

## COOPERATIVE AGREEMENT

### THE SCHOOL BOARD OF PALM BEACH COUNTY AND DISCOVERY PRE-SCHOOL

This Cooperative Agreement is made and entered into this 22nd day of September, 2005, by and between The School Board of Palm Beach County, Florida, hereinafter referred to as the "Board" and Discovery Pre-School, hereinafter referred to as the "Agency".

**WHEREAS** the Board and the Agency both desire to establish and implement educational programs for eligible exceptional students ages three through five; and

**WHEREAS** both parties wish to comply with all established laws, rules, and regulations for such special education programs. Therefore, in consideration of the mutual promises contained herein, the parties agree as follows:

**The Board agrees to:**

1. Adhere to Board Special Programs and Procedures in the screening, evaluation, determination of eligibility, and placement of students served in the Agency Exceptional Student Education Program.
2. Provide speech/language services to students as specified in the Individual Education Plan (IEP) and other related services to all Dually Enrolled Children (children receiving services in a child care facility as well as a public school).
3. Collect 100% of the generated FTE as allocated by the State Department of Education for services to students eligible under the Exceptional Student Education programs.
4. Receive Medicaid reimbursement for all Medicaid eligible students or contract with private providers to provide service and collect Medicaid on eligible students. Other eligible students will be paid for by the Board.
5. Provide for transportation in accordance with established Board guidelines for those eligible children who receive Exceptional Student Education services in settings other than the agency as per the child's IEP.
6. Ensure participation of the Agency in the transition process for children moving to kindergarten.
7. Consult, monitor and evaluate the contract services provided to the Agency.
8. Invite a representative from the Agency to attend all scheduled meetings regarding students from the above named Agency.

**The Agency agrees to:**

1. Refer children to Child Find for determination of eligibility for special education services and provide results of all previously required screenings to the "Board".
2. Provide an appropriate classroom facility and secular educational environment.
3. Provide appropriate assessment/testing and small group therapy areas with child-sized furnishings.
4. Participate in the transition process established by the Board to ensure smooth movement from prekindergarten to kindergarten for children receiving Exceptional Student Education services.
5. Be in compliance with applicable provisions of the Civil Rights Act of 1964, Title IX of the Education Amendment of 1974, and Section 504 of the Rehabilitation Act of 1973 and the Individuals with Disabilities Education Act ("IDEA").
6. Be subjected to all School District obligations relating to compliance with student records confidentiality laws. By signing this Agreement, the Agency acknowledges and agrees to comply with the Family Educational Rights and Privacy Act (FERPA) and all State and Federal Laws relating to the confidentiality of student records.
7. Have all individuals who are permitted access on school grounds when students are present, individuals who will have direct contact with children or any student of the School District, or who will have access to or control of school funds, fingerprinted and background checked. The Agency agrees to undergo a background check and fingerprinting if he/she is an individual who meets any of the above conditions and to require that all individuals in the organization who meet any of the conditions to submit to a background check, including fingerprinting by the School District's Police Department, at the sole cost of the Agency. If the Agency can demonstrate to the Purchasing Department that it is not practicable to have the fingerprinting done by the School District's Police Department, the Agency will be permitted to have the fingerprinting and clearance done by another appropriate agency, with the report of the results to be immediately transmitted to the School District's Police Department which shall be the sole determiner of clearance. The Agency shall not begin providing services contemplated by this Agreement until the Agency receives notice of clearance by the School District. The School Board, nor its members, officers, employees, or agents, shall not be liable under any legal theory for any kind of claim whatsoever for the rejection of the Agency (or discontinuation of the Agency's services) on the basis of these compliance obligations. The Agency agrees that neither the Agency, nor any employee, agent or representative of the Agency who has been convicted or who is currently under investigation for a crime delineated in Florida Statutes §435.04 will be employed in the performance of this contract.

8. Provide proof of insurance of the Agency to the School Board of Palm Beach County by Certificate of Insurance. THE SCHOOL BOARD OF PALM BEACH COUNTY, FLORIDA, SHALL BE NAMED AS AN ADDITIONAL INSURED ON THE CERTIFICATE FOR ALL REQUIRED INSURANCE.

All insurance must be issued by a company or companies approved by the School Board. Certificate of Insurance meeting the specific required provisions specified within this Agreement shall be forwarded with the Agreement, and approved prior to the start of any work or the possession of any school property. Renewal certificates must be forwarded prior to the policy renewal date. Thirty days written notice must be provided to the School Board of Palm Beach County, Florida, via certified mail in the event of cancellation. **WORKER'S COMPENSATION:** The Agency must comply with FSS 440, Worker's Compensation and Employees' Liability Insurance with minimum statutory limits. **COMPREHENSIVE GENERAL LIABILITY:** The Agency shall procure and maintain, for life of this Agreement, Comprehensive General Liability Insurance. This policy shall provide coverage for death, bodily injury, or property damage that could form policy. The minimum limits of coverage shall be \$1,000,000 per occurrence, Combined, Single Limit for Bodily Injury Liability and Property Damage Liability. **BUSINESS AUTOMOBILE LIABILITY:** The Agency shall procure and maintain, for the life of this Agreement, Business Automobile Liability Insurance. The minimum limits of coverage shall be \$1,000,000 per occurrence, Combined Single Limit for Bodily Injury Liability and Property Damage Liability. This coverage shall be an "Any Auto" or "Comprehensive Form" policy. This insurance must be an "Occurrence Form" policy. In the event that the Agency does not own any vehicles, the School Board will accept hired and non-owned coverage in the amounts listed above. In addition, an affidavit signed by the Agency shall indicate the following: that the Agency does not own any vehicles. In the event that the Agency acquires any vehicles throughout the term of the Agreement, the Agency agrees to purchase "Any Auto" or "Comprehensive Form" coverage as of the date of acquisition.

**Both parties agree to the following:**

**\*No fees or payments due by either party**

**In the event the Agency is a non-governmental agency the following language applies:**

The Agency shall, in addition to any other obligation to indemnify the Board and to the fullest extent permitted by law, protect, defend, indemnify and hold harmless the Board, their agents, officers, elected officials and employees from and against all claims, actions, liabilities, losses (including economic losses), costs arising out of any actual or alleged bodily injury sickness, disease or death, or injury to or destruction of tangible property including the loss of use resulting there from, or any other damage or loss arising out of, or claimed to have resulted in whole or in part from any actual or alleged act or omission of the Agency, or anyone directly or indirectly employed by them, or anyone for whose acts any of them may be liable in the performance of the work; or violation of law, statute, ordinance governmental administration order, rule or regulation in the performance of the work; claims or actions made by the Agency or other party performing the work. The indemnification obligation hereunder shall not be limited to any limitation in the amount, type of damages, compensation of benefits payable by or for the Agency under workers' compensation acts; disability acts, other employee benefit acts or any statutory bar. Any cost or expenses, including attorney's fees incurred by the Board to enforce this agreement shall be borne by the Agency. The Agency recognizes the broad nature of this indemnification and hold harmless article, and voluntarily makes this covenant for good and

valuable consideration provided by the Board in support of this indemnification accordance with the laws of the State of Florida. This article will survive the termination of this Agreement.

**In the event this contract is between two governmental agencies the following language applies:**

The parties recognize their respective liability for certain tortious acts of their agents, officers, employees and invitees, and agree to be responsible respectively for all claims, liability, losses, and/or causes of action that may arise from any negligent act or omission due to the acts of its agents, servants, or employees, to the extent and limits provided by law, said governmental entities subject to the limits provided in Section 768.28, Florida Statutes, the State of Florida's partial waiver of Sovereign Immunity: provided, however, that this provision shall not be construed as a waiver of any right or defense that the governmental entities have under said statute. Each party covenants to maintain sufficient professional general liability and worker's compensation coverage, unless self-injured, regarding its respective liability, throughout the term of Agreement.

In the event that any part, term, or provision of this agreement is by a court of competent jurisdiction found to be illegal, unenforceable, or in direct conflict with federal, state, or local laws, the validity of the remaining portions and provisions shall not be affected, and the rights and obligations of the party shall be construed and enforced as if this agreement did not contain a particular part, term, or provision held to be so invalid.

This Agreement shall be amended or modified only in writing and executed by both Parties. This Agreement may be terminated by either party upon written notice of thirty (30) days. If either party terminates for convenience herein it shall not be liable for breach of contract, lost profits, or other such damages whether consequential or inconsequential.

This Agreement shall be construed in accordance with the laws of the State of Florida. Any dispute with respect to this agreement is subject to the Laws of Florida, venue in Palm Beach County, Florida. Each party shall bear the cost of its own attorneys' fees and costs incurred as a result or any action or proceeding under this agreement. This Agreement shall not be assigned without the prior written consent of the non-assigning party.

