

DISCLAIMER: This form is a general reference intended only to illustrate sufficient compliance with relevant law and policy. It is NOT a substitute for understanding federal and state guidelines and/or the appropriate state and local policies nor is it a comprehensive description of all applicable legal and contractual obligations.

**MEMORANDUM OF UNDERSTANDING (MOU)
FOR
BEHAVIORAL HEALTH SERVICES**

This MOU for Behavioral Health Services (“MOU”), is entered into by _____(name) & (address)_____, doing business as a behavioral health provider (hereinafter “BHP”) in the State of Louisiana. This MOU is effective as of the _____ day of _____, 20__ following signature of agreement by the BHP.

Whereas, BHP is a qualified provider of Behavioral Health Services in accordance with La. R.S. 17:173 and 17:3996(B)(45); and

Whereas, the _____ [LEA] is required, with the parent or guardian’s written request and consent, to allow BHP to provide certain behavioral health services, at certain designated School Board facilities, to eligible students who are enrolled in one of School Board’s schools;

Now, therefore, in consideration of the use of such [LEA] facilities and access to eligible students during the school day, the BHP hereby agrees to abide by the following terms and conditions:

**ARTICLE I
BHP’s OBLIGATIONS**

- 1.1 **General.** As described herein, BHP will provide certain behavioral health services (as defined in Section 1.3 below) to eligible students (as defined in Section 1.4 below) at the schools identified in Section 1.5 of this MOU, during days and times mutually determined by the parties. The parties understand that services identified under this MOU will only be provided in accordance with the official [LEA] calendar during months where school is in session and not during the summer period, school holidays, or school closures. The parties further understand and agree that, in order to maintain the integrity of educational services to eligible students, services rendered by BHP to participating students shall not exceed the lesser of the following: (1) the number of minutes which would reduce the student’s instructional day to 360 minutes; or (2) ninety (90) minutes per week, for any individual student. BHP services shall not be provided by BHP during the applicable time period designated for statewide testing by the Louisiana Department of Education. The BHP is not authorized to conduct group sessions with students. All BHP services must be provided on a 1:1 basis. Group parties and similar celebratory activities must occur outside of school hours, away from school premises.
- 1.2 **BHP Acknowledgement.** BHP understands and agrees that the [LEA] will only permit access to eligible student(s) on School Board premises during the school day under the

following terms and conditions:

- a. Requests for BHP observations, services, and access to [LEA] facilities must be submitted by the BHP at least five (5) school days before the requested activity. Approval of such requests may be granted by the [LEA] only after a signed MOU with the BHP, production of required assurances and documents, written request of the parents, and consent of the parents on a form designated by the [LEA], and all other terms and conditions set forth in this MOU and [LEA] policy.
- b. A visit by the BHP to a designated [LEA] facility is only authorized for the limited purpose(s) described herein.
- c. Subject to the limitations stated in Section 1.1, observation or services provided by the BHP to any given student shall not exceed 45 minutes per day, or more than _____x/days per week. Grouping students or providing services to two or more students during the same session is not authorized.
- d. The BHP will conduct the permitted observations/services only on the date(s) and time(s) and at location(s) specifically authorized by the [LEA] through its designated representative. Make-up sessions will not be accommodated. Access to classrooms and teachers is prohibited unless specific consent has been obtained from the principal/designee for a defined period of time and defined purpose.
- e. The BHP must provide a certificate verifying that a Criminal Background Check has been completed by a Louisiana State Police within the past 12 months as required herein.
- f. The BHP agrees to make every reasonable effort to ensure that observations and/or services do not disrupt any student or any staff member in carrying out his/her educational responsibilities. BHP agrees to refrain from entering classrooms and other instructional areas without consent of the principal/designee.
- g. The BHP agrees to respect the privacy rights of every person at the School, whether student, staff, or other individual. More specifically, the BHP shall not record any observation relating to any other student or any educational service provider and shall not include or otherwise disclose the name or other identifying information of any other student in any written or verbal observations or reports. The BHP shall not interact with any other students or school staff, unless specifically authorized to do so by the principal/designee.
- h. The BHP shall report to the school principal or designee when entering and leaving the School. Should the BHP be asked to leave the School premises, he/she shall do so promptly.
- i. Observing and/or providing services to students on [LEA] premises is a privilege, not a right, and must conform to parameters established by the [School Leader and LEA], including appropriate attire and decorum. This includes, but is not limited to, talking, gesturing, and restrictions on the use of tobacco and electronic devices, possession of firearms, and other lawful orders or direction of [LEA] personnel in the performance of their duties.

- j. BHP agrees that any visit to a [LEA] facility is for authorized purposes related to identified students only, with signed consent of the parents, and under parameters established by the [LEA]. The [LEA] reserves the right to terminate any visits/observations that become adversarial, promote the use of public property for private gain, or are otherwise used for unauthorized purposes. Failure to comply with applicable law, [LEA] policies, and/or this MOU will constitute an appropriate basis for termination of the BHP's authorization to provide services on any school campus.
 - k. Permission for the BHP to observe/provide services does not carry with it approval to provide consultation, advice, or recommendations to school staff during such observation or services. Unless specifically authorized by the principal or his/her designee, the BHP agrees that discussions with staff shall not take place during observations or delivery of BHP services.
- 1.3 **Scope of Services.** BHP acknowledges that he/she will provide behavioral health services as that term is defined under La. R.S. 17:173 and 17:3996(B)(45) only to eligible students. The services provided to eligible students shall include:(1) a behavioral health evaluation that includes, but is not limited to, diagnosis; type of intervention; length of intervention; identification of student's goals; and identification of the impact of the student behavior on a student's educational program; and (2) individual psychotherapy, family psychotherapy, psychotropic medication management; community psychiatric support and treatment; and crisis intervention. The BHP understands and agrees that no services rendered as behavioral health services under this MOU shall supersede the authority of a student's Individualized Education Program (IEP) Team or Section 504 Team/Committee in determining appropriate services for such students in accordance with applicable federal and state laws and regulations.
- 1.4 **Eligible Students.** BHP will provide services to only those students (a) enrolled in a school operated under the authority and jurisdiction of the [LEA] and (b) who have produced the signed written consent of a parent or guardian, on a form provided by the [LEA], authorizing the behavioral health services/treatment from BHP at the [LEA] facility. For students eighteen years of age or above, BHP will provide Services to only those students (a) enrolled in a school operated under the authority and jurisdiction of the [LEA] and (b) who have produced the signed written consent of the majority-aged student, on a form provided by the [LEA], authorizing the treatment from BHP at the [LEA] facility. Prior to treating any student, BHP will verify that a signed consent form has been obtained and is on file for the student.
- 1.5. **Designated School Board Facilities.** BHP acknowledges and agrees that access to [LEA] facilities for behavioral health services/treatment of eligible students under this MOU is limited to specific schools designated below. Accordingly, BHP is only authorized to serve eligible students at the following identified school(s):
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1.6 **Reimbursement for Services.** BHP shall have sole responsibility to seek reimbursement for services rendered from the student's parent or legal guardian individually or through an applicable health insurance policy, Medicaid, or any other third-party payer other than the [LEA]. BHP understands and agrees that under no set of circumstances is the [LEA] to have any liability or responsibility for the payment of any sums to BHP for services provided to any student, patient, or person. BHP agrees that there are no costs to the [LEA] whatsoever for this program and that the [LEA] will not provide any supplies or materials. BHP understands and agrees that the [LEA] is an authorized Medicaid provider and, as such, BHP shall not duplicate services provided by the [LEA] and shall not bill Medicaid for duplicative services rendered by BHP. BHP shall assume sole responsibility for ensuring that his/her/its behavioral health services do not conflict and/or duplicate services provided by the [LEA].

1.7 **Insurance.** BHP, at its sole cost and expense, shall maintain such policies of general and/or professional liability and other insurance as shall be necessary to insure BHP and its employees/contractors against any claim or claims for damages arising by reason of personal injuries or death occasioned directly or indirectly in connection with the performance of services under this MOU.

BHP shall hold [LEA] harmless from any liability for its activities, as well as the activities of volunteers or contractors not employed by BHP. In addition, BHP shall maintain insurance coverage in amounts that are acceptable to the [LEA] as follows: Medical Malpractice/Professional Liability insurance coverage with limits not less than \$1,000,000 per occurrence and \$1,000,000 per aggregate. BHP shall be responsible for written notification to [LEA] should its Medical Malpractice/Professional Liability insurer change the Retroactive Date on future renewals, or if coverage is non-renewed, lapses, or is cancelled. Statutory Workers' Compensation insurance to cover any and all claims of employees or contractors of BHP and volunteers with Employer's Liability Limits of not less than \$1,000,000. Commercial Auto insurance with a Combined Single Limit not less than \$1,000,000 for each accident and providing coverage for all vehicles driven onto School Board property. General Liability insurance including coverage for mobile locations on School Board property with limits of not less than \$2,000,000 Each Occurrence, \$1,000,000 Personal & Advertising Injury, \$2,000,000 Products/Completed Operations, and \$4,000,000 General Aggregate, and a \$5,000 Medical Expense Limit for any One Person].

BHP shall provide documentation of the insurance policies listed above with [LEA] listed as "Additional Insured" and listed as Certificate Holder on the Medical Malpractice/Professional Liability, General Liability, and Auto Liability insurance policies. Waivers of Subrogation in favor of the School Board shall be granted for the Medical Malpractice/Professional Liability, General Liability, Auto Liability, and Workers'

Compensation insurance policies. Documentation shall be provided in the form of Certificate(s) of Insurance within seven (7) business days of each policy's renewal, and documentation shall be furnished to the [LEA] prior to BHP providing any services to any student. Policy information must be provided to the [LEA's School Leader].

- 1.8 **Hold Harmless/Indemnification.** BHP agrees to hold harmless and indemnify the [LEA] from and against any and all claims, demands, and/or actions asserted against the [LEA] and that arise out of or may be related to BHP's negligence or willful misconduct, BHP's breach of this MOU, breach of confidentiality, or which otherwise arise out of the services provided to any student by BHP in connection with this MOU. Such indemnification shall include attorneys' fees, courts costs, and costs of litigation incurred by the [LEA].
- 1.9 **Designation of Representative.** Within ten (10) days of the execution of this MOU, BHP will designate an employee to serve as liaison to the [LEA] relative to this MOU.
- 1.10 **Annual & Periodic Reports.** BHP agrees at the end of each fiscal year, to provide the [LEA] with a report of the number of students served by BHP under the terms of this MOU. The report shall indicate the number of students served at each designated school facility. At a minimum, BHP agrees to provide [LEA] with a report of student progress pursuant to BHP services at least five (5) days prior to each reporting period established by the approved [LEA] calendar. BHP shall provide immediate notification to appropriate law enforcement entities and the School Principal or other appropriate school official in the event a student poses a significant and imminent risk to the health, safety, and well-being of the student, other students, staff, or the community at large. This paragraph shall not be interpreted to require the disclosure of confidential student/patient information except where authorized to address health and safety emergencies.
- 1.11 **Background Check.** All employees, volunteers, and contractors of BHP shall undergo a Criminal Background Check (background check) prior to performing services under this MOU at BHP's expense. BHP agrees to provide the [LEA] with a background check completed by the Louisiana State Police within the last 12 months for each employee, contractor, or other person who will perform services under this MOU. The [LEA] reserves the right to prohibit any BHP employee from performing services should information in the background check prove unsatisfactory.
- 1.12 **Licensure of Employees.** BHP represents and warrants that all employees and contractors providing services under this MOU are properly licensed and qualified to provide the professional services and that all such licenses and qualifications are current and in effect. BHP shall provide, within five (5) business days, copies of appropriate licenses and qualifications upon request by the [LEA]. If the BHP is an organization — that is, other than an individual BHP, as defined by La. R.S. 17:173(B)(1) — then, the organization shall identify each individual who will be providing services without full licensure and the respective supervising health professional(s) for those individuals. The BHP is solely responsible and warrants that all individuals providing behavioral health services have the

necessary background education, training, and experience and have been directly observed by a fully licensed BHP and determined to be competent in carrying out their roles prior to having contact with students. Such information regarding education, training, and experience shall be disclosed to parents/legal guardians of students being served. Contact information for all individuals providing services and their respective supervisor(s) must be current and any changes to service staff or supervisor must be communicated to [LEA staff] within two (2) business days of any change. The [LEA] shall deem any violation of this MOU or any applicable [LEA] policy by the service provider or the supervising professional as a violation of the MOU or applicable policy by the BHP organization.

- 1.13 **Maintenance of Patient/Client Records.** BHP agrees to comply with applicable state and federal laws, rules, and regulations regarding the confidentiality, storage, use, and destruction of patient/client medical records.

The State of Louisiana has enacted laws governing the collection, disclosure and use of students' personally identifiable information. The laws require that any third-party who is entrusted with personally identifiable information of any student, contain the statutorily prescribed minimum requirements as to the use of personally identifiable information. In order to comply with the requirements of applicable State and federal laws and regulations relative to privacy and confidentiality, BHP agrees as follows:

In accordance with La. R.S. 17:3914(F), BHP agrees to protect personally identifiable student information in a manner that allows only those individuals, who are authorized by BHPP to access the information, the ability to do so. Personally identifiable information maintained digitally and otherwise must be protected by appropriate security measures, including, but not limited to, the use of user names, secure passwords, encryption, security questions, etc. BHP's network and/or individual systems and devices must maintain a high level of electronic protection to ensure the integrity of sensitive information and to prevent unauthorized access in these systems. The BHP agrees to perform regular reviews of its protection methods and perform system auditing to maintain protection of its systems. BHP agrees to maintain secure systems that are patched, up to date, and have all appropriate security updates installed.

To ensure that the only individuals and entities who can access student data are those that have been specifically authorized by BHP to access personally identifiable student data, BHP shall implement various forms of authentication to identify the specific individual who is accessing the information. BHP must individually determine the appropriate level of security that will provide the necessary level of protection for the student data it collects and maintains. BHP shall not allow any individual or entity unauthenticated access to confidential personally identifiable student records or data at any time.

BHP shall implement appropriate measures to ensure the confidentiality and security of

personally identifiable information, protect against any unanticipated access or disclosure of information, and prevent any other action that could result in substantial harm to the [LEA] or any individual identified by the data.

BHP agrees that any and all personally identifiable student data will be stored, processed, and maintained in a secure location and solely on designated servers. No [LEA] data, at any time, will be processed on or transferred to any portable computing device or any portable storage medium, unless that storage medium is in use as part of the BHP's designated backup and recovery processes. All servers, storage, backups, and network paths utilized in the delivery of the service shall be contained within the United States.

BHP agrees that any and all data obtained from the [LEA], if any, shall be used expressly and solely for the purposes enumerated in the MOU. Data shall not be distributed, used, or shared for any other purpose. As required by Federal and State law, BHP further agrees that no data of any kind shall be revealed, transmitted, exchanged or otherwise passed to other BHPS, vendors or interested parties. BHP shall not sell, transfer, share or process any student data for any purposes other than those listed in the MOU, including commercial advertising, marketing, or any other commercial purpose.

BHP shall establish and implement a clear data breach response plan outlining organizational policies and procedures for addressing a potential breach. BHP's response plan shall require prompt response for minimizing the risk of any further data loss and any negative consequences of the breach, including potential harm to affected individuals. A data breach is any instance in which there is an unauthorized release or access of personally identifiable information or other information not suitable for public release. This definition applies regardless of whether BHP stores and manages the data directly or through a contractor, such as a cloud service provider.

BHP shall develop a policy for the protection and storage of audit logs. The policy shall require the storing of audit logs and records on a server separate from the system that generates the audit trail. BHP must restrict access to audit logs to prevent tampering or altering of audit data. Retention of audit trails shall be based on a schedule determined after consultation with operational, technical, risk management, and legal staff.

BHP is permitted to disclose Confidential Information to its employees, authorized subcontractors, agents, consultants and auditors on a need to know basis only, provided that all such subcontractors, agents, consultants, and auditors have confidentiality obligations to BHP and the School Board. The confidentiality obligations shall survive termination of any MOU with BHP for a period of fifteen (15) years or for so long as the information remains confidential, whichever is longer, and will inure to the benefit of the [LEA].

BHP acknowledges and agrees that unauthorized disclosure or use of protected information may irreparably damage the [LEA] in such a way that adequate compensation

could not be obtained solely in monetary damages. Accordingly, the [LEA] shall have the right to seek injunctive relief restraining the actual or threatened unauthorized disclosure or use of any protected information, in addition to any other remedy otherwise available (including reasonable attorney fees). BHP hereby waives the posting of a bond with respect to any action for injunctive relief. BHP further grants the [LEA] the right, but not the obligation, to enforce these provisions in BHP's name against any of BHP's employees, officers, board members, owners, representatives, agents, contractors, and subcontractors.

BHP agrees to comply with the requirements of La. R.S. 51:3071 *et seq.* (Louisiana Database Breach Notification Law) as well as any other applicable laws that require the notification of individuals in the event of unauthorized release of personally identifiable information or other event requiring notification. In the event of a breach of any of the BHP's security obligations or other event requiring notification under applicable law, BHP agrees to notify the [LEA] immediately and assume responsibility for informing all such individuals in accordance with applicable law and to indemnify, hold harmless and defend the [LEA] and its employees from and against any and all claims, damages, or causes of action related to the unauthorized release.

In accordance with applicable state and federal law, BHP agrees that auditors from any state, federal, or other agency shall have the option to audit BHP's service. Records pertaining to BHP services shall be made available to auditors and the [LEA] when requested.

- 1.14 **Equipment Provided by BHP.** BHP will provide and assume costs of all materials, equipment, and supplies in performance of services provided under this MOU.
- 1.15 **Non-Discrimination.** BHP will not discriminate against any student. All students will be treated in a manner which provides equal opportunity to services of BHP.
- 1.16 **Right to Be Present.** BHP will provide parents the right to be present when their child is receiving services.

ARTICLE II

SCHOOL BOARD RIGHTS

- 2.1. **Use of Premises.** BHP understands and agrees that its use of public school premises is subject to Article 7, § 14 of the Louisiana Constitution which prohibits a [LEA] from allowing use of its property for private gain. Accordingly, BHP agrees to establish and officially file its business status, including its official address, with the Louisiana Secretary of State and to comply with all other federal and Louisiana laws and regulations governing the establishment and operation of a private business or independent contractor entity,

whether designated as a for-profit or non-profit business/entity.

- 2.2 Provision of Facilities/Space Available.** BHP understands that [LEA] premises are designated for and dedicated to educational purposes during the school day and that space availability may be limited or non-existent in [LEA] buildings. The [LEA] shall not be responsible for making suitable space available for BHP, and BHP is solely responsible for making alternative off-campus arrangements when, at the determination of the [LEA], suitable space is unavailable for delivery of BHP services to a student during the school day. Should space be available at [LEA] schools under the terms of this MOU, the [LEA] will not assure the confidentiality of any school location used by the BHP. BHP shall have sole responsibility for determining whether its services can be legally and ethically provided in a particular location at any given time, based on privacy and confidentiality considerations.
- 2.3 Access to Student by School Board.** In no instance shall the BHP prohibit [LEA] employees from physically accessing at any time a student who is receiving services from the BHP under this MOU. Accordingly, BHP shall not lock or otherwise block access to any location within a school facility in which BHP is providing services under this MOU to a student.
- 2.4 Other Activities.** Only behavioral health services are permitted. Individual and group celebratory activities or non-therapeutic gatherings must take place outside of school hours and away from school premises. Make-up sessions will not be permitted due to instructional time and space constraints.
- 2.5 Solicitation.** Solicitation of any kind is strictly prohibited. Advertising flyers, business cards, and other direct and indirect advertising of a BHP's services on school premises is strictly prohibited. BHPs shall not contact or harass parents/students as a means of soliciting business/billing Medicaid or private insurance. Practice conflicts between competing BHP agencies or individuals shall not occur on school premises or involve enrolled students.
- 2.6 Emergencies.** The BHP and school staff will work collaboratively to address any emergency situations that may involve a student, including suicidal threats, threats of violence, and threats of terrorism. The BHP agrees to follow statutory requirements for mandatory reporting of threats of violence and threats of terrorism.

ARTICLE III

TERM AND TERMINATION

- 3.1. Term.** This MOU shall begin on the Effective Date and shall terminate on Month/Date, 20___. Thereafter, the MOU may be renewed in writing for additional terms, each commencing upon the termination of the prior term.

- 3.2. **Termination.** The School Board shall have a right to immediately and without notice prohibit BHP from providing services on any school campus for failure to comply with [LEA] policies, procedures, and the terms of this MOU.

ARTICLE IV
MISCELLANEOUS TERMS

- 4.1. **Compliance with Law.** BHP shall comply with all federal and state laws and regulations applicable to this MOU including without limitation, any applicable requirements of the State of Louisiana Department of Education and Department of Health and Hospitals. The School Board acknowledges that BHP is a covered entity under the Health Insurance Portability and Accountability Act of 1996 (“HIPAA”), as amended from time to time. BHP acknowledges and agrees that records maintained by the School Board are subject to the Family Educational Rights and Privacy Act (“FERPA”), as amended from time to time. Against this backdrop, BHP’s patient records will be (a) maintained separately from School Board education records and (b) subject to HIPAA not FERPA; School Board education records will (c) not include records of Services performed under this MOU and (d) shall be subject to FERPA, not HIPAA.
- 4.2. **Code of Ethics.** BHP certifies and acknowledges that the Louisiana Code of Governmental Ethics (Code) applies to this MOU and further certifies and acknowledges that no one prohibited from entering into a contractual or other relationship with the [LEA] as a result of that Code is involved or will become involved in any matters pertaining to this MOU. Accordingly, no person employed in any capacity under the [LEA's] jurisdiction shall have any interest, financial or otherwise, direct or indirect, or engage in any business, employment transaction, or professional activity, or incur any obligation of any nature, which is in substantial conflict with the proper discharge of his/her duties or employment and the terms of this MOU.
- 4.3. **Rights Beyond Termination.** The rights of termination referred to in this MOU are not intended to be exclusive and are in addition to any other rights or remedies available at law or in equity.
- 4.4. **Assignment.** The MOU may not be assigned to any other party by BHP.
- 4.5. **Notice.** Written notice, given under the provisions of this MOU, shall be deemed given, if personally delivered by overnight courier or messenger, or if deposited in the U.S. Mail, in a properly stamped envelope, and sent certified mail, return receipt requested, addressed or transmitted as follows:

To BHP: _____(BHP)

Attention: _____

To [LEA] : [LEA]
Attention: [LEA Designee]
Address
City/State/Zip

All notices shall be effective upon delivery.

- 4.6. **Waiver.** No waiver of any default hereunder shall be construed to be or shall constitute a waiver of any subsequent default.
- 4.7. **Construction and Effect.** This MOU supersedes all prior negotiations, representations or agreements, if any. The Article and Section headings are solely for convenience and shall not be deemed to limit the subject of the Articles and Sections or be considered in their interpretation. Any Schedules or Exhibits referred to herein are made a part of this MOU by the respective references to them.
- 4.8. **Severability.** If any term or provision of this MOU or the application thereof to any persons or circumstances shall to any extent or for any reason be invalid or unenforceable, the remainder of this MOU and the application of such term or provision to persons or circumstances other than those as to which it is held invalid or unenforceable shall not be affected thereby, and each term and provision of this MOU shall be valid and enforced to the fullest extent permitted by law.
- 4.9. **Amendments.** This MOU shall not be altered, modified, or amended except by written instrument approved by the Superintendent or designee.
- 4.10. **Governing Law.** This MOU shall be governed by and construed in accordance with the laws of the State of Louisiana. All actions or proceedings in any way, manner or respect arising out of or related to this MOU shall be litigated only in the _____ Judicial Court for the Parish of _____.

IN WITNESS WHEREOF, the duly authorized officers of the BHP have executed this MOU as effective on the date set forth in the first paragraph.

BHP

By: _____

Name (Printed): _____

Title: _____

Date: _____

SAMPLE