

AGREEMENT BETWEEN THOMASVILLE CITY SCHOOLS AND DUKE UNIVERSITY on behalf of its SCHOOL OF MEDICINE and DUKE CLINICAL RESEARCH INSTITUTE

WHEREAS, in the midst of the COVID-19 pandemic, great uncertainty exists regarding the appropriate metrics to determine the safest course of action for reopening schools; and

WHEREAS, the Duke University School of Medicine and Duke Clinical Research Institute (hereinafter “Duke”) have experience in operating scientific boards to provide standardized data to hospitals and other non-profit organizations to enable those entities to make informed operating decisions based on national, state, and local epidemiology research; and

WHEREAS, Duke has identified physicians and researchers willing to serve on a COVID-19 scientific analysis board for the Board of Education to the THOMASVILLE CITY SCHOOLS (hereinafter “TCS”); and

WHEREAS, the COVID-19 scientific analysis board will summarize and educate on COVID-19 research and provide TCS with standardized COVID-19 data to enable TCS to make informed decisions regarding school reopening plans; and

WHEREAS, TCS desires the assistance of a COVID-19 scientific analysis board;

NOW THEREFORE, in consideration of the mutual promises set forth in this Agreement, the parties do hereby mutually agree as follows:

1. Responsibilities of Duke

- a) Appoint a multi-disciplinary group of seven (7) individuals to serve as the COVID-19 Scientific Analysis Board (“SAB”) for TCS to complete the following objectives:
 - a. Assemble, synthesize, and summarize COVID-19 data from a variety of sources, including scientific articles, infection rates by county, communications from government leaders and agencies, and the TCS Student Data described in Exhibit A, subject the requirement of Paragraph 5 below;
 - b. Present summaries of relevant research and federal, state, local, and TCS data to members of the TCS Board of Education;
 - c. Provide standardized COVID-19 related data to TCS to inform TCS’ re-opening approaches (remote, in-person learning, hybrid); and
 - d. Provide feedback on TCS re-opening plans based on standardized data.
- b) Appoint a SAB Liaison to organize weekly meetings, maintain meeting minutes, and draft timelines for mutually approved SAB projects.
- c) Appoint a SAB Data Manager to work with TCS staff to collect the TCS Student Data described in Exhibit A.

- d) All standardized data and educational services provided by Duke via the SAB shall at all times be analysis. At no time will Duke direct the institutional functions of TCS, and TCS remains solely responsible for all TCS official functions and decision-making.

2. Responsibilities of TCS

- a) Appoint a designated TCS staff member to work in collaboration with the SAB Data Manager to timely provide the TCS Student Data described in Exhibit A.
- b) Timely provide TCS' proposed options for reopening and operating plans to the SAB in advance of Board of Education meetings.
- c) Continue to perform all TCS institutional responsibilities, including decision-making for the TCS district.

3. Term. The term of this MOA shall be from the date of the last signature below until August 1, 2021 unless sooner terminated as provided herein. This MOA may be renewed for a subsequent one-year term upon the mutual written agreement of the parties.

4. Termination. Either party may terminate this MOA at any time upon twenty (20) calendar days' notice in writing to the other party prior to the date of termination.

5. Student Data/ Confidentiality of Student Information.

- a) Duke agrees to enter into a Data Use Agreement with TCS and further agrees to comply with the provisions of the Family Educational Rights and Privacy Act ("FERPA) and all other applicable laws and regulations in all respects regarding Duke's access to and use of TCS Student Data.
- b) Duke shall not forward to any person or entity any TCS Student Data or personally identifiable information derived from TCS Student Data (including, but not limited to, the student's identity) without the written consent of TCS.
- c) Upon termination of the Data Use Agreement, Duke shall return to TCS all Student Data or personally identifiable information obtained by Duke while providing services under this MOA. Nothing in this MOA gives Duke any right to continuing access of TCS Student Data or personally identifiable information.
- d) Duke shall develop, implement, maintain, and use appropriate administrative, technical, and physical security measures to preserve the confidentiality, integrity, and availability of all electronically maintained or transmitted TCS Student Data. Such measures shall include processes for transmission and storage of such data
- e) In no event will Duke use any of the Student Data for its own commercial marketing or advertising purposes, or for the commercial marketing or advertising purposes of any third-party.
- f) In the event of any unauthorized use or disclosure, Duke shall immediately report the incident to TCS and shall provide such other information related to the

unauthorized use or disclosure that may be reasonably requested by TCS.

- g) Duke may use de-identified, aggregated Student Data for research purposes only as specifically authorized and consented to in advance in writing by TCS. Any such de-identified data will have all direct and indirect personal identifiers removed, including, but not limited to, name, ID numbers, date of birth, demographic information, location information, and school ID. Duke agrees not to attempt to re-identify any de-identified data and not to transfer de-identified data to any other party without TCS's express written consent.
- h) Duke will not release any research or publications pertaining to CHCC's Student Data without TCS's advance written consent, which will not be unreasonably denied.

6. **Applicable Board of Education Policies.** Duke acknowledges that the TCS has adopted policies governing conduct on Board property and SAB members agree to abide by any and all relevant TCS policies.

7. **Relationship of Parties.** The parties agree that nothing herein shall be construed as creating a partnership or joint venture; nor shall any employee of Duke be construed as an employee, agent, or principal of TCS.

8. **Responsibility.** Duke shall be responsible for all claims, actions, demands, costs, damages, losses, and/or expenses of any kind whatsoever proximately resulting from a material breach of the Data Use Agreement or any unauthorized use or disclosure of the TCS Student Data by Duke or its subcontractors.

TCS shall to the extent permitted by law be responsible for all third party claims, actions, demands, costs, damages, losses, and/or expenses of any kind whatsoever proximately related to the operating decisions of TCS during the COVID-19 pandemic.

9. **Waiver of Warranties.** DUKE **EXPRESSLY WAIVES AND DISCLAIMS ANY AND ALL WARRANTIES OF ANY NATURE, WHETHER EXPRESS OR IMPLIED, ORAL OR WRITTEN, RELATING TO ANY DATA PROVIDED TO TCS AND IS NOT RESPONSIBLE OR LIABLE FOR ANY ACT OR FAILURE TO ACT WITH RESPECT TO THE DATA EXCEPT WITH RESPECT TO DUKE'S GROSS NEGLIGENCE OR WILLFUL MISCONDUCT.**

10. **Agreement.** This Agreement constitutes and expresses the entire agreement and understanding between the parties concerning its subject matter. This Agreement supersedes all prior and contemporaneous discussions, promises, representations, agreements and understandings relative to the subject matter of this Agreement. This Agreement may be amended only by written amendments duly executed by and between the parties.

11. Governing Law. This Agreement and the rights and obligations of the parties hereto shall be governed by and construed and enforced in accordance with the laws of the State of North Carolina.

12. No Third Party Beneficiaries. Nothing in this Agreement shall confer upon any person other than the Parties any rights, remedies, obligations, or liabilities whatsoever.

13. Survival. Sections 7, 8, 9, 11 and 12 survive the termination or expiration of this Agreement.

IN WITNESS WHEREOF, the parties intending to be legally bound, have caused their proper and duly authorized officers to execute and deliver this Agreement as of the day and year last signed below.

THOMASVILLE CITY SCHOOLS
400 Turner Street
Thomasville, N.C. 27360

By: _____ Date: _____
Dr. Catherine Gentry, Superintendent of Schools
400 Turner Street,
Thomasville, N.C. 27360

By: _____ Date: _____
James Carmichael, Board of Education, Chairperson
400 Turner Street,
Thomasville, N.C. 27360

DUKE UNIVERSITY

By: _____ Date: _____
[ADD PRINTED NAME AND CONTACT INFORMATION HERE]

Exhibit A: Description of Student Data to be Collected