

MEMORANDUM OF AGREEMENT FOR DONATION OF EQUIPMENT

This Agreement is entered into this ____ day of _____, by and between the Broward County Healthcare Coalition herein referred to as "Coalition" and the City of Fort Lauderdale herein referred to as "Agency".

WHEREAS, the Coalition is an incorporated body, whose offices are at, 1855 Griffin Road, Dania Beach, FL 33004 Broward County, Florida, and the Agency is a municipality, a political subdivision of the State of Florida;

WHEREAS, the Coalition has received grant funds and is authorized to purchase equipment through such funds in order to donate equipment to the Agency; and

WHEREAS, the Agency agrees to accept ownership of the equipment and abide by all requirements and/or Articles listed below.

NOW, THEREFORE, in consideration of the foregoing, the parties agree as follows:

Article 1. Broward County Healthcare Coalition agrees to:

- A. Purchase equipment with grant funds and donate the equipment listed on Attachment A to the Agency. This equipment is being purchased new and donated to the Agency unused by the Coalition. The Coalition makes no representations, guarantees, or warranties regarding the condition or useful life of the property and assumes no liability whatsoever relating to the use and/or operation of the equipment.

Article 2. AGENCY agrees to:

- A. Use said equipment according to the Manufacturer's specifications and terms.
- B. Dispose of said equipment after written consent by the Coalition. If and when the Coalition approves of the Agency selling or disposing of said equipment, the Agency will dispose of the equipment according to the rules and regulations specified in the grant/contract agreement.
- C. Submit an inventory report to the Coalition as requested in a timely manner. The inventory shall include but is not limited to: the make, model, serial number, location, Point of Contact ("POC"), condition of equipment and any further information as requested.
- D. Provide/make available the equipment for inventory and audit site visits as requested by the Coalition, and/or authorized State/Federal grantor agency.
- E. The Agency shall be responsible for paying all costs associated with providing proper maintenance, service, and replacement of said equipment.

- F. The Agency shall assign a POC to serve as the main liaison and partner who has functional authority to discuss and assess the equipment's status and modify the equipment's programmatic intent, if applicable.

Article 3. Indemnification

- A. Each party to this Agreement shall be liable for its own actions and negligence and, to the extent permitted by law, the Coalition shall indemnify the Agency for any actions, claims or damages arising out of the Coalition negligence in connection with this Agreement, and the Agency shall indemnify the Coalition for any actions, claims, or damages arising out of the Agency's negligence in connection with the Agreement. The foregoing shall not constitute a waiver of sovereign immunity beyond the limits set forth in Florida Statutes, Section 768.28, or of any defense available to either party.

Article 4. Liability

- A. The Coalition recognizes its liability for certain tortious acts of its members, to the extent and limit in § 768.28, Florida Statutes, the State of Florida's partial waiver of sovereign immunity. Provided, however, this provision shall not be construed as a waiver of any right of defense that the Coalition may possess and Coalition reserves all such rights as against any and all claims that may be brought under this Agreement.
- B. The Agency recognizes its liability for certain tortious acts of its agents, officers, and employees to the extent and limit in § 768.28, Florida Statutes, the State of Florida's partial waiver of sovereign immunity. Provided, however, this provision shall not be construed as a waiver of any right of defense that the Agency may possess and Agency reserves all such rights as against any and all claims that may be brought under this Agreement.

Article 5. No Third Party Beneficiaries

This Agreement and the provisions hereof are for the exclusive benefit of the Parties hereto and their affiliates and not for the benefit of any third person, nor shall this Agreement be deemed to confer or have conferred any rights, express or implied, upon any other third person.

Article 6. Notices/Point of Contact

Any notices to be provided hereunder shall be in writing and given by personal service, mailing the same by United States certified mail, return receipt requested, and postage prepaid, or by a nationally recognized overnight carrier, addressed as follows:

If to Coalition to:

Broward County Healthcare Coalition Chair
1855 Griffin Road
Dania Beach, FL 33004

If to Agency to:

Robert Hoecherl
Fire Chief
City of Fort Lauderdale
528 NW 2nd Street
Fort Lauderdale, FL 33311

Article 7. Severability

The invalidity or unenforceability of any provision or clause hereof shall in no way effect the validity or enforceability of any other clause or provision hereof.

Article 8. Waiver and Delay

No waiver or delay of any provision of this Agreement at any time will be deemed a waiver of any other provision of this Agreement at such time or will be deemed a waiver of such provision at any other time.

Article 9. Assignment; Binding Agreement

Neither party shall assign this Agreement without the written consent of the other party, which consent shall not be unreasonably withheld or delayed. This Agreement shall be binding upon and inure to the benefit of the Parties hereto and their respective successors and permitted assigns.

Article 10. Governing Law and Venue

This Agreement shall be construed in accordance with the laws of the State of Florida. Venue shall lie in Broward County, Florida.

**** REMAINDER OF THIS PAGE LEFT INTENTIONALLY BLANK ****

IN WITNESS WHEREOF, the parties have caused this Agreement to be duly executed the day and year last written.

ATTEST:

CITY OF FORT LAUDERDALE, a municipal corporation of the State of Florida.

JEFFREY A. MODARELLI
City Clerk

By_____
JOHN P. "JACK" SEILER, Mayor

Date: _____

By_____
LEE R. FELDMAN, City Manager

(CORPORATE SEAL)

Approved as to form:

RHONDA MONTAYA HASAN
Assistant City Attorney

ATTEST: Broward County Healthcare Coalition

By: _____
Jaime Caldwell, Chair BCHC

Dated:_____

"Attachment A"
Equipment Donation
Form

ACKNOWLEDGEMENT OF RECEIPT FROM

- (1) ByoPlanet CS-900
- (1) ByoPlanet BP-500

The above listed equipment has been received by the below listed individual,
pursuant to Agreement with the Broward County Health Care Coalition Office