

## COLLABORATION AGREEMENT

This Agreement is made and entered into as of September 1, 2018 by and between Independent School District #271 (District), Bloomington, Minnesota and Fraser Child and Family Center (Fraser), a Minnesota nonprofit corporation.

WHEREAS, District and Fraser do mutually agree as follows:

### Article 1

#### Collaboration and Coordination of Services

**Section 1.1 Purposes and Coordination of Services.** The Parties agree to work cooperatively to provide Program Services including Autism/Mental Health Day Treatment and Autism/Mental Health Outpatient Services, as well as Additional Services that are authorized by District including BCBA Consultation/Training, with the intent to meet the needs of students with autism and emotional / behavioral disorders that are served at the Service Site. The Fraser Director of the Autism Center of Excellence and the Early Childhood Special Education Supervisor and Coordinator of the District will be responsible for coordinating the services provided by each Party at the Service Site.

#### **Section 1.2 Support Services.**

- District and Fraser shall provide culturally competent bilingual services to children and families. If interpreter services are required, both District and Fraser will look to their respective internal capabilities to provide this service. In the event that outside interpreters must be engaged, the cost for such interpreters for Autism/Mental Health Day Treatment and Autism/Mental Health Outpatient Services will be paid by Fraser. The cost for interpreters for consultation and/or training requested by District will be paid by District.
- District and Fraser shall consult regularly regarding space, equipment and supplies needed at the Service Site.

### Article 2

#### Duties of Fraser

#### **Section 2.1 Program Services.**

- **Autism/Mental Health Day Treatment:** Fraser shall operate two (2) day treatment sessions at Service Site for up to sixteen (16) children for a three (3) hour time period. Therapeutic services provided by Fraser will be medically necessary and based on each child's Individual Treatment Plan.
- **Autism/Mental Health Outpatient Services:** Fraser will provide medically necessary Autism/Mental Health Outpatient Services including diagnostic assessment/testing and individual, family and/or group therapy with an overall goal of developing groups and to ensure parent/family mental health support. Fraser will work with the ECSE Family / Community Partnerships Coordinator to ensure that Consent to Release and Referral protocols are in place.

**Section 2.2 Additional Services.**

- **Pre-approved Additional Services of BCBA Consultation/Training:** Fraser can provide additional BCBA consultation / training, at the authorization of District, at a fee of \$154 per hour. Fraser will provide an invoice for services.

**Section 2.3 Professional Program Staff.** Fraser shall provide all clinical staff required, at the sole discretion of Fraser, to operate Program Services and provide Additional Services as outlined, and a clinical manager to oversee the mental health staff and clinical administration of the Program. Fraser will provide a licensed mental health professional as a lead contact.

**Section 2.4 Compliance with Service Site Policies.** Fraser shall comply with any policies and procedures of District related to the general operation of District including Federal performance standards and State of Minnesota licensing requirements.

**Section 2.5 Legal Compliance.** Fraser shall assure that Program Services at all times complies with all applicable licensing and certification standards, including, but not limited to the laws, rules, regulations and ordinances and judicial and administrative interpretations thereof, of the United States and the state of Minnesota.

**Section 2.6 Billing and Services Authorizations.** Fraser shall be responsible for obtaining service authorizations from third party payors and billing third party payors for child specific Program Services (Autism/Mental Health Day Treatment and Autism/Mental Health Outpatient Services). Fraser will invoice District quarterly for Additional Services provided (authorized BCBA Consultation/Training). Fraser will also invoice District quarterly for payments for the Day Treatment Partnership Milieu.

**Section 2.7 Wrap-Around Services for Children.** Fraser shall arrange for the authorization of transportation services from third party payors, when applicable, for children and family members accepted into Program Services.

**Section 2.8 Permitted Use of Space.** Fraser shall limit its use of Service Site to those activities identified in this Agreement.

**Article 3  
Duties of District**

**Section 3.1 Space, Equipment and Supplies.** District shall provide and maintain such space, equipment and supplies as are reasonably necessary for the operation of Program Services at Service Site.

**Section 3.2 Wrap-Around Services for Children.** District shall provide health services, family education, support services, and meal services that may be required by District-eligible and enrolled children served by Fraser under this Agreement.

**Section 3.3 Support Services.** Fraser will bill third party payors, when funding is available, for necessary transportation services to and from medically necessary Autism/Mental Health services. Fraser will work with District to secure additional transportation resources necessary to support transportation for children and families.

**Section 3.4 Legal Compliance.** District shall assure that its space, equipment and facilities are in compliance with all applicable standards, including, but not limited to the laws, rules, regulations and ordinances and judicial and administrative interpretations thereof, of the United States and the state of Minnesota.

#### **Article 4 Relationship of Parties**

**Section 4.1 Independent Contractors.** Fraser is at all times serving as an independent contractor to District. Nothing in this Agreement or in the relationship between the Parties shall be construed to make either Party or any of their officers, agents, or employees an employee of, or joint venturer of or with the other for any purpose whatsoever, including without limitation, participation in any benefits or privileges given or extended by the Parties to their employees. No right or authority is granted to Fraser to assume or to create any obligation or responsibility, express or implied, on behalf of or in the name of District.

**Section 4.2 Responsibility for Payment of Taxes.** District shall not treat Fraser as an employee for any reason, including, but not limited to, the Federal Unemployment Tax Act, the Social Security Act, the Workers' Compensation Act and any federal or state income tax laws or regulations mandating the withholding of income taxes at the source of compensation payment. Fraser shall be solely responsible for payment of all self-employment and/or applicable federal and state income taxes.

**Section 4.3 Not Exclusive.** Fraser may offer its services to entities and persons other than District during the term of this Agreement.

#### **Article 5 Compensation/Billing Rights**

**Section 5.1 Payment for Day Treatment Partnership Milieu.** District shall have no obligation to make any payments to Fraser for Additional Program Services provided by Fraser, unless specifically requested and prior authorized by District. The Parties agree and acknowledge the Day Treatment Partnership Milieu provided by Fraser under the terms of this Agreement are outside the scope of the Program Services. District shall pay \$15,000 dollars to Fraser for the Day Treatment Partnership Milieu, to be paid quarterly with an amount of \$3,750 due on the last day of the month each October, January, April and July (see Section 2.6).

**Section 5.2 Revenue Recovery Rights.** Fraser shall establish the charges for Program Services and shall have the sole and exclusive right to bill and to receive all fees and amounts charged for Program Services.

## **Article 6 Confidentiality**

**Section 6.1 Confidentiality of Records.** All medical information and/or data concerning specific students (including, but not limited to, the identity of the student), derived from or obtained during the course of Fraser's duties under this Agreement, shall be treated by Fraser and District as confidential so as to comply with all applicable state and federal laws and regulations regarding confidentiality of records, and shall not be released, disclosed or published to any party other than as required or permitted under applicable laws. To the extent, and at such time as additional legal and regulatory requirements regarding the confidentiality and security of health information (including but not limited to regulations under the Health Insurance Portability and Accountability Act of 1996 ("HIPAA")) affect the obligations of the Parties under this Agreement, the Parties shall amend this Agreement as necessary and cooperate to achieve compliance with such requirements. All records created or obtained by Fraser while operating the Program shall be the property of Fraser. All records created or obtained by District while operating the Program shall be the property of District. See also Addendum A.

**Section 6.2 Other Confidential Information.** During the course of providing services for District, District may have access to or become acquainted with confidential information relating to Fraser's business, including Fraser's outpatient treatment model and curriculum. District acknowledges and understands the importance to Fraser of maintaining such information and agrees to never use or disclose such information. Upon termination of this Agreement, District and Fraser agree to immediately return to following the Minnesota Data Privacy Act regarding disclosure of client private health information. District agrees to immediately return to Fraser any other tangible documents which contain, embody or disclose, in whole or in part any confidential or proprietary information.

**Section 6.3 Survival.** The provisions of Article 7 shall survive the termination of the Agreement.

## **Article 7 Insurance**

**Section 7.1 Insurance.** District shall obtain and maintain at its sole expense, comprehensive general and/or general liability insurance that covers the Service Site and shall at all times maintain workers' compensation coverage (whether through purchased insurance or self-insurance law) for all employees employed by District who provide

services at Service Site. Fraser shall obtain and maintain at its sole expense professional liability insurance and shall at all times maintain workers' compensation coverage (whether through purchased insurance or self-insurance law) for all employees employed by Fraser who provide services pursuant to this Agreement. Each Party agrees to provide written evidence of the Party's insurance coverage and to provide continuing evidence of the Party's insurance coverage upon written request of the other Party. (The suggested amount of insurance is \$1,000,000.00.)

## **Article 8 Term and Termination**

**Section 8.1 Terms.** The term of this Agreement shall be for one (1) year from the Effective Date.

**Section 8.2 Termination.** Subject to the continuing obligations of Fraser and District set forth in Articles 8 and 10:

**8.2.1 Without Cause.** This Agreement may be terminated for any reason or no reason by either Party upon sixty (60) days advance written notice to the other Party of such intention to terminate.

**8.2.2 With Cause.** This agreement may be terminated by either party with cause upon default, by the other Party under any material term of this agreement and failure to cure such default within sixty (60) days after receipt of written notice specifying the precise nature of such default. Upon failure to cure such default, the agreement shall be deemed terminated without further action.

**8.2.3 Termination for Elimination or Reduction in Funding.** Continued performance of this agreement by District is contingent upon continued funding to District for period covered by this agreement. In the event of elimination or reduction of funding, District shall, at its option, have the right to terminate this contract. District agrees to notify Fraser under this provision by giving notice thirty (30) days in advance.

**8.2.4 Bankruptcy or Insolvency.** This Agreement may be terminated upon the bankruptcy or dissolution of Fraser or District.

**8.2.5 Upon Notice.** This Agreement shall terminate upon notice if either Party fails to maintain insurance as required under Article 3 or the other Party provides written notice of termination of their desire to terminate.

**8.2.6 Merger or Sale.** This Agreement may be terminated by Fraser or District upon sixty (60) days written notice upon the merger of District or Fraser with another organization or upon the sale of substantially all of its assets to another organization.

**8.2.7 Change in Law.** In the event any provision of this Agreement is in conflict with current state or Federal law or a subsequent change in state or Federal law, the Parties agree to negotiate in good faith to amend this Agreement to comply with the law. In the event the Parties are unable to reach agreement through good faith negotiations within sixty (60) days of becoming aware of a conflict between the terms of this Agreement and current State or Federal law, either Party may terminate this Agreement effective immediately upon notice in writing to the other Party.

**8.2.8 Mutual Agreement.** This Agreement may be terminated at any time by the mutual agreement of the Parties.

## **Article 9 Indemnification**

**Section 9.1 Mutual Indemnification.** Each Party shall indemnify, defend and hold harmless the other Party any related entity, and each of their directors, officers, and employees from and against any and all claims, actions, causes of action, demands, liabilities, losses, damages, costs and expenses, including but not limited to, reasonable attorneys' fees and interest, which any of them at any time sustain or incur (i) by reason of any negligent act or omission to act of the Party or its employees arising under this Agreement, or (ii) by reason of the failure of a Party to perform its obligations under the terms of this Agreement.

## **Article 10 Miscellaneous**

**Section 10.1 Governing Law.** This Agreement and the rights and obligations of the Parties shall be governed by and construed and enforced in accordance with the laws of the State of Minnesota without reference to the choice of law doctrine of such state.

**Section 10.2 Successors and Assigns.** Except as otherwise provided to the contrary, this Agreement shall be binding upon the Parties hereto, and also upon their heirs, personal representatives, successors, and assigns.

**Section 10.3 Assignment.** No Party may assign or otherwise transfer its rights or obligations hereunder including, without limitation, by a change in the majority ownership or control of one of the Parties, without the prior written consent of the other Party to this Agreement, and any such transfer or assignment without said consent shall be void.

**Section 10.4 Amendment.** This Agreement may be amended or modified only by a writing executed by the other Party.

**Section 10.5 Notices.** Any notice or other communication provided for by this Agreement must be in writing and will be deemed given or delivered when personally delivered or when deposited in the United States mail, certified or registered, return receipt requested, postage prepaid and properly addressed, or by recognized overnight courier, next day delivery, charges prepaid, or if given by facsimile, upon evidence of transmission of facsimile, followed by registered or certified mail, addressed to the intended recipient as follows:

If to District: Jennifer McIntyre  
Executive Director of Special Education  
1301 W. 106<sup>th</sup> St.  
Bloomington, MN 55431

If to Fraser Child and Family Center: Jan Luker  
Chief Operating Officer  
Fraser  
2400 West 64<sup>th</sup> Street  
Richfield, MN 55423

**Section 10.6 Headings.** The section headings contained in this Agreement are for reference purposes only and shall not in any way affect the meaning or interpretation of this Agreement.

**Section 10.7 Construction.** All words used in this Agreement will be construed to be of such gender or number as the circumstances require. Unless otherwise expressly provided, the word “including” does not limit the preceding words or terms. The singular and plural shall each include the other, and this Agreement shall be read accordingly when required by the facts. Any reference to any federal, state, local, or foreign statute or law shall be deemed as so to refer to all rules and regulations promulgated thereunder, unless the context requires otherwise.

**Section 10.8 Integration.** This Agreement constitutes the entire agreement and understanding of the Parties relative to the subject matter hereof as of the date of this

Agreement and replaces and supersedes any and all prior oral or written agreements, representations and discussions relating to such subject matter.

**Section 10.9 Press Releases and Public Announcements.** No Party shall issue any press release or make any public announcement relating to the subject matter of this Agreement, or make any use of the name of the other Party, without the prior written consent of the other Party

IN WITNESS WHEREOF, the Parties have set their hands on the dates set forth below.

**Fraser Child and Family Center**

**Independent School District #271**

By: *Michael J. Van*  
Name

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

*CEO*  
Title

\_\_\_\_\_  
Title

*8/27/18*  
Date

\_\_\_\_\_  
Date



## **ADDENDUM A**

Fraser is committed to complying with the Standards for Privacy of Individually Identifiable Health Information (the "Privacy Rule") and the "Security Rule" 45 C.F.R. Parts 160 & 164 under the Health Insurance Portability and Accountability Act of 1996 ("HIPAA") as it is currently drafted and as it may be subsequently updated, amended, or revised, as well as the Health Information Technology for Economic and Clinical Health Act ("HITECH"), as stated in Title XIII of the American Recovery and Reinvestment Act of 2009, Public Law 111-005.

This document sets forth Fraser's expectations of Fraser and the Bloomington Public Schools to protect the security, confidentiality and integrity of health information provided by one another, created or exchanged during the course of their working relationship.

### **APPROPRIATE USES AND DISCLOSURES OF PHI**

The disclosure and use of Protected Health Information (PHI) should be done with utmost security. This includes:

- 1.) Disclosure of PHI only occur to perform services;
- 2.) Any disclosure will not violate the HIPAA Privacy or Security Rules;
- 3.) Using PHI for proper management and administration and to fulfill any present or future legal responsibilities, provided that such uses as provided in 45 C.F.R. § 164.504(e)(4);
- 4.) Disclosing PHI in its possession to third parties for the purpose of its proper management and administration or to fulfill any present or future legal responsibilities of the organization;
- 5.) The organization should document such disclosures of PHI and information related to such disclosures as would be required to fulfill its obligations under the Regulations and HITECH.

### **PHI BREACHES**

The handling of Protected Health Information (PHI) should be done with utmost security. This includes:

- 1.) When PHI is mishandled, the appropriate parties at Fraser shall be notified within two (2) days of discovery to allow for adequate responses. Any unauthorized use or disclosure of PHI is subject to applicable federal or state laws and regulations.
- 2.) Notifying necessary parties, regarding the disclosure of PHI to third parties, in writing, that (i) the disclosures are required by law, or (ii) the organization has received written assurances from the person to whom the information is disclosed assuring its secure and confidential handling of such PHI consistent with the law; and that it may only be used or further disclosed as required by law or for the purpose for which it was disclosed to the person and the person notifies the organization of any instances of which it is aware in which the confidentiality or security of the information has been breached.

### **PHI CONFIDENTIALITY**

- 1.) All parties should use commercially reasonable efforts and appropriate safeguards to prevent the use or disclosure of PHI other than legally required disclosures. This includes, among other things, secure destruction of PHI stored in devices such as copiers, fax machines and phones when the district disposes of such equipment.
- 2.) Parties should be transparent regarding PHI practices, and should allow a reasonable inspection of the facilities, systems, books, records, agreements, policies, and procedures relating to the use or disclosure of PHI within ten (10) business days of a written request.
- 3.) If an agreement is terminated, all PHI should be returned to the appropriate entity within ten (10) business days.
- 4.) Parties should ensure employees or agents are using the minimum PHI necessary to fulfill a duty or task.
- 5.) A party should implement administrative, physical, and technical safeguards, security policies, procedures, and documentation requirements, that reasonably and appropriately protect the confidentiality, integrity, and availability of the Electronic Protected Health Information that it creates, received, maintains, or transmits.