



## Board of Directors Meeting

February 9, 2012

### Request Approval: Florida Children's Council SAMIS Contract

---

#### Item IV.B.

- Recommended Action:**
1. Approve the Agreement of the Statewide SAMIS Management Committee
  2. Authorize the Executive Director to sign the Agreement
- Issue:** JWB is relinquishing ownership of SAMIS over to the Statewide Collaborative to be managed by the Florida Children's Service Council (FCSC), so that JWB no longer bears the majority of the responsibility for this shared data collection system.
- Program(s):** Seventeen small to medium size funded programs that do not have their own data collection system.
- Budget Impact:** The approved FY 11-12 JWB Budget includes \$52,682 for collaborative fees and JWB specific enhancements. The total cost for SAMIS over a two year period includes \$62,905 in salary subsidy for the director's salary, which is reduced to \$31,453 the following year and zero in the subsequent year. The total cost over the three-year period is estimated to be \$252,404 in addition to in-kind staff support.

---

**Background:** SAMIS (Services and Activities Management Information System) is a web based data collection system developed by JWB in the late '90s to increase efficiency and accuracy of program and financial data of funded agencies. SAMIS was initially developed by JWB for its own use and was later adopted for use by other Children's Services Councils (CSCs) in Florida, allowing JWB to share the cost of maintaining and upgrading the system.

The participating CSCs include JWB Children's Services Council of Pinellas County, The Children's Services Council of Broward County, Jacksonville Children's Commission, Children's Services Council of Martin County, Children's Services Council of Palm Beach County, The Children's Board of Hillsborough County and The Children's Trust of Miami-Dade County. The Children's Services Council of St. Lucie County is the only CSC in Florida who is not part of the collaborative; however they have expressed some interest.

**Contract:** The contract covers a three year period beginning retroactively to October 1, 2011 through September 30, 2014. The agreement will be amended annually to reflect changes in the utilization by the partnering CSC's. The fee assessed to each CSC is based on a formula that measures the impact the CSC has on the SAMIS network. Each CSC is then assessed a percentage of the total cost.

The major changes to this agreement:

- The Children's Trust of Miami-Dade County and The Children's Board of Hillsborough have joined the SAMIS collaborative.

- The Florida Children’s Services Council (FCSC) is acting as Operating Agent.
- The Children’s Services Council of Palm Beach County is acting as Fiscal Agent
- JWB relinquishes ownership and copyright of the SAMIS program to the FCSC
- Each CSC relinquishes ownership of individual enhancements to the FCSC
- FCSC will license SAMIS to each participating CSC (see Attachment B of the Agreement)
- The SAMIS Inventory is transferred to FCSC
- The SAMIS Network has been separated from the JWB Network
- The Operating Agent cannot access CSC level data without written permission of the CSC
- The previous agreement differentiated the rights of the original five members versus the newer members. That distinction has been removed so that all CSCs are equal partners.
- Local funding partners who are not CSC’s may join if their goals are consistent with the collaborative and they have a sponsoring CSC. Currently one local funding partner has joined the collaborative; the Palm Beach Community Services Department was sponsored by the Palm Beach CSC.

**Management:** The contract provides for two levels of management. The SAMIS Management Committee (SMC) consists of the Executive Directors of each participating CSC. The SMC approves the annual budget and appoints a representative to the SAMIS Management Group (SMG). The SMG is a steering group who oversees the operations and enhancement process. The SMC and SMG operate as a data collaborative as defined by Florida Statute, Section 163.62.

**Cost of Operation:** For FY 11-12 the total cost of SAMIS operations, upgrades and subsidy is \$433,694. JWB’s percentage of the total costs is approximately 25%. It includes \$46,285 for collaborative fees and \$62,905 to subsidize one half of the director’s salary, a former JWB employee. See Attachment A of the agreement. In addition, an amount of \$6,397 has been allocated for any JWB specific needs that may arise during the fiscal year.

For FY 12-13 JWB has agreed to subsidize one quarter of the director’s salary. JWB’s subsidy of the position will end October 1, 2013. This agreement was made in good faith to ease the transition of the collaborative taking on this cost previously covered 100% by JWB.

Staff Resources: Gay Lancaster, Executive Director  
 Lisa Sahulka, Director of Performance Management  
 Susan Rowden, Senior Data Analyst  
 Colleen Flynn, Legal Counsel

**AGREEMENT**  
**OF**  
**THE STATEWIDE SAMIS MANAGEMENT COMMITTEE**

THIS AGREEMENT, entered into as of October 1, 2011, by and among THE JUVENILE WELFARE BOARD CHILDREN'S SERVICES COUNCIL OF PINELLAS COUNTY, THE CHILDREN'S SERVICES COUNCIL OF BROWARD COUNTY, JACKSONVILLE CHILDREN'S COMMISSION, CHILDREN'S SERVICES COUNCIL OF MARTIN COUNTY, CHILDREN'S SERVICES COUNCIL OF PALM BEACH COUNTY, THE CHILDREN'S TRUST [Miami-Dade County] and THE CHILDREN'S BOARD OF HILLSBOROUGH COUNTY (collectively "Children Service Councils or CSCs") in order to continue THE STATEWIDE SAMIS MANAGEMENT COMMITTEE (hereinafter collectively referred to as "SMC"), and the CHILDRENS SERVICES COUNCIL OF FLORIDA, INC. ("CSCF"), as the "Operating Agent", defined in Section 5.01, a 501 (c)(3) not-for-profit corporation.

**WITNESSETH:**

WHEREAS, Florida Statute, Section 163.62 provides that agencies of local governments may establish a collaborative client information system in which state, local and private agencies may share information including, but not limited to: criminal justice, juvenile justice, education, employment training, health, and human services; and

WHEREAS, the Juvenile Welfare Board of Pinellas County (hereinafter referred to as "JWB") has developed and owns the "Services and Activity Management Information System,"

hereinafter referred to as “SAMIS”;

WHEREAS, the individual CSCs to this Agreement may own rights to certain enhancements, modifications and additions to SAMIS;

WHEREAS, SAMIS is a web based funder information data collection system designed and developed to measure client level services and outcomes, and to be a tool for tracking funds distributed through contract for the purpose of determining the effectiveness of programs funded by JWB and Children’s Services Councils in the State of Florida;

WHEREAS, the parties to this agreement are mindful of their obligations to comply with the Public Record laws of the State of Florida concerning public documents, yet are equally mindful of their legal obligations to preserve the confidentiality of private client documents and identities;

WHEREAS, in order to accomplish the coordinated utilization of SAMIS among the parties herein, they wish to create a steering group of the SMC pursuant to Florida Statute, Section 163.62 for the purpose of establishing an information system among themselves herein referred to as the SAMIS Management Group (SMG). Hereinafter, the SAMIS Collaborative refers collectively to the SMC and SMG.

WHEREAS, Florida Statute, Section 163.63 provides that assignment of duties and responsibilities pursuant to this Agreement requires that the SMC develop a security policy to be followed by all agencies participating in the collaborative system to ensure the integrity of the data in the collaborative information and to guarantee the privacy, to the extent possible, of all clients served by an agency that participates in the collaborative system; and

WHEREAS, Florida Statute Section 163.63 provides that each member of the SMC shall sign an agreement, before sharing confidential information, which shall specify, at a minimum:

what information each agency will share with the collaborative, how the information will be shared, how clients will be notified that an agency participates in the collaborative, who in each agency will have access to the information, the purpose to be served by sharing the information, assurances from each agency that it will maintain the confidentiality and exempt status of the information as required by law, including Florida Statutes, Section 125.901(11)(a), and other information decided upon by members of the information cooperative; and

WHEREAS, the SMG will design internal procedures for protecting the confidential nature of the information being shared, to be adopted by the SMC; and

WHEREAS, this Agreement for the establishment of a collaborative client information system is not intended by the parties nor shall it be interpreted to be a transfer, consolidation or merger within the meaning of those terms for constitutional or statutory purposes, for pension purposes or for any purpose whatsoever and it is the intent of the parties that no transfer, consolidation or merger shall be accomplished by the terms of this Agreement in any respect whatsoever and the parties shall interpret and administer this Agreement to that end;

NOW, THEREFORE, in consideration of the mutual promises contained herein and given by each party to the other, the parties hereto covenant and agree as follows:

**Section 1.**

That the recitations set forth above are incorporated herein by reference in their entirety.

**Section 2.    LEGAL AUTHORITY**

This Agreement is entered into pursuant to the provisions of Sections 163.62, et seq., the Collaborative Client Information System Act. The parties entering into this Agreement are fully cognizant of the constitutional limitations on the transfer of powers as set forth in Article VIII, Section 4 of the Constitution of the State of Florida and it is the express purpose of this

Agreement only to enter into a contract for the provision of establishing a collaborative information system in order to form an alliance for utilization of SAMIS among themselves. This Agreement at all times shall be construed consistent with such constitutional and statutory limitations. The duties and responsibilities set forth in this Agreement to be performed by the parties shall be performed in a manner that is constitutionally permissible and all portions of this Agreement shall be interpreted and administered by the parties accordingly. This Agreement shall be interpreted and administered in such a manner that it will not constitute a transfer, merger or consolidation as those terms are used in the Constitution of the State of Florida or in any statute of the State of Florida as is further set forth in the recitations of this Agreement. With respect to the Jacksonville Children's Commission (for and on behalf of the City of Jacksonville), in addition to the foregoing, authority to make and enter into this Agreement is found in the 2011/2012 City budget, approved by Ordinance 2011-405 Jacksonville Children's Commission, Grants Administration, Research and Evaluation, Item #05229, and Section 51.104(j), *Ordinance Code*.

**Section 3. PURPOSE**

The purpose of this Agreement shall be to allow members of the SMC to utilize the SAMIS Program according to the rights and permissions granted herein.

**Section 4. NO PLEDGE OF AD VALOREM TAXES**

The parties agree that this Agreement does not constitute a general indebtedness of any of the parties herein within the meaning of any constitutional, statutory, or charter provision or limitation and it is expressly agreed by the parties that the SMC shall not have the right to require or compel the exercise of ad valorem taxing power of any agency with taxing authority, or taxation of any real or personal property therein for the payment of any monetary obligations due

under the terms of this Agreement. It is further agreed between the parties that this Agreement and any funds called for to be paid hereunder shall not constitute a lien upon any real or personal property of any member of the SMC.

**Section 5. AUTHORITY TO ACT**

The members of the SMC, to the extent allowed by law, are hereby vested with, the powers necessary to implement and carry forth the duties and responsibilities imposed upon the SMC. Accordingly, members of the SMC are hereby vested with the power to establish, and do hereby establish, a collaborative client information system to examine the local impact of services funded by the member Children's Services Councils. Provided that no party's fees can be increased above those set forth in the Cost Distribution Rate Table in Attachment A without their approval, the SMC will have the authority to approve the Annual SAMIS Budget, as recommended by the SMG. The duties and responsibilities of the SMG include approval of SAMIS Enhancement process within the limits of the approved Cost Rate Distribution Table appearing in Attachment A. Decisions regarding the use of the SAMIS Enterprise Fund, are the responsibility of the SMC, based upon recommendations of the SMG. However, the decisions will not require the Fiscal Agent's (as that term is defined in section 5.02) Board approval. The SMG and its designees will follow the Operating Agent's purchasing policies as of the date of this contract. The SMG will be provided, by the Fiscal Agent, a financial report quarterly which will include all income, expenditures and current Enterprise Fund Balance (fund balance).

**Section 5.01 Operating Agent**

The parties agree and acknowledge that the Operating Agent has no responsibility for generating any revenue for, or for covering any costs associate with SAMIS or SMC operations, such obligations being that of the SMC. This preceding sentence, shall not, if the

Operating Agent is a member of the SMC relieve said entity from any of its obligations as a member of the SMC. The Operating Agent will complete an annual inventory which will be submitted to the SMC and the SMG.

**Section 5.02 Fiscal Agent**

At this time, the Fiscal Agent is the Children’s Services Council of Palm Beach County (“PBCSC”). However, the SMC may at anytime agree to appoint a different Fiscal Agent.

The parties agree and acknowledge that the Fiscal Agent (whether PBCSC or its successors) has no responsibility for generating any revenue for, or for covering any costs associated with SAMIS or SMC operations, such obligations being that of the SMC. This preceding sentence, shall not, if the Fiscal Agent is a member of the SMC, relieve said entity from any of its obligations as a member of the SMC.

The role of the Fiscal Agent is to process the invoices generated by the Operating Agent in the course of implementing the SAMIS Business Plan approved annually by the SMC. A financial statement will be published quarterly and will account for the Operating Agent income and expenses and the Enterprise Fund Balance. The Fiscal Agent will distribute quarterly invoices beginning in October of each year of the Agreement as outlined in Attachment A. Members will pay the invoice in full within 30 days of receipt.

The Operating Agent will submit an invoice for its expenses to the Fiscal Agent within 10 days of receipt of the vendor invoice; the Fiscal Agent shall pay such invoices within 10 days of receipt.

**Section 6. SOVEREIGN IMMUNITY**

The SMC parties hereto agree that nothing contained herein shall in any way waive the sovereign immunity that they enjoy presently under the Constitution and statutes of the State of



Florida and particularly with respect to Chapter 768, Florida Statutes.

**Section 7. RECORDS**

Each party shall sign an agreement including but not limited to the specified information pursuant to Florida Statute, Section 163.63. Additionally, Florida Statute, Section 163.64 allows agencies participating in the creation or administration of a collaborative client information system to share client information, notwithstanding any law to the contrary, including confidential client information, with other members of the collaborative system so long as the restrictions governing the confidential information are observed by any other agency granted access to the confidential information.

Pursuant to Florida Statutes, Section 125.901(11)(a), all personal identifying information of any child or child's parent or guardian which becomes a part of the collaborative client information system shall be exempt from the provisions of Florida Statutes, Section 119.07(1), and s. 24(a), Article I, State Constitution.

**Section 7.01 Confidentiality**

(1) Each party and local funding partner will agree to follow the Security Policies to be approved by the SMG for the handling of information contained in the SAMIS databases including data extracted from all SAMIS databases to a local CSC or third party media to ensure the integrity of the data in the collaborative information system and to guarantee the privacy, to the extent possible, of all clients served by a member or local funding partner that participates in the collaborative system.

(2) Before sharing confidential information with other members of the SMC each member of the SMG shall sign a separate agreement specifying, at a minimum, the following information: (a) What information each agency will share with the

collaborative; (b) How the information will be shared; (c) How clients will be notified that an agency participates in the collaborative; (d) Who in each agency will have access to the information; (e) The purposes to be served by sharing the information; (f) Assurances from each agency that it will maintain the confidentiality of the information as required by law; and (g) Other information decided upon by members of the information cooperative.

**Section 8.**     **NOTICE**

Notice as required to be given hereunder shall be given to the SMC and to the Operating Agent.

**Section 9.**     **TERM**

This Agreement shall take effect as of October 1, 2011 and continue in effect thereafter through September 30, 2014, unless hereafter extended upon such terms and conditions as the parties hereto may later agree. Subject to the provisions of Section 19, any party may terminate this Agreement without cause or further liability to the other upon written notice to the other parties, provided said written notice shall be given not later than April 1<sup>st</sup> of the year in which the termination shall occur as of October 1<sup>st</sup>. Said notice shall be deemed delivered when a copy is delivered to the other parties and a receipt therefore signed by the other parties.

**Section 10.**    **THIRD PARTIES**

In no event shall any of the terms of this Agreement confer upon any third person, corporation or entity other than the parties hereto any right or cause of action or damages claimed against any of the parties to this Agreement arising from the performance of the obligation and responsibilities of the parties herein or for any other reason.

**Section 11. PURPOSE OF SAMIS MANAGEMENT COMMITTEE (SMC)**

The purpose of the SMC is to provide oversight to the operation of the SAMIS Collaborative. The following sections describe the membership, access and licensing fees, management, and decision-making process of the SAMIS Collaborative.

**Section 12. MEMBERSHIP**

**Section 12.01 Members Of The Agreement**

Members of the SMC include, the Children's Services Council of Broward County, Jacksonville Children's Commission, JWB Children's Services Council of Pinellas County, Children's Services Council of Martin County, Children's Services Council of Palm Beach County, The Children's Board of Hillsborough County and The Children's Trust of Miami-Dade County hereinafter referred to as members, who shall be represented by their respective Executive Directors. The SMC will meet at least annually (in person or by conference call) and more often if needed; a representative of the Operating Agent shall attend such meetings in a non-voting capacity.

**Section 12.02 Participating Members**

Each participating CSC will have one staff and an alternate representative designated by the Executive Director from each participating member to sit on the SMG. The designated representative should be the primary person attending meetings, which shall be convened by the Operating Agent, a representative of which shall attend SMG meetings. Alternates are encouraged to also attend meetings. In the event the designated or alternative representative is unable to attend, the CSC Executive Director can designate a second alternative.

**Section 12.03**            **New Members**

A new CSC may participate in the SMC at any time through amendment of this Agreement.

**Section 12.04**            **Local Funding Partners**

Local Funding Partners may be invited to participate in SAMIS if the data collection goal of the local funder is consistent with the goal of SAMIS and the SMC. For the purpose of this agreement, a Local Funding Partner is an organization that allocates funds for services in a county that has a CSC participating in the SAMIS Collaborative. Examples of local funders include but are not limited to, United Ways, Community Foundations, etc.

**Section 12.05**            **Coordination Of Local Funding Partners**

- (a) Local Funding Partners will coordinate system access and payment of fees through the local CSC who must be a member. The costs associated with the addition of the local funding partner will be assessed to the sponsoring member.
- (b) Local Funding Partners are invited to attend the SMG meetings, and their voting privileges will be limited to decisions on enhancements to SAMIS. Local funding partners will not have voting privileges in such meetings relative to the structure of the SAMIS Collaborative or governance issues.

**Section 12.06**            **System Capacity Review**

The Operating Agent (defined as the CSCF or its successor in that role) will conduct a system capacity review to determine the impact of the addition of new partners on the SAMIS system.

- (a) The review will be completed and a written recommendation will be sent to the

SMG before the assignment of a SAMIS start date to the members or CSC local funders.

- (b) While the Operating Agent reserves the right to set the start date in the best interest of the current members, the SMG will provide input into the addition of a local funding partner after a review of the system capacity study conducted by the Operating Agent.

**Section 12.07            Voting**

Consensus will be the standard for determining the actions of the voting members of the SMC and SMG. However, when a consensus cannot be achieved each member will have one vote and must be present to vote. All material decisions shall be put to recorded vote. All members present will have the opportunity to vote, subject to restrictions noted in 12.05 (b). Votes can be received by members physically present or over the telephone. All votes will be recorded in the minutes of the meeting to be published within five (5) business days after the conclusion of the meeting.

**Section 12.08            Meeting Schedule**

Meetings of the SMG will be scheduled as needed by the Operating Agent. The consulting firm assisting on the project will be invited to attend meetings on an as needed basis. The Operating Agent will distribute meeting materials in advance of the meeting.

**Section 12.09            Meeting Minutes**

Minutes will be distributed within five (5) business days by the Operating Agent following the conclusion of each meeting of the SMC and of the SMG. The SMG members are responsible for providing feedback on the issues discussed at the SMC meetings with the management of their respective CSC.

**Section 13.**                    **OWNERSHIP OF AND ACCESS TO DATA**

Members and local funding partners, respectively, will have sole ownership and access of the client data entered or client data that is entered on their behalf. The Operating Agent shall be prohibited from the sharing or disclosure of individual CSC client data with other CSCs or any other person or entity. Likewise, the individual CSCs shall not have access to other CSC client data. Operating Agent shall not use individual CSC data in any analysis or report without first obtaining written permission from individual CSC's. Before seeking CSC approval, Operating Agent shall use its best efforts to ensure that the individual CSC data that Operating Agent desires to analyze and use in a written report is comparable to other individual CSC data sets and shall explain to the CSC the basis for such comparability. The Operating Agent shall grant each CSC access at all times to the individual CSC's own database in its entirety in accordance with Service Level Agreement (SLA) terms to be agreed upon by the parties. Each CSC may connect to, export, replicate and or duplicate its own client data entered into SAMIS.

**Section 14.**                    **ASSIGNMENT OF RIGHTS IN SAMIS**

**Section 14.01**

Each participating CSC, assigns all of its rights and ownership, including intellectual property rights, including trademark, copyright, patent and trade secrets and all goodwill associated therewith, in SAMIS, including all source-code, executable code, object code, current and future enhancements, revisions, repairs, and documentation ("SAMIS Program") to the Operating Agent subject to the provisions of Section 14.032.

**Section 14.02. License To CSC**

Operating Agent shall license the SAMIS PROGRAM exclusively to individual CSC's pursuant to the terms of this Agreement in the form of the license at Attachment "B"

(the "License"). Any CSC who has contributed to the SAMIS Program by way of assigning any of their rights in the SAMIS Program shall have the right to license the SAMIS Program from the Operating Agent provided that each CSC seeking to license the SAMIS Program are in good standing and in compliance under this Agreement. Operating Agent is prohibited from altering the License without first obtaining SMC approval. Operating Agent is prohibited from licensing the SAMIS Program to anyone or any entity other than a CSC, or a Local Funding Partner defined in Section 12.04, without obtaining unanimous SMC written consent.

### **Section 14.03 Intellectual Property**

#### **Section 14.031 Proprietary Notices**

Operating Agent shall affix a copyright, confidentiality or other proprietary notice, mark, or legend on all SAMIS PROGRAM login pages.

#### **Section 14.032. Ownership**

Upon execution of this Agreement, each CSC shall assign all of its rights, title and interest, including but not limited to all goodwill and copyright, in the SAMIS Program and the term "SAMIS" to Operating Agent. Operating Agent shall be the sole and exclusive owner of the SAMIS PROGRAM and the term "SAMIS", including all intellectual property rights therein, during the Operating Agent's existence. If the Operating Agent ceases to exist, winds down or otherwise becomes defunct, attempts to transfer ownership in, or encumber the SAMIS Program or the term "SAMIS" without SMC written approval, then all rights granted to the Operating Agent herein to the SAMIS Program and the term "SAMIS", shall immediately revert and vest in the entity(s) identified by the SMC

in accordance with Section 19.03 of this Agreement. Operating Agent shall cooperate with the transfer of all ownership rights in the SAMIS Program and the term “SAMIS”, including but not limited to the execution of all documents to effectuate the transfer, to the entity(s) identified by the SMC.

**Section 14.033      Maintenance of Confidential Information**

In addition to Section 13 contained herein regarding Ownership of Data, Operating Agent shall not, at any time, disclose or disseminate any confidential information to any person, firm or organization that does not need to obtain access thereto in connection with Operating Agent’s exercise of its rights under this Agreement. Operating Agent shall not disclose confidential information to any employee or agent of Operating Agent who does not need to obtain access thereto in connection with Operating Agent’s exercise of its rights under this Agreement. All parties agree to keep confidential all confidential information disclosed to it by the other party in accordance herewith, and to protect the confidentiality thereof in the same manner it protects the confidentiality of similar information and data of its own (at all times exercising at least a reasonable degree of care in the protection of confidential information); provided, however, that no party shall have any such obligation with respect to use or disclosure to other non- parties to this Agreement of such confidential information as can be established to: (1) have been known publicly; (2) have been known generally in the industry before communication by the disclosing party to the recipient; (3) have become known publicly, without fault on the part of the recipient, subsequent to disclosure by the disclosing party; (4) have been known otherwise by the recipient before



communication by the disclosing party; or (5) have been received by the recipient without any obligation of confidentiality from a source (other than the disclosing party) lawfully having possession of such information.

**Section 14.04**                    **Disclaimers, Indemnity, Limitation Of Liability**

**Section 14.041.**            **Third party data**

Operating Agent acknowledges that it will access CSC data entered by individual CSCs to be used with the SAMIS Program with the express, written permission of the individual CSC only and for no other purpose. Individual CSCs make no representations concerning this information or regarding the quality or acceptability of the data, products or services provided by CSCs.

**Section 14.042.**            **Data Loss**

Parties acknowledge that any use of computers is subject to a likelihood of human and machine errors, omissions, delays and losses, including loss or corruption of data or media. Operating Agent agrees to adopt such measures as it deems necessary to limit the impact of those problems, including backing up data and verifying the accuracy of data; examining and confirming results prior to use; and adopting written procedures agreed upon by the SMG to identify and correct errors and omissions, replace lost or damaged media, and reconstruct data.

**Section 14.043.**            **Disclaimer of Warranties**

CSCs OFFER NO WARRANTIES, EITHER EXPRESS OR IMPLIED, AND EACH CSC EXPRESSLY DISCLAIMS ALL WARRANTIES OF DESIGN, MERCHANTABILITY AND/OR FITNESS FOR A PARTICULAR PURPOSE, EVEN IF THE CSC HAS BEEN INFORMED OF SUCH PURPOSE

REGARDING THE SAMIS PROGRAM. THE SAMIS PROGRAM IS TRANSFERRED TO OPERATING AGENT “AS IS.”

**Section 14.044. Limitation Of Liability**

OPERATING AGENT AGREES THAT THE CONSIDERATION THAT THE CSCs ARE CHARGING HEREUNDER FOR THE TRANSFER OF THE SAMIS PROGRAM DOES NOT INCLUDE ANY CONSIDERATION FOR ASSUMPTION BY CSCs OF THE RISK OF ANY CONSEQUENTIAL OR INCIDENTAL DAMAGES WHICH MAY ARISE IN CONNECTION WITH THE USE, INSTALLATION AND MAINTENANCE OF THE SAMIS PROGRAM. ACCORDINGLY, OPERATING AGENT AGREES THAT THE CSCs SHALL NOT BE RESPONSIBLE FOR ANY COMMERCIAL LOSS; INCONVENIENCE; LOSS OF USE, TIME, DATA, GOOD WILL, REVENUES, PROFITS OR SAVINGS; OR OTHER SPECIAL, INDIRECT, OR CONSEQUENTIAL DAMAGES IN ANY WAY RELATED TO OR ARISING FROM THIS AGREEMENT. AN INDIVIDUAL CSCs’ MAXIMUM LIABILITY TO ANY PERSON, FIRM, OTHER CSC, OR CORPORATION WHETHER BASED ON CONTRACT, WARRANTY, TORT OR OTHERWISE, SHALL NOT EXCEED THE ACTUAL FEES PAID FOR USE OF THE SAMIS PROGRAM DURING THE YEAR IN WHICH THE CLAIM WAS ASSERTED.

**Section 14.05 Membership Fee Formula**

- (a) The one-time membership fee for a newly participating member will be an amount equal to \$50,000 payable at the time the member joins the SMC (in

addition to the annual amount charged as set forth in Section 15.01).

- (b) The Children's Board shall be permitted to utilize \$40,000 of the fee it paid for system implementation activities or enhancement of its choice. These funds are available until expended or July 30, 2012, whichever occurs first.

**Section 14.06                      Uses Of Membership Fee**

The membership fee payment will include an allowance for system implementation activities and necessary enhancements with the remainder applied to the fund balance to support anticipated hardware upgrades or replacement and any unexpected costs such as relocation due to weather conditions, replacement of hardware and or software due to acts of God or other unexpected occurrence.

**Section 15.      MANAGEMENT FEES**

**Section 15.01                      Distribution of Costs and Fees**

SAMIS has two (2) basic functions – Program and Fiscal. While Program and Fiscal functionality do not overlap, supporting modules do require the use of multiple modules in order to have the data properly processed. For example, PMs (Performance Measures) cannot operate without entering client data into CDG (Case Data Gatherer). Fiscal can operate independently from Program modules, however all Fiscal modules require the use of the Budget module.

Using all the modules, the SAMIS billing system will allocate costs associated with the modules as follows: CDG – 40% of the operating costs and 100% of the CDG enhancements; Fiscal- 50% of the operating costs and 100% of the Fiscal enhancements; PM – 10% of the operating costs and 100% of the PM enhancements. As noted in Section 17.02, currently some members have “opted out” of the PM module and the percentage of

costs billed to them for the modules will reflect that they are not covering any of the costs associated with the PM module. Each member’s share of the costs is then calculated as described below under “Assessment Formula” in Section 15.02.

The costs associated with the hardware replacement shall be taken from the fund balance until the fund balance is reduced to approximately \$25,000. Once the fund balance reduces to that level, the members will be billed for actual replacement costs at the then current percentage that they are being billed for operating costs.

Billing will be quarterly for operations, while hardware replacement would be billed as noted in the prior paragraph. Enhancements would be billed on an “as needed” basis for those members joining in the particular enhancement. The fee structure and billing will be based on the “Assessment Formula” described in Section 15.02 below. The budget shall include all three areas of cost (e.g. operations, hardware and enhancement) although these may not necessarily all be billed in a single fiscal year (thus freeing up funds for individualized enhancements by the members). The amount of the fees assessed each participating member is based on a Cost Distribution Rate Table as detailed in Attachment A.

**Section 15.02            Assessment Formula**

The Assessment Formula will be based on the following criteria:

<b>Data Element</b>	
Total number of programs entering information into SAMIS	SAMIS Reports as of April 1 <sup>st</sup> of each FY
Total funds allocated to the programs entering budgets into SAMIS	SAMIS Reports as of April 1 <sup>st</sup> of each FY
Number of program budgets entered into SAMIS	SAMIS Reports as of April 1 <sup>st</sup> of each FY

These criteria will result in a percentage for each of the members in each criterion category. The percentages would then be added up, divided by the total number of criteria and the resulting average percentage would be the allocation of the fees for a given year. When calculating operating costs for those members participating with PMs, the same factors are used in the numerator and the denominator will be based on the number of members using the PM module.

**Section 15.03**            **Cost Distribution Rate Review**

The Cost Distribution rates will be reviewed annually, by April of each year. The actual amount of the assessment will be revised by the SMC no more than twice a year to accommodate an increase or decrease in the number of participating CSCs or CSC local funding partners or a substantial change in the volume of system usage. System usage is defined as the volume of programs entering budgets, using CDG or number of users.

**Section 16.**    **METHOD OF PAYMENT**

**Section 16.01**            **Frequency of Payments**

The Fiscal Agent will bill participating agencies as set forth in Sections 5.02 and 15.01 for each year of the Agreement. The payment will be adjusted to reflect any revisions to the distribution of costs resulting from a change in the membership or other situations determined by the SMC in the quarter following the change. Payment is due to the Fiscal Agent from the participating agency within 30 days of receipt of the invoice.

**Section 16.02**            **Commencement of Payment**

Fees begin accruing for services rendered under this agreement by participating agencies on the earlier of October 1 or the first day of the quarter in which participation in SAMIS begins, unless otherwise agreed to by the SMC. Participation is defined as

access to the SAMIS software and/or the involvement of the Operating Agent's staff in training CSC staff, board, and funded agency to implement SAMIS locally.

**Section 16.03            Payment For CSC Specific Enhancements**

CSC Specific Enhancements are defined as enhancements that meet the requirements of Section 17.01, but only for a single CSC or Sub Group of CSCs. CSC Specific Enhancements will require a contract between such CSCs, Operating Agent and the consulting firm providing enhancements to the SAMIS PROGRAM, with all payment to be made exclusively by the CSCs for the CSC Specific Enhancements. CSCs are prohibited from individually entering into any agreement for CSC Specific Enhancements without prior written approval from the Operating Agent that shall be a party to the agreement. Operating Agent shall provide written documentation of CSC Specific Enhancements to SMG. All CSC specific enhancements shall be the sole and exclusive property of the Operating Agent.

CSC Specific Enhancements are considered to be owned by the Operating Agent pursuant to Section 14.01 and therefore can be licensed by the Operating Agent to any and all parties to this Agreement, that request access to the functionality, without payment to the CSC (s). The CSC(s) requesting and paying for the CSC Specific Enhancement will have final approval of the functionality.

**Section 16.04            Payment to the Operating Agent**

JWB will transfer ownership of the Inventory identified in Attachment "C" to the Operating Agent effective as of October 1, 2011. If the Operating Agent ceases to exist, winds down or otherwise becomes defunct, terminated or attempts to transfer ownership in the Inventory without SMC written approval, then all right title and interest in the

Inventory, including the Inventory itself, shall be transferred to an entity(s) identified by the SMC. Operating Agent shall cooperate with the transfer of all ownership rights in the Inventory, including but not limited to the execution of all documents to effectuate the transfer, to the entity(s) identified by the SMC. The Operating Agent will continue to manage the operations of SAMIS and will continue to purchase, tag, hold, and insure any hardware purchased through contributions from the SMC until said transfer is completed. Inventory, subject to the provisions of section 19.03 below, is for the use of the SAMIS Program and SAMIS Collaborative only and cannot be used or reassigned other than as set forth in this Agreement without prior written approval of the members. The Operating Agent will submit an invoice for its expenses to the Fiscal Agent within 10 days after the end of the preceding calendar quarter; the Fiscal Agent shall pay such invoices within 10 days of receipt.

**Section 17. ENHANCEMENTS**

**Section 17.01 Definition**

Enhancements are defined as changes to the SAMIS Program that require the services of the consultant. The consultant contracted by the Operating Agent must complete enhancements to the system. Operating Agent is prohibited from entering into any agreement with consultant wherein consultant retains any rights of ownership in the SAMIS Program and any enhancements, modifications, and revisions made to the SAMIS Program. Title and ownership in all enhancements, modification, and revisions to the SAMIS Program vest exclusively in Operating Agent. Enhancements are changes, additions, modifications, revisions, and repairs to the SAMIS Program that Operating Agent will own in its entirety. Operating Agent is prohibited from entering into a

consulting agreement without prior written approval from SMG of such Agreement. Any consulting agreement for enhancements as that term is defined, to the SAMIS Program must be in writing and must vest all ownership rights in the enhancement or modification solely to the Operating Agent. Any consulting agreement must also provide an explicit warranty by the consultant that the enhancements by the consultant do not infringe or violate any copyright and that the consultant agrees to defend, indemnify and hold harmless the Operating Agent, SMC and any other entity granted a license to use SAMIS by the Operating Agent from any and all claims brought against the Operating Agent, SMC and/or any other entity granted a license to use SAMIS by the Operating Agent arising out of allegations that the enhancement infringes or violates a copyright. Indemnification by the consultant in favor of the Operating Agent, SMC and any other entity granted a license to use SAMIS, shall include attorney's fees, costs, settlements and damages awarded.

**Section 17.02**            **Review Process**

The SMG will review and approve all enhancements periodically as needed. The Enhancement Fund will support enhancements that address a need by the majority of all participating CSCs. Enhancements that meet the needs of less than the majority of the participating organizations will be funded through a special assessment of those CSCs for the full cost of the enhancement, except for those CSCs that elect not to implement an enhancement pursuant to Section 16.03 herein. PBCSC will not participate in or fund enhancements for SAMIS "Performance Measurements" ("PMs").

**Section 17.03**            **Impact Review**

All enhancements must be reviewed for impact on the performance and



management of SAMIS. The enhancements must meet the goals of the SAMIS system. The SMG and the consultant will review the priority order for the completion of the enhancements; the deployment of the enhancements will be scheduled to avoid disruption in the system and minimize disruption to operations for the participating CSCs.

**Section 18. ADMINISTRATION OF THE SAMIS SYSTEM**

The Operating Agent will be responsible for the overall project management and coordination of activities of the SMG including those between participating members and consultants contracted to develop and support the SAMIS PROGRAM. The Operating Agent will follow all applicable laws in conducting the responsibilities outlined in this Agreement. The administration of the SAMIS network will be the responsibility of the Operating Agent. The contract with the consultants to support SAMIS shall be between the Operating Agent and such consultant(s) subject to SMG approval; the Operating Agent shall continue the day-to-day contact with said consultants and will approve work done by such consultants prior to payment being made by the Fiscal Agent (which shall also communicate with such consultants as appropriate in its role as Fiscal Agent) and subject to the provision of Sections 17.01, 17.02 and 17.03.

**Section 18.01. Overview Of SAMIS Network –**

- (a) All information entered into SAMIS from any location is stored on the servers located at a data center.
- (b) The SAMIS security model as described below has been designed to allow limited access based on job tasks.
- (c) Access to SAMIS is determined as follows.
  - (1) The Operating Agent will set-up access to a SAMIS System Administrator

at each participating CSC or local funding partner.

- (2) CSC SAMIS Administrators will be granted full access to only their county database.
  - (3) Each CSC SAMIS System Administrator will be responsible for the set-up of all local users. CSCs with a local funding partner can designate that the local funder serve as SAMIS System Administrator for local funder's users.
  - (4) It is the responsibility of each CSC to establish local access controls for all users within its county; CSCs with a local funding partner can designate that the local funder be responsible for establishing local access controls for their own users. When a user logs on to SAMIS, the user name and password are authenticated against the SAMIS database.
  - (5) The authorized CSC SAMIS Administrator may make changes and will be responsible for maintaining information about users.
- (d) All data transmitted to and from the SAMIS MS SQL server is secured with the use of a digital certificate. Using SSL (Secure Socket Layer) technology, all traffic between the agency site and the SAMIS server is encrypted.
- (e) The SAMIS network is secured in an area that is accessible only to the Operating Agent or designated third party.

**Section 18.02            Project Management Duties of Operating Agent:**

- (a) Overall management, administration, CSC user administration, and management of the security of the SAMIS network and network resources.
- (b) Coordination of the SMG.

- (c) Notifying members of quarterly meetings and distribution of the agenda.
- (d) Coordination of training for CSC Project leaders and CSC staff, including Help desk staff, regarding the implementation of SAMIS at member sites.
- (e) Provide support by telephone, email, or through online services to CSC Administrators and CSC Help Desk staff as will be defined in the Service Level Agreement (SLA).

**Section 18.03            SAMIS Training**

The Operating Agent will provide training to each CSC SAMIS Administrator prior to the implementation of SAMIS. The Operating Agent and the CSC will agree upon the training schedule.

**Section 18.04            SAMIS Training Resources**

The Operating Agent will maintain, update and provide each CSC and local funding partner with an electronic copy of all SAMIS Manuals and training resources.

**Section 19.    TERMINATION OF AGREEMENT**

**Section 19.01**

A member may terminate its participation in the SMC and terminate access to SAMIS as set forth in Section 9. Upon termination, the CSC's data will be provided to a designated representative of the terminating CSC. All records of that CSC will then be permanently deleted from the SAMIS database. No refunds of the Licensing and Management Agreement fees will be granted, except as may be set forth in Section 19.03 below. The same process holds true for any local funding partners terminating their access to SAMIS.

## **Section 19.02**

Termination of this Agreement does not free any party from their respective obligations to comply with all terms of this Agreement, which calls for performance prior or subsequent to the termination date, including the responsibility to complete the payment of fees through the date of termination.

## **Section 19.03**

In addition to the other provisions applicable to a terminating member, the following provisions shall apply:

(i) In the event a member elects to terminate its membership, the member, would have the option of either (a) obtaining a perpetual, non exclusive license to internally use SAMIS in its existing form as of the effective date of departure or (b) obtaining its portion of the fund balance based on its percentage of the fee allocation formula for the year in which it left the SMC. Members choosing to obtain a perpetual, non-exclusive license on their departure could only use SAMIS internally but will have no ability to market the software and no ability to sub-license the software.

(ii) If Operating Agent terminates as Operating Agent it will transfer ownership of the Inventory and all intellectual property rights and ownership of the SAMIS Program to an entity designated by the SMC and it will cease to be a party to this Agreement. The Operating Agent must comply with Section 16.04 in the event of a transfer of ownership.

(iii) Should members opt to terminate membership such that there is only one member remaining, all ownership of the Inventory and all intellectual property rights and ownership of the SAMIS Program will be transferred to the last remaining member.

**Section 20. AMENDMENTS**

The Agreement may be amended with the written agreement of all parties. All amendments must provide for an effective date.

**Section 21. ENTIRE AGREEMENT**

This Agreement reflects the full and complete understanding of the parties to it and may be modified or amended only by a document in writing executed by all the parties hereto and executed with the same formality of this Agreement.

This Agreement may be executed in one or more original counterparts, all of which together shall be one instrument and all of which shall be considered duplicate originals.

**Section 22. MAXIMUM INDEBTEDNESS OF THE JACKSONVILLE CHILDREN'S COMMISSION.**

Pursuant to Section 106.431, *Ordinance Code*, the maximum indebtedness for the Jacksonville Children's Commission, for and on behalf of the City of Jacksonville, for all fees, payments, expenses and other costs, under this Agreement, shall not exceed a maximum amount of thirty-six thousand three hundred and three Dollars (\$36,303.00). This maximum indebtedness may be increased by written amendment to this Agreement.

IN WITNESS WHEREOF, the parties to this Agreement have caused the same to be signed by their duly authorized representatives effective the 1<sup>st</sup> day of October, 2011.

---

Cindy J. Arenberg-Selzer,  
President/CEO  
Children's Services Council of Broward County

Date \_\_\_\_\_

\_\_\_\_\_  
Linda M. Lanier  
Executive Director/CEO  
Jacksonville Children's Commission  
*For and on the behalf of the CITY OF JACKSONVILLE,  
Pursuant to Section 51.104(j), Ordinance Code*

Date \_\_\_\_\_

In compliance with Section 24.103(e) of the *Ordinance Code* of the City of Jacksonville, I do certify that there is an unexpended, unencumbered and unimpounded balance in the appropriation sufficient to cover the current year portion of the foregoing Agreement and that provision has been made for the payment of the monies provided therein to be paid.\*

**Program:**

FY12: JCOD0191RG; 05229 - \$36,303.00  
Total Encumbrance - \$36,303.00

\_\_\_\_\_  
Director of Finance  
Contract #: \_\_\_\_\_

Form Approved:

\_\_\_\_\_  
Office of General Counsel

\*Subject to appropriation of the Jacksonville City Council for fiscal year 2011-2012.

[Signatures Continued on Next Page]

---

David Heaton  
Executive Director  
Children's Services Council of Martin County

Date \_\_\_\_\_



---

Gaetana D. Ebbole  
CEO  
Children's Services Council of Palm Beach County

Date \_\_\_\_\_

---

D. Gay Lancaster  
Executive Director  
JWB Children's Services Council of Pinellas County

Date \_\_\_\_\_

---

Modesto E. Abety  
President/CEO  
The Children's Trust

Date \_\_\_\_\_

---

Reviewed for Legal Sufficiency and Form

Date

---

Luanna J. Panacek, Ed.D.  
Chief Executive Officer  
The Children's Board of Hillsborough County

Date \_\_\_\_\_

---

Brittany Birken,  
CEO  
Children's Services Council of Florida, Inc.  
Date: \_\_\_\_\_

---

Attachment "A"

**COST RATE DISTRIBUTION TABLE**

<b>FY 11-12 Fees</b>	<b>Operations</b>	<b>Enhancements Program/Fiscal</b>	<b>Performance Measures</b>	<b>Total</b>	<b>Prog/Fiscal CumRate</b>	<b>Performance Measures CumRate</b>
Broward	\$37,367	\$10,350	\$4,360	<b>\$52,077</b>	14%	17%
Duval	\$26,432	\$7,321	\$2,550	<b>\$36,303</b>	10%	10%
Hillsborough	\$26,870	\$7,442	\$2,814	<b>\$37,126</b>	10%	11%
Martin	\$8,720	\$2,415	\$765	<b>\$11,900</b>	3%	3%
Miami	\$67,245	\$18,625	\$7,156	<b>\$93,026</b>	25%	29%
Palm Beach	\$28,773	\$7,969	\$0	<b>\$36,742</b>	11%	0%
Palm Beach CSD	\$42,109	\$11,663	\$3,557	<b>\$57,329</b>	16%	14%
Pinellas	<u>\$33,271</u>	<u>\$9,215</u>	<u>\$3,798</u>	<b><u>\$46,285</u></b>	<u>12%</u>	<u>15%</u>
<b>Total</b>	<b>\$270,789</b>	<b>\$75,000</b>	\$25,000	<b>\$370,789</b>	100.00%	100%

**Base for Program and CDG Distribution -**

<b>Participating CSC's</b>	<b>FY 2010-11 Total Allocation for Programs in SAMIS</b>	<b>%</b>	<b>FY 2010-11 Number of Program Budgets</b>	<b>%</b>	<b>FY 2010-11 Total Number of Programs Entering Data into SAMIS Program Modules</b>	<b>%</b>	<b>Fiscal/CDG Applied Rate</b>
Broward	\$51,166,176	16%	99	11%	132	15%	<b>14%</b>
Children's Board	\$31,622,175	10%	90	10%	90	10%	<b>10%</b>
Children's Commission of Jacksonville	\$17,522,721	5%	94	11%	120	13%	<b>10%</b>
Martin CSC	\$5,249,570	2%	36	4%	36	4%	<b>3%</b>
The Children's Trust	\$83,000,000	25%	220	25%	220	25%	<b>25%</b>
Palm Beach Community Services Dept.	\$20,800,035	6%	180	20%	180	20%	<b>16%</b>
Palm Beach CSC	\$73,141,652	22%	74	8%	12	1%	<b>11%</b>
JWB CSC	\$46,883,116	14%	95	11%	107	12%	<b>12%</b>
<b>Total for all Participating CSC's</b>	<b>\$329,385,445</b>	<b>100%</b>	<b>888</b>	<b>100%</b>	<b>897</b>	<b>100%</b>	<b>100%</b>

**Base Performance Measure Distribution Base Rate**

<b>Participating CSC's</b>	<b>FY 2009-10 Total Allocation for Programs in SAMIS</b>	<b>%</b>	<b>FY 2009-10 Total Number of Programs Entering Data into SAMIS Program Modules</b>	<b>%</b>	<b>Performance Measurement Applied Rate</b>
Broward	\$ 51,166,176	20%	132	15%	<b>17.4%</b>
Childrens Board	\$ 31,622,175	12%	90	10%	<b>11.3%</b>
Children's Commission of Jacksonville	\$ 17,522,721	7%	120	14%	<b>10.2%</b>
Martin CSC	\$ 5,249,570	2%	36	4%	<b>3.1%</b>
The Children's Trust	\$ 83,000,000	32%	220	25%	<b>28.6%</b>
Palm Beach CSD	\$ 20,800,035	8%	180	20%	<b>14.2%</b>
JWB CSC	\$ 46,883,116	18%	107	12%	<b>15.2%</b>
<b>Total for all Participating CSC's</b>	<b>\$256,243,793</b>	<b>100%</b>	<b>885</b>	<b>100%</b>	<b>100.0%</b>

**Attachment "B"**

**END-USER SOFTWARE LICENSE AGREEMENT**

THIS AGREEMENT is made as of this [date] ("Effective Date") by and between Children's Services Council of Florida, Inc. ("LICENSOR"), and [Name of CSC], with offices at [CSC's address] ("LICENSEE") (collectively, the "PARTIES").

**WITNESSETH:**

WHEREAS, LICENSOR is the owner of the SAMIS PROGRAM, including all revisions, enhancements, repairs, and modifications ("Software") pursuant to the Agreement of the Statewide SAMIS Management Committee ("Master Agreement").

WHEREAS, LICENSEE desires to access and use the Software and SAMIS Network.

WHEREAS, LICENSOR desires to grant to LICENSEE and LICENSEE desires to obtain from LICENSOR a non-exclusive license to use and access the Software, related Documentation and the SAMIS Network solely in accordance with the terms and on the conditions set forth in this Agreement.

NOW, THEREFORE, in consideration of the promises and agreements set forth herein, the parties, each intending to be legally bound hereby, do promise and agree as follows.

**1. DEFINITIONS**

A. "Documentation" shall mean all manuals, user documentation, and other related materials pertaining to the Software which are furnished to LICENSEE by LICENSOR in connection with the Software.

B. "License Fee" shall mean the Membership Fee as stated at Section 14.05 and 15.02 of the Master Agreement.

C. "Software" shall mean the SAMIS object code, source-code, error corrections, enhancements, revisions, repairs, patches and updates supplied to LICENSEE by LICENSOR.

**2. LICENSOR LICENSE GRANT.**

LICENSOR hereby grants to LICENSEE a non-exclusive right and license to use the Software and access the SAMIS Network, for the duration of this Agreement.

**3. DELIVERY**

A. Delivery occurs when LICENSOR permits LICENSEE access to the Software and SAMIS NETWORK.

**4. MODIFICATIONS**

A. *Error Corrections and Updates.* LICENSOR or LICENSOR'S authorized consultant will provide LICENSEE with error corrections, bug fixes, patches or other updates to the Software licensed hereunder in object code form as they become available.

B. *Other Modifications.* LICENSEE may, from time to time, request that LICENSOR or LICENSOR'S



consultant incorporate certain features, enhancements or modifications into the Software. LICENSOR or LICENSOR'S consultant may, in their sole discretion, undertake to incorporate such changes and distribute the Software so modified to all or any of LICENSEES.

C. *Title to Modifications.* LICENSEE shall have no ownership interest in all error corrections, bug fixes, enhancements, patches, updates or other modifications to the Software in which all of the ownership and intellectual property rights shall vest exclusively in LICENSOR.

## **5. COPIES**

A. *Printed Matter.* Except as specifically set forth herein, no Software or Documentation which is provided by LICENSOR pursuant to this Agreement in human readable form, such as written or printed documents, shall be copied in whole or in part by LICENSEE without LICENSOR's prior written agreement.

B. *Machine Readable Matter.* Except as specifically set forth herein, any Software provided in machine readable form may not be copied by LICENSEE in whole or in part, except for LICENSEE's backup or archive purposes to which the appropriate copyright and other proprietary notices on original Software shall be included.

## **6. LICENSE FEES AND PAYMENT**

A. *License Fee.* In consideration of the licenses granted herein, LICENSEE shall pay the License Fee for the Software and Documentation as set forth herein. All amounts payable hereunder by LICENSEE shall be payable in United States funds without deductions for taxes, assessments, fees, or charges of any kind.

B. *Taxes and Other Charges.* LICENSEE shall be responsible for paying all (i) sales, use, excise, value-added, or other tax or governmental charges imposed on the licensing or use of the Software or Documentation hereunder, (ii) freight, insurance and installation charges, and (iii) import or export duties or like charges.

## **7. PROTECTION OF SOFTWARE**

A. *Proprietary Notices.* LICENSEE agrees to respect and not to remove, obliterate, or cancel from view any copyright, trademark, confidentiality or other proprietary notice, mark, or legend appearing on any of the Software or output generated by the Software, and to reproduce and include same on each copy of the Software.

B. *No Reverse Engineering.* LICENSEE agrees not to modify, reverse engineer, disassemble, or decompile the Software, or any portion thereof.

C. *Ownership.* LICENSEE further acknowledges that all copies of the Software in any form provided by LICENSOR or made by LICENSEE are the sole property of LICENSOR. LICENSEE shall not have any right, title, or interest to any such Software or copies thereof, and further shall secure and protect all Software and Documentation consistent with maintenance of LICENSOR's and LICENSOR'S proprietary rights therein.

## **8. CONFIDENTIALITY**

A. *Acknowledgement.* LICENSEE hereby acknowledges and agrees that the Software and Documentation constitute and contain valuable proprietary products and trade secrets of LICENSOR and/or LICENSOR,

embodying substantial creative efforts and confidential information, ideas, and expressions. Accordingly, LICENSEE agrees to treat (and take precautions to ensure that its employees treat) the Software and Documentation as confidential in accordance with the confidentiality requirements and conditions set forth below.

B. *Maintenance of Confidential Information.* Each party agrees to keep confidential all confidential information disclosed to it by the other party in accordance herewith, and to protect the confidentiality thereof in the same manner it protects the confidentiality of similar information and data of its own (at all times exercising at least a reasonable degree of care in the protection of confidential information); provided, however, that neither party shall have any such obligation with respect to use or disclosure to others not parties to this Agreement of such confidential information as can be established to: (1) have been known publicly; (2) have been known generally in the industry before communication by the disclosing party to the recipient; (3) have become known publicly, without fault on the part of the recipient, subsequent to disclosure by the disclosing party; (4) have been known otherwise by the recipient before communication by the disclosing party; (5) have been received by the recipient without any obligation of confidentiality from a source (other than the disclosing party) lawfully having possession of such information or (6) is otherwise a non-exempt public record pursuant to Ch. 119, F.S..

C. *Injunctive Relief.* LICENSEE acknowledges that the unauthorized use, transfer or disclosure of the Software and Documentation or copies thereof will: (1) substantially diminish the value of the Software and Documentation; (2) render the remedy at law for such unauthorized use, disclosure or transfer inadequate; and (3) cause irreparable injury in a short period of time. If LICENSEE breaches any of its obligations with respect to the use or confidentiality of the Software or Documentation, LICENSOR shall be entitled to equitable relief to protect its interests therein, including, but not limited to, preliminary and permanent injunctive relief.

D. *Survival.* LICENSEE's obligations under this Section will survive the termination of this Agreement or of any license granted under this Agreement for whatever reason.

## **9. WARRANTIES**

A. *Disclaimer of Warranties.* LICENSOR DOES NOT REPRESENT OR WARRANT THAT ALL ERRORS IN THE SOFTWARE AND DOCUMENTATION WILL BE CORRECTED. THE WARRANTIES STATED IN THIS SECTION ARE THE SOLE AND THE EXCLUSIVE WARRANTIES WITH RESPECT TO THE SOFTWARE, DOCUMENTATION AND SAMIS NETWORK. THERE ARE NO OTHER WARRANTIES RESPECTING THE SOFTWARE, DOCUMENTATION, SAMIS NETWORK OR SERVICES PROVIDED HEREUNDER, EITHER EXPRESS OR IMPLIED, INCLUDING BUT NOT LIMITED TO ANY WARRANTY OF DESIGN, MERCHANTABILITY, OR FITNESS FOR A PARTICULAR PURPOSE, EVEN IF LICENSOR HAS BEEN INFORMED OF SUCH PURPOSE. NO AGENT OF LICENSOR IS AUTHORIZED TO ALTER OR EXCEED THE WARRANTY OBLIGATIONS OF LICENSOR AS SET FORTH HEREIN.

B. *Limitation of Liability.* LICENSEE ACKNOWLEDGES AND AGREES THAT THE CONSIDERATION WHICH LICENSOR IS CHARGING HEREUNDER DOES NOT INCLUDE ANY CONSIDERATION FOR ASSUMPTION OF THE RISK OF LICENSEE'S CONSEQUENTIAL OR INCIDENTAL DAMAGES WHICH MAY ARISE IN CONNECTION WITH LICENSEE'S USE OF THE

SOFTWARE DOCUMENTATION and SAMIS NETWORK. ACCORDINGLY, LICENSEE AGREES THAT IT SHALL PROHIBITED FROM SEEKING ANY LOSS-OF-PROFIT, INDIRECT, INCIDENTAL, SPECIAL, OR CONSEQUENTIAL DAMAGES ARISING OUT OF THE LICENSING OR USE OF THE SOFTWARE, DOCUMENTATION OR SAMIS NETWORK. Any provision herein to the contrary notwithstanding, the maximum liability arising from LICENSEE'S use of the Software, Documentation and SAMIS Network, whether such liability arises from any claim based on breach or repudiation of contract, warranty, tort or otherwise, shall in no case exceed the actual price paid to LICENSOR by LICENSEE during the year in which the claim arose. The essential purpose of this provision is to limit the potential liability arising out of LICENSEE'S use of the Software, Documentation and SAMIS Network. The parties acknowledge that the limitations set forth in this Section are integral to the amount of consideration levied in connection with the Licensing Fees.

#### **10. TERMINATION**

Termination of this License Agreement will be in accordance with the termination provisions of the Agreement of the Statewide SAMIS Management Committee effective October 1, 2011 which is incorporated herein in its entirety by reference

#### **11. POST TERMINATION RIGHTS**

There are no post-termination rights under this license agreement except the LICENSEE will be entitled to the post-termination rights set forth in the Agreement of the Statewide SAMIS Management Committee effective October 1, 2011 which is incorporated herein in its entirety by reference.

#### **12. FORCE MAJEURE**

Neither party shall be liable for any loss or delay resulting from any force majeure event, including acts of God, fire, natural disaster, terrorism, labor stoppage, war or military hostilities, or inability of carriers to make scheduled deliveries, and any payment or delivery date shall be extended to the extent of any delay resulting from any force majeure event.

#### **13. NOTICES**

- A. Any notice required to be given pursuant to this Agreement shall be in writing and mailed by certified or registered mail, return receipt requested or delivered by a national overnight express service.
- B. Either party may change the address to which notice or payment is to be sent by written notice to the other party pursuant to the provisions of this paragraph.

#### **14. JURISDICTION AND DISPUTES**

- A. This Agreement shall be governed by the laws of Florida.
- B. All disputes hereunder shall be resolved in the applicable state or federal courts of Florida. The parties consent to the jurisdiction of such courts, agree to accept service of process by mail, and waive any jurisdictional or venue defenses otherwise available.

#### **15. AGREEMENT BINDING ON SUCCESSORS**

This Agreement shall be binding upon and shall inure to the benefit of the parties hereto, their heirs, administrators, successors and assigns.

**16. WAIVER**

No waiver by either party of any default shall be deemed as a waiver of any prior or subsequent default of the same or other provisions of this Agreement.

**17. SEVERABILITY**

If any provision hereof is held invalid or unenforceable by a court of competent jurisdiction, such invalidity shall not affect the validity or operation of any other provision and such invalid provision shall be deemed to be severed from the Agreement.

**18. ASSIGNABILITY**

The license granted hereunder is personal to LICENSEE and may not be assigned by any act of LICENSEE or by operation of law without the written consent of LICENSOR.

**19. INTEGRATION**

Excluding the Master Agreement, this Agreement constitutes the entire understanding of the parties, and revokes and supersedes all prior agreements between the parties and is intended as a final expression of their Agreement. It shall not be modified or amended except in writing signed by the parties hereto and specifically referring to this Agreement. This Agreement shall take precedence over any other documents that may be in conflict therewith.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the date first written above.

CHILDREN’S SERVICES COUNCIL OF FLORIDA, INC. (LICENSOR)

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

Title: \_\_\_\_\_

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

**(LICENSEE)**

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

Title: \_\_\_\_\_

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

**Attachment "C"**

**INVENTORY**

<b>No.</b>	<b>DESCRIPTION</b>	<b>SERIAL #</b>	<b>ASSET ID</b>
1	Server	S# EAHHKJNZ3G	1856-1
2	Server	M05LKVD3N	1863-1
3	16 Port KUM	9347AZRO2001600121	1865-1
4	HP DL360 SERVER	USE637N68D	1930-1
5	HP DL360 G4p SERVER	USE632N6NA	1941-1
6	TRIPP LITE 16-P C	9523-596500063	1949-1
7	Network Attached Storage	F744529	1974-1
8	HP Compaq Bus. Notebook	CND73411QO	1996-1
9	Overland Storage V	FA741BHC05533	2028-1
10	Cisco A5A5510	JMX1224L1GV	2030-1
11	HP DL385G6 Server	2UX9270242	2039-1
12	Added HP 16GB Memory		2039-2
13	HP DL385G6 2435 Serve	2UX9470366	2072-1
14	HP TS Monitor 9100 HP 8000 Minitower PC	3CR02702RN	2085-1
15	AU245AV	2UA11107JM	2092-2
16	HP Proliant DL385 server	2M21240022	no tag
17	Drobo SAN Storage	TDH1123O0681	no tag
18	D-LINK DGS-1248T	B25H26B000192	25
19	Network Attached Storage	U80406	52
20	Network Attached Storage	U80906	53
21	HP Compaq Notebook 6535b	CNU8343JX3	79
22	D-Link Switch 1248T	N/A	199
	DGS-1248T D-LINK WEB		
23	SMART Switch	F39L2A10000169	305
24	HP ProBook 4520 Laptop	S2CE02909MZ	313
25	LE2201 22" Monitor	CNK1030Z5L	344
26	LE2201 22" Monitor	CNK1030Z53	346
27	APC Pro 700 - Back-UPS	3B1004X57103	479
28	Proliant DL385 server	2M21240022	no tag
29	HP Color Laser Jet 1600 Printer		291