, employees, agents, subcontractors or assignees.

3.04 **Equal Opportunity Provision.** The parties agree that no person shall be subjected to discrimination because of age, race, color, disability, gender identity, gender expression marital status, national origin, religion, sex or sexual orientation in the performance of the parties' respective duties, responsibilities and obligations under this Agreement.

3.05 **M/WBE Commitment.** Throughout the term of the Agreement, VENDOR shall take commercially reasonable steps and use commercially reasonable resources to identify SBBC-certified M/WBE vendors who may be engaged to fulfill various aspects of the Agreement, including, for instance, without limitation, M/WBE vendors to provide office supplies, travel, printing, janitorial supplies/services, consulting services, trade services, installation and repair services, medical supplies, where feasible. VENDOR agrees to provide monthly reports and to conduct quarterly meetings with SBBC to discuss progress in meeting the SBBC's objectives regarding M/WBE participation, including dollars spent on M/WBE vendors for the quarter; and to continue to assess throughout the term of the Agreement new possibilities for M/WBE vendor participation suggested by SBBC. If at any time during the term the parties agree that it is reasonably feasible to include a specific dollar figure for M/WBE participation, the Agreement shall be amended to include the dollar participation objective.

3.06 **Termination.** This Agreement may be canceled with or without cause by SBBC during the term hereof upon thirty (30) days written notice to the other parties of its desire to terminate this Agreement. SBBC shall have no liability for any property left on SBBC's property by any party to this Agreement after the termination of this Agreement. Any party contracting with SBBC under this Agreement agrees that any of its property placed upon SBBC's facilities pursuant to this Agreement shall be removed within ten (10) business days following the termination, conclusion or cancellation of this Agreement and that any such property remaining upon SBBC's facilities after that time shall be deemed to be abandoned, title to such property shall pass to SBBC, and SBBC may use or dispose of such property as SBBC deems fit and appropriate.

3.07 **Default.** The parties agree that, in the event that either party is in default of its obligations under this Agreement, the non-defaulting party shall provide to the defaulting party (30) days written notice to cure the default. However, in the event said default cannot be cured within said thirty (30) day period and the defaulting party is diligently attempting in good faith to

cure same, the time period shall be reasonably extended to allow the defaulting party additional cure time. Upon the occurrence of a default that is not cured during the applicable cure period, this Agreement may be terminated by the non-defaulting party upon thirty (30) days notice. This remedy is not intended to be exclusive of any other remedy, and each and every such remedy shall be cumulative and shall be in addition to every other remedy now or hereafter existing at law or in equity or by statute or otherwise. No single or partial exercise by any party of any right, power, or remedy hereunder shall preclude any other or future exercise thereof. Nothing in this section shall be construed to preclude termination for convenience pursuant to Section 3.05.

**3.08 Annual Appropriation.** The performance and obligations of SBBC under this Agreement shall be contingent upon an annual budgetary appropriation by its governing body. If SBBC does not allocate funds for the payment of services or products to be provided under this Agreement, this Agreement may be terminated by SBBC at the end of the period for which funds have been allocated. SBBC shall notify the other party at the earliest possible time before such termination. No penalty shall accrue to SBBC in the event this provision is exercised, and SBBC shall not be obligated or liable for any future payments due or any damages as a result of termination under this section.

**3.09 Excess Funds.** Any party receiving funds paid by SBBC under this Agreement agrees to promptly notify SBBC of any funds erroneously received from SBBC upon the discovery of such erroneous payment or overpayment. Any such excess funds shall be refunded to SBBC.

**3.10 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 transfer 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, Insert Name shall meet all applicable requirements for retaining public records. All records stored electronically must be provided to SBBC, upon request from SBBC's custodian of public records, in a format that is compatible with SBBC's information technology systems.

**IF A PARTY TO THIS AGREEMENT HAS QUESTIONS REGARDING THE APPLICATION OF CHAPTER 119, FLORIDA STATUTES, TO ITS DUTY TO PROVIDE PUBLIC RECORDS RELATING TO THE AGREEMENT, CONTACT THE CUSTODIAN OF PUBLIC RECORDS AT 754-321-1900, REQUEL.BELL@BROWARDSCHOOLS.COM, RISK**

**MANAGEMENT DEPARTMENT, PUBLIC RECORDS DIVISION, 600  
SOUTHEAST THIRD AVENUE, FORT LAUDERDALE, FLORIDA 33301.**

3.11 **Student Records.** Notwithstanding any provision to the contrary within this Agreement, any party contracting with SBBC under this Agreement shall fully comply with the requirements of Sections 1002.22 and 1002.221, Florida Statutes; FERPA, and any other state or federal law or regulation regarding the confidentiality of student information and records. Each such party agrees, for itself, its officers, employees, agents, representatives, contractors or subcontractors, to fully indemnify and hold harmless SBBC and its officers and employees for any violation of this section, including, without limitation, defending SBBC and its officers and employees against any complaint, administrative or judicial proceeding, payment of any penalty imposed upon SBBC, or payment of any and all costs, damages, judgments or losses incurred by or imposed upon SBBC arising out of a breach of this covenant by the party, or an officer, employee, agent, representative, contractor, or sub-contractor of the party to the extent that the party or an officer, employee, agent, representative, contractor, or sub-contractor of the party shall either intentionally or negligently violate the provisions of this section or of Sections 1002.22 and/or 1002.221, Florida Statutes.

3.12 **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.

3.13 **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.

3.14 **Governing Law and Venue.** This Agreement shall be interpreted and construed in accordance with and governed by the laws of the State of Florida. Any controversies or legal problems arising out of this Agreement and any action involving the enforcement or interpretation of any rights hereunder shall be submitted to the jurisdiction of the State courts of the Seventeenth Judicial Circuit of Broward County, Florida.

3.15 **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.

3.16 **Binding Effect.** This Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective successors and assigns.

3.17 **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.

3.18 **Incorporation by Reference.** **Attachments A and B** are attached hereto and referenced herein shall be deemed to be incorporated into this Agreement by reference.

3.19 **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.

3.20 **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.

3.21 **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.

3.22 **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.

3.23 **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.

3.24 **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.

3.25 **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.

3.26 **Contract Administration.** SBBC has delegated authority to the Superintendent of Schools or his/her designee to take any actions necessary to implement and administer this Agreement.

3.27 **Liability.** This section shall survive the termination of all performance or obligations under this Agreement and shall be fully binding until such time as any proceeding brought on account of this Agreement is barred by any applicable statute of limitations.

A. By SBBC: SBBC agrees to be fully responsible up to the limits of Section 768.28, Florida Statutes, for its acts of negligence, or its employees' acts of negligence when acting within the scope of their employment and agrees to be liable for any damages resulting from said negligence.

B. By VENDOR: VENDOR agrees to indemnify, hold harmless and defend SBBC, its agents, servants and employees from any and all claims, judgments, costs, and expenses including, but not limited to, reasonable attorney's fees, reasonable investigative and discovery costs, court costs and all other sums which SBBC, its agents, servants and employees may pay or become obligated to pay on account of any, all and every claim or demand, or assertion of liability, or any claim or action founded thereon, arising or alleged to have arisen out of the products, goods or services furnished by VENDOR, its agents, servants or employees; the equipment of VENDOR, its agents, servants or employees while such equipment is on premises owned or controlled by SBBC; or the negligence of VENDOR or the negligence of VENDOR'S agents when acting within the scope of their employment, whether such claims, judgments, costs and expenses be for damages, damage to property including SBBC's property, and injury or death of any person whether employed by VENDOR, SBBC or otherwise.

3.28 **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.

(Corporate Seal)

ATTEST:


  
Robert W. Runcie, Superintendent of Schools

**FOR SBBC**

THE SCHOOL BOARD OF BROWARD  
COUNTY, FLORIDA

By   
Abby M. Freedman, Chair

Approved as to Form and Legal Content:



Digitally signed by Kathelyn Jacques-Adams,  
Esq. - kathelyn.jacques-  
adams@gbrowardschools.com  
Reason: MYTHERAPYCOMPANY LLC  
Date: 2017.05.24 08:41:31 -04'00'

Office of the General Counsel

**FOR VENDOR**

(Corporate Seal)

MYTHERAPYCOMPANY, LLC

ATTEST:

By Christina Salisbury

\_\_\_\_\_, 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 CALIFORNIA

COUNTY OF LOS ANGELES

The foregoing instrument was acknowledged before me this 1 day of MAY, 2017 by CHRISTINA SALISBURY of MYTHERAPYCOMPANY, LLC on behalf of the corporation/agency.  
Name of Person  
Name of Corporation or Agency

~~He~~ She is personally known to me or produced DMV LICENSE as identification and ~~did~~ did not first take an oath. Type of Identification

My Commission Expires:

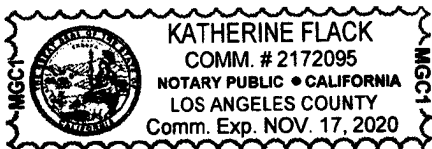
Nov. 17, 2020

Katherine Flack  
Signature – Notary Public

(SEAL)

KATHERINE FLACK  
Printed Name of Notary

2172095  
Notary's Commission No.



SCOPE OF SERVICES

1. VENDOR shall offer services for speech-language pathologist(s) and audiologists that hold a current, active professional license in speech-language pathology or audiology from the Department of Health, Board of Speech-Language Pathology and Audiology agree to provide copies of a current active professional license and certifications in speech-language pathology and/or audiology prior to acceptance for placement.
2. VENDOR shall, throughout **Attachment A**, not to hire any individual who is currently employed part-time or full-time by SBBC as a speech-language pathologist or audiologist until the completion of the school year. VENDOR shall, throughout **Attachment A**, hold harmless any individual employed by them who elects to become employed by SBBC in the school year following the expiration date of the current Agreement, throughout **Attachment A**, school year.
3. VENDOR shall provide speech-language pathologists and audiologists whose performance shall be consistent with a professional standard of care and comply with requirements of the State of Florida Department of Health, Division of Medical Quality Assurance, and Board of Professional Regulation for speech, language and audiology requirements of other applicable local, state or federal agencies which may govern the speech-language pathologist's or audiologist's activities on behalf of SBBC.
4. VENDOR shall provide services consistent with the professional standard of care and shall comply with the ethical requirements imposed by the State of Florida Department of Professional Regulations, the Florida State Department of Education and any other federal, state or local regulatory agency.
5. All speech-language pathologists and audiologists, who shall be providing services under this Agreement, throughout **Attachment A**, must be articulate in oral and written English.
6. All speech-language pathologists and audiologists, under this Agreement, throughout **Attachment A**, shall be required to pass the screening of the Broward District Schools Police Department prior to placement of assignment as required by the School Board of Broward County, Florida. (See General Condition 7.30 of the RFP, SBBC Photo Identification Badge). All speech-language pathologists and/or audiologists must utilize the STAR system and/or sign-in/out procedures to document attendance at assigned location.
7. Speech-language pathologist(s) and audiologist(s) providing services shall follow the procedures for the referral, identification, screening, evaluation, eligibility, placement, and dismissal of students with speech-language or hearing impairments as provided in the document Special Programs and Procedures by the ESE/SS Division.
8. Speech-language pathologist(s) and audiologist(s) providing services shall follow procedures for completing required documentation for student attendance, student progress and reporting to parents, reimbursement for Medicaid funding, and other procedures as indicated by the Special Programs and Procedures document and ESE/SS Division.
9. Speech-language pathologist(s) and audiologist(s) providing services shall allow District administrative staff as well as teacher-based resource personnel to review required documentation and observe all provided services.



## SCOPE OF SERVICES

10. Speech-language pathologist(s) and audiologist(s) providing services shall submit, for approval to the school principal or designee, any written communication intended for parents and teachers.
11. Speech-language pathologist(s) and audiologist(s) shall follow all rules and procedures as contained in the employee handbooks of the individual school. Speech-language pathologist(s) and audiologist(s) shall refrain from using school equipment (such as phones, copiers, computers, etc.) for personal or commercial business during service times.
12. Speech-Language pathologist(s) and audiologist(s) shall complete such records as shall be required to document services provided, on a daily basis. VENDOR shall submit timesheets and other documentation needed to substantiate payment through the approved electronic database on an approved voucher form no later than five (5) days following the delivery of service. In order to insure timely payment VENDOR must submit accurate time sheets of service in accordance with the training they receive. These records must be submitted to the ESE/SS Division, Arthur Ashe, Jr. Campus, 1701 NW 23<sup>rd</sup> Avenue, Fort Lauderdale, Florida 33311.
13. VENDOR shall have all new providers use and submit an approved District template to log services until training takes place for the electronic system. VENDOR shall utilize the approved template until such time as they are trained in the electronic database system. Immediately following training all providers, VENDOR shall transfer the data from the district template into the Educational Database System and file the original hard copy in the student's IEP folder at the school site.
14. (SBBC) ESE/SS Division reserves the right to interview all speech-language pathologist(s) and/or audiologist(s) prior to placement. ESE/SS Division reserves the right to refuse to utilize any given speech-language pathologist(s) and/or audiologist(s) if it is in their best interest to do so.
15. VENDOR's Speech-Language Pathologist(s) must attend two (2) scheduled policies/procedures meetings, considered as part of their workday, of not less than three (3) hours as determined by the District. These meetings shall include, but are not limited to, general information on these policies and procedures of the Broward County Special Programs and Procedures, the rights of students with disabilities, and other operational procedures required to carry out the therapy program. VENDOR shall incorporate any cancelled service sessions due to meeting times into their schedule.
16. VENDOR shall, throughout **Attachment A**, execute SBBC's HIPPA Business Associate Agreement as stated in **Attachment B**.
17. VENDOR shall provide speech-language pathologist(s) and/or audiologist(s) who agree to provide therapy services throughout the District at all times and locations designated by SBBC. SBBC reserves the right to request a change in times and locations of services provided by VENDOR (consistent with the written agreement for days and hours worked), during the course of an assignment. Services shall be provided up to 7 hours per day on regular student attendance days. Services provided on employee planning days and early release days must be pre-approved in writing by an authorized representative of the ESE/SS Division. School year calendars may be viewed on the following web link:  
**<http://www.browardschools.com>**. Click on the link "Calendars"

## SCOPE OF SERVICES

18. VENDOR shall, throughout **Attachment A**, provide the requested services within ten school days of verbal/written notice of an assignment by SBBC.
19. Resumes of replacement personnel are to be submitted to the ESE/SS Division for review. All replacement personnel must have written approval by the ESE/SS Division prior to placement. All replacement personnel shall follow the procedures as stated by the ESE/SS Division. All replacement personnel must have the same credentials equivalent to the individuals whom they replace. ESE/SS Division reserves the right to interview replacement personnel prior to approval.
20. The Audiologist's services shall determine the type and degree of hearing impairment and shall implement habilitation and rehabilitation services for the student. Administers and interprets variety of tests, such as air and bone conduction, and speech reception and discrimination tests, to determine type and degree of hearing impairment, site of damage, and effects on comprehension and speech. Evaluates test results in relation to behavioral, social, educational, and medical information obtained from patients, families, teachers, speech pathologists and other professionals to determine communication problems related to hearing disability. Plans and implements prevision, habilitation or rehabilitation services including hearing aid selection and orientation, counseling, auditory training, lip reading, language habilitation, speech conservation and other treatment programs developed in consultation with speech pathologists and other professionals.
21. Clinical Fellowship Year (CFY) candidates with a provisional license will be considered for a school assignment if the VENDOR agrees to provide all supervisory and support requirements for the candidate.
22. VENDOR shall insure that any interruption of services due to a therapist being "unavailable" shall be made up to the best of their ability and shall be documented in the Electronic Based System as "make-up" session.
23. VENDOR shall, throughout **Attachment A**, provide the required ELL training to all candidates assigned to a school site. Training can be provided via the VENDOR's own process or via the District's training for a minimal cost. Training must comply with the requirements of the Florida Consent Decree and the META Agreement.

**HIPPA BUSINESS ASSOCIATE AGREEMENT**

This Business Associate Agreement ("*Agreement*") is made and entered into as of this \_\_\_\_\_ day of \_\_\_\_\_, 2017 (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

**MYTHERAPYCOMPANY, LLC**

(hereinafter referred to as "*Business Associate*"),

whose principal place of business is

207 West Canyon Boulevard, Suite 202

Boulder, Colorado 80302

**WHEREAS**, by virtue of some of the services that Business Associate performs for SBBC, Business Associate may be a "business associate", as the term is defined at 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 coverage subject to regulation under the Health Insurance Portability and Accountability Act of 1996 ("HIPPA"), 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 HIPPA, the Health Information Technology for Economic and Clinical Health Act of 2009 ("HITECH"), the Omnibus Rule of 2013, and the 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").

**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/or disclosure of PHI and the security of 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.

## ATTACHMENT B

- (b) “**Business Associate**” shall mean Business Associate named above and shall include all successors and assigns, affiliates, subsidiaries, and related companies.
- (c) “**Designed 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 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) “**HIPPA**” means Health Insurance Portability and Accountability Act of 1996.
- (f) “**HITECH Act**” means the Health Information Technology for Economic and Clinical Health Act of 2009.
- (g) “**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).
- (h) “**Minimum Necessary**” means the least amount of PHI needed to accomplish the intended purpose of the use or disclosure.
- (i) “**Omnibus Rule**” means the HIPPA Omnibus Rule of 2013.
- (j) “**Privacy Rule**” shall mean the Standards of Privacy of Individuals Identifiable Health Information as set forth at 45 C.F.R. Parts 160 and 164, subparts A and E.
- (k) “**Protected Health Information**” or “**PHI**” shall have the same meaning as the term “protected health information” in 45 C.F.R. §130.103 (as amended by the HITECH Act) limited to the information created or received by Business Associate from or on behalf of SBBC.
- (l) “**Required by Law**” shall have the same meaning as the term “required by law” in 45 C.F.R. §164.103.
- (m) “**Secretary**” shall mean the Secretary of the Department of Health and Human Services or his or her designee.
- (n) “**Security Rule**” shall mean the Standards for Security of ePHI as set forth 45 C.F.R. Parts 160 and 164 Subpart C.
- (o) “**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 HIPPA or HITECH Act.
- (c) Business Associate agrees to use appropriate safeguards and comply, where applicable, with the HIPPA 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 substantially the same form as Exhibit A, hereto.
- (e) Business Associate shall promptly inform SBBC of a Breach of Unsecured PHI following the first day on which Business Associate knows of such Breach or following the first day on which Business Associate should have known 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 by Federal and/or Florida law.

## **ATTACHMENT B**

- (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 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 HIPPA Rules, including the rules to extend the requirements to the agent's or subcontractor's subcontractors.
- (h) Business Associate agrees to provide access, at the requires of SBBC, and in the time and manner designated by SBBC, to PHI in a Designated Record Set that is not also in SBBC's possession, to SBBC in order for SBBC to meet the requirements under 45 C.F.R. §164.524.
- (i) Business Associate agrees to make PHI available for amendment and incorporate all amendments to PHI in a Designated Record Set that SBBC directs or agrees to pursuant to 45 C.F.R. §164.526 at the request of SBBC or an Individual 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 a request of SBBC to the Secretary, in a time and manner as designated by SBBC or the Secretary, for the 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 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.

### 3. **Permitted Uses and Disclosures of PHI by “Business Associate”**

- (a) Except as otherwise limited in this Agreement, Business Associate may use or disclose PHI to perform functions, activities or services for, or on behalf of, SBBC as previously agreed to by the parties (the “Service Agreement”) provided that such use or disclosure would not violate the Privacy Rule if done by SBBC.
- (b) Except as otherwise limited in 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 in 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 for 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 in 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
- (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 with ten (10) business days prior written notice to Business Associate to audit Business Associate from time-to-time to verify Business Associate compliance with the terms of this Agreement. SBBC shall be entitled and enabled to inspect the records and other information relevant to Business Associate 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 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 and confidentiality and integrity of ePHI under the Security Standards 45 C.F.R. Part 160 and 164 subpart C.

- (b) Business Associate agrees that it will ensure that agents or subcontractors agree to implement the applicable administrative, physical, and technical safeguards required to protect the confidentiality and integrity of ePHI under the Security Standards 45 C.F.R. Part 164.
- (c) Business Associate agrees to report to SBBC all Security Incidents (as defined 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 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, on behalf of SBBC, it will perform all transactions for which a standard has been developed under the EDI Rule that Business Associate could reasonably be expected to perform in the ordinary course of its functions on behalf of SBBC.

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 HIPPA.

**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 HIPPA in general, shall be deemed to amend this Agreement to incorporate said changes without further action.

**8. Amendment.**

The parties agree to take any and all actions necessary to amend this Agreement from time to time so that SBBC is in compliance with the Privacy Rule, the Security Rule, the HITECH Act, and HIPPA in general. The parties may agree to amend this Agreement from time to time in other respect that 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 as of the Effective Date and shall remain in effect until such time as SBBC exercises its right to 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 of such breach to Business Associate, 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.

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, for example, if SBBC makes illegal demands on Business Associate, 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 Covered Entity.

- (d) ***Effect of Termination.*** Except as set forth in this Section 9(d), upon termination of this Agreement for any reason, at the request of SBBC, 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. In the event that Business Associate determines that returning or destroying the PHI is infeasible, such as in the use of data aggregation, Business Associate shall provide to SBBC written notification of the conditions that make return or destruction infeasible. If 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 make the return or destruction infeasible, 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 while such equipment is on premises owned or controlled by SBBC; or the negligence of Business Associate 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 property, and injury or death of any person whether employed by Business Associate, SBBC or otherwise.

**ARTICLE 3 – GENERAL CONDITIONS****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 waiver of limits to liability or rights existing under Section 768.28, Florida Statutes.

**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 term 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.

**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, FL 33301

With a Copy to: Executive Director, ESE/SS Division  
The School Board of Broward County, Florida  
1701 NW 23<sup>rd</sup> Avenue  
Fort Lauderdale, Florida 33301

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:

MyTherapyCompany LLC  
Attn: Laurie McCloskey  
207 West Canyon Boulevard, Suite 202  
Boulder, Colorado

**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. The person signing on behalf of "Business Associate" has authority to bind "Business Associate" with respect to all provisions contained in this Agreement.

**26. No Waiver of Rights, Powers and Remedies.**

No failure or delay by a party hereto in exercising any right, power or remedy under this Agreement, and no course of dealing between the parties hereto, will operate as a waiver of any such right, power or remedy of the party. No single or partial exercise of any right, power or remedy under this Agreement by a party hereto, nor any abandonment or discontinuance of steps to enforce any such right, power or remedy, will preclude such party from any other or further exercise thereof or the exercise of any other right, power or remedy hereunder. The election of any remedy by a party hereto will not constitute a waiver of the right of such party to pursue other available remedies. No notice to or demand on a party not expressly required under this Agreement will entitle the party receiving such notice or demand to any other or further notice or demand in similar or other circumstances or constitute a waiver of the right of the party giving such notice or demand to any other or further action in any circumstances without such notice or demand. The terms and provisions of this Agreement may be waived, or consent for the departure there from granted, only by written document executed by the party entitled to the benefits of such terms or provisions. No such waiver or consent will be deemed to be or will constitute a waiver or consent with respect to any other terms or provisions of this Agreement, whether or not similar. Each such waiver or consent will be effective only in the specific instance and for the purpose for which it was given, and will not constitute a continuing waiver or consent.

**27. Regulatory References.**

A reference in this Agreement to a section in the Privacy Rule, the Security Rule, the HITECH Act, or HIPAA in general means the referenced section or its successor, and for which compliance is required.

**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.


**30. Interpretation.**

Any ambiguity in this Agreement shall be interpreted in a manner that permits SBBC to comply with the Privacy Rule, Security Rule, the HITECH Act, HIPPA in general and any subsequent legislation or regulations otherwise affecting Business Associates.

IN WITNESS WHEREOF, the parties have executed this Business Associate Agreement as of the Effective Date:

(Corporate Seal)


ATTEST:

  
Robert W. Runcie, Superintendent of Schools

**FOR SBBC**

THE SCHOOL BOARD OF BROWARD  
COUNTY, FLORIDA

By:

  
Abby M. Freedman, Chair

Approved as to Form and Legal Content:



Digitally signed by Kathelyn Jacques-Adams,  
Esq. - kathelyn.jacques-  
adams@gbrowardschools.com  
Reason: MYTHERAPYCOMPANY LLC  
Date: 2017.05.24 08:42:13 -04'00'

Office of the General Counsel

FOR BUSINESS ASSOCIATE

Christina Salisbury  
Signature

Christina Salisbury, RFP/Proposal  
Print Name and Title Specialist

\_\_\_\_\_  
Witness

\_\_\_\_\_  
Witness

STATE OF CALIFORNIA

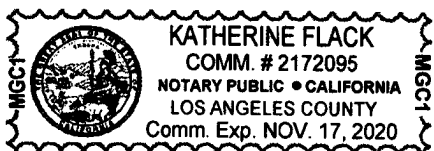
COUNTY OF LOS ANGELES

The foregoing instrument was acknowledged before me by CHRISTINA SALISBURY who is personally known to me or who produced DMV LICENSE as identification and who did / ~~did not~~ first take an oath this 1 day of MAY, 2017.

My Commission Expires:

NOV. 17, 2020

Katherine Flack  
Signature – Notary Public



KATHERINE FLACK  
Notary's Printed Name

2172095  
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: \_\_\_\_\_

**The School Board of Broward County, Florida  
Procurement & Warehousing Services**

ITB / RFP No.: <u>18-001V</u>	Tentative Board Meeting Date*: <u>JUNE 13, 2017</u>
Description: <u>SPEECH-PATHOLOGY AND AUDIOLOGY</u>	Notified: <u>258</u> Downloaded: <u>41</u>
<u>SERVICES</u>	ITB / RFP Rec'd: <u>24</u> No. Bids: <u>0</u>
For: <u>EXCEPTIONAL STUDENT EDUCATION DEPT.</u>	ITB / RFP Opening: <u>FEBRUARY 2, 2017</u>
Fund: <u>GENERAL FUND – FLORIDA SCHOOL BASED FULL-TIME EQUIVALENT GENERATED FOR SPEECH-LANGUAGE SERVICES</u>	Advertised Date: <u>DECEMBER 1, 2016</u>

**POSTING OF ITB / RFP RECOMMENDATION/TABULATION:** ITB / RFP Recommendations and Tabulations will be posted in the Procurement & Warehousing Services and [www.Demandstar.com](http://www.Demandstar.com) on **MAY 10, 2017 @ 11:00 AM** and will remain posted for 72 hours. Any person who is adversely affected by the decision or intended decision shall file a notice of protest, in writing, within 72 hours after the posting of the notice of decision or intended decision. The formal written protest shall be filed within ten (10) days after the date the notice of protest is filed. Failure to file a notice of protest or failure to file a formal written protest shall constitute a waiver of proceedings under this chapter. Section 120.57(3)(b), Florida Statutes, states that "The formal written protest shall state with particularity the facts and law upon which the protest is based." Saturdays, Sundays, state holidays and days during which the District is closed shall be excluded in the computation of the 72-hour time period provided. Filings shall be at the office of the Director of Procurement & Warehousing Services, 7720 West Oakland Park Boulevard, Suite 323, Sunrise, Florida 33351. Any person who files an action protesting an intended decision shall post with the School Board, at the time of filing the formal written protest, a bond, payable to The School Board of Broward County, Florida, (SBBC), in an amount equal to one percent (1%) of the estimated value of the contract. Failure to post the bond required by SBBC Policy 3320, Part VIII, Purchasing Policies, Section N, within the time allowed for filing a bond shall constitute a waiver of the right to protest.

(\*) The Cone of Silence, as stated in the ITB / RFP, is in effect until this ITB / RFP is approved by SBBC. The Board meeting date stated above is tentative. Confirm with the Purchasing Agent of record for the actual date the Cone of Silence has concluded.

**REVISED-2 - RECOMMENDATION TABULATION**

TWENTY-FOUR PROPOSALS WERE RECEIVED IN RESPONSE TO RFP 18-001V. PROPOSALS WERE EVALUATED BY THE FOLLOWING COMMITTEE MEMBERS CONSISTING OF:

DENEEN GORASSINI – COORDINATOR, STUDENT SUPPORT MEDICAID, MEDICAID/504  
DEBRA HARRINGTON – CURRICULUM SPECIALIST, SPEECH-LANGUAGE IMPAIRED, ESE DEPARTMENT  
THERESA SPURLOCK – CURRICULUM SUPERVISOR, CHH/VISUALLY IMPAIRED, ESE DEPARTMENT  
CYNTHIA MESA – OCCUPATIONAL AND PHYSICAL THERAPY SPECIALIST

M/WBE ADVISOR: LAVINIA FREEMAN, M/WBE SPECIALIST III

IN ACCORDANCE WITH SECTION 5.0, EVALUATION OF PROPOSALS AND THE EVALUATION COMMITTEE, IT IS RECOMMENDED THAT THE FOLLOWING LISTED PROPOSERS BE RECOMMENDED FOR APPROVAL BY THE SCHOOL BOARD FOR SPEECH-LANGUAGE PATHOLOGY AND AUDIOLOGY SERVICES. IN ORDER TO BE CONSIDERED QUALIFIED FOR APPROVAL, A MINIMUM SCORE OF 70 POINTS IS REQUIRED.

ALL SOURCE RECRUITING GROUP, INC.  
D/B/A ARDOR HEALTH SOLUTIONS  
\* AUDREY B. GREENWALD, M.S. CCC, P.A. (CAUCASIAN, FEMALE)  
D/B/A BOCA SPEECH CENTER  
CELL STAFF, LLC  
COBB PEDIATRIC THERAPY SERVICES, INC.  
COMMUNITY REHAB ASSOCIATES, INC.  
\* COMPREHENSIVE THERAPY CONSULTANTS, INC. (AFRICAN AMERICAN)  
EBS HEALTHCARE STAFFING SERVICES, INC.  
EDU HEALTHCARE, LLC  
THE EXECU/SEARCH GROUP, LLC  
INVO HEALTHCARE ASSOCIATES, LLC  
MG THERAPY, INC.  
MYTHERAPYCOMPANY LLC

The School Board of Broward County, Florida, prohibits any policy or procedure which results in discrimination on the basis of age, color, disability, gender expression, national origin, marital status, race, religion, sex or sexual orientation. Individuals who wish to file a discrimination complaint, may call the Executive Director, Benefits & EEO Compliance at 754-321-2150 or Teletype Machine (TTY) at 754-321-2158.

Individuals with disabilities requesting accommodations under the Americans with Disabilities Act (ADA) may call the Equal Educational Opportunities (EEO) at 754-321-2150 or Teletype Machine (TTY) at 754-321-2158.



PAGE 2  
RECOMMENDATION TABULATION  
18-001V – SPEECH-LANGUAGE PATHOLOGY AND AUDIOLOGY SERVICES

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ORANGE TREE STAFFING, LLC  
QUANTUM HEALTH PROFESSIONALS, INC.  
RCM HEALTH CARE SERVICES  
A DIVISION OF RCM TECHNOLOGIES (USA), INC.  
SHC SERVICES, INC.  
D/B/A SUPPLEMENTAL HEALTH CARE  
\* SONdra PIERCE, MS, CCC-SLP (CAUCASIAN, FEMALE)  
\* SPEECH REHAB SERVICES, LLC (CAUCASIAN, FEMALE)  
STAFFING OPTIONS & SOLUTIONS, INC.  
SUNBELT STAFFING, LLC.  
THERAPIA STAFFING, LLC.  
3 CHORDS, INC.  
D/B/A THERAPYTRAVELERS  
THERA-PEDS, INC.

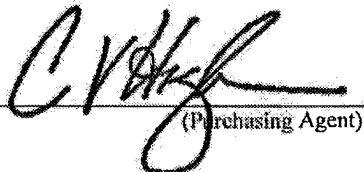
(\*) CERTIFIED M/WBE VENDOR

IT IS RECOMMENDED FOR REASON(S) STATED ON THE ATTACHED RFP REJECTION SHEET, THE RFP IN ITS ENTIRETY BE REJECTED FOR NOT COMPLYING WITH MINIMUM ELIGIBILITY REQUIREMENTS.

THE AWARD FOR THESE PROPOSERS SHALL BE CONTINGENT UPON SUCCESSFUL COMPLETION OF WRITTEN AGREEMENTS.

CONTRACT PERIOD: JULY 1, 2017 THROUGH JUNE 30, 2020

By: \_\_\_\_\_

  
(Purchasing Agent)

Date: \_\_\_\_\_

5/10/17

The School Board of Broward County, Florida, prohibits any policy or procedure which results in discrimination on the basis of age, color, disability, gender expression, national origin, marital status, race, religion, sex or sexual orientation. Individuals who wish to file a discrimination complaint, may call the Executive Director, Benefits & EEO Compliance at 754-321-2150 or Teletype Machine (TTY) at 754-321-2158.

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**RFP 18-001V**  
**SPEECH-PATHOLOGY AND AUDIOLOGY SERVICES**  
**SCORE SHEET**

<b>18-001V - Speech Pathology and Audiology Services</b>	<b>Maximum Points</b>	<b>Cindy Mesa</b>	<b>Debra Harrington</b>	<b>Deneen Gorassini</b>	<b>Terry Spurlock</b>	<b>Average Points</b>
<b>Experience and Qualifications</b>	<b>35</b>					
All Source Recruiting Group d/b/a Ardor Health Solutions		35	35	35	30	34
Audrey Greenwald M.S. CCC d/b/a Boca Speech Center		35	35	35	30	34
Cobb Pediatric Therapy Services		35	35	35	30	34
Cell Staff, LLC		33	32	34	30	32
Community Rehab Associates, Inc.		34	35	35	35	35
Comprehensive Therapy Consultants		35	35	35	30	34
EDU Healthcare		35	32	35	30	33
Execu/Search Group, LLC		32	35	35	30	33
EBS Educational Based Services		35	35	35	30	34
Invo Healthcare Associates		34	35	35	35	35
MG Therapy, Inc.		33	35	35	30	33
MyTherapyCompany, LLC		35	35	35	30	34
Orange Tree Staffing, LLC		32	35	35	30	33
Quantum Health Professionals		32	35	30	30	32
RCM Health Care Services / RCM Technologies		33	35	25	30	31
SHC Services, Inc. d/b/a Supplemental Healthcare		34	35	35	30	34
Sondra Pierce, MS, CCC - SLP		35	35	35	30	34
Speech Rehab Services, LLC		35	35	35	30	34
Staffing Options and Solutions, Inc.		34	35	35	30	34
Sunbelt Staffing, LLC		35	35	35	30	34
Therapia Staffing		30	32	25	30	29
Therapy Travelers		30	35	25	30	30
Thera-Peds, Inc.		25	20	35	30	28
<b>Scope of Services</b>	<b>35</b>					
All Source Recruiting Group d/b/a Ardor Health Solutions		35	30	10	20	24
Audrey Greenwald M.S. CCC d/b/a Boca Speech Center		35	35	35	30	34
Cobb Pediatric Therapy Services		35	35	35	35	35
Cell Staff, LLC		35	35	34	30	34
Community Rehab Associates, Inc.		35	35	35	30	34
Comprehensive Therapy Consultants		35	35	35	30	34
EDU Healthcare		35	35	35	30	34
Execu/Search Group, LLC		35	35	35	30	34
EBS Educational Based Services		35	35	35	30	34
Invo Healthcare Associates		35	35	32	35	34
MG Therapy, Inc.		35	35	35	30	34
MyTherapyCompany, LLC		35	35	35	30	34
Orange Tree Staffing, LLC		35	35	35	30	34
Quantum Health Professionals		35	35	35	30	34
RCM Health Care Services / RCM Technologies		35	35	35	30	34
SHC Services, Inc. d/b/a Supplemental Healthcare		33	32	35	30	33

**RFP 18-001V**  
**SPEECH-PATHOLOGY AND AUDIOLOGY SERVICES**  
**SCORE SHEET**

<b>18-001V - Speech Pathology and Audiology Services</b>	<b>Maximum Points</b>	<b>Cindy Mesa</b>	<b>Debra Harrington</b>	<b>Deneen Gorassini</b>	<b>Terry Spurlock</b>	<b>Average Points</b>
Sondra Pierce, MS, CCC - SLP		35	35	35	30	34
Speech Rehab Services, LLC		35	35	35	30	34
Staffing Options and Solutions, Inc.		35	35	35	30	34
Sunbelt Staffing, LLC		35	35	35	35	35
Therapia Staffing		35	35	35	30	34
Therapy Travelers		35	35	35	30	34
Thera-Peds, Inc.		35	35	35	30	34
<b>Cost of Services</b>	<b>20</b>					
All Source Recruiting Group d/b/a Ardor Health Solutions		19.8	19.8	19.8	19.8	19.8
Audrey Greenwald M.S. CCC d/b/a Boca Speech Center		19.2	19.2	19.2	19.2	19.2
Cobb Pediatric Therapy Services		19.2	19.2	19.2	19.2	19.2
Cell Staff, LLC		17.9	17.9	17.9	17.9	17.9
Community Rehab Associates, Inc.		19.7	19.7	19.7	19.7	19.7
Comprehensive Therapy Consultants		19.2	19.2	19.2	19.2	19.2
EDU Healthcare		18.2	18.2	18.2	18.2	18.2
Execu/Search Group, LLC		18.7	18.7	18.7	18.7	18.7
EBS Educational Based Services		17.9	17.9	17.9	17.9	17.9
Invo Healthcare Associates		17.9	17.9	17.9	17.9	17.9
MG Therapy, Inc.		19.2	19.2	19.2	19.2	19.2
MyTherapyCompany, LLC		18.2	18.2	18.2	18.2	18.2
Orange Tree Staffing, LLC		17.9	17.9	17.9	17.9	17.9
Quantum Health Professionals		19.3	19.3	19.3	19.3	19.3
RCM Health Care Services / RCM Technologies		17.9	17.9	17.9	17.9	17.9
SHC Services, Inc. d/b/a Supplemental Healthcare		18.3	18.3	18.3	18.3	18.3
Sondra Pierce, MS, CCC - SLP		19.2	19.2	19.2	19.2	19.2
Speech Rehab Services, LLC		17.9	17.9	17.9	17.9	17.9
Staffing Options and Solutions, Inc.		19.8	19.8	19.8	19.8	19.8
Sunbelt Staffing, LLC		17.9	17.9	17.9	17.9	17.9
Therapia Staffing		18.8	18.8	18.8	18.8	18.8
Therapy Travelers		17.9	17.9	17.9	17.9	17.9
Thera-Peds, Inc.		17.9	17.9	17.9	17.9	17.9
<b>M/WBE</b>	<b>10</b>					
All Source Recruiting Group d/b/a Ardor Health Solutions		0	0	0	0	0
Audrey Greenwald M.S. CCC d/b/a Boca Speech Center		10	10	10	10	10
Cobb Pediatric Therapy Services		0	0	0	0	0
Cell Staff, LLC		0	0	0	0	0
Community Rehab Associates, Inc.		0	0	0	0	0
Comprehensive Therapy Consultants		10	10	10	10	10

**RFP 18-001V**  
**SPEECH-PATHOLOGY AND AUDIOLOGY SERVICES**  
**SCORE SHEET**

<b>18-001V - Speech Pathology and Audiology Services</b>	<b>Maximum Points</b>	<b>Cindy Mesa</b>	<b>Debra Harrington</b>	<b>Deneen Gorassini</b>	<b>Terry Spurlock</b>	<b>Average Points</b>
EDU Healthcare		0	0	0	0	0
Execu/Search Group, LLC		0	0	0	0	0
EBS Educational Based Services		5	5	5	5	5
Invo Healthcare Associates		0	0	0	0	0
MG Therapy, Inc.		0	0	0	0	0
MyTherapyCompany, LLC		0	0	0	0	0
Orange Tree Staffing, LLC		10	10	10	10	10
Quantum Health Professionals		0	0	0	0	0
RCM Health Care Services / RCM Technologies		0	0	0	0	0
SHC Services, Inc. d/b/a Supplemental Healthcare		1	1	1	1	1
Sondra Pierce, MS, CCC - SLP		10	10	10	10	10
Speech Rehab Services, LLC		10	10	10	10	10
Staffing Options and Solutions, Inc.		0	0	0	0	0
Sunbelt Staffing, LLC		0	0	0	0	0
Therapia Staffing		0	0	0	0	0
Therapy Travelers		0	0	0	0	0
Thera-Peds, Inc.		10	10	10	10	10
<b>Total Score</b>	<b>100</b>					
All Source Recruiting Group d/b/a Ardor Health Solutions						<b>77</b>
Audrey Greenwald M.S. CCC d/b/a Boca Speech Center						<b>97</b>
Cobb Pediatric Therapy Services						<b>88</b>
Cell Staff, LLC						<b>84</b>
Community Rehab Associates, Inc.						<b>88</b>
Comprehensive Therapy Consultants						<b>97</b>
EDU Healthcare						<b>85</b>
Execu/Search Group, LLC						<b>85</b>
EBS Educational Based Services						<b>90</b>
Invo Healthcare Associates						<b>87</b>
MG Therapy, Inc.						<b>86</b>
MyTherapyCompany, LLC						<b>86</b>
Orange Tree Staffing, LLC						<b>95</b>
Quantum Health Professionals						<b>85</b>
RCM Health Care Services / RCM Technologies						<b>82</b>
SHC Services, Inc. d/b/a Supplemental Healthcare						<b>85</b>
Sondra Pierce, MS, CCC - SLP						<b>97</b>
Speech Rehab Services, LLC						<b>95</b>
Staffing Options and Solutions, Inc.						<b>87</b>
Sunbelt Staffing, LLC						<b>87</b>
Therapia Staffing						<b>82</b>

**RFP 18-001V**  
**SPEECH-PATHOLOGY AND AUDIOLOGY SERVICES**  
**SCORE SHEET**

<b>18-001V - Speech Pathology and Audiology Services</b>	<b>Maximum Points</b>	<b>Cindy Mesa</b>	<b>Debra Harrington</b>	<b>Deneen Gorassini</b>	<b>Terry Spurlock</b>	<b>Average Points</b>
Therapy Travelers						<b>82</b>
Thera-Peds, Inc.						<b>89</b>

**RFP 18-001V**  
**SPEECH-LANGUAGE PATHOLOGY AND AUDIOLOGY SERVICES**  
**REJECTION SHEET**

Reject proposal from PresenceLearning, Inc. In accordance with Section 4.2 and 4.2.2. of the RFP, in order to be considered for award and further evaluated, Proposer must have an active registration to do business in the State of Florida with the Department of State Division of Corporations by registering their business on www.sunbiz.org at the time of RFP opening. Failure to provide this information requested below will result in disqualification of proposal. Proposer did not provide the information requested for Section 4.2.2. and their company is not registered with the State of Florida with the Department of State Division of Corporations.



Speech-Language Pathology and Audiology Services  
Price Comparison and Negotiated Pricing

PROPOSER	SPEECH-LANGUAGE - ORIGINAL PRICE	SPEECH-LANGUAGE - NEGOTIATED PRICE	Savings	AUDIOLOGY - ORIGINAL PRICE	AUDIOLOGY - NEGOTIATED PRICE	Savings
All Source Recruiting Group / Ardor Health Solutions	\$ 58.00	\$ 58.00		NO BID	NO BID	
Audrey B. Greenwald, M.S., CCC-SLP	\$ 60.00	\$ 59.00	2%	NO BID	NO BID	
Cell Staff, LLC	\$ 60.00	\$ 58.50	3%	\$ 60.00	\$ 58.50	3%
Cobb Pediatric Therapy Services	\$ 60.00	\$ 60.00		NO BID	NO BID	
Community Rehab Associates, Inc.	\$ 59.50	\$ 59.50		\$ 50.00	\$ 50.00	
Comprehensive Therapy Consultants	\$ 60.00	\$ 59.00	2%	NO BID	NO BID	
Educational Based Services (EBS)	\$ 60.00	\$ 60.00		\$ 60.00	\$ 58.00	3%
EDU Healthcare	\$ 59.00	\$ 59.00		\$ 59.00	\$ 59.00	
Execu-Search Group, LLC	\$ 57.50	\$ 57.50		\$ 57.50	\$ 57.50	
Invo Healthcare Associates	\$ 60.00	\$ 59.00	2%	\$ 60.00	\$ 59.00	2%
MG Therapy, Inc.	\$ 60.00	\$ 59.00	2%	NO BID	NO BID	
MyTherapyCompany, LLC	\$ 59.00	\$ 59.00		\$ 55.00	\$ 55.00	3%
Average Savings			2%			





**PROCUREMENT & WAREHOUSING SERVICES**  
THE SCHOOL BOARD OF BROWARD COUNTY, FLORIDA

# Supplier/Product Evaluation Form

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**Please return completed evaluation forms to:**

Procurement & Warehousing Services Department (TSSC Building)  
7720 West Oakland Park Boulevard, Suite 323  
Sunrise, Florida 33351

For assistance with this form contact Charles High by Phone: (754) 321-0527 or Email: Charles.high@browardschools.com

## GENERAL INFORMATION

**Bid #:** 15-041V      **Bid Title:** Speech-Language Pathology and Audiology Services  
**Purchase Order #:** Various      **Product/Service Provided:** Speech Therapy  
**Supplier (Company) Name:** Speech Rehab Services  
**Contact Name:** Janet Sandler      **Contact Phone #:** 888-846-0652

## SECTION 1: SUPPLIER EVALUATION

1.) How would you rate the supplier in the following areas?

	1 Poor	2 Fair	3 Good	4 Very Good	5 Excellent
Overall customer service	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Delivery as scheduled or promised	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

	1 Not Satisfied	2 Somewhat Satisfied	3 Satisfied	4 Very Satisfied
2.) How satisfied are you with the supplier?	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

3.) Will you use this supplier again?

☒ Yes      ☐ No

## SECTION 2: PRODUCT / SERVICE EVALUATION

4.) Based on the areas below, how would you rate the products/services provided with this Bid?

	1 Poor	2 Fair	3 Good	4 Very Good	5 Excellent
Compliance with specifications	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Quality as compared to similar products/services	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Prices as compared to similar products/services	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

	1 Very Unlikely	2 Unlikely	3 Probably	4 Definitely
5.) Would you purchase this product/service again?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

## SECTION 3: END USER COMMENTS

Please share any additional information regarding this supplier or the products / services provided. If this supplier's performance is unsatisfactory, please tell us why. You may attach an additional sheet if necessary.

## EVALUATION FORM COMPLETED BY:

**Name:** Debra Harrington      **Title:** Curriculum Supervisor      **Contact Phone #:** (754) 321-3400

**School/Department:** ESE Department

**Participant's Signature:**

**Date:** 2/27/17



**PROCUREMENT & WAREHOUSING SERVICES**  
THE SCHOOL BOARD OF BROWARD COUNTY, FLORIDA

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### GENERAL INFORMATION

Bid #:15-041V      Bid Title: Speech-Language Pathology and Audiology Services  
Purchase Order #: Various      Product/Service Provided: Speech Therapy  
Supplier (Company) Name: Sondra Pierce  
Contact Name: Same      Contact Phone #: 954-882-4312

### SECTION 1: SUPPLIER EVALUATION

1.) How would you rate the supplier in the following areas?

	1 Poor	2 Fair	3 Good	4 Very Good	5 Excellent
Overall customer service	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Delivery as scheduled or promised	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

	1 Not Satisfied	2 Somewhat Satisfied	3 Satisfied	4 Very Satisfied
2.) How satisfied are you with the supplier?	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

3.) Will you use this supplier again? ☒ Yes ☐ No

### SECTION 2: PRODUCT / SERVICE EVALUATION

4.) Based on the areas below, how would you rate the products/services provided with this Bid?

	1 Poor	2 Fair	3 Good	4 Very Good	5 Excellent
Compliance with specifications	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Quality as compared to similar products/services	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Prices as compared to similar products/services	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

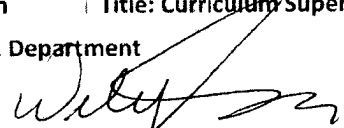
  

	1 Very Unlikely	2 Unlikely	3 Probably	4 Definitely
5.) Would you purchase this product/service again?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

### SECTION 3: END USER COMMENTS

Please share any additional information regarding this supplier or the products / services provided. If this supplier's performance is unsatisfactory, please tell us why. You may attach an additional sheet if necessary.

### EVALUATION FORM COMPLETED BY:

Name: Debra Harrington      Title: Curriculum Supervisor      Contact Phone #: (754) 321-3400  
School/Department: ESE Department  
Participant's Signature:       Date: 2/27/17



## PROCUREMENT & WAREHOUSING SERVICES

THE SCHOOL BOARD OF BROWARD COUNTY, FLORIDA

## Supplier/Product Evaluation Form

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### GENERAL INFORMATION

Bid #:15-041V Bid Title: Speech-Language Pathology and Audiology Services  
Purchase Order #: Various Product/Service Provided: Speech Therapy  
Supplier (Company) Name: ProvidaStaff  
Contact Name: Matthew Lewis Contact Phone #: 866-757-8233

### SECTION 1: SUPPLIER EVALUATION

1.) How would you rate the supplier in the following areas?

	1 Poor	2 Fair	3 Good	4 Very Good	5 Excellent
Overall customer service	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Delivery as scheduled or promised	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

	1 Not Satisfied	2 Somewhat Satisfied	3 Satisfied	4 Very Satisfied
2.) How satisfied are you with the supplier?	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
3.) Will you use this supplier again?	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No		

### SECTION 2: PRODUCT / SERVICE EVALUATION

4.) Based on the areas below, how would you rate the products/services provided with this Bid?

	1 Poor	2 Fair	3 Good	4 Very Good	5 Excellent
Compliance with specifications	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Quality as compared to similar products/services	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Prices as compared to similar products/services	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

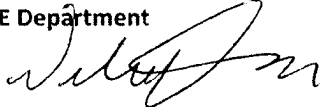
  

	1 Very Unlikely	2 Unlikely	3 Probably	4 Definitely
5.) Would you purchase this product/service again?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

### SECTION 3: END USER COMMENTS

Please share any additional information regarding this supplier or the products / services provided. If this supplier's performance is unsatisfactory, please tell us why. You may attach an additional sheet if necessary.

### EVALUATION FORM COMPLETED BY:

Name: Debra Harrington Title: Curriculum Supervisor Contact Phone #: (754) 321-3400  
School/Department: ESE Department  
Participant's Signature:  Date: 2/27/17



## PROCUREMENT & WAREHOUSING SERVICES

THE SCHOOL BOARD OF BROWARD COUNTY, FLORIDA

## Supplier/Product Evaluation Form

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Sunrise, Florida 33351

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### GENERAL INFORMATION

Bid #: 15-041V Bid Title: Speech-Language Pathology and Audiology Services  
Purchase Order #: Various Product/Service Provided: Speech Therapy  
Supplier (Company) Name: Progressus Therapy  
Contact Name: Christina Damiano Contact Phone #: 800-892-0640

### SECTION 1: SUPPLIER EVALUATION

1.) How would you rate the supplier in the following areas?

	1 Poor	2 Fair	3 Good	4 Very Good	5 Excellent
Overall customer service	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Delivery as scheduled or promised	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

	1 Not Satisfied	2 Somewhat Satisfied	3 Satisfied	4 Very Satisfied
2.) How satisfied are you with the supplier?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

3.) Will you use this supplier again? ☒ Yes ☐ No

### SECTION 2: PRODUCT / SERVICE EVALUATION

4.) Based on the areas below, how would you rate the products/services provided with this Bid?

	1 Poor	2 Fair	3 Good	4 Very Good	5 Excellent
Compliance with specifications	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Quality as compared to similar products/services	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Prices as compared to similar products/services	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

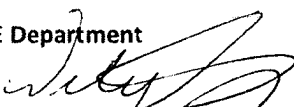
  

	1 Very Unlikely	2 Unlikely	3 Probably	4 Definitely
5.) Would you purchase this product/service again?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

### SECTION 3: END USER COMMENTS

Please share any additional information regarding this supplier or the products / services provided. If this supplier's performance is unsatisfactory, please tell us why. You may attach an additional sheet if necessary.

### EVALUATION FORM COMPLETED BY:

Name: Debra Harrington Title: Curriculum Supervisor Contact Phone #: (754) 321-3400  
School/Department: ESE Department  
Participant's Signature:  Date: 2/27/17



**PROCUREMENT & WAREHOUSING SERVICES**  
THE SCHOOL BOARD OF BROWARD COUNTY, FLORIDA

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### GENERAL INFORMATION

Bid #:15-041V      Bid Title: Speech-Language Pathology and Audiology Services  
Purchase Order #: Various      Product/Service Provided: Speech Therapy  
Supplier (Company) Name: Invo Healthcare Associates  
Contact Name: Mary McClain      Contact Phone #: 800-578-7906

### SECTION 1: SUPPLIER EVALUATION

1.) How would you rate the supplier in the following areas?

	1 Poor	2 Fair	3 Good	4 Very Good	5 Excellent
Overall customer service	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Delivery as scheduled or promised	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

	1 Not Satisfied	2 Somewhat Satisfied	3 Satisfied	4 Very Satisfied
2.) How satisfied are you with the supplier?	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

3.) Will you use this supplier again? ☒ Yes ☐ No

### SECTION 2: PRODUCT / SERVICE EVALUATION

4.) Based on the areas below, how would you rate the products/services provided with this Bid?

	1 Poor	2 Fair	3 Good	4 Very Good	5 Excellent
Compliance with specifications	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Quality as compared to similar products/services	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Prices as compared to similar products/services	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

	1 Very Unlikely	2 Unlikely	3 Probably	4 Definitely
5.) Would you purchase this product/service again?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

### SECTION 3: END USER COMMENTS

Please share any additional information regarding this supplier or the products / services provided. If this supplier's performance is unsatisfactory, please tell us why. You may attach an additional sheet if necessary.

### EVALUATION FORM COMPLETED BY:

Name: Debra Harrington      Title: Curriculum Supervisor      Contact Phone #: (754) 321-3400

School/Department: ESE Department

Participant's Signature: 

Date: 2/27/17



**PROCUREMENT & WAREHOUSING SERVICES**  
THE SCHOOL BOARD OF BROWARD COUNTY, FLORIDA

## Supplier/Product Evaluation Form

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### GENERAL INFORMATION

Bid #: 15-041V      Bid Title: Speech-Language Pathology and Audiology Services  
Purchase Order #: Various      Product/Service Provided: Speech Therapy  
Supplier (Company) Name: Educational Based Services  
Contact Name: John Gumpert      Contact Phone #: 800-578-7906

### SECTION 1: SUPPLIER EVALUATION

1.) How would you rate the supplier in the following areas?

	1 Poor	2 Fair	3 Good	4 Very Good	5 Excellent
Overall customer service	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Delivery as scheduled or promised	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

	1 Not Satisfied	2 Somewhat Satisfied	3 Satisfied	4 Very Satisfied
2.) How satisfied are you with the supplier?	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

3.) Will you use this supplier again?

<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No
---	-----------------------------

### SECTION 2: PRODUCT / SERVICE EVALUATION

4.) Based on the areas below, how would you rate the products/services provided with this Bid?

	1 Poor	2 Fair	3 Good	4 Very Good	5 Excellent
Compliance with specifications	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Quality as compared to similar products/services	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Prices as compared to similar products/services	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

	1 Very Unlikely	2 Unlikely	3 Probably	4 Definitely
5.) Would you purchase this product/service again?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

### SECTION 3: END USER COMMENTS

Please share any additional information regarding this supplier or the products / services provided. If this supplier's performance is unsatisfactory, please tell us why. You may attach an additional sheet if necessary.

### EVALUATION FORM COMPLETED BY:

Name: Debra Harrington      Title: Curriculum Supervisor      Contact Phone #: (754) 321-3400

School/Department: ESE Department

Participant's Signature:

Date: 2/27/17



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## GENERAL INFORMATION

Bid #: 15-041V      Bid Title: Speech-Language Pathology and Audiology Services  
Purchase Order #: Various      Product/Service Provided: Speech Therapy  
Supplier (Company) Name: Comprehensive Therapy Associates  
Contact Name: Sherry McGhee      Contact Phone #: 770-425-6661

## SECTION 1: SUPPLIER EVALUATION

1.) How would you rate the supplier in the following areas?

	1 Poor	2 Fair	3 Good	4 Very Good	5 Excellent
Overall customer service	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Delivery as scheduled or promised	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

	1 Not Satisfied	2 Somewhat Satisfied	3 Satisfied	4 Very Satisfied
2.) How satisfied are you with the supplier?	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

3.) Will you use this supplier again? ☒ Yes ☐ No

## SECTION 2: PRODUCT / SERVICE EVALUATION

4.) Based on the areas below, how would you rate the products/services provided with this Bid?

	1 Poor	2 Fair	3 Good	4 Very Good	5 Excellent
Compliance with specifications	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Quality as compared to similar products/services	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Prices as compared to similar products/services	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

	1 Very Unlikely	2 Unlikely	3 Probably	4 Definitely
5.) Would you purchase this product/service again?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

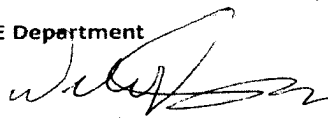
## SECTION 3: END USER COMMENTS

Please share any additional information regarding this supplier or the products / services provided. If this supplier's performance is unsatisfactory, please tell us why. You may attach an additional sheet if necessary.

## EVALUATION FORM COMPLETED BY:

Name: Debra Harrington      Title: Curriculum Supervisor      Contact Phone #: (754) 321-3400

School/Department: ESE Department

Participant's Signature: 

Date: 2/27/17



**PROCUREMENT & WAREHOUSING SERVICES**  
THE SCHOOL BOARD OF BROWARD COUNTY, FLORIDA

# Supplier/Product Evaluation Form

The purpose of this evaluation form is to rate a supplier's performance. This form will aid the Procurement & Warehousing Services Department in determining the quality of goods and/or services purchased for the District. Your input will be used in the evaluation of future bids or proposals submitted by this supplier.

Please return completed evaluation forms to:

Procurement & Warehousing Services Department (TSSC Building)  
7720 West Oakland Park Boulevard, Suite 323  
Sunrise, Florida 33351

For assistance with this form contact Charles High by Phone: (754) 321-0527 or Email: Charles.high@browardschools.com

## GENERAL INFORMATION

Bid #: 15-041V      Bid Title: Speech-Language Pathology and Audiology Services  
Purchase Order #: Various      Product/Service Provided: Speech Therapy  
Supplier (Company) Name: Community Rehab Associates  
Contact Name: Kelly McDonnell      Contact Phone #: 877-268-4329

## SECTION 1: SUPPLIER EVALUATION

1.) How would you rate the supplier in the following areas?

	1 Poor	2 Fair	3 Good	4 Very Good	5 Excellent
Overall customer service	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>
Delivery as scheduled or promised	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>

	1 Not Satisfied	2 Somewhat Satisfied	3 Satisfied	4 Very Satisfied
2.) How satisfied are you with the supplier?	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

3.) Will you use this supplier again? ☒ Yes ☐ No

## SECTION 2: PRODUCT / SERVICE EVALUATION

4.) Based on the areas below, how would you rate the products/services provided with this Bid?

	1 Poor	2 Fair	3 Good	4 Very Good	5 Excellent
Compliance with specifications	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Quality as compared to similar products/services	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Prices as compared to similar products/services	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

	1 Very Unlikely	2 Unlikely	3 Probably	4 Definitely
5.) Would you purchase this product/service again?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

## SECTION 3: END USER COMMENTS

Please share any additional information regarding this supplier or the products / services provided. If this supplier's performance is unsatisfactory, please tell us why. You may attach an additional sheet if necessary.

## EVALUATION FORM COMPLETED BY:

Name: Debra Harrington      Title: Curriculum Supervisor      Contact Phone #: (754) 321-3400

School/Department: ESE Department

Participant's Signature:

Date: 2/27/17





## PROCUREMENT & WAREHOUSING SERVICES

THE SCHOOL BOARD OF BROWARD COUNTY, FLORIDA

## Supplier/Product Evaluation Form

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Sunrise, Florida 33351

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### GENERAL INFORMATION

Bid #: 15-041V Bid Title: Speech-Language Pathology and Audiology Services  
Purchase Order #: Various Product/Service Provided: Speech Therapy  
Supplier (Company) Name: Cobb Pediatric Speech Services  
Contact Name: Mark Norris Contact Phone #: 888-288-1048

### SECTION 1: SUPPLIER EVALUATION

1.) How would you rate the supplier in the following areas?

	1 Poor	2 Fair	3 Good	4 Very Good	5 Excellent
Overall customer service	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Delivery as scheduled or promised	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>

	1 Not Satisfied	2 Somewhat Satisfied	3 Satisfied	4 Very Satisfied
2.) How satisfied are you with the supplier?	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>

3.) Will you use this supplier again? ☒ Yes ☐ No

### SECTION 2: PRODUCT / SERVICE EVALUATION

4.) Based on the areas below, how would you rate the products/services provided with this Bid?

	1 Poor	2 Fair	3 Good	4 Very Good	5 Excellent
Compliance with specifications	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Quality as compared to similar products/services	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Prices as compared to similar products/services	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>

	1 Very Unlikely	2 Unlikely	3 Probably	4 Definitely
5.) Would you purchase this product/service again?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>

### SECTION 3: END USER COMMENTS

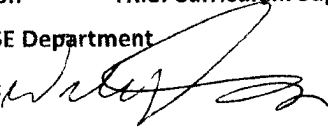
Please share any additional information regarding this supplier or the products / services provided. If this supplier's performance is unsatisfactory, please tell us why. You may attach an additional sheet if necessary.

### EVALUATION FORM COMPLETED BY:

Name: Debra Harrington Title: Curriculum Supervisor

Contact Phone #: (754) 321-3400

School/Department: ESE Department

Participant's Signature: 

Date: 2/27/17



**PROCUREMENT & WAREHOUSING SERVICES**  
THE SCHOOL BOARD OF BROWARD COUNTY, FLORIDA

## Supplier/Product Evaluation Form

The purpose of this evaluation form is to rate a supplier's performance. This form will aid the Procurement & Warehousing Services Department in determining the quality of goods and/or services purchased for the District. Your input will be used in the evaluation of future bids or proposals submitted by this supplier.

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Sunrise, Florida 33351

For assistance with this form contact Charles High by Phone: (754) 321-0527 or Email: Charles.high@browardschools.com

### GENERAL INFORMATION

Bid #:15-041V      Bid Title: Speech-Language Pathology and Audiology Services  
Purchase Order #: Various      Product/Service Provided: Speech Therapy  
Supplier (Company) Name: Boca Speech Center  
Contact Name: Audrey B. Greenwald      Contact Phone #: ( 561) 391-8444

### SECTION 1: SUPPLIER EVALUATION

1.) How would you rate the supplier in the following areas?

	1 Poor	2 Fair	3 Good	4 Very Good	5 Excellent
Overall customer service	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Delivery as scheduled or promised	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

	1 Not Satisfied	2 Somewhat Satisfied	3 Satisfied	4 Very Satisfied
2.) How satisfied are you with the supplier?	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
3.) Will you use this supplier again?	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No		

### SECTION 2: PRODUCT / SERVICE EVALUATION

4.) Based on the areas below, how would you rate the products/services provided with this Bid?

	1 Poor	2 Fair	3 Good	4 Very Good	5 Excellent
Compliance with specifications	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Quality as compared to similar products/services	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>
Prices as compared to similar products/services	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>


  

	1 Very Unlikely	2 Unlikely	3 Probably	4 Definitely
5.) Would you purchase this product/service again?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

### SECTION 3: END USER COMMENTS

Please share any additional information regarding this supplier or the products / services provided. If this supplier's performance is unsatisfactory, please tell us why. You may attach an additional sheet if necessary.

### EVALUATION FORM COMPLETED BY:

Name: Debra Harrington      Title: Curriculum Supervisor      Contact Phone #: ( 754) 321-3400  
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Participant's Signature:       Date: 2/27/17