

## SERVICE AGREEMENT

**THIS SERVICE AGREEMENT** (the “**Agreement**”) is made and entered by and between **BAPTIST HEALTHCARE SYSTEM, INC.** (hereinafter "**Baptist**") and **OLDHAM COUNTY SCHOOLS** (hereinafter "**OCS**").

### WITNESSETH:

**WHEREAS**, Baptist is the owner and operator of a system of hospitals and health facilities in the States of Kentucky and Indiana; and

**WHEREAS**, OCS is a Kentucky public school system, which operates elementary, middle and high schools located throughout Oldham County, Kentucky; and

**WHEREAS**, Baptist desires to offer TytoCare equipment and medical services to employees of OCS; and

**WHEREAS**, the parties desire to provide a full statement of their agreement in connection with OCS agreeing to provide services to Baptist during the term of this Agreement.

**NOW, THEREFORE**, in consideration of these mutual covenants, the parties agree as follows:

1. **Term and Termination.** This Agreement shall be effective for a term beginning the 8<sup>th</sup> day of January 2024 and ending on the 7<sup>th</sup> day of January 2025. Either party may cancel this Agreement with or without cause, at any time upon thirty (30) days written notice.
2. **Services.** Baptist shall provide the services set forth on **Exhibit A** attached hereto and incorporated herein.
3. **OCS Responsibilities.** OCS will provide as follows related to the TytoClinic devices: (a) secure, stable internet connection as specified in **Exhibit A-1**; (b) identified “super-user” at each designated location who will be trained on TytoClinic device usage; (c) staff who will perform cleaning/infection prevention on TytoClinic device prior to and following each use as specified in **Exhibit A-1**; (d) device charging between uses and storage of TytoClinic device in the drawer beneath the iPad; and (e) storage of TytoClinic device in a secure location which allows for examinations in private, HIPAA compliant location. All minors will be accompanied by a guardian and/or OCS school nurse. Any identified “super-user” must attend an approximately one (1) hour training with a representative of Baptist prior to overseeing any TytoClinic device usage for OCS.
4. **Compliance.** Baptist agrees to maintain all appropriate licenses and/or certifications, if any, for rendering services hereunder. Baptist shall immediately notify OCS of any threatened or actual revocation, suspension or termination of such license or certification. Baptist shall act in accordance with the policies, rules, regulations and standards of Baptist and The Joint Commission or other accrediting agency.

5. **Status as Independent Contractor.** Baptist is and at all times shall be an independent contractor supplying the services hereunder. As an independent contractor, Baptist is not entitled to wages or to participate in other OCS employee benefit programs such as medical insurance and workers compensation. Baptist as an independent contractor is free to contract with any other entity requiring services.
  
6. **Insurance.**
  - a. Baptist and OCS, at their own expense, shall each purchase or otherwise acquire liability insurance coverage in an amount not less than One Million Dollars (\$1,000,000) per occurrence and Three Million Dollars (\$3,000,000) in the aggregate. OCS shall furnish Baptist and Baptist shall furnish OCS with a Certificate of Insurance evidencing such coverage, with additional insured status, which Certificate of Insurance will also provide that the policy or policies involved shall not be canceled by either the insurer or the insured without thirty (30) days advance written notice.
  - b. OCS shall maintain property insurance on the Equipment which shall be for the full replacement value of Two Thousand One Hundred Sixty Dollars and Zero Cents (\$2,160.00) per TytoClinic device on an “All Risk” coverage form.
  - c. Baptist shall cause each physician and medical professional who performs video visit medical services on patients for whom the TytoClinic device is utilized, to maintain professional liability insurance in amounts as required by Baptist’s policies and procedures.
  
7. **Indemnification.** OCS shall indemnify and hold Baptist harmless from and against any and all claims, demands, liabilities, damages, and expenses connected therewith for injury to persons or damages to property caused or asserted to have been caused by the negligence of OCS, its agents, servants or employees. Baptist shall indemnify and hold OCS harmless from and against any and all claims, demands, liabilities, damages, and expenses connected therewith for injury to persons or damages to property caused or asserted to have been caused by the negligence of Baptist, its agents, servants, or employees.
  
8. **WARRANTY.** BAPTIST MAKES NO WARRANTY OTHER THAN THE ONE SET FORTH HEREIN. SUCH WARRANTY IS IN LIEU OF ALL OTHER WARRANTIES, EXPRESS OR IMPLIED, INCLUDING BUT NOT LIMITED TO ANY EXPRESS OR IMPLIED WARRANTY OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE, AND SUCH WARRANTY CONSTITUTES THE ONLY WARRANTY MADE WITH RESPECT TO THE EQUIPMENT. ALL OTHER WARRANTIES, EXPRESS OR IMPLIED, ARE HEREBY DISCLAIMED.

9. **LIMITATION OF LIABILITY.**

- a. NEITHER BAPTIST NOR OCS SHALL BE LIABLE FOR ANY LOSS OF USE, REVENUE OR ANTICIPATED PROFITS, OR FOR ANY SPECIAL, INCIDENTAL OR CONSEQUENTIAL DAMAGES ARISING OUT OF OR IN CONNECTION WITH THIS AGREEMENT TYTOCLINIC DEVICES. THE FOREGOING IS AN ESSENTIAL TERM OF THIS LEASE.
- b. OCS UNDERSTANDS THE INHERENT RISKS AND DANGERS ASSOCIATED WITH THE USE OF THE TYTOCLINIC DEVICE AND SHALL BE SOLELY RESPONSIBLE FOR TRAINING ITS EMPLOYEES AND AGENTS IN SAFE USE AND HANDLING OF SUCH TYTOCLINIC DEVICE.

10. **Location and Use of Equipment.** The TytoClinic device shall be delivered to and thereafter kept at OCS's addresses mutually agreed upon by Baptist and OCS and shall not be removed from the location(s) without Baptist's prior written consent. The TytoClinic device shall be kept by OCS in its possession and control. OCS shall cause its representatives and all other persons operating the TytoClinic device to use due care in conformity with all applicable laws, regulations, and requirements.

11. **Maintenance.** OCS shall be responsible, at its expense, to reimburse Baptist for the labor, repair or replacement of any TytoClinic device damaged through negligent acts, misuse or omissions by the OCS staff or its representatives. Baptist shall have the right to inspect the TytoClinic device at reasonable times. OCS shall be responsible, at its expense, for any service required as a result of;

- a. any alteration or improper storage, handling, use or maintenance of the TytoClinic device;
- b. vandalism, accident, fire, smoke or water damage to the TytoClinic device; or
- c. the cleaning or decontamination of the TytoClinic device after contact with blood or other potentially infectious materials or liquids.

12. **Risk of Loss.** OCS shall bear the entire risk of loss, theft, destruction, or damage of or to the TytoClinic device from any cause. If the TytoClinic device is determined by Baptist to be lost, stolen, destroyed or damaged beyond repair, Baptist may, at its option, require OCS to purchase a TytoClinic device at its fair market value immediately preceding the event causing the loss.

13. **Representation and Warranty.** Baptist hereby represents and warrants that it is not and at no time has been sanctioned, debarred, suspended, or excluded or proposed for sanctions, debarment, suspension or exclusion by any federally funded health care program, including Medicare and Medicaid. Baptist hereby agrees to immediately notify OCS of any threatened, proposed, or actual sanctions, debarment, suspension or

exclusion from any federally funded health care program, including Medicare and Medicaid. In the event that Baptist is sanctioned, debarred, suspended or excluded from participation in any federally funded health care program during the term of this Agreement, or if at any time after the effective date of this Agreement it is determined that Baptist is in breach of this paragraph, then this Agreement shall, as of the effective date of such sanction, debarment, suspension, exclusion or breach, automatically terminate. Baptist shall indemnify and hold OCS harmless against all actions, claims, demands and liabilities, and against all loss, damage, costs and expenses, including reasonable attorneys' fees, arising out of or related to, directly or indirectly: (i) any breach by Baptist of the representation and warranty of this paragraph, and/or (ii) the sanction, debarment, suspension or exclusion of Baptist from any federally funded health care program, including without limitation Medicare or Medicaid.

14. **Confidentiality.** Both parties recognize the importance of the Health Insurance Portability and Accountability Act of 1996 (“**HIPAA**”) and the Family Education Rights and Privacy Act (“**FERPA**”) and the regulations promulgated thereunder in maintaining security, privacy and confidentiality of patient/student information. Each party will have all appropriate organizational and technical policies, procedures and safeguards in place in order to comply with the applicable provisions of the HIPAA or FERPA regulations. OCS shall maintain the confidentiality of and safeguard all confidential information of Baptist, including without limitation, patient information, medical records, patient identifiers, policies, procedures, trade secrets, trade information, Proprietary Products, business practices, information systems, security passwords, financial information, and proprietary information (collectively referred to as “**Confidential Information**”), and shall not disclose such Confidential Information or make it available to any person, or use it in any way other than as contemplated by this Agreement. OCS shall further report to Baptist any use or disclosure of Confidential Information that it becomes aware of and is not authorized by this Agreement. OCS’s obligations to maintain and safeguard, not to disclose, and to report unauthorized disclosures of, Confidential Information shall survive the termination of this Agreement. OCS agrees to comply with, and to cause its employees, subcontractors, and agents to comply with **HIPAA** and regulations promulgated thereunder, as well as other state and federal laws and regulations relating to the security, protection and privacy of individually identifiable health care information. OCS and Baptist agree to execute and comply with the Business Associate Agreement attached hereto as **Exhibit B.** In the event that OCS, Baptist, or its employees or agents fail to comply with this provision, OCS or Baptist may immediately terminate this Agreement, in addition to seeking other remedies available to it at law or equity.
15. **Assignment.** Neither party to this Agreement shall assign or transfer this Agreement without the express written consent of the other party.
16. **Notices.** Any notice required or permitted to be given by this Agreement will be in writing and will be deemed given at the time it is deposited in the United States mail, postage prepaid, certified, or registered mail, return receipt requested, addressed to the party to whom it is to be given as follows:

**Baptist:** Baptist Healthcare System, Inc.  
1901 Campus Place  
Louisville, KY 40299  
Attn: CEO

**Copy to:** Baptist Healthcare System, Inc.  
1901 Campus Place  
Louisville, KY 40299  
Attn: Vice-President and Chief Legal Officer

**OCS:** Oldham County Schools  
6165 W. Highway 146  
Crestwood, KY 40014  
Attn: Superintendent

17. **Compliance with BHS Corporate Responsibility Program Policies.** OCS affirms that OCS is aware that Baptist Healthcare System, Inc. (“BHS”) and its affiliated entities operate in accordance with a Corporate Responsibility Program. OCS further acknowledge(s) that any and all services and products, supplies, equipment to be provided under this Agreement must be provided in accordance with the policies of the BHS Corporate Responsibility Program, including the: (1) BHS Standards of Conduct; (2) BHS False Claims Act Information Policy; and (3) NonRetaliation Policy for Reporting Suspected Violations of Laws, Regulations, BHS Policies and the Standards of Conduct Described in the BHS Corporate Responsibility Program. OCS may access these policies at <http://www.baptisthealth.com> under “Compliance.” OCS agrees to educate all of its employees who are involved in performing work for a BHS entity of the BHS website address where these policies may be accessed and require such employees to access, read and abide by such policies. In the event OCS is found to have violated one of these policies OCS shall be given written notice of such violation and an opportunity to cure such violation within thirty (30) days of the date of the notice. If such violation is not cured within such period this Agreement may be immediately terminated by BHS.
18. **Legal and Charitable Purposes.** The parties acknowledge that Baptist has entered into this Agreement after arms' length negotiation in furtherance of its legal and charitable purposes. If at any time it is determined by Baptist Legal Counsel that any provision of this Agreement could be deemed by the Internal Revenue Service to be inconsistent with such charitable purposes, or if any provision could be deemed illegal, Baptist may modify such provision, including payment provisions, in a manner designed to eliminate such inconsistency or illegality. Such modification shall be made after notice thereof has been provided to OCS and OCS has been given an opportunity to discuss the modification with Baptist.
19. **Entire Agreement.** This constitutes the full and complete Agreement by and between the parties with respect to the matters hereinabove set forth and all oral agreements and/or discussions are merged herein and are null and void to the extent they are in conflict herewith and no changes, shall be made in the terms and conditions of this Agreement unless in writing and signed by both parties.

20. **Governing Law.** This Agreement shall be governed by and construed in accordance with the laws of the Commonwealth of Kentucky. The parties hereto consent to the jurisdiction of the courts of Oldham County, Kentucky and the United States District Court, Western District of Kentucky, at Louisville with respect to any dispute arising out of this Agreement, and hereby waive any objection to the jurisdiction of, or the venue of any action instituted, in such courts.

**IN WITNESS WHEREOF**, the parties hereto have set their hands as of the dates set forth below.

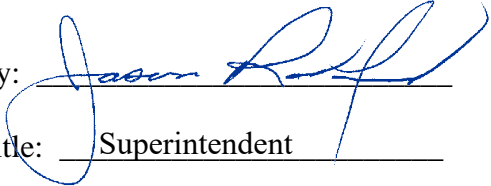
**BAPTIST HEALTHCARE SYSTEM,  
INC.**

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

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

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

**OLDHAM COUNTY SCHOOLS**

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

Title: Superintendent

Date: 1.8.24

**EXHIBIT A**  
**BAPTIST SERVICES TO BE PROVIDED**

Baptist will provide as follows to the staff members of OCS:

TytoClinic device which includes the TytoDevice with otoscope, stethoscope, tongue depressor, pulse oximeter, and blood pressure cuff attachments. An iPad with preloaded software and headphones will also be provided with the device.

TytoClinic supplies including tongue depressor covers (adult size), disposable otoscope covers (adult size).

Technical support to TytoClinic device.

Video visits using staff/family member Epic MyChart functionality.

Video visits non-emergent illness such as: allergies, insect bites, diarrhea, constipation, gastro-esophageal reflux disease/heartburn, earaches, cough, congestion, sore throat, rash, minor burns, eye irritation (redness/itching), nausea, vomiting, painful urination, and Covid-19 symptoms.

Billing and collection for completed video visits.

**EXHIBIT A-1**  
**OCS RESPONSIBILITIES RELATED TO TYTOCLINIC DEVICE**

OCS responsibility related to the safe, secure internet connection:

Frequency bands: 2.4GHz and 5GHz

Security protocols: WPA, WPA2 (WEP not supported)

Encryption protocols: TKIP, AES

Connection speed recommended:

Download: 20Mbps

Upload: 5Mbps

MINIMUM

Download: 5Mbps

Upload: 2Mbps

- Device must be used close enough to a router or repeater to show an RSSI value between -20 and -60

OCS responsibility related to cleaning/infection prevention of TytoClinic device:

- All exterior surfaces of the Tyto product should be sanitized using standard 70% isopropyl alcohol wipes, before and after every use
- To disinfect Tyto accessories (otoscope, stethoscope, reusables) that come into contact with patients use germicidal wipes such as:
  - PDI Sani-Cloth® Bleach Germicidal Disposable Wipe  
<https://pdihc.com/all-products/sani-cloth-bleach>
  - PDI Sani-Cloth® AF3
  - <https://pdihc.com/all-products/sani-cloth-af3>
  - All accessories should be wiped down with a germicidal wipe before and after every use



## EXHIBIT B

### HIPAA BUSINESS ASSOCIATE AGREEMENT ATTACHMENT

This **HIPAA Business Associate Agreement Attachment** (“**Attachment**”) supplements and is made a part of the Service Agreement (“**Agreement**”) by and between **BAPTIST HEALTHCARE SYSTEM, INC.** (“**Baptist**”) and **OLDHAM COUNTY SCHOOLS** (“**OCS**”), effective December 1, 2023.

#### WITNESSETH:

**WHEREAS**, **Baptist** wishes to disclose certain information to **OCS** or allow **OCS** to access or receive certain information on behalf of **Baptist** pursuant to the terms of the **Agreement**, some of which information may constitute **Protected Health Information** (“**PHI**”); and

**WHEREAS**, **Baptist** and **OCS** intend to protect the privacy and provide for the security of **PHI** disclosed to **OCS** pursuant to the **Agreement** and in compliance with the Health Insurance Portability and Accountability Act of 1996, and regulations promulgated thereunder by the U.S. Department of Health and Human Services (“**DHHS**”), as amended from time to time, including by certain provisions of the American Recovery and Reinvestment Act of 2009 (“**ARRA**”) (collectively “**HIPAA**”), and other applicable laws and regulations related to privacy and security of health information (“**Applicable Law**”); and

**WHEREAS**, the purpose of this **Attachment** is to satisfy certain standards and requirements of **HIPAA**, including but not limited to Title 45, 164.308(b), 164.314(a), 164.502(e) and 164.504(e) of the Code of Federal Regulations (“**CFR**”), as the same may be amended from time to time.

**NOW THEREFORE**, in consideration of the mutual promises below and the exchange of **PHI** pursuant to this **Attachment**, the parties agree as follows:

1. **Definitions.**

- a. **“Business Associate”** shall have the meaning given to such term under **HIPAA**. The parties agree that **OCS** is a **Business Associate** of **Baptist**’s based upon the services to be provided by **OCS** under the terms of the **Agreement**, which involve the use and/or disclosure of **PHI**.
- b. **“Covered Entity”** shall have the meaning given to such term under **HIPAA**. The parties agree that **Baptist** is a **Covered Entity**.
- c. **“Protected Health Information”** or **“PHI”** shall have the meaning given to such term under **HIPAA** and includes any **PHI**, whether oral or recorded in any form or medium. For purposes of this **Attachment**, **PHI** shall be limited to information received from or accessed, created or received on behalf of **Baptist**.

- d. Terms used, but not otherwise defined, in this **Attachment** shall have the same meaning as those terms defined under **HIPAA** or **ARRA**.

2. **Obligations of OCS.**

- a. **Permitted Uses and Disclosures.** Except as otherwise limited in this **Attachment**, **OCS** may use or disclose **PHI** received, accessed or created on behalf of **Baptist** pursuant to this **Attachment** (“**Baptist’s PHI**”) to perform functions, activities, or services for, or on behalf of, **Baptist** as specified in the **Agreement**, provided that such use or disclosure would not violate **HIPAA** if done by **Baptist**.
- b. **Nondisclosure.** **OCS** shall not use or further disclose **Baptist’s PHI** otherwise than as permitted or required by this **Attachment** or as required by law.
- c. **Safeguards and HIPAA’s Security Rule.** **OCS** shall use appropriate safeguards and comply with **HIPAA’s** Security Rule standards at 45 CFR Parts 160, 162, and 164, including Subpart C of 45 CFR Part 164 with respect to electronic **PHI**, to prevent the use or disclosure of **PHI** other than as provided for by this **Attachment**. **OCS** also shall implement administrative, physical and technical safeguards that reasonably and appropriately protect the confidentiality, integrity and availability of the electronic **PHI** that it creates, receives, maintains or transmits on behalf of **Baptist** in accordance with the standards and requirements of **HIPAA**. Without limiting the generality of the foregoing, **OCS** shall:
  - (1) Adopt written policies and procedures to implement the same administrative, physical, and technical safeguards required of **Baptist** as a covered entity; and
  - (2) Abide by the most current guidance on the most effective and appropriate technical safeguards as issued by the Secretary for DHHS.

If **OCS** violates the Security Rule, it acknowledges that it is directly subject to civil and criminal penalties.

- d. **Delegation of Privacy Obligations.** To the extent the services to be provided by **OCS** to or for **Baptist** include one or more of **Baptist’s HIPAA** obligations under Subpart E of 45 CFR Part 164, **OCS** will comply with the requirements of such subpart that would otherwise apply to the Covered Entity in performing the obligation.
- e. **Notification to Baptist.**
  - (1) **Security Incidents and Use/Disclosures not permitted by this Attachment.** During the term of this **Attachment**, **OCS** shall notify **Baptist** as soon as possible, but in no event more than three (3) business days, after it, or any of its agents or employees, becomes aware of or suspects a security incident or any actual or suspected use or disclosure of **Baptist’s PHI** not permitted by

this **Attachment**, or any **Applicable Law**. A “security incident” shall mean the attempted or successful unauthorized access, use, disclosure, modification or destruction of information or interference with system operations in an information system. However, **OCS** shall not be required to notify **Baptist** of unsuccessful security incidents that are not reasonably considered by **OCS** to constitute an actual threat to an information system. Notification of security incidents and actual or suspected impermissible disclosures shall be by telephone, e-mail or facsimile followed immediately by mailed written notification. **OCS** shall take (i) prompt corrective action to cure any such deficiencies and (ii) any action pertaining to such unauthorized use or disclosure required by **Applicable Laws**. Such notification shall include the date and time of the breach, the person or persons responsible for the violation, the types of information used/disclosed, all individuals that received disclosed information and a sufficient description of the violation to permit prompt mitigation.

(2) ***Breaches of Unsecured PHI***. Notwithstanding the foregoing, **OCS** shall notify **Baptist** within three (3) business days after it, or any of its employees or agents, reasonably suspects that a breach of unsecured **PHI**, as defined by 45 CFR 164.402, may have occurred. **OCS** shall exercise reasonable diligence to become aware of whether a breach of unsecured **PHI** may have occurred and, except as stated to the contrary in this Subpart (2), shall otherwise comply with 45 CFR 164.410 in making the required notification to **Baptist**. Such notification to **Baptist** shall include to the extent known by **OCS**:

- (i) the identification of each individual whose **PHI** is believed to have been accessed, acquired, used or disclosed;
- (ii) a description of the types of **PHI** involved;
- (iii) a brief description of the circumstances surrounding the suspected breach, the date on which it was discovered, and the date on which it occurred;
- (iv) a brief discussion about **OCS**’s investigation of the suspected breach, its actions to mitigate harm and prevent future breaches of this nature; and
- (v) contact information for **OCS**’s representatives who can provide more information to **Baptist** upon request.

**OCS** shall cooperate with **Baptist** in the determination as to whether a breach of unsecured **PHI** has occurred and whether notification is required by 45 CFR 164.400 et seq., including continuously providing **Baptist** with additional information related to the suspected breach as it becomes available. In the event that **Baptist** advises **OCS** that **Baptist** believes notification is required and that **Baptist** will make the required notification, **OCS** shall promptly take all other actions reasonably requested by **Baptist** related to the obligation to provide notification under 45 CFR 164.400 et seq. In the event that **Baptist** informs **OCS** that **Baptist** believes that notification is required and that **OCS** is in the best position to notify the affected individuals of such breach, **OCS** shall promptly provide the required notice as follows:

- (i) within the time frame defined by 45 CFR 164.404(b);

- (ii) in a form approved by **Baptist** and containing such information reasonably requested by **Baptist**;
  - (iii) containing the content specified in 45 CFR 164.404(c); and
  - (iv) using the method(s) prescribed by 45 CFR 164.404(d).
- f. OCS's Subcontractors. In accordance with 45 CFR 164.502(e)(1)(ii) **OCS** shall ensure that any subcontractors that create, receive, maintain, or transmit **PHI** on behalf of **OCS** enter into a written agreement with **OCS** that complies with the requirements of 164.504(e), and that ensures that the subcontractor agrees to the same restrictions and conditions that apply to **OCS** with respect to **Baptist's PHI** and electronic **PHI**, including, but not limited to, implementation of reasonable and appropriate safeguards to protect **PHI**.
- g. Availability of PHI. If **OCS** has **PHI** in a Designated Record Set, as defined in **HIPAA**, **OCS** shall make available to **Baptist** or to an individual as directed by **Baptist**, in the time and manner designated by **Baptist**, but no less than twenty (20) days from the date of **Baptist's** request, such **PHI** as **Baptist** may require to fulfill **Baptist's** obligations to provide access to, provide a copy of, and account for disclosures with respect to **Baptist's PHI** pursuant to **HIPAA**. If such **PHI** is maintained in an Electronic Health Record, as defined in the **ARRA** or any future regulations promulgated thereunder, **OCS** must provide access to such information in an electronic format if so requested by an individual. Any fee that **OCS** may charge for such electronic copy shall not be greater than **OCS's** labor costs in responding to the request. If an individual makes a direct request to **OCS** for access to a copy of **PHI**, **OCS** will promptly provide notice to **Baptist** in writing of such request.
- h. Amendment of PHI. If **OCS** has **PHI** in a Designated Record Set, as defined in **HIPAA**, within thirty (30) days of receiving a request from **Baptist**, **OCS** shall make **Baptist's PHI** available to **Baptist** as **Baptist** may require to fulfill **Baptist's** obligations to amend **PHI** pursuant to **HIPAA**. Further, **OCS** shall, as directed by **Baptist**, incorporate any amendments to **Baptist's PHI** into copies of such **PHI** maintained by **OCS**.
- i. Access to Internal Practices, Books and Records. **OCS** shall make its internal practices, policies and procedures, books and records relating to the use and disclosure of **PHI** available to **Baptist**, or to the Secretary of **DHHS**, or his or her designee, for purposes of determining compliance with **HIPAA**.
- j. OCS's Insurance. **OCS** shall obtain and maintain insurance coverage against improper uses and disclosures of **Baptist's PHI** by **OCS**, in an amount not less than One Million Dollars (\$1,000,000) per occurrence, and Three Million Dollars (\$3,000,000) in the aggregate. **OCS** shall provide a certificate evidencing such insurance coverage and naming **Baptist** as an additional insured. **OCS** shall also provide written notice 30 days in advance of any cancellation or proposed cancellation of such coverage.

- k. Mitigation. **OCS** agrees to mitigate, to the extent practicable, any harmful effect that is known to **OCS** of a use or disclosure of **Baptist's PHI** by **OCS** in violation of the requirements of this **Attachment** or **HIPAA's** Privacy Rule (Standards for Privacy of Individually Identifiable Health Information at 45 CFR Parts 160 and 164) and shall communicate such mitigation steps to **Baptist**.
  
- l. Documentation. **OCS** agrees to document such disclosures of **Baptist's PHI** and **PHI** related to such disclosures as would be required for **Baptist** to respond to a request by an individual for an accounting of disclosures of **Baptist's PHI** in accordance with **HIPAA**. **OCS** agrees to provide to **Baptist** or an individual, in time and manner designated by **Covered Entity**, but no less than thirty (30) days from the date of request, information collected in accordance with this Section and **Attachment** to permit **Baptist** to respond to a request by an individual for an accounting of disclosures of **Baptist's PHI**. If **OCS** uses or maintains **Baptist's PHI** in an Electronic Health Record, then **OCS** must account for disclosures made through the Electronic Health Record for purposes of treatment, payment, and health care operations and in accordance with 42 U.S.C. §17935.
  
- m. Use and Disclosure Limited to Minimum Necessary. **OCS** represents and warrants that it will limit the use and disclosure of **Baptist's PHI** to the minimum necessary to accomplish the intended purpose of the use and/or disclosure, in accordance with guidance issued by the DHHS Secretary.
  
- n. Additional Uses and Disclosures.
  - (1) Except as otherwise limited in the **Agreement** or this **Attachment**, **OCS** may use **Baptist's PHI** for the proper management and administration of OCS or to carry out the legal responsibilities of OCS.
  
  - (2) Except as otherwise limited in this **Attachment**, **OCS** may disclose **Baptist's PHI** for the proper management and administration, or to carry out the legal responsibilities, of OCS, provided that disclosures are required by **HIPAA**, or **OCS** obtains reasonable written assurances from the person or entity to whom the **PHI** is disclosed that it will remain confidential and be used or further disclosed only as required by law or for the purpose for which it was disclosed to the person or entity, and the person or entity notifies OCS of any instances of which it is aware or suspects in which the confidentiality of the **PHI** has been breached. In such case, **OCS** shall report such known or suspected breaches to **Baptist** as soon as possible.
  
  - (3) Except as otherwise limited in the **Agreement** or this **Attachment**, if the parties have expressly agreed that the **Agreement** will involve **OCS's** provision of Data Aggregation services to **Baptist**, **OCS** may use **Baptist's PHI** to provide such Data Aggregation services as permitted by 45 CFR 164.504(e)(2)(i)(B). For purposes of this Section, Data Aggregation means,

with respect to **Baptist's PHI**, the combining of such **PHI** by **OCS** with the **PHI** received by **OCS** in its capacity as a **Business Associate** of another Covered Entity to permit data analyses that relate to the health care operations of the respective Covered Entities.

(4) **OCS** may de-identify any and all **PHI** created or received by **OCS** under this **Attachment**; provided, however, that the de-identification conforms to the requirements of **HIPAA's** Privacy Rule and in accordance with any guidance issued by the DHHS Secretary. Such resulting de-identified information would not be subject to the terms of this **Attachment**.

(5) **OCS** may create a Limited Data Set, as defined in **HIPAA**, and use such Limited Data Set pursuant to a Data Use Agreement that meets the requirements of **HIPAA**.

- o. Notice of Complaint. In the event **OCS** files a report or complaint with appropriate federal or state authorities alleging a violation of law, it may use **PHI** consistent with 45 CFR 164.502(j), and it shall also notify **Baptist** immediately and provide a copy of all related correspondence.
- p. Prohibition on Marketing Activities. **OCS** will not engage in any Marketing activities or communications, as defined by **HIPAA**, with any individual unless such Marketing activities or communications are allowed by the terms of the **Agreement** and are made pursuant to a valid authorization in accordance with **HIPAA**, the **ARRA**, and/or any regulations promulgated thereunder. Notwithstanding the foregoing, any payment for Marketing activities should be in accordance with **HIPAA**, the **ARRA**, and/or any regulations promulgated thereunder.
- q. Prohibition on Receipt of Remuneration for PHI. **OCS** shall not receive any remuneration, directly or indirectly, in exchange for any **PHI**, unless so allowed by the terms of the **Agreement** and in accordance with **HIPAA**, the **ARRA** and any regulations promulgated thereunder.

### 3. Obligations of Baptist.

- a. **Baptist** shall be responsible for using appropriate safeguards to maintain and ensure the confidentiality, privacy and security of **PHI** transmitted to **OCS** pursuant to this **Attachment**, in accordance with the standards and requirements of **HIPAA**, until **OCS** receives such **PHI**.
- b. **Baptist** shall obtain any consent, authorization or permission that may be required by **HIPAA** or **Applicable Laws** prior to furnishing **OCS** the **PHI** pertaining to an individual.

- c. **Baptist** shall not request **OCS** to use or disclose **PHI** in any manner that would not be permissible under **HIPAA's** Privacy Rule if used or disclosed by **Baptist**.
4. **Audits, Inspection and Enforcement.** From time to time upon reasonable notice, **Baptist** may inspect the facilities, systems, books and records of **OCS** to monitor compliance with this **Attachment**. **OCS** shall promptly remedy any violation of any term of this **Attachment** and shall certify the same to **Baptist** in writing. The fact that **Baptist** inspects, or fails to inspect, or has the right to inspect, **OCS's** facilities, systems and procedures does not relieve **OCS** of its responsibility to comply with this **Attachment**, nor does **Baptist's** (i) failure to detect or (ii) detection, but failure to notify **OCS** or require **OCS's** remediation of any unsatisfactory practice, constitute acceptance of such practice or a waiver of **Baptist's** enforcement rights under this **Attachment**.
5. **Term and Termination.**
- a. **Termination.** This **Attachment** shall begin on the effective date of the Agreement and terminate when all of **Baptist's** **PHI** provided by **Baptist** to **OCS**, or created or received by **OCS** on behalf of **Baptist**, is destroyed or returned to **Baptist**, or, if it is infeasible to return or destroy **Baptist's** **PHI**, protections are extended to such **PHI**, in accordance with the termination provisions in this Section 5.
- b. **Material Breach.**
- (1) A breach by either party of any provision of this **Attachment** relating to the unauthorized use or disclosure of **Baptist's** **PHI** or electronic **PHI** shall constitute a "**Material Breach**" of this **Attachment**.
- (2) If either party suspects a **Material Breach** by the other party, such suspecting party shall give the other party notice of such breach and the opportunity to cure such breach within a reasonable period, but in no event longer than thirty (30) days. If the breaching party's efforts to cure such breach or end such violation are unsuccessful after thirty (30) days, either party may terminate this **Attachment** and the **Agreement**, as well as any payment obligations except for payment relating to services provided prior to notice of the termination.
- (3) If either party knows of a pattern of activity or practice of the other party that constitutes a **Material Breach** or violation of such party's obligations under the provisions of this **Attachment**, then the non-breaching party shall provide notice of the alleged breach. The breaching party shall take reasonable steps to cure such breach or end such violation, as applicable, as soon as possible, but not longer than thirty (30) days without mutual consent of the parties. If the breaching party's efforts to cure such breach or end such violation are unsuccessful, the non-breaching party may (i) terminate this **Attachment**, if feasible, or (ii) if termination of this **Attachment** is not feasible, report the breach or violation to the Secretary of DHHS.

- (4) If either party breaches any provision of this **Attachment** that does not relate to the unauthorized use or disclosure of **Baptist's PHI** or electronic **PHI**, then such party shall take reasonable steps to cure such breach or end such violation, as applicable, as soon as possible, but in no event longer than thirty (30) days. If the breaching party's efforts to cure such breach or end such violation are unsuccessful after thirty (30) days, either party may terminate this **Attachment**.
- c. Judicial or Administrative Proceedings. Either party may terminate this **Attachment**, effective immediately, if (i) the other party is named as a defendant in a criminal proceeding for a violation of **HIPAA** or (ii) a finding or stipulation that the other party has violated any standard or requirement of **HIPAA** or other security or privacy laws is made in any administrative or civil proceeding in which the party has been joined.
- d. Effect of Termination. Upon termination of the **Agreement** or this **Attachment** for any reason, **OCS** shall return and destroy all of **Baptist's PHI** that **OCS** still maintains in any form, and shall retain no copies of such **PHI**. If return or destruction is not feasible, **OCS** shall provide **Baptist** notification of the conditions that make return or destruction infeasible. Upon mutual agreement of the parties that return or destruction of **Baptist's PHI** is infeasible, **OCS** shall continue to extend the protections of this **Attachment** to such **PHI**, and limit further use of such **Baptist's PHI** to those purposes that make the return or destruction of such **Baptist's PHI** infeasible, for so long as **OCS** maintains such **PHI**.
6. Indemnification. Each party will indemnify, hold harmless and defend the other party to the **Agreement** and this **Attachment** from and against any and all claims, losses, damages, liabilities, costs and other expenses (including attorneys' fees) incurred as a result of, or arising directly or indirectly out of or in connection with: (i) any misrepresentation, breach of warranty or non-fulfillment of any undertaking on the part of the indemnifying party under this **Attachment**; and (ii) any claims, demands, awards, judgments, actions and proceedings, made by any person, organization or governmental agency arising out of or in any way connected with the indemnifying party's performance or non-performance under this **Attachment**. These obligations of indemnification are not subject to any limitation of liability provided in the **Agreement**.
7. Compliance with Laws. The parties agree to comply with all laws, regulations, and policies applicable to their performance under the **Agreement** and this **Attachment**, including **HIPAA**. The parties acknowledge that state and federal laws relating to electronic data security and privacy are rapidly evolving and that amendment of this **Attachment** may be required to provide for procedures to ensure compliance with such developments. The parties specifically agree to take such action as is necessary to implement the standards and requirements of **HIPAA** and other **Applicable Law** relating to the security or privacy of **Baptist's PHI**. The parties understand and agree that



**Baptist** must receive satisfactory written assurance from **OCS** that **OCS** will adequately safeguard all **Baptist's PHI** that it accesses, receives, creates, maintains or transmits pursuant to this **Attachment**. Upon **Baptist's** request, **OCS** agrees to promptly enter into negotiations with **Baptist** concerning the terms of an amendment to this **Attachment** embodying written assurances consistent with the standards and requirements of **HIPAA**, the **HIPAA** Regulations or other **Applicable Laws**. **Baptist** may terminate the **Agreement** and this **Attachment** upon thirty (30) days' written notice in the event (i) **OCS** does not promptly enter into negotiations to amend this **Attachment** when requested by **Baptist** pursuant to this Section, or (ii) **OCS** does not enter into an amendment to this **Attachment** providing assurances regarding the safeguarding of **Baptist's PHI** that **Baptist**, in its sole discretion, deems sufficient to satisfy the standards and requirements of **HIPAA** or **Applicable Law**.

8. **Assistance in Litigation or Administrative Proceedings.** **OCS** shall make itself, and any subcontractors, employees or agents assisting **OCS** in the performance of its obligations under this **Attachment**, available to **Baptist**, at no cost to **Baptist**, to testify as witnesses, or otherwise, in the event of litigation or administrative proceedings being commenced against **Baptist**, its directors, officers or employees based upon claimed violation of **HIPAA** or other laws relating to security and privacy, except where **OCS** or its subcontractor, employee or agent is a named adverse party.
9. **Subpoena and Discovery Requests.** **OCS** agrees to promptly notify **Baptist** of any subpoena, discovery request, other legal request or demand for disclosure of **Baptist's PHI** received from, accessed, created or received on behalf of **Baptist**. **OCS** shall fully cooperate with **Baptist** in allowing **Baptist** to directly control the response to such request or demand and in obtaining any protective order that **Baptist** may deem appropriate.
10. **Intervention.** At any time and in its sole discretion, **Baptist** may intervene in, take control of, and direct any mitigation efforts of **OCS**, or intervene to effectuate any cure of a breach or violation of this **Attachment** of which **Baptist** is aware, without in any way limiting or reducing any obligations of **OCS**. The parties recognize that any breach or violation of this **Attachment** may cause irreparable harm, in which case, the non-breaching party may seek and obtain injunctive and other equitable relief at any time to prevent or stop the unauthorized use or disclosure of **PHI** or to cure any breach or end any violation.
11. **Interpretation.** This **Attachment** and the **Agreement** shall be interpreted as broadly as necessary to implement and comply with **HIPAA** and **Applicable Law**. The parties agree that any ambiguity in this **Attachment** shall be resolved in favor of a meaning that complies and is consistent with **HIPAA** and **Applicable Law**.
12. **Governing Law.** This **Attachment** shall be governed by and construed in accordance with the laws of the Commonwealth of Kentucky. The parties hereto consent to the jurisdiction of the courts of Oldham County, Kentucky and the United States District Court, Western District of Kentucky, at Louisville with respect to any dispute arising out

of this **Agreement**, and hereby waive any objection to the jurisdiction of, or the venue of any action instituted, in such courts.

13. **Survival.** Upon termination of this **Attachment**, the following sections of this **Attachment** shall survive termination if **OCS** does not return or destroy all of **Baptist's PHI**, including all copies in any form: 2, 3, 4, 5d, 6-10, and 12-15. Upon termination of this **Attachment**, the following sections of this **Attachment** shall survive termination if **OCS** returns or destroys all copies of **Baptist's PHI**: 2e, 2k, 5d, 6, 8, 9, 10 and 12-15.
14. **No Third-Party Beneficiaries.** Nothing in this **Attachment** shall confer upon any person other than the parties and their respective successors or assigns, any rights, remedies, obligations, or liability whatsoever.
15. **Notices.** Any notice required or permitted to be given by this **Agreement** will be in writing and will be deemed given at the time it is deposited in the United States mail, postage prepaid, certified or registered mail, return receipt requested, addressed to the party to whom it is to be given as follows:

**Baptist:** Baptist Healthcare System, Inc.  
1901 Campus Place  
Louisville, KY 40299  
Attn: **Baptist** Privacy Officer  
Telephone:  
Facsimile:

**Copy to:** Baptist Healthcare System, Inc.  
1901 Campus Place  
Louisville, KY 40299  
Attn: Vice-President and Chief Legal Officer  
Telephone: 502-896-5017  
Facsimile: 502-896-5080

**OCS:** Oldham County Schools  
6165 W. Highway 146  
Crestwood, KY 40014  
Telephone: 502-241-3500  
Facsimile: \_\_\_\_\_  
Email/URL: \_\_\_\_\_

16. **Contradictory Terms.** Any provision of the **Agreement** that is directly contradictory to one or more terms of this **Attachment** ("**Contradictory Term**") shall be superceded by the terms of this **Attachment** as of the effective date of this **Attachment** to the extent and only to the extent of the contradiction, only for the purpose of the parties' compliance with **HIPAA** and **Applicable Law** and only to the extent that it is reasonably impossible to comply with both the **Contradictory Term** and the terms of this **Attachment**.

17. **Civil and Criminal Penalties.** OCS acknowledges that, in the event it violates any applicable provision of the Security Rule or any term of this **Attachment** that would constitute a violation of the Privacy Rule, **OCS** will be subject to and will be directly liable for any and all civil and criminal penalties that may result from such violation.
  
18. **Compliance with Red Flags Rule.** OCS acknowledges that **BHS** and its affiliated entities (“**Baptist**”) have adopted an Identity Theft Prevention Program as required under the Red Flags Rule [16 CFR § 681.2] for certain covered accounts. If the services contemplated by the **Agreements** involve activities covered by the Red Flags Rule, such as opening or managing patient/customer accounts, billing patients/customers, providing customer service or collecting debts, **OCS** agrees to conduct its activities in accordance with reasonable policies and procedures to detect, prevent and mitigate the risk of identity theft, which shall include reporting red flags (warning signs of possible identity theft) to **BHS** and/or responding appropriately to prevent or mitigate identity theft.

**IN WITNESS WHEREOF**, the parties hereto have executed this **Attachment** as of the dates set forth below.

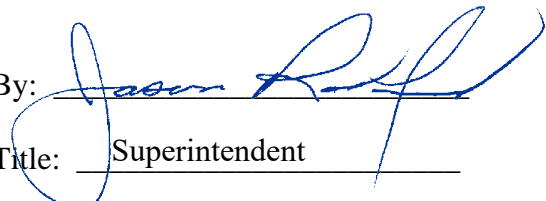
**BAPTIST HEALTHCARE SYSTEM,  
INC.**

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

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

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

**OLDHAM COUNTY SCHOOLS**

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

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

Date: 1.8.24 \_\_\_\_\_