

## SUPERINTENDENT EMPLOYMENT AGREEMENT

This Agreement made this \_\_\_\_ day of \_\_\_\_\_, 2020, by and between the School board of Flagler County, Florida (hereinafter referred to name or as “School Board”) and Cathy Mittelstadt, (hereinafter referred to by name or as “Superintendent”).

### WITNESSETH:

WHEREAS, the School Board shall appoint the authorized Superintendent of Schools for the District pursuant to Section 1001.50, Florida Statutes; and

WHEREAS, the School Board wishes to retain CATHY MITTELSTADT to provide all of the services of Superintendent, fully and faithfully, consistent with the spirit, intent and statutory requirements reading the duties and responsibilities of a school superintendent in the state of Florida currently set forth in sections 1001.47, 1001.48, 1001.49, 1001.51 and 1001.53, Florida Statutes; and

WHEREAS, the Superintendent is willing to provide said services and will faithfully and fully comply with the duties and responsibilities of her office as outlined herein, as well as provide those services to the School Board as are requested by the School Board throughout the term of this Agreement;

NOW, THEREFORE, in consideration of the mutual promises and covenants set forth herein, the parties agree as follows:

### ARTICLE 1

#### RECITALS

1.1 RECITALS: The Parties agree that the foregoing recitals are true and correct and that such recitals are incorporated herein by reference.

### ARTICLE 2

#### Position of Superintendent of Schools

2.1 EMPLOYMENT OF SUPERINTENDENT: The Board hereby employs and appoints Cathy Mittelstadt as Superintendent of Schools for the School Board of Flagler County, Florida for the term of this Agreement. Ms. Mittelstadt hereby agrees to perform the duties and responsibilities of Superintendent of Schools during the term of this Agreement in accordance with the terms, covenants and conditions set forth herein.

2.2 TERM OF AGREEMENT: In accordance with a motion or resolution duly adopted by the School Board of Flagler County at its official meeting conducted on March 31, 2020, the Flagler County School Board has employed and does hereby employ Cathy Mittelstadt (hereinafter referred to as "MITTELSTADT" ) as its Superintendent of Schools for an initial term of three (3) years beginning full time on June 1, 2020 and shall remain in full force and effect, continuously, until midnight, June 30, 2023 unless earlier terminated pursuant to this Agreement. During this initial term, the Superintendent shall serve at the will of the Board. The School Board may remove MITTELSTADT from the position of Superintendent at any time during the first year of this Agreement without cause, upon an affirmative vote of at least three (3) members of the Board. In order to do so, the School Board must pass a resolution to terminate the Superintendent's employment without cause at a regular or special School Board meeting. The School Board shall give the Superintendent ninety (90) days written notice of any such determination by the Board to terminate this Agreement.

2.3 OFFICIAL DUTIES: During the aforesaid term of this Agreement, MITTELSTADT shall perform the duties of Superintendent of Schools in and for the public schools of Flagler County, Florida, as prescribed by the terms and conditions of this Agreement and by the laws of the State of Florida, the Florida Administrative Code, the Florida State Board of Education, Flagler County School Board policies, the job description of Superintendent of Schools as from time-to-time adopted by Flagler County School Board (each of which as amended). A copy of the current job description is appended hereto as Exhibit "A" and incorporated by reference. The Superintendent shall comply with all Board directives, state and federal laws, applicable rules and regulations, and School Board policies currently existing or as may be adopted or amended. The Superintendent shall directly and indirectly supervise all staff members and shall organize, reorganize and arrange the administrative and supervisory staff as best serves the needs of the District subject to approval by the Board. Except as otherwise permitted by this Agreement, the Superintendent agrees to devote his full time and energy to the performance of his duties in a faithful, diligent and efficient manner. The Superintendent's responsibilities, duties and functions shall include, without limitation, the following:

2.3.1: Serving as the Chief Executive Officer of the School Board in accordance with Florida Statutes, state rules and School Board Policies. All powers and duties necessary to the efficient management and administration of the District shall be delegated to the Superintendent to the full extent permitted by law, including the hiring, terminating, organizing, reorganizing, assigning or reassigning administrative staff of the District deemed necessary to effect positive change for students within the District and such other duties and responsibilities prescribed by Section 1001.51, Florida Statutes. MITTELSTADT shall also be responsible for providing internal monitoring data and reports as required by Board policies.

2.3.2: Working with the Board, School District personnel, parents and the public to develop short and long-range goals with clear criteria for determining effective achievement and evaluating outcomes;

2.3.3: Representing the interests of Board and the School District in day-to-day contact with parents, citizens, the community and other governmental agencies;

2.3.4: Providing leadership, guidelines and directions to ensure implementation of the Board's policies relating to facilities, curriculum, instruction, student services, personnel, budget and business affairs;

2.3.5: Reporting information and analyses regularly to the Board regarding student achievement and test scores;

2.3.6: Reviewing all policies to be adopted by the Board and making appropriate recommendations to the Board for enactment, revisions, additions, deletions and modifications to such policies as provided by law;

2.3.7: Evaluating employees directly accountable to the Superintendent and overseeing the evaluation of other employees in accordance with Florida Statutes, State Board of Education Rules, and the policies adopted by the Board. All evaluations of employees directly accountable to the Superintendent shall be shared with the Board;

2.3.8: Providing leadership and direction in planning and financing the maintenance of existing schools and to meet the growth needs of Flagler County with new schools;

2.3.9: Advising and making recommendations to the Board regarding possible sources of funds that may be available to implement present or contemplated Board programs;

2.3.10: Maintaining and improving his professional competency by all available means including, without limitation, reading appropriate periodicals and joining and/or participating in appropriate professional associations and their activities;

2.3.11: Establishing and maintaining an effective community relations program including effective relationships with the media;

2.3.12: Communicating openly, systematically and in a timely manner with the Board, the Board staff and the community and to inform the Board of critical issues or incidents as promptly as the circumstances shall permit;

2.3.13: Providing educational leadership to ensure quality teaching and learning;

2.3.14: Performing such other duties, responsibilities and functions as assigned or required from time to time by the Board.

2.4 RESIDENCE: The Superintendent shall reside in Flagler County, Florida.

2.5 DOCUMENTS OF OFFICE: The Superintendent shall execute and file the oath of office or any other documents required for the School Board's personnel files and for payroll purposes. The Superintendent shall file with the Flagler County Supervisor of Elections and with the Florida Commission on Ethics all documents required of him under Florida law.

2.6 AGREEMENT EXTENSION: This Agreement may be extended upon mutual written agreement of the School Board and Superintendent.

### ARTICLE 3

#### COMPENSATION OF SUPERINTENDENT

3.1 BASE SALARY: The Superintendent's base salary for the period of June 1, 2020 and through and including June 30, 2021 shall be \$135,000. Said compensation shall be made in bi-weekly installments. The Superintendent's base salary in subsequent fiscal years shall be established in accordance with Section 3.2 of this Agreement. In no event shall MITTELSTADT's base salary be reduced during his employment without his written consent.

3.2 SALARY ADJUSTMENTS: The Superintendent shall receive an annual salary equal to the base annual salary for the prior fiscal year, which annual salary shall be paid at the time and in the manner provided above. If the Superintendent receives an overall performance rating of satisfactory or greater on the annual Superintendent evaluation performed by the School Board, then he shall receive for the following year a salary increase not to exceed a two percent (2%) cost of living increase provided the Board has approved the percentage increase for its 12-month administrative personnel for that fiscal year. Additional performance incentives are addressed under Section 9.6. .

3.3 CHIEF EXECUTIVE OFFICER LEADERSHIP DEVELOPMENT PROGRAM: In addition to the annual salary provided in 3.1 above, as permitted by section 1001.50(4), Florida Statutes (2019), the Superintendent shall receive an annual performance salary incentive from the Board in the amount determined as provided for elected superintendents, pursuant to sections 1001.47(4) and (5), Florida Statutes (2019), so long as he has successfully completed the certification requirements for both phases of the leadership development and performance compensation program and demonstrated successful performance as determined by the Florida Department of Education as set forth in those sections. Upon completion of phase one the Superintendent shall be entitled to an additional \$2,000.00 per year. If the certification is earned during a calendar year, the increase shall be prorated from the date the certification is received to June 30<sup>th</sup> of that year. Upon the successful completion of both phases, the Superintendent shall be compensated in accordance with Florida Statute 1001.47(5)(b) where he shall be paid a salary incentive of not less than \$3,000.00 nor more than \$7,500.00 based upon his performance

evaluation determined by a team of peers who will conduct an on-site visit to the District. The on-site visit will determine the level of skill development, implementation of the learning project and the impact on the district. After the Superintendent is initially certified, he must complete a similar performance assessment process annually to maintain certification and the continuance of the salary incentive.

3.3 DEFERRED COMPENSATION: In addition to the base salary provided in subsection 3.1 above, and subject to the limit permitted by law, the School Board shall contribute yearly an amount equal to eight percent (8 %) of the then current base salary in the form of a non-elective employer contribution to an annuity plan or similar plan designated by the Superintendent. As required by the program selected, this contribution will be paid by the School Board in monthly increments. There shall be no cash option for this benefit.

3.4 VEHICLE USE: The duties and responsibilities of his office will require the Superintendent to travel extensively in county and throughout the State of Florida by automobile. The School Board shall provide the Superintendent a vehicle for his use while performing his professional duties. Maintenance and fuel for such vehicle shall be provided by the District.

3.5 EXPENSE ALLOWANCE: The School Board will provide the Superintendent an allowance in the amount of Seven Hundred Dollars and No Cents (\$700.00) per month (hereinafter referred to as "Expense Allowance") during the term of this Agreement to be used for business-related expenses incurred by the Superintendent in the performance of his duties and responsibilities.

## ARTICLE 4

### INSURANCE COVERAGES AND BENEFITS

4.1 HEALTH INSURANCE BENEFITS: For the term of this Agreement, the Superintendent shall be provided with Board-paid benefits for himself, his spouse and eligible dependents on the same terms and conditions as such benefits are provided to other administrative employees.

4.2 LIFE INSURANCE: The Superintendent shall receive term life insurance coverage in the amount of one year's base salary as of the date of death, up to a maximum of One Hundred Fifty Thousand Dollars (\$150,000). The life insurance benefits shall be made payable to the Superintendent's named beneficiary. The Board shall pay the premium for such insurance. The Superintendent may elect to obtain, at his own expense, additional term life insurance through any insurance plan offered to other 12-month administrative employees.

4.3 FLORIDA RETIREMENT SYSTEM: MITTELSTADT shall be eligible to participate in the Florida Retirement System (“FRS”) as a member of the Senior Management Service Class under current laws and regulations. The BOARD shall contribute to the FRS as required by law including the provisions of Section 121.055, Florida Statutes, which currently provides that participation in the Senior Management Service Class is compulsory for all appointed district school superintendents. In the event that Senior Management Service Class cease to be compulsory for appointed district school superintendents, BOARD agrees to continue to maintain MITTELSTADT in membership in the Senior Management Service Class unless prohibited by law or in the event Senior Management Service Class ceases to exist.

4.4 SUPERINTENDENT-PAID CONTRIBUTIONS: The Superintendent may contribute to any additional retirement plan(s) for which he is qualified under the Internal Revenue Code or state and federal laws. For the purposes of this Agreement, “additional retirement plan(s)” shall consist of any retirement plans authorized by Sections 401a, 403b, and/or 457b of the Internal Revenue Code. The Superintendent will determine into which plan or plans he will participate. Any deposits in such plan(s) will be made each pay period during each contract year. Deposits may be made into one or more authorized plans in any given year and will immediately become completely vested on the first day of the year for which they are deposited.

4.5 OTHER BENEFITS AND PROGRAMS: The Superintendent shall be entitled to receive those benefits and participate in those employee programs specifically identified in this Agreement and may participate in any other employee programs not expressly identified in this Agreement that are available to other 12-month administrative employees.

## ARTICLE 5

### TRAVEL AND PROFESSIONAL ASSOCIATIONS

5.1 TRAVEL EXPENSES: In order to assist and enhance the Superintendent’s ability to perform his duties and responsibilities, the School Board shall pay for or reimburse any reasonable travel expenses incurred outside of Flagler County, Florida by the Superintendent in the conduct of his duties and responsibilities. Any such reasonable expenses shall be paid or reimbursed to the extent permitted by state law and Board policies and shall include, without limitation, air travel, lodging, meals, rental car and other reasonable travel-related expenses incurred in the performance of the Superintendent’s duties and responsibilities.

5.2 DOCUMENTATION OF EXPENSES: The Superintendent shall comply with all Board policies, procedures and documentation requirements for expenses incurred in the conduct of School Board business. All such expenditures shall be subject to review and ultimate approval by the District’s independent auditors.

5.3 PROFESSIONAL CONFERENCES AND MEETINGS: The Board encourages the Superintendent to attend professional conferences and meetings with other educational agencies and educators during the term of this Agreement. The School Board shall pay in full or reimburse all legally valid expenses and fees associated with the Superintendent's participation in such conferences and meetings. The Superintendent shall periodically provide reports to the School Board about those conferences and meetings in which he has participated. The Superintendent shall file itemized expense statements to be processed and approved by the School Board as provided by law and Board policies.

5.4 PROFESSIONAL MEMBERSHIPS: The Board encourages the Superintendent to belong to appropriate professional and educational organizations and where such membership will serve the best interests of the School Board. The Superintendent may hold offices or accept responsibilities in such professional associations and organizations provided that such responsibilities do not interfere with the performance of his duties as Superintendent. Accordingly, the School Board shall pay for or reimburse the Superintendent for any membership dues necessary to participate in such organizations. The Superintendent shall present appropriate statements and invoices for such membership dues in accordance with District practices and School Board policies.

## ARTICLE 6

### VACATION LEAVE

6.1 VACATION LEAVE DAYS: The Superintendent shall receive and accumulate vacation leave at the rate of (1.5) days per month.

6.2 USE OF VACATION LEAVE: The Superintendent shall follow all School Board policies respecting the use of vacation days. The Superintendent shall submit written requests to the School Board Chair for use of his vacation days.

6.3 ACCRUAL OF UNUSED VACATION DAYS: In the event of the termination or expiration of this Agreement, the Superintendent shall be entitled to compensation for all unused accrued vacation days up to a maximum of sixty (60) days at the Superintendent's daily rate of base salary applicable at the time of his separation from employment with Flagler County School District.

6.4 PERSONAL LEAVE: The Superintendent shall receive six (6) personal leave days each year (front-loaded), one day for each two months of service. These personal leave days shall not be counted as or deducted from the Superintendent's available sick leave, however, the personal leave days shall be used before the Superintendent shall be entitled to utilize vacation leave as described in paragraph 6.1 above.

## ARTICLE 7

### SICK LEAVE

7.1 SICK LEAVE: The Superintendent shall receive and accumulate annual sick leave in accordance with Florida law and School Board policies and in the same manner afforded other twelve (12) month administrative employees of the District. The Superintendent shall also retain any unused sick leave he has accrued through May 31, 2020.

## ARTICLE 8

### OUTSIDE ACTIVITIES

8.1 OUTSIDE ACTIVITIES: The Superintendent shall devote his full time, skill, labor and attention to the performance of his official duties. The Superintendent may engage in outside professional development activities including, without limitation, teaching, consulting, speaking and writing, provided that such activities do not interfere with his duties under this Agreement and to the extent that same does not violate Section 112.311 et seq., Fla. Stat. Code of Ethics for Public Officers and Employees. Any compensated consulting work undertaken by the Superintendent must be accomplished on the Superintendent's vacation days, holidays or other non-duty days. The Superintendent shall disclose to the Board, in writing, any consulting work in advance of performing same. Board shall not be responsible for reimbursement of any expenses, including any reasonable per diem for meals and travel. It is also agreed that unpaid consulting work for districts or organizations identified in 5.4 shall be considered professional development or temporary duty leave, due to positive exposure for the District or experiences that would enhance the Superintendents performance of district responsibilities. The Superintendent may receive honoraria for such outside activities to the extent permitted by state law and School Board policies.

## ARTICLE 9

### EVALUATION OF SUPERINTENDENT AND EXTENSION OF TERM

9.1 EVALUATION: MITTELSTADT's annual evaluation shall be based on a periodic review of the Board's priorities and goals. A copy of the evaluation form intended to be used is attached as "Exhibit B," and shall serve as a model for future evaluations.

9.2 ANNUAL EVALUATION: By April 1 of each year of this Agreement, the Superintendent shall provide the Board a self-appraisal of his accomplishments and attainment



of agreed-upon goals. By May 31 of each year of this Agreement, the Board shall evaluate the performance of the Superintendent using the evaluation form noted above and based upon the Superintendent's job description, the powers and duties of a Superintendent as described in Florida Statutes (as amended), the performance objectives established under this Agreement, and the Superintendent's self-appraisal. Board members may also meet individually with the Superintendent to share their perspectives on the evaluation. Such meetings shall consist of full and frank exchanges between the Superintendent and the individual Board Members, but shall not involve the discussion of foreseeable future Board actions, nor the disclosure by the Superintendent to a Board Member of another Board Member's views.

9.3 INTERIM REVIEW: Each member of the Board shall conduct an individual verbal informal performance review of the Superintendent on or about the month of January each year.

9.4 SCHEDULING OF PERFORMANCE OBJECTIVES MEETING: The Superintendent shall make all necessary preparations for and request the scheduling of a School Board meeting on or before May 1, 2021 and on or before May 1 of each succeeding year of this Agreement to establish the Superintendent's performance objectives for the following year. The parties may hereafter mutually agree to alter the date by which such School Board meetings shall be scheduled.

9.5 ESTABLISHMENT OF GOALS: The School Board and Superintendent shall establish initial Superintendent Goals which shall be reduced to writing and approved by the School Board at a meeting to be held by July 31, 2020. Thereafter, the School Board and MITTELSTADT shall cooperatively establish Superintendent Goals during each subsequent year of the Superintendent's employment.

9.6 PERFORMANCE INCENTIVES: MITTELSTADT is eligible to receive a one-time non-recurring bonus of \$2,500 for the fulfillment of performance objective(s):

a. Beginning July 1, 2021, performance incentive goals may be added ~~in the future~~, if agreed to between the Superintendent and Board.

b. All performance bonuses are non-recurring.

## ARTICLE 10

### TERMINATION AND NON-RENEWAL

10.1 TERMINATION FOR CAUSE: The School Board may dismiss the Superintendent for cause from his employment for conduct which is seriously prejudicial to the Board or the School District including without limitation:

10.1.1 If the Superintendent tenders a written resignation

10.1.2 If the Superintendent fails, neglects, or refuses to come to work although he is in good health;

10.1.3 If there is a material breach of the Agreement;

10.1.4 If there is a violation of the Code of Ethics applicable to members of the teaching profession in Florida, or a violation of the Code of Ethics prescribed by Chapter 112, Florida Statutes (as amended); or

10.1.5 If the Superintendent fails to achieve performance improvement after notice of deficiencies as provided in paragraph 9.4, or

10.1.6 If the Superintendent is found to be medically incapable of fulfilling his responsibilities under this Agreement.

10.1.7 If the Superintendent exhibits conduct precluded by Rules 6B-1.001, 6B-1.006 and 6B-4.009, Florida Administrative Code (as amended). Notice of termination for cause shall be given in writing and MITTELSTADT shall be entitled to such due process rights as provided by state law and Board policy. If this Agreement is terminated for cause, MITTELSTADT's term of office shall immediately cease. If terminated for cause, MITTELSTADT shall be ineligible for any other compensation or benefits. However, MITTELSTADT is entitled, upon termination for cause, to payment for any earned, accrued and unused leave to the extent permitted by Board policy.

10.2 SEVERANCE PAY FOR TERMINATION WITH CAUSE: If the Superintendent is terminated for reasons set forth in paragraphs 10.1.1, 10.1.2, 10.1.3, or 10.1.4 he shall not receive any severance pay.

10.3 TERMINATION WITHOUT CAUSE: During the first year of this Agreement, the School Board may remove MITTELSTADT from the position of Superintendent at any time during this Agreement without cause, upon an affirmative vote of at least three (3) members of the Board. In order to do so, the School Board must pass a resolution to terminate the Superintendent's employment without cause at a regular or special School Board meeting. The

School Board shall give the Superintendent ninety (90) days written notice of any such determination by the Board to terminate this Agreement.

10.4 SEVERANCE PAY FOR TERMINATION WITHOUT CAUSE: In the event the Superintendent's employment is terminated without cause by the Board pursuant to Section 10.3, the Board agrees to pay the Superintendent the maximum sum that is permitted by Sections 215.425 and 1001.50(2), Fla. Stat. (2019). All compensation paid and all amounts due for salary, sick leave, vacation leave, and personal leave accruing as set forth in paragraphs 10.5 and 10.6 below from the date of termination through the remainder of his contract at the rate then in effect, less federal and state withholdings, within 15 days after the effective date of termination. It is understood that in accordance with Section 1001.50(2) the Board cannot pay the Superintendent an amount in excess of one (1) year of the Superintendent's annual salary for termination buy out, or any other type of contract settlement from state funds. Earned leave and benefits in accordance with the District's leave and benefits policies which were accrued by the Superintendent before the contract terminates may be paid.

10.5 TERMINAL PAY: The Superintendent shall be entitled to receive Terminal Pay, effective as of the last day of employment, as follows:

10.5.1 ACCUMULATED VACATION LEAVE: Upon retirement or severance the Superintendent shall be paid the daily rate of pay for each accumulated day of vacation leave as designated herein.

10.5.2 ACCUMULATED SICK LEAVE: Upon departure from employment, whether by termination, retirement or death, the Superintendent will be paid for all accumulated sick leave at his then current daily rate of pay.

10.6 BENEFITS UPON TERMINATION: In the event of termination of his Agreement, the Superintendent's medical insurance will be addressed in accordance with any federal and state laws and regulations in effect at the time of termination.

10.7 SUPERINTENDENT'S INCAPACITY: In the event that the Superintendent becomes unable to perform any or all of his duties with reasonable accommodations under this Agreement due to illness, accident or other cause beyond his control and if said inability continues for a period of more than thirty (30) consecutive days, the School Board may, in its sole discretion, appoint an Acting Superintendent to fulfill the duties and responsibilities of the Superintendent under this Agreement. If such disability continues for more than ninety (90) consecutive days, the School Board may, in its sole discretion, terminate this Agreement whereupon the respective duties, rights and obligations of the parties hereto shall terminate including any obligations for severance pay contained in paragraph 10.4 hereof. In the event of termination due to disability, the Superintendent shall continue to receive the salary and benefits provided in this Agreement

for a period of ninety (90) days from the date the Superintendent becomes disabled. The School Board's decision and determination as to the disability of the Superintendent shall be final and shall be based upon the opinion of a properly licensed medical doctor. The Superintendent hereby consents to any medical examination requested by the School Board under this provision. The parties agree that the School Board may choose the medical doctor who will perform any such evaluation.

10.8 RESIGNATION: If the Superintendent should at any time elect to resign his position, he agrees to provide the School Board not less than One hundred twenty (120) days prior written notice of such resignation. After one hundred twenty (120) days following the delivery of such notice to the School Board in accordance with the notice provisions of this Agreement, this Agreement and all rights and obligations created hereunder shall terminate regardless of the date upon which such resignation is to be effective. Such written resignation shall become effective on the 120<sup>th</sup> day after its delivery to the School Board and shall become final. Without regard to whether it was accepted or not by the School Board, such written resignation may not be withdrawn or revoked by the Superintendent without consent and agreement of the School Board. The Superintendent shall receive payment under this Agreement for the balance of his salary for the actual days he has performed his duties as Superintendent and not for the remainder of his contract term. If the Superintendent resigns or is terminated for cause, he shall not be eligible for the severance payment described in 10.4 of this Section. All salaries, vacation leave, sick leave, and other emoluments and benefits which are or would be payable or accrue to the Superintendent under this Agreement shall be equitably prorated as of the effective date of the resignation.

10.9 RETIREMENT OR DEATH OF SUPERINTENDENT: This Agreement shall be terminated upon the retirement or death of the Superintendent. If termination is the result of the death of the Superintendent, the Superintendent's estate or designated beneficiaries shall be entitled to receive such benefits under any death benefit plan that may be in effect for employees of the District in which the Superintendent participated and any salary, reimbursement of accrued benefits or other payments due and owing under this Agreement as of the date of death. If termination is the result of the Superintendent's retirement, the Superintendent shall be entitled to any salary, reimbursements, accrued benefits or other payments due and owing under this Agreement as of the date of retirement.

## ARTICLE 11

### INDEMNIFICATION

11.1 INDEMNIFICATION: The School Board agrees, as a further condition of this Agreement, that it shall defend, hold harmless and indemnify the Superintendent from any and

all demands, claims, suits, actions and legal proceedings brought against the Superintendent from any and all demands, claims, suits, actions and legal proceedings brought against the Superintendent in his individual capacity, or in his official capacity as agent and employee of the School Board, provided the incident arose out of or while the Superintendent was acting within the scope of his employment. The School Board shall have no obligation to defend, hold harmless or indemnify the Superintendent for any claims arising out of or based on his gross negligence, intentional wrongdoing, willful misconduct, bad faith, with malicious purpose, conduct in any manner exhibiting wanton and willful disregard of human rights, safety, or property or as a result of the willful or wanton neglect of duty. Nothing herein shall be construed as a waiver of sovereign immunity by the School Board or any rights or limitations provided in Florida Statutes including, without limitation, those rights and limitations set forth in Section 768.28, Florida Statutes.

## ARTICLE 12

### COORDINATION AND COMMUNICATIONS

13.1 COOPERATION: The Superintendent shall work with the School Board to develop and maintain a spirit of cooperation and teamwork in which the School Board will accept responsibility for formulating and adopting policy and for acting upon matters requiring the School Board's corporate action pursuant to Florida Law.

13.2 ADMINISTRATIVE AUTHORITY: The School Board shall delegate to the Superintendent administrative responsibility and commensurate authority for administering the public school system to the extent permitted by Florida Law.

13.3 COLLECTIVE BOARD: The School Board acknowledges that it is a collective body. Each Board Member acknowledges that her/his power as a Board member is derived from the collective deliberation and action of the School Board as a whole taken in a duly-constituted public meeting and that no Board Member has individual authority to give direction to the Superintendent or any staff member regarding the management of the District or the solution of specific problems.

13.4 REFERRAL OF ISSUES: It is agreed that the School Board and its individual Board members will promptly refer to the Superintendent for his study and recommendation any criticisms, complaints and suggestions brought to the attention of the School Board or any individual Board Member from communicating directly with the School District staff.

ARTICLE 14  
GENERAL CONDITIONS

14.1 SOVEREIGN IMMUNITY: Nothing herein is intended to serve as a waiver by the School Board of sovereign immunity or of any rights under Section 768.28, Florida Statutes.

14.2 NO THIRD PARTIES: The parties expressly acknowledge that it is not their intent to create or confer any rights or obligations in or upon any third person or entity under this Agreement. None of the parties intend to directly or substantially benefit a third party by this Agreement. The parties agree that there are no third party beneficiaries to this Agreement and that no third party shall be entitled to assert a claim against any of the parties based upon this Agreement. Nothing herein shall be construed as consent by either party to be sued by third parties in any matter arising out of any contract.

14.3 NON-DISCRIMINATION: The parties shall not discriminate against any employee or participant in the performance of the duties, responsibilities and obligations under this Agreement because of race, age, religion, color, gender, national origin, marital status, disability or sexual orientation.

14.4 ENTIRE AGREEMENT: This document incorporates and includes all prior negotiations, correspondence, conversations, agreements and understandings applicable to the matters contained herein and the parties agree that there are no commitments, agreements or understandings concerning the subject matter of this Agreement that are not contained in this document. Accordingly, the parties agree that no deviation from the terms hereof shall be predicated upon any prior representations or agreements, whether oral or written.

14.5 AMENDMENTS: No modification, amendment, or alteration in the terms or conditions contained herein shall be effective unless contained in a written document prepared with the same or similar formality as this Agreement and executed by each party hereto.

14.6 AGREEMENT PREPARATION: The parties acknowledge that they have sought and obtained whatever competent advice and counsel as was necessary for them to form a full and complete understanding of all rights and obligations herein and that the preparation of this Agreement has been their joint effort. The language agreed to herein expresses their mutual intent and the resulting document shall not, solely as a matter of judicial construction, be construed more severely against one of the parties than the other.

14.7 WAIVER: The parties agree that each requirement, duty and obligation set forth herein is substantial and important to the formation of this Agreement and, therefore, is a material term hereof. Any party's failure to enforce any provision of this Agreement shall not be

deemed a waiver of such provision or modification of this Agreement. A waiver of any breach of a provision of this Agreement shall not be deemed a waiver of any subsequent breach and shall not be construed to be a modification of the terms of this Agreement.

14.8 LEGAL COMPLIANCE: Each party shall comply with all applicable federal and state laws, codes, rules and regulations in performing its duties, responsibilities and obligations pursuant to this Agreement. Furthermore, any provisions of this Agreement which do not comply with the laws of the State of Florida in existence, from time to time, during the term of this Agreement shall be deemed amended to comply with such laws.

14.9 GOVERNING LAW: This Agreement shall be interpreted and construed in accordance with and governed by the laws of the State of Florida. Any controversies or legal problems arising out of this Agreement and any action involving the enforcement or interpretation of any rights hereunder shall be submitted to the jurisdiction of the State courts of the seventh judicial Circuit of Flagler County, Florida.

14.10 BINDING EFFECT: This Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective successors.

14.11 ASSIGNMENT: Neither this Agreement nor any interest herein may be assigned, transferred or encumbered by any party. There shall be no partial assignments of this Agreement including, without limitation, the partial assignment of any right to receive payments from the School Board.

14.12 PLACE OF PERFORMANCE: All obligations of the School Board under the terms of this Agreement are reasonable susceptible of being performed in Flagler County, Florida and shall be payable and performable in Flagler County, Florida.

14.13 SEVERABILITY: In case any one or more of the provisions contained in this Agreement shall for any reason be held to be invalid, illegal, unlawful, unenforceable or void in any respect, the invalidity, illegality, unenforceability or unlawful or void nature of that provision shall not affect any other provision and this Agreement shall be considered as if such invalid, illegal, unlawful, unenforceable or void provision had never been included herein.

14.14 MEDIATION: The Parties agree that in the event they cannot resolve a dispute hereunder, they shall, prior to filing any law suit, mutually participate in mediation, to be conducted by a certified Florida Circuit Court mediator, who shall be mutually selected and whose fees shall be equally divided between the parties.

14.15 NOTICE: When any of the parties desire to give notice to the other, such notice must be in writing, sent by U.S. Mail, postage prepaid, addressed to the party for whom it is

intended at the place last specified; the place for giving notice shall remain such until it is changed by written notice in compliance with the provisions of this paragraph. For the present, the parties designate the following as the respective places for giving notice:

To the Board: Janet McDonald  
Chair of the School Board  
The School Board of Flagler County, Florida  
1769 East Moody Boulevard  
Bunnell, FL 32110

With a Copy to: Kristy Gavin  
School Board Attorney  
The School Board of Flagler County, Florida  
1769 East Moody Boulevard  
Bunnell, FL 32110

To Superintendent: Cathy Mittelstadt  
Superintendent of Schools  
The School Board of Flagler County, Florida  
1769 East Moody Boulevard  
Bunnell, FL 32110

14.16 CAPTIONS: The captions, section numbers, article numbers, title and headings appearing in this Agreement are inserted only as a matter of convenience and in no way define, limit, construe or describe the scope or intent of such articles or sections of this Agreement, nor in any way effect this Agreement and shall not be construed to create a conflict with the provisions of this Agreement.

14.17 AUTHORITY: Each person signing this Agreement on behalf of either party individually warrants that he or she has full legal power to execute this Agreement on behalf of the Party for whom he or she is signing, and to bind and obligate such Party with respect to all provisions contained in this Agreement.



IN WITNESS WHEREOF, the parties hereto have made and executed this Agreement on the date first above written.

FOR THE BOARD

(Corporate Seal)

THE SCHOOL BOARD OF FLAGLER COUNTY FLORIDA

BY \_\_\_\_\_  
Janet McDonald, Chair

Witnessed by:

\_\_\_\_\_  
Witness

\_\_\_\_\_  
Witness

Approved as to Form:

Date: \_\_\_\_\_, 2020 \_\_\_\_\_  
School Board Attorney

FOR THE SUPERINTENDENT:

\_\_\_\_\_  
Witness

\_\_\_\_\_  
Cathy Mittelstadt

\_\_\_\_\_  
Witness

Date: \_\_\_\_\_, 2020