

Collaborative Data Transfer and Use Agreement ("Agreement")	
Project Title:	Evaluation of Math Corps (K-3)
Agreement Term	Start Date: 9/1/2023
	End Date: 8/1/2024

Terms and Conditions

**This Agreement is binding upon the following Parties who have executed the Signature Pages:
ServeMinnesota and Duluth Public Schools ("DPS")**

- 1) ServeMinnesota shall not use the Data except as authorized under this Agreement. The Data will be used solely to conduct the Project and solely by ServeMinnesota's research team whose obligations of use are consistent with the terms of this Agreement (collectively, "Authorized Persons").
- 2) Except as authorized under this Agreement or otherwise required by law, ServeMinnesota agrees to retain control over the Data and shall not disclose, release, sell, rent, lease, loan, or otherwise grant access to the Data to any third party, except Authorized Persons, without the prior written consent of DPS. ServeMinnesota agrees to establish appropriate administrative, technical, and physical safeguards to prevent unauthorized use of or access to the Data and comply with any other special requirements relating to safeguarding of the Data as may be set forth by DPS.
- 3) The Parties agree to use the Data in compliance with all applicable laws, rules, and regulations, as well as all professional standards applicable to such research.
- 4) ServeMinnesota shall follow all Special Instructions provided by DPS.
- 5) This Agreement shall be effective upon the Start Date set forth above. Unless terminated earlier in accordance with this section or extended via a modification in accordance with Section 13, this Agreement shall expire as of the End Date set forth above. All provisions which by their nature are intended to survive termination or expiration of this Agreement shall survive.
 - a. Any Party may terminate their involvement in this Agreement with thirty (30) days written notice to the other Parties' Authorized Official(s) as set forth in the Signature Pages.
 - b. Any Party may terminate this Agreement at any time if such Party has reasonably determined that another Party has materially breached its obligations to appropriately use and secure the Data in accordance with this Agreement.
- 6) EXCEPT AS PROVIDED BELOW OR PROHIBITED BY LAW, ANY DATA DELIVERED PURSUANT TO THIS AGREEMENT IS UNDERSTOOD TO BE PROVIDED "AS IS." PROVIDING PARTY MAKES NO REPRESENTATIONS AND EXTENDS NO WARRANTIES OF ANY KIND, EITHER EXPRESS OR IMPLIED. THERE ARE NO EXPRESS OR IMPLIED WARRANTIES OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE, OR THAT THE USE OF THE DATA WILL NOT INFRINGE ANY PATENT, COPYRIGHT, TRADEMARK, OR OTHER PROPRIETARY RIGHTS. Notwithstanding, Providing Party, to the best of its knowledge and belief, has the right and authority to provide the Data to Receiving Party for use in the Project.
- 7) ServeMinnesota shall be liable for damages, losses, claims, and demands which may arise from its use, storage, disclosure, or disposal of the Data except to the extent (a) prohibited by law and/or (b) caused by the negligence, willful misconduct, or violation of applicable privacy or security laws and regulations by DPS. No indemnification for any damage, loss, claim, demand, or liability is intended or provided by any Party under this Agreement.

- 8) No Party shall use the other Parties' names, trademarks, or other logos in any publicity, advertising, or news release without the prior written approval of an authorized representative of the Party whose name is to be used. The Parties agree that each Party may disclose factual information regarding the existence and purpose of the relationship that is the subject of this Agreement for other purposes without written permission from the other Parties provided that any such statement shall accurately and appropriately describe the relationship of the Parties and shall not in any manner imply endorsement by the Party whose name is being used.
- 9) Unless otherwise specified, this Agreement and the below listed Attachments embody the entire understanding between the Parties regarding the transfer of the Data for the Project:
- I. Attachment 1: Project Description and Data Transfer Procedure
- In the event of any conflict between the obligations set forth in the applicable Attachment 1 and this Agreement, the obligations set forth in the applicable Attachment 1 shall prevail.
- 10) No modification or waiver of this Agreement shall be valid unless in writing and executed by duly authorized representatives of all Parties.
- 11) In its performance of the Project, each Party shall be an independent entity and not an employee or agent of the other Parties.
- 12) This Agreement constitutes the entire understanding between the Parties concerning the use of and/or access to the Data transferred hereunder and supersedes any prior understanding or written or oral agreement. The illegality or invalidity of any provision of this Agreement shall not impair, affect, or invalidate the other provisions of this Agreement.

The undersigned Officials expressly represent and affirm that the contents of any statements made herein are truthful and accurate and that the undersigned is duly authorized to sign this Agreement on behalf of this organization.

<p>ServeMinnesota Name: Signature: Date:</p>	<p>Duluth Public Schools Name: Anthony Bonds Signature: <i>Anthony Bonds</i> Date: 3/28/24</p>
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Attachment 1
Project Description and Data for the Project

Project Description

Duluth Public Schools (DPS) and ServeMinnesota have entered into a partnership to evaluate an AmeriCorps tutoring program called Math Corps. Both partners desire to evaluate the program's impact on student math outcomes. This partnership is one of many school-based partnerships across the state of Minnesota. The administrative data for the current project will be used to produce an estimate of program effects across schools. The project will adopt a quasi-experimental design that necessitates obtaining FastBridge math scores for students who receive tutoring and those who do not receive tutoring in grades kindergarten through third grade. The Math Corps program will be implemented as usual during the academic year. At the conclusion of the year, DPS will partner with ServeMinnesota to de-identify and share relevant student scores (described below).

Data for the Project

In addition to student grade, race, and gender, the following administrative math data are of interest for this project. This data sharing agreement does not involve the collection of new data.

Grade	Measure(s)	When Collected (F/W/S)
Kindergarten	earlyMath composite score	F, W, S
1 st Grade	earlyMath composite score aMath composite score (if applicable)	F, W, S F, W, S
2 nd Grade	aMath composite score	F, W, S
3 rd Grade	aMath composite score	F, W, S

Data Transfer Procedure:

May 2024: ServeMinnesota will share a link to a password protected (password sent separately) folder containing a list of Math Corps students in the district, along with their Math Corps ID number.

May 2024: DPS will transpose the Math Corps IDs to a data file containing student name, grade, gender, race, and seasonal FastBridge math scores.

May 2024: DPS will provide ServeMinnesota a de-identified dataset consisting of the data elements outlined above, with the exception of student names, which will be removed. Transfer will occur in accordance with DPS requirements.

- *July 2024:* ServeMinnesota will produce and share an evaluation report composed of visual and narrative summaries of key outcomes across and within grades. ServeMinnesota will share this report directly with DPS. Upon request, ServeMinnesota will produce a brief report solely focused on schools in the district. Strong leadership and people management skills, with experience in supervising and mentoring staff members.

MEMORANDUM OF UNDERSTANDING

Between the Fond du Lac Human Services Division, Behavioral Health Department, and the Duluth Public School District, ISD #709

I. BACKGROUND AND INTENT

This Memorandum of Understanding is between Fond du Lac Human Services Division Behavioral Health Department (FDL) a division of the Fond du Lac Band of Lake Superior Chippewa, and the Duluth Public Schools, Independent School District #709 (ISD 709).

WHEREAS, the sole purpose of this Memorandum of Understanding is to encourage cooperation between Fond du Lac Human Services and Duluth Public Schools, and to further detail the separate and distinct roles and responsibilities of each party;

WHEREAS, Duluth Public Schools desires to increase the capacity of their mental health services onsite at its schools;

WHEREAS, Duluth Public Schools recognizes that the tribally owned and operated Fond du Lac Human Services has a full services Behavioral Health Department designed to serve American Indian children and their families;

WHEREAS, Fond du Lac Human Services desires to locate School Linked Mental Health Therapists, in Duluth Public Schools to provide therapeutic services for students including mental health services such as, diagnostic assessments, mental health treatment plans, and individual therapeutic sessions;

THEREFORE, Fond du Lac Human Services and Duluth Public Schools agree that it is in the best interest of American Indian Children and their families attending school in Duluth Public School District to enter into an understanding;

This Memorandum of Understanding is to enable and structure the collaboration between Fond du Lac Human Services Division and Duluth Public School District ISD #709 in its implementation of creating educational successes for American Indian Children by providing quality, culturally appropriate therapeutic services to students with unmet social, emotional, behavioral/mental health needs.

II. ROLES AND RESPONSIBILITIES

Roles of Fond du Lac and ISD #709

It is understood that Fond du Lac and Duluth Public School District staff must work together as a team to effectively meet the needs of ISD #709 students, and both parties are to communicate any cause or concern, pertaining to any and all items that affect the overall success of the Memorandum of Understanding, in a timely manner. However, the parties to this Memorandum of Understanding understand their separate and distinct responsibilities.

Role of Fond du Lac

1. Fond du Lac licensed Mental Health Professionals/School-Linked Mental Health Therapists will provide onsite therapeutic services to students at a regularly scheduled time and place for each of several sites as agreed upon by the Fond du Lac Behavioral Health Coordinator, Fond du Lac Mental Health Supervisor, ISD #709 Mental Health Partnership Coordinator, Assistant Superintendent, Indian Education Director and ISD 709 Principals. CTSS or Case Management services may also be piloted and explored at agreed upon school location/s as determined by the district Mental Health Partnership Coordinator, School Principal and Fond du Lac/s Mental Health Supervisor.
2. American Indian students referred by school personnel or parents will be seen individually by the licensed School-Linked Mental Health Therapist at the child's school in a private setting for interviews, diagnostic assessments, treatment plans, and individual therapeutic sessions according to established FDL Human Services Division policies and procedures.
3. School personnel including school social workers, teachers, counselors and administrative staff may schedule consultations with the licensed professional and occasional specific In-Service presentations may be scheduled jointly or as needed and time permits. Services will be provided according to the school schedule.
4. Students served by Fond du Lac Behavioral Health in the Duluth Public Schools are clients of Fond du Lac Human Services and are subject to the same rights and responsibilities as clients served onsite at any Fond du Lac Human Services facility.
5. Meet with Duluth Public Schools Administrative staff to plan a system of service delivery taking into consideration both the needs of Fond du Lac and ISD #709.
6. Locate therapists at Duluth Public Schools in order to provide mental health services in a private setting identified by school administrators.
7. Employ and be responsible for its employees placed at Duluth Schools.
8. Maintain appropriate professional liability insurance.
9. Share student/client information with school staff and with the consent of the student/responsible parent when a release of information is signed and information is needed.
10. Obtain parental permission to provide services.
11. Maintain and own case management records of students served.

12. Obtain insurance and other information necessary to appropriately bill parents and/or 3rd party payers for services delivered. Duluth Public School District will not be responsible for the cost of services delivered by Fond du Lac.
13. Meet periodically with School Administration and other designated staff to review the working relationship in order to address any concerns/conflicts, and to promote an active partnership.
14. Ensure that meetings with therapists do not conflict with necessary school scheduling such as specialists and academic scheduling without administrative permission.
15. Ensure that therapy services do not interfere with students receiving federally mandated IEP services from Special Education staff.

Role of ISD 709

1. Meet with Fond du Lac administrative staff to plan a system of mental health service delivery.
2. Inform Principals and school staff of services available and work with Fond du Lac staff to develop a system to identify and refer students that may be in need of mental health services. Meet periodically with Fond du Lac administration or designated staff to review the working relationship in order to address any concerns and promote an active partnership.
3. To provide Fond du Lac with a private meeting space for mental health professionals with access to a telephone and internet connection.
4. Upon parental permission and Fond du Lac's request, Fond du Lac will be provided student schedules in order to meet with students for therapy services.
5. Obtain parental permission before referring students to Fond du Lac for therapy services.

III. GENERAL TERMS

Terms. This Memorandum of Understanding will begin effective the date of 9-9-23 and will continue on an ongoing annual basis unless either party provides written notice per the Termination clause below.

Termination. Either party may terminate this Agreement by giving the other party three (3) months prior written notice.

Confidentiality. Fond du Lac and ISD #709 agree that by virtue of entering into this Agreement they will have access to certain confidential information regarding the other party's operations related to this project.

Fond du Lac and ISD #709 agree that they will not at any time disclose confidential information and/or material without consent of that party unless such disclosure is authorized by this Agreement or required by law. Unauthorized disclosure of confidential information shall be considered a material breach of this agreement. Where appropriate, client releases will be secured before confidential client information is exchanged. Confidential client information will be handled with the utmost discretion and judgment. Both parties agree to perform within state and federal laws regarding confidentiality.

See pages of the 2018 Behavioral Health Policy and Procedure (attached).

Referrals. Parents/Guardians may be referred to the School-Linked Mental Health Therapists by members of the school staff or self-referred by the student or his/her parent according to established Fond du Lac Human Services Division's policies using a written referral form. It is the responsibility of the Parent/Guardian to contact Fond du Lac's SLMH Administrative Specialist to initiate services. The Fond du Lac staff will then contact the school staff working with that student to coordinate services.

Every effort will be made by ISD #709 to refer American Indian students to Fond du Lac Mental Health Professionals for culturally appropriate therapeutic services.

Data Collection. Duluth Public School District, upon receiving a signed data sharing agreement from the parent/guardian (form must specifically list each type of data to be shared), will be responsible for submitting grades, attendance records and behavioral violations to Fond du Lac Behavioral Health when requested.

Background Check. *(applies to contractors working independent with students)*

Contractor must provide an executed criminal history consent form and a money order or check payable to the District in an amount equal to the actual cost of conducting a criminal history background check on all of its employees assigned to the program. Contractor is precluded from performance of contract until the results of the criminal background check(s) are on file.

If the Contractor has already completed background checks for their business needs, Contractor stipulates that the background checks are completed, current, and on file.

Contractor also stipulates that any employees with a gross misdemeanor or felony will not work independently with District students.

Independent Contractor. Both the District and Contractor agree that they will act as an independent contractor in the performance of its duties under this Agreement. Nothing contained in this Agreement shall be construed as in any manner creating a relationship of joint

venture between the parties, which shall remain independent contractors with respect to all actions performed pursuant to this Agreement.

Accordingly, Contractor shall be responsible for payment of all taxes, including Federal, State, and local taxes, arising out of Contractor's activities in accordance with this Agreement, including by way of illustration, but not limited to, Federal and State income tax, Social Security tax, Unemployment Insurance taxes, workers compensations, and any other taxes or business license fees as required.

Indemnity and defense of the District. Contractor hereby agrees to defend, indemnify and hold the District harmless from all claims relating to its work pursuant to this Agreement.

In the event that Contractor breaches its obligation to defend, indemnify and hold the District harmless, then in addition to its other damages the District shall be entitled to recover its attorney's fees and costs and disbursements incurred in enforcing this Agreement.

Notices. All notices to be given by Contractor to District shall be deemed to have been given by depositing the same in writing in the United States Mail: ISD 709, Duluth Public Schools, Attn: Anthony Bonds/Assistant Superintendent, 709 Portia Johnson Road, Duluth, MN 55811.

All notices to be given by District to Contractor shall be deemed to have been given by depositing the same in writing in the United States Mail to (mailing address with zip) Fond du Lac Human Services, Attn: Behavioral Health Coordinator and Health Services Associate Director, 927 Trettel Lane, Cloquet, MN 55720.

Assignment. Contractor shall not in any way assign or transfer any of its rights, interests or obligations under this Agreement in any way whatsoever without the prior written approval of the District.

Modification or Amendment. No amendment, change or modification of this Agreement shall be valid unless in writing signed by the parties' hereto.

Governing Laws. This Agreement, together with all its paragraphs, terms and provisions is made in the State of Minnesota and shall be construed and interpreted in accordance with the laws of the State of Minnesota.

Entire Agreement. This Agreement contains the entire understanding of the parties hereto with respect to the subject matter hereof and shall not be changed or otherwise altered except by written agreement of the parties.

Data Practices. Contractor further understands and agrees that it shall be bound by the Minnesota Government Data Practices Act (Minnesota Statutes 13.03-13.04) with respect to "data on individuals"; as defined in 13.02, subd. 5 of that Statute) which it collects, receives, stores, uses, creates or disseminates pursuant to this Agreement.

Conflict of Interest and Fiduciary Duty: All contractors doing business with the District agree to follow Policy 307 - Conflicts of Interest and Fiduciary Duty. This policy is located on the District's website.

Mutual Consent to Collaboration. Fond du Lac and Duluth Public School District agree to work cooperatively to establish times and locations for therapy services, determine a schedule, make and review referrals and consistently communicate with one another in order to take additional steps needed to implement this Memorandum of Understanding and accomplish the goals of School Linked Mental Health services.

Christine R. Davis Date: 4-26-2024
Fond du Lac Human Services

Simone Zurich Date: 4-30-24
Simone Zurich, Executive Director of Business Services, ISD #709

ADVANCED BIONICS, LLC

DocuSigned by:

Tiffany Hale
983F194CBE9A423
(Signature)

Tiffany Hale

(Type or Print Name)

Manager, Sales Operations

(Type or Print Title)

4/30/2024

(Date)

ADVANCED BIONICS, LLC

DocuSigned by:

Jennifer Maceda
DE90D2A579F541B...
(Signature)

Jennifer Maceda

(Type or Print Name)

Director, West Area Sales

(Type or Print Title)

5/7/2024

(Date)

LICENSEE

Jason Crane
(Signature)

JASON CRANE

(Type or Print Name)

Director of Special Services

(Type or Print Title)

4/30/24

(Date)

INDEPENDENT SCHOOL DISTRICT 709 (DULUTH PUBLIC SCHOOLS)

14. Export. Licensee shall not export Equipment, directly or indirectly, in violation of any applicable law. Licensee may not assign or transfer its rights or obligations (in whole or in part) under this Agreement to any third party without AB's prior written consent, and any such attempted assignment or transfer in violation of the foregoing will be void.

15. Survival. If any provision of this Agreement is held by a court to be unenforceable, such provision will be changed and interpreted to accomplish the objectives of such provision to the greatest extent possible under applicable law, and the remaining provisions of this Agreement will continue in full force and effect. The respective rights and obligations of Licensee and AB, which by their nature would continue, shall survive the termination or expiration of this Agreement.

16. Entire Agreement. This Agreement and all Orders or amendments issued under this Agreement identifying any additional Equipment to be provided to Licensee constitute the entire agreement between the parties regarding the subject hereof and supersedes all prior or contemporaneous agreements or communication, whether written or oral. This Agreement shall supersede the terms and provisions of any Licensee-issued Orders or other ordering document submitted to AB by Licensee.

17. Electronic Signatures; Counterparts.

This Agreement may be signed and delivered (including electronically through the DocuSign® system, or alternatively, by facsimile transmission to AB at 661-362-1924 or via email to AB at contracts@advancedbionics.com) in one or more counterparts, and by the different parties in separate counterparts, each of which when executed will be deemed to be an original but all of which taken together will constitute one and the same documents.

18. Lapse Of Time.

This offer shall terminate if not accepted within ninety (90) days from 4/19/2024.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement effective as of the date listed below.

INFRINGEMENT. LICENSEE ACKNOWLEDGES THAT IT HAS RELIED ON NO WARRANTIES IN ACCEPTING THE TERMS OF THIS AGREEMENT

7. No Liability.

As to the Equipment, AB has no liability under this Agreement for any claim related to (a) use not in strict accordance with this Agreement; (b) use in combination with equipment or software not supplied by AB; or (c) modification by any person other than AB or its authorized agents.

8. LIMITATION OF LIABILITY.

TO THE EXTENT PERMITTED BY APPLICABLE LAW, (1) IN NO EVENT SHALL EITHER PARTY BE LIABLE FOR ANY CONSEQUENTIAL, INDIRECT, EXEMPLARY, SPECIAL, OR INCIDENTAL DAMAGES, ARISING FROM OR RELATING TO THIS AGREEMENT, HOWEVER CAUSED AND UNDER ANY THEORY OF LIABILITY EVEN IF AB HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES, AND (2) NEITHER PARTY'S TOTAL CUMULATIVE LIABILITY IN CONNECTION WITH THIS AGREEMENT AND/OR THE EQUIPMENT, WHETHER IN CONTRACT, TORT OR OTHERWISE, WILL EXCEED U.S. \$5,000 DURING ANY ROLLING 12-MONTHS. The restriction in this paragraph shall not apply to the extent prohibited by or in conflict with applicable law.

9. Confidentiality.

The parties shall comply with the Health Insurance Portability and Accountability Act of 1996 ("HIPAA"), Health Information Technology for Economic and Clinical Health (HITECH) Act of 2009 and any applicable federal and state laws regarding privacy of patient information, and all implementing regulations, as applicable to the relationship between the parties.

10. Audits and Inspections. AB shall have the right, upon reasonable prior written notice to Licensee, to review Licensee's relevant records, inspect Licensee's facilities and inspect Equipment solely to ensure compliance with this Agreement.

11. Insurance.

Licensee shall be responsible for insuring the Equipment. AB has no responsibility to insure the Equipment.

12. Notices. All notices, consents, and approvals under this Agreement must be delivered in writing by electronic mail, courier, electronic facsimile, or certified or registered mail, (postage prepaid) to the other party at the address for each party set forth in the most recent Order, and will be effective upon receipt, or upon rejection of delivery. Either party may change its address by giving notice of the new address to the other party, which shall be effective five business days after receipt.

13. Reporting. Pursuant to the reporting requirements of applicable manufacturers under the Patient Protection & Affordable Care Act, amending the Social Security Act at Section 1128G ("Open Payments"), the Licensee, if a teaching hospital as defined under 42 C.F.R. §403.902, agrees that the fair market value of the Equipment may be reported to the Department of Health and Human Services, Centers for Medicare & Medicaid Services ("CMS").

replacement costs for any loss or theft of Equipment, and for any damage to Equipment determined by AB not to be the result of normal wear and tear. Damage assessment will be performed by AB. Licensee is responsible for the protection of all data on the computer. Licensee shall ensure it is protected compliant to the Health Insurance Portability and Accountability Act of 1996 (HIPAA) and all amendments and subsequent enhancements to the law. Prior to return of the Equipment to AB, Licensee will remove all patient data in a manner in which it cannot be restored on the Equipment. Licensee assumes all risk of loss and damages to the Equipment while under Licensee's control (ordinary wear and tear excepted).

(c) Limitations on Use. Except for other software provided by AB, no other software may be loaded onto the Equipment by Licensee. AB reserves the right to refuse to provide additional Equipment, in whole or in part, should AB reasonably believe that Licensee is misusing the Equipment, abusing the rights to receive the Equipment, or is requesting excessive quantities of the Equipment, based upon Licensee's business needs. Licensee is not authorized to sell, lease, sub-lease or otherwise request any form of consideration or payment in exchange for the provision of the use of the Equipment. AB's provision to Licensee of Equipment hereunder does not constitute a sale or lease to Licensee. Title to the Equipment is and shall remain the exclusively in AB's name.

3. Term and Termination.

Unless earlier terminated as set forth herein, this Agreement commences on the date of first Order and continues until terminated as set forth herein. This Agreement may be terminated (a) by a party if the other party materially breaches any provision of this Agreement and does not cure such breach (provided that such breach is capable of cure) within ten days after being provided with written notice thereof; (b) immediately upon notice from AB if Licensee, in any manner, breaches Sections 2 or 9; or (c) ten days after a party provides the other party with written notice of termination, without cause. Immediately upon the expiration of termination of this Agreement for any reason, (i) Licensee's rights granted herein will immediately cease to exist; (ii) Licensee shall immediately cease all use of the Equipment and Software; and (iii) Licensee shall return all Equipment to AB and grant AB access to Licensee's premises to secure the return of the Equipment, if needed. Any amounts owed to AB under this Agreement prior to its termination or expiration shall become due and payable immediately upon such termination or expiration.

4. Maintenance.

AB may, but is not required to, as to the Equipment, (a) provide maintenance and support services; (b) replace damaged items, or (c) authorize Licensee to allow a third party to provide needed maintenance and support services. The Licensee will report all problems with Equipment or Software to AB's Audiologist-On-Call (AOC) at (877) 271-6727.

5. Taxes.

Licensee is responsible for payment of any taxes or regulatory fees that may be imposed by the transactions contemplated by this Agreement (other than taxes based on AB's income) and any penalties or charges that accrue with respect to the non-payment of any such amounts.

6. Disclaimer of Warranties.

THE EQUIPMENT IS PROVIDED TO LICENSEE "AS IS" AND WITHOUT WARRANTY OF ANY KIND, WHETHER EXPRESS, IMPLIED OR STATUTORY, INCLUDING MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, TITLE, AND NON-

Advanced Bionics Evaluation, Demonstration and Support Equipment and Software License Agreement

This Evaluation, Demonstration and Support Equipment and Software License Agreement ("Agreement") is made and entered into as of the Effective Date, by and between ADVANCED BIONICS, LLC, a Delaware limited liability company, with offices at 28515 Westinghouse Place, Valencia, California, 91355 and Independent School District 709 (Duluth Public Schools), located at 709 Portia Johnson Drive, Duluth, MN 55811 ("Licensee").

Licensee operates an implantable hearing device support program that supports patients with Advanced Bionics (AB) cochlear implants, including those products manufactured and/or distributed by AB ("AB Products"). AB hereby agrees to loan to Licensee the multi-use equipment and software defined in the terms and conditions below solely in connection with Licensee's use to evaluate AB Product recipients and/or to assess the appropriate use and functionality (programming, demonstration, troubleshooting, testing, and/or audiological training on AB Products) associated with (a) Licensee's purchase of AB Products and Licensee's implantable hearing device support program, and/or (b) Licensee's audiological educational programs ("Authorized Uses").

Terms and Conditions

1. Defined Terms.

(a) "Equipment" means any product, equipment and/or hardware provided to Licensee by AB hereunder, along with applicable Software installed or embedded in the Equipment, and the Processors.

(b) "Software" means all software installed or embedded on the Equipment, including, without limitation, all updates, upgrades, bug fixes and modifications which AB may provide under this Agreement, as to proprietary software, or which any third party makes commercially available as to that third party's software.

(c) "Effective Date" means date of first Order or date of signature below.

(d) "Order" means each request for Equipment or Software accepted by AB and shipped to the location identified on the invoice provided to Licensee, which lists all items sent with that order. Any Equipment and/or Software currently in Licensee's possession under previous agreements with AB for the uses hereunder is/are incorporated herein.

2. License and Use of Equipment and Software.

(a) Equipment and Software. AB grants to Licensee a limited, revocable, non-transferable, non-exclusive license (without the right to sublicense) to use the Equipment listed in an Order, solely (i) for internal use by employees and agents of Licensee as set forth herein, (ii) for the Authorized Uses, defined above, and (iii) at or from the location for Licensee set forth on the Order, or at other Licensee locations. Additionally, AB hereby grants to Licensee a limited, revocable, non-transferable, non-exclusive sublicense to use the Software, which may not be copied by Licensee. (AB may be provided AB software via USB or other means which is subject to the software license terms of that software and not subject to the limitations on the embedded / installed Software referenced in this Agreement.) Licensee shall return all Equipment and the associated Software, licensed and/or loaned under this Agreement to AB upon termination of this Agreement, or termination of the use of the Equipment.

(b) Loss or Damage. Licensee shall promptly notify AB in writing of any loss, theft, or damage of any type to Equipment. AB may charge and Licensee shall pay for