

## SCHOOL BASED CLINIC AGREEMENT

This School Based Clinic Agreement (the "Agreement"), dated the \_\_\_ day of \_\_\_\_\_, 2018 (the "Effective Date"), is by and between **THE BOARD OF EDUCATION OF CARROLL COUNTY, KENTUCKY** (the "District"), with an address of 813 Hawkins Street, Carrollton, Kentucky 41008, and **TRIAD HEALTH SYSTEMS, INC.** ("Triad"), with an address of 441 Highway 42 West, Warsaw, Kentucky 41095.

WHEREAS, Triad is a federally qualified health center, duly licensed in the state of Kentucky as a primary care center with clinics presently existing in Carroll County.

WHEREAS, Triad has determined that in furtherance of its health care purpose of providing primary health and specialty care, it desires to operate an on-site health clinic to provide primary health care at certain Schools located near or adjacent to Triad's existing Carroll County clinics, to be known as Triad School Based Clinics ("Clinics," and each individually, a "Clinic") to care for District students and employees.

WHEREAS, the parties agree that the Clinics will, among other things, benefit and promote public education, promote the general health and welfare of the District's students and employees and improve District student and employee attendance and performance through the availability of affordable and accessible health care. School districts that established on-site health clinics experienced increased student attendance, lower dropout rates and improved classroom behavior as well as a decrease in missed work days by staff members due to the availability of comprehensive School based medical services. Increased attendance results in additional revenue to the District, enhanced learning opportunities for its students, and decreased absenteeism by staff members, all of which contributes to a continuity of quality instruction while simultaneously reducing the high cost of employing substitute teachers.

WHEREAS, the Kentucky Department of Public Health ("DPH") provides limited student and employee health screenings and treatment services to the District via registered nurses, but the reduction of funding to DPH reduced the ability of the DPH to provide those services. Moreover, the District found that many of its students do not have reasonable access to medical services aside from those available through the District. Triad has the capacity to offer increased medical services in the form of physical examinations, child care immunizations, preventive medicine, care and treatment of illnesses and injuries and the ability to prescribe and administer medications that are beyond the scope of practice of a DPH-provided registered nurse. Triad also has the capability, upon request, to provide training and supervision of District staff for the provision of health services to students and to serve as a source of health care information to students and staff.

WHEREAS, the District desires to procure health services offered by Triad, and Triad desires to provide such services, pursuant to the terms of this Agreement.

NOW, THEREFORE, for and in consideration of the premises and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties agree as follows:

1. Clinics. Commencing on the Effective Date and during the Term of this Agreement, Triad will operate on-site health clinics as licensed extension sites of its primary care center at Carroll County High School, \_\_\_\_\_ Middle School, \_\_\_\_\_ Elementary School, \_\_\_\_\_ Elementary School, and \_\_\_\_\_ Elementary School (collectively, the "Schools"), to provide primary health care to all District students and employees pursuant to this Agreement.

2. Staffing of Clinics. Triad shall staff each Clinic with an advanced practice registered nurse ("APRN") or a physician and such other staff as Triad shall determine is necessary to operate each Clinic. Triad shall provide a collaborative physician to be available for consultations with the APRN. (The APRNs, medical assistants, collaborative physicians and other staff used by Triad to operate the Clinic are collectively referred to in this Agreement as "Clinic Staff.") Triad shall ensure all Clinic Staff are licensed and/or certified as required by law. Triad shall provide all supervision needed for patient treatment and other Clinic services. All Clinic Staff shall be employees or contractors of Triad, as the case may be, and shall not be considered employees of the District for any purpose. The parties acknowledge and agree that the following shall apply to all Clinic Staff:

(a). Clinic Staff shall be subject to Triad's direction, discipline and control.

(b). Clinic Staff shall not be eligible for benefits through the District, including, but not limited to workers' compensation insurance, disability, insurance, medical insurance, and unemployment insurance.

(c). The District shall have the right to request temporary or permanent removal of a Clinic Staff member if there is reasonable cause for such a request including, but not limited to, the following: the Clinic Staff member is disruptive to the School's functions, refuses to cooperate with terms set out in this Agreement, the District receives complaints about the Clinic Staff member's conduct, or the District learns that the Clinic Staff member is prohibited from being present on School grounds or would not be eligible to be employed by the District if such member were a District employee.

(d). The District shall have the right to prohibit a Clinic Staff member from entering School property, including Clinic space, if there is reasonable cause to do so.

(e). Triad shall retain control over whether a Clinic Staff member remains employed or contracted with Triad or is otherwise disciplined, but Triad shall not refuse any reasonable District request for removal from a Clinic.

(f). Triad shall conduct state and federal criminal background checks that satisfy KRS 160.380(6) on all Clinic Staff (notwithstanding that such member is not a School employee). Triad shall conduct such background checks before Clinic Staff begins working in the Clinic and warrant that no Clinic Staff with a history of violent offenses or of being charged with a sex crime shall be employed by Triad in the Clinics. Triad shall provide the results of such checks on each Clinic Staff member to the District upon request. Such information shall be maintained as confidential by the District and shall not be distributed or disclosed to any person

or entity except where necessary for legitimate School business or where in response to summons or court order.

(g). In the event Triad becomes aware that any Clinic Staff member is or has been charged with a crime that, as a result of the charge or if convicted, would disqualify such Clinic Staff member from employment with the District (notwithstanding that such member is not a School employee) or prohibit such member from entry onto School grounds, Triad shall promptly notify the District.

(h). To avoid potential conflicts or appearance of conflicts, Triad shall not employ or contract with any Clinic Staff who is an immediate family member of a District board member, the Superintendent of the Carroll County Public Schools, the Principal of any School at which a Clinic is located, the District's health coordinator or a school nurse (whether District employed or contracted from the Carroll County Health Department). For purposes of this Section, an immediate family member shall be a: father, mother, brother, sister, husband, wife, son, daughter, aunt, uncle, son-in-law or daughter-in-law. Triad warrants that no School board member, School district administrator, or member of any board member's or district administrator's immediate family has any financial interest, directly or indirectly, in Triad or in the operation of the Clinics.

### 3. Operation of the Clinics.

(a). Services. The Clinics shall provide only primary care health services to the District as specifically described in this Agreement. The Clinics' services shall be available to all District students and employees. Triad shall have control over and be solely responsible for the delivery of services and treatment of District students and employees once the District students and employees are at a Clinic, including but not limited to exclusive control over all recordkeeping, billing and other clerical functions and obligations for such Clinic. The District acknowledges and agrees that it cannot control or direct the medical decision making or methods by which Triad and its employees perform services at the Clinic. As a result, the District makes no representation and shall have no liability of any kind with respect to any aspect of the professional services provided by Triad and its employees in relation to this Agreement.

(b). Billing for Services. Triad shall be solely responsible for all aspects of billing related to services it provides to District students and employees under this Agreement. The parties acknowledge and agree that the District is not responsible for such billing in any way. Triad will bill for all services provided to District students and employees under this Agreement pursuant to its own practices, policies and procedures, and in accordance with state and federal law. The parties further acknowledge and agree that the District will not review any claims submitted to governmental or private third-party payors by Triad nor does it certify the truth, accuracy, or legality of any information contained in such claims.

(c). Referrals. The parties agree that nothing in this Agreement is intended to require, and this Agreement does not require or provide for payment for, the referral of patients to Triad by either the District or its representatives. Any referrals for follow-up care made by the Clinics shall be made to the primary care physician of the patient as listed on the Triad School Based Clinic student registration packet on file with Triad, providing the referral to such primary

care physician is the appropriate level of care for the type of referral being made. The District may post in each Clinic a list of primary care physicians and licensed primary care centers/clinics available in Carroll County, Kentucky.

(d). Consent and Release of Information. Before a student or other minor may be seen in a Clinic, the student or minor shall have the Triad School Based Clinic student registration packet including a consent form signed by a parent, legal guardian or by the emancipated minor student. The Triad School Based Clinic student registration packet shall be in a form either prepared by or otherwise acceptable to Triad. The Triad School Based Clinic student registration packet shall contain a provision permitting the Clinic to treat a student when both (a) Clinic-level treatment is recommended by the school nurse; and (b) the parent, guardian or emancipated student has appropriately identified the Clinic as one of the student's health care providers. The District shall be solely responsible for obtaining signed copies of the Triad School Based Clinic student registration packet and the various consent forms described in this paragraph for each District student and providing copies thereof to Triad. The parties acknowledge and agree that medical records to be established and maintained by Triad as provided in this Agreement will contain confidential and privileged information to parents and legal guardians as permissible under the aforesaid laws and in accordance with Triad rules and regulations.

4. Term; Termination.

(a). Term. Unless otherwise terminated pursuant to this Section 4, this Agreement shall be for a term of one (1) calendar year, commencing on the Effective Date (the "Term").

(b). Termination Without Cause. This Agreement may be terminated by either party without cause, provided they have given sixty (60) calendar days' written notice to the other party.

(c). Termination for Breach. This Agreement may be terminated by either party for the other party's breach of a material obligation(s) herein upon thirty (30) calendar days' written notice to the breaching party. The non-breaching party will set forth in the written notice the specific nature of the breach and the conditions that must be met within the thirty (30) calendar day period to cure the breach and avoid termination. In the event the breach is cured to the reasonable satisfaction of the non-breaching party within the above-referenced thirty (30) calendar days, the notice of breach shall be deemed rescinded and the Agreement shall continue in full force and effect.

(d). Immediate Termination. This Agreement may be terminated immediately for any of the following reasons:

(i). By the District in the event of the failure for any reason by Triad to obtain or maintain all necessary licenses and certifications required for it to operate any Clinic and/or carry out the terms of this Agreement.

(ii). By the District upon the cancellation of Triad's professional and/or general liability insurance required by this Agreement.

(iii). By either party upon the other party's assignment of this Agreement without consent as prohibited by Section 10 of this Agreement.

(iv). By the District upon Triad's becoming insolvent, placement in receivership, or general assignment for the benefit of its creditors.

(v). By the District in the event Triad dissolves or ceases to carry on business.

(vi). By the District if Triad commits any act of misrepresentation, fraud, theft, embezzlement, or similar malfeasance.

(vii). By the District if Triad violates any applicable federal and state statutes, regulations, rules and/or applicable codes of professional conduct that the violation of such would bring into question the continued ability of Triad to continue providing primary health care at the Clinics in an appropriate manner.

(viii). By either party if it would be subject to civil or criminal liability for continued performance under this Agreement.

(ix). By the District if Kentucky Department of Education either denies or rescinds approval of the lease as addressed in Section 5 of this Agreement.

(e). Consequences of Termination. In the event of termination for any reason, each party shall return to the other party any and all property and confidential information and copies therefore received from the other party pursuant to or in contemplation for this Agreement within thirty (30) business days of the termination of this Agreement, to the extent it is reasonably feasible. If return of some or all of the property and confidential information is not reasonably feasible, the receiving party shall destroy the property and confidential information and copies thereof in its possession, custody and control within the aforesaid thirty (30) business day period, and certify same to the disclosing party, unless such destruction is prohibited by federal or state law. It is understood that protected health information under Section 6(f) is excluded from the operation of this Section 4(e).

(f). Mitigation. Both parties shall act in good faith to mitigate any damages that the other party may sustain by virtue of default or termination of this Agreement.

5. Lease Space for Operation of Clinics. The District shall provide Triad with adequate office space at no charge at each of the Schools, on a regular and defined basis as addressed in this Agreement, to enable Triad to provide the services described in this Agreement ("Clinic Space"). The Clinic Space shall be adequate to allow District students and employees to be examined and counseled in a private and confidential setting. The District shall also supply at no charge to Triad, all utilities, computer data lines, and telephone lines necessary for the operation of each Clinic. Neither Triad nor any of its employees or representatives shall use District computer data lines or telephone lines for illegal, illicit or sexually explicit activity, nor shall they use said lines in a way that damages District property or compromises the safety, privacy or wellbeing of the District's data, District students and employees. Triad shall supply all other equipment and supplies needed to operate the Clinic. The District shall supply and

designate parking spaces for Clinic Staff. Clinic Staff shall only access the Clinic Space provided at each School and such other parts of the School buildings in which a Clinic is located as permissible based upon the reasonable request of the District and the Principal at such School. Further, while in the Schools, Triad's employees and contractors shall abide by such rules and policies as may be provided by the District or the Principal at the applicable School. The District shall supply custodial personnel and shall furnish janitorial services in each Clinic, including but not limited to cleaning floors, surfaces and windows, cleaning restrooms, and removal of trash, all on a regular schedule, as established by the District. Contaminated waste shall be kept in an appropriately marked separate container. The handling and removal of contaminated waste shall be performed by Triad and not by the District or its employees. The District shall be solely responsible for making all routine repairs and for performing routine maintenance to each Clinic Space, but shall not be responsible for the repair or maintenance of equipment that belongs to Triad. Triad shall inform the District in writing about Triad equipment that is not to be handled or disturbed by any District employee, including without limitation, District employees assigned to clean or maintain any Clinic Space, and the District shall require those District employees to abide by that information. Triad may place signage at each Clinic and School, subject to the District's prior approval.

6. Interaction of Clinic and District's School. The interaction between the Clinic and each School shall be subject to the following:

(a). District School Nurses. There may or may not be a school nurse employed and supervised by Carroll County Schools at each of the Schools. The District employs a District Health Coordinator to oversee the Kentucky Department of Education matrix of the District's School health services. The parties agree that each should work together within their respective areas of expertise to further the goals of this Agreement and the health of the District's students and staff. To that end, unless no nurse is assigned to the School or if a school nurse is on site, except in an emergency situation, each student seeking medical attention at a Clinic site shall first be assessed by the school nurse for treatment of minor or non-emergent health issues prior to being seen at the Clinic. Subject to the terms of this Agreement, it shall be in the sole discretion of the School's nurse to then determine whether the care level needed by a student is appropriate for the school nurse to perform or the student should be referred to the Clinic. School nurses shall not be required nor expected to refer students directly to the Clinic for care levels in excess of approved nursing care with their scope of expertise, but shall do so if the student's parent, legal guardian, or the student (in the event of an emancipated minor) has consented to said student being seen at the Clinic. With respect to treatment provided by school nurses within their official area of expertise, school nurses shall determine each student's course of treatment and follow up care in their sole discretion, with the Clinic simply being an option available to them. This Section shall in no manner interfere with a Clinic Staff member's medical treatment of a student referred to a Clinic by the school nurse. Nor shall this Section be interpreted to give school nurses authority over a Clinic Staff member, nor to authorize a school nurse to impede or interfere with a Clinic Staff member in his/her decision as to a proper course of treatment or follow up of a student being cared for by a Clinic Staff member. School nurses shall retain all functions and responsibilities they would have without the Clinic. Nothing about this provision shall either obligate or prohibit a Clinic Staff member from assisting someone in emergency situation.

(b). Discharge of Students from School. Clinic Staff members shall not discharge any students from a School. The School officials located in each School shall maintain the sole authority to discharge a student from school. In the event a qualified member of the Clinic Staff treats a student and determines that it is in the best interest of the student and/or the District for that student to be discharged from school to go home or seek further treatment, that Clinic Staff member shall provide a written recommendation to the student for delivery to the appropriate School official to make the final determination regarding discharge from school.

(c). Relationship Between the Parties. No party shall represent it has the authority to act on behalf or in the place of the other. This Agreement shall not be read or treated as a designation of the Clinic Staff as "school officials" for FERPA purposes. No party shall represent itself as an affiliate of or operating under the auspices of the other, including, but not limited to, the use and content of signs, letterhead and logos. This Agreement shall not be read or treated as a delegation of any powers or responsibilities from one party to the other, except as otherwise expressly stated in this Agreement. Neither Triad nor its employees or contractors shall be considered the employees, agents, servants, partners or designees of the District. Neither Triad nor its employees or contractors shall have the authority to assume or create an obligation or responsibility, express or implied, on the District's behalf.

(d). 504 Disability Services. The District shall not rely on Triad to provide 504 disability services, Individuals with Disabilities Education Act (IDEA) services or other services the District is required to provide students unless and except where such services are addressed through separate arrangement between the parties or by written addendum to this Agreement.

(e). Protected Health Information. Triad shall not share or allow access to protected health information in its custody or control in any manner not allowed by federal or state law (e.g. HIPAA). The District shall not share or allow access to any protected education records (as defined by FERPA and Board policy) or information in the District's custody or control in any manner not allowed by federal or state law (e.g. FERPA). Nothing about the parties' relationship shall operate to waive or modify the parties' obligations under such laws.

(f). Primary Contact Person. Each party shall designate a primary contact person for communication purposes under this Agreement. Each party may change the primary contact person as necessary upon written notice to the other party.

The initial primary contact person for the District shall be:

\_\_\_\_\_

The initial primary contact person for Triad shall be:

Adam Craft  
CEO  
Triad Health Systems, Inc.  
441 Highway 42 West  
Warsaw, Kentucky 41095

(g). Emergency Situations. Nothing about this Agreement shall either obligate or prohibit Triad employees or contractors from assisting someone in emergency situations.

(h). Clinic Shall Be Solely For School Purposes. The parties acknowledge and agree that Kentucky law requires the District to use its resources for school purposes. Accordingly, the purpose of the Clinics shall be for the benefit and promotion of public education in the District. In the furtherance of said purposes, the Clinics shall:

- (i). only treat District students and employees;
- (ii). only operate during the days and hours addressed in Section 1 above; and
- (iii). not interfere with or disrupt school activities.

(i). Medical Records. Triad will establish and maintain medical records for each student seen in the Clinic through its Electronic Medical Records system, (hereafter "Medical Records"). Triad represents it will maintain access to active Medical Records for District students and employees being currently treated by the Clinics at the appropriate Clinic and will maintain, store, archive and destroy inactive Medical Records and pursuant to Triad's policies for maintaining medical records as same may be amended from time to time. Both parties acknowledge and agree that the student Medical Records established and maintained in the Clinics are the property of Triad. Other standard forms required by the Kentucky Department of Education that are initiated by the District and customarily filed in the students' education records are not medical records and are considered to be the property of the District. Triad will maintain the Medical Records and all protected health information contained therein in a manner that complies with the rules and regulations concerning confidentiality as mandated by HIPAA, 42 USC 1320d, and as set forth in federal regulations at 45 CFR Parts 160 and 164. The District acknowledges that the Medical Records and all protected medical information is confidential and will not seek access to the records or information, except in accordance with applicable law. The District shall maintain security over the Clinics at times when the Clinics are not staffed. Triad acknowledges that Carroll County school nurses may only share student medical information with Triad on a "need to know" basis and consistent with federal and state law.

## 7. Licensure and Compliance.

(a). No Remuneration for Referrals. The parties acknowledge and agree that neither party is entitled to any payment nor compensation from the other party for any services, rights or privileges other than as specifically provided in this Agreement. Triad shall not offer or give any remuneration, either direct or indirect, for the referral of patients or for arranging for the furnishing of any item or service for which payment may be made in whole or in part by Medicare or Medicaid, or which otherwise may be deemed to violate any federal or Kentucky law.

(b). Licenses and Certificates. Triad shall be solely responsible for securing all necessary licenses and certificates required by law for operation of the Clinics and the



services provided by Clinic Staff, including certificates of need if required by law. Triad shall promptly notify the District if any relevant license or certificate, including any license or certificate of Clinic Staff, are suspended, disciplined or revoked or lapsed.

(c). Compliance with Laws. Triad shall comply with all applicable state and federal civil rights laws, including but not limited to KRS Chapter 344 and the Americans with Disabilities Act, regarding operation of the Clinics and interaction with District students and employees. Triad shall comply with applicable provisions of OSHA and KOSHA regarding operation of the Clinics, including treatment of Clinic Space and posting of appropriate signage.

(d). Board Policies. To the extent reasonably possible, Clinic Staff shall honor policies from the District's Policies and Procedures manual (referred to herein as "Board Policies"), and shall cooperate and coordinate with the District to facilitate their implementation as they relate to the Clinics as being located on District property. The District shall provide Clinic Staff with copies of all Board Policies and Procedures that Clinic Staff are expected to comply with, and shall, at a minimum, provide Clinic Staff with annual orientations on the Board Policies and Procedures applicable to Clinic Staff. Nothing about Triad's agreement to reasonably honor, cooperate with and coordinate concerning the policies listed above shall be read or treated as giving any Triad employee or contractor status or rights as a District employee. The District acknowledges and understands that its recourse concerning a failure to honor these policies is limited to (a) requesting removal from the Clinic of the given Clinic Staff member; (b) acting pursuant to the terms of this Agreement, up to and including termination of this Agreement; and (c) actions to recover appropriate damages.

(e). Approval of Kentucky Department of Education. The District shall obtain the approval of the Kentucky Department of Education to lease Clinic Space to Triad. The District shall not be liable for breach of this Agreement if (a) the Department of Education denies the District's request to approve of any lease of Clinic Space; or (b) the Department rescinds approval of any such lease at any time.

#### 8. Insurance and Indemnification.

(a). Liability Insurance. The parties hereto acknowledge that Triad's professional liability is covered by the Federal Tort Claims Act (FTCA). However, in the event Triad ceases to be covered by the FTCA for any reason, Triad shall carry professional liability insurance coverage of at least \$1,000,000 per occurrence and \$3,000,000 in the aggregate insuring the professional acts or neglects of Clinic Staff providing services pursuant to this Agreement. Triad shall name the District as an additional insured under the Professional Liability Coverage if the FTCA coverage should cease.

(b). Occurrence Coverage. Triad shall also carry "occurrence" coverage for general liability claims that could arise out of Triad's operation of the Clinics. Such coverage shall be for not less than \$1,000,000 per occurrence and \$3,000,000 million in the aggregate. Triad shall name the District as an additional insured under this coverage.

(c). Indemnification. Triad agrees to indemnify and hold the District and its employees harmless for any liability that results from any acts or omissions of Triad, its

contractors or its employees arising out of the Clinics' operation, including but not limited to liability based on Triad's use of the Triad-School Based Clinic name; provided, however, that Triad is not able or obligated hereunder to indemnify the District for malpractice coverage under the FTCA and does not attempt to do so.

9. Assignment. This Agreement may not be assigned by any party without the prior written consent of the other party hereto. Any attempted assignment in the absence of such consent shall be void as if never assigned at all.

10. Parties in Interest. This Agreement shall inure to the benefit of and be binding upon the parties, and their respective heirs, executors, administrators, successors, and permitted assigns.

11. Waiver. The waiver by either party of any breach of any provision of this Agreement shall not operate or be construed as a waiver of any subsequent breach.

12. Notices. All notices under this Agreement shall be sent by certified or registered U.S. Mail, postage prepaid, return receipt requested, Federal Express or other expedited delivery service, or delivered personally to the parties through the contacts designated pursuant to Section 6(f) of this Agreement. The date of the notice shall be the date of the postmark or, if by personal delivery, the date delivery is made.

13. Illegality or Unenforceability. If any one or more of the provisions contained in this Agreement shall for any reasons be held invalid, illegal or unenforceable for any reason, such invalidity, illegality or unenforceability shall not affect any other provisions of this Agreement, which shall be construed as if such invalidity, illegality or unenforceable provisions had never been contained herein. It is the intention of the parties that if any provision of this Agreement is capable of two constructions, one of which would render the provision void and the other of which would render the provision valid, then the provision shall have the meaning which renders it valid.

14. Counterparts. This Agreement may be executed in one or more counterparts each of which shall be deemed an original, but all of which together shall constitute one and the same instrument.

15. Third Parties. Nothing in this Agreement shall be construed as creating any rights in any third parties or any persons other than the District and Triad.

16. Choice of Law. This Agreement shall be interpreted according to the laws of the Commonwealth of Kentucky.

17. Headings. The paragraph headings contained in this Agreement are for reference purposes only and shall not control the interpretation of this Agreement.

18. Entire Agreement and Modification. This writing constitutes the entire agreement between the parties hereto and may be modified only by a writing executed by both parties. Each and every modification an amendment of this Agreement must be in writing and signed by all of the parties hereto. In the event the District obtains School funding through a state, federal

or private grant or endowment that relates to or affects the Clinics, the parties agree to work in good faith to make those modifications necessary to comply with the terms of said funding. Each and every waiver of any covenant, representation, warranty or other provision of this Agreement must be in writing and signed by the party whose interest are adversely affected by such waiver. No waiver granted in any one instance shall be construed as a continuing waiver applicable in any other instance.

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

**THE BOARD OF EDUCATION OF  
CARROLL COUNTY, KENTUCKY**

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

Its: \_\_\_\_\_

(the "District")

**TRIAD HEALTH SYSTEMS, INC.**

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

Its: \_\_\_\_\_

("Triad")