BUSINESS ASSOCIATE ADDENDUM

This BUSINESS ASSOCIATE ADDENDUM (“this Addendum”), made and entered into this 1st day of November, 2009, (the “Effective Date”), by and between Monroe County Community School Corporation Health Plan, (Covered Entity) and the Business Associate, R.E. Sutton & Associates, LLC (“Sutton”).

WHEREAS, Sutton and Covered Entity have entered into an Addendum whereby Sutton has agreed to perform certain services for Covered Entity, and

WHEREAS, the Health Insurance Portability and Accountability Act of 1996, Pub. L. No. 104-191, and its implementing regulations (collectively, the “Privacy Rule”) require Covered Entity to protect the privacy rights of persons covered under the Covered Entity as described therein; and

WHEREAS, under the Privacy Rule, Sutton is considered a Business Associate of the Covered Entity, by reason of the duties that it has undertaken pursuant to the Addendum; and

WHEREAS, the Privacy Rule requires Sutton and the Covered Entity to enter into a business associate Addendum in order to permit the appropriate exchange of Protected Health Information (PHI) between the Covered Entity and Sutton; and

WHEREAS, the Covered Entity has adopted a Privacy Policy that reflects its privacy practices and procedures;

NOW, THEREFORE, in order to comply with the requirement of the Privacy Rule and the Covered Entity’s Privacy Policy, Sutton, Covered Entity agree as follows:

1. Definitions. Terms used, but not otherwise defined, in this Addendum shall have the same meaning as those terms in the Privacy Rule.
2. **Obligations and Activities of Sutton.**

(a) Sutton agrees to not use or disclose PHI other than as permitted or required by the Addendum or as Required By Law.

(b) Sutton agrees to use appropriate safeguards to prevent use or disclosure of the PHI other than as provided for by this Addendum.

(c) Sutton agrees to mitigate, to the extent practicable, any harmful effect that is known to Sutton of a use or disclosure of PHI by Sutton in violation of the requirements of this Addendum.

(d) Sutton agrees to report to Covered Entity any use or disclosure of the PHI not provided for by this Addendum of which it becomes aware.

(e) Sutton agrees to ensure that any agent, including a subcontractor, to who it provides PHI received from, or created or received by Sutton on behalf of the Covered Entity agrees to the same restrictions and conditions that apply through this Addendum to Sutton with respect to such information.

(f) Sutton agrees to provide access, at the request of the Covered Entity to PHI in a Designated Record Set, to the Covered Entity or, as directed by the Covered Entity, to an Individual in order to meet the requirements under 45 CFR § 164.524 and in accordance with the Covered Entity Privacy Policy. Sutton may charge a reasonable fee for any information provided to the same extent that the Covered Entity could a fee pursuant to 45 CFR § 164.524(c)(4).

(g) Sutton agrees to make any amendment(s) to PHI in a Designated Record Set that the Covered Entity directs or agrees to pursuant to 45 CFR § 164.526 at the request of the Covered Entity or an Individual.

(h) Sutton agrees to make internal practices, books, and records, including policies and procedures and PHI, relating to the use and disclosure of PHI received from, or created or received by Sutton on behalf of, the Covered Entity, or to the Secretary or his designee for purposes of the Secretary determining the Covered Entity’s compliance with the Privacy Rule.
(i) Sutton agrees to document such disclosures of PHI and information related to such disclosures as would be required for the Covered Entity to respond to a request by an Individual for an accounting of disclosures of PHI in accordance with 45 CFR § 164.528.

(j) Sutton agrees to provide to the Covered Entity or an Individual information collected in accordance with the Addendum to permit the Covered Entity to respond to a request by an Individual for an accounting of disclosures of PHI in accordance with 45 CFR § 164.528.

3. Permitted Use and Disclosure except as otherwise limited in this Addendum:

(a) Sutton may use or disclose PHI to perform functions, activities, or services for, or on behalf of, the Covered Entity as specified in the Addendum, provided that such use or disclosure would not violate the Privacy Rule if done by the Covered Entity or the minimum necessary policies and procedures of the Covered Entity.

(b) Sutton may use PHI for its proper management and administration of the Covered Entity or to carry out its legal responsibilities, and to disclose it for those purposes but only if the disclosures are Required By Law or Sutton obtains reasonable assurances from the person to whom the information is disclosed that it will remain confidential and used or further disclosed only as Required By Law or for the purpose for which it is disclosed to the person, and the person notifies the Covered Entity of any instances of which it is aware in which the confidentiality of the information has been breached.

(c) Sutton may use PHI to provide Data Aggregation services to the Covered Entity as permitted by 42 CFR § 164.504(e)(2)(i)(B).

(d) Sutton may de-identify PHI that it receives from or on behalf of the Covered Entity or creates for the Covered Entity and use and disclose the de-identified data in any manner permitted by law.

(e) Sutton may use PHI to report violations of law to appropriate Federal and State authorities, consistent with § 164.502(j)(1).

(f) Sutton may use or disclose PHI in any other manner permitted by law.
4. **Obligations of the Covered Entity**

(a) The Covered Entity will provide Sutton with a copy of its Privacy Policy and notice of privacy practices, including any amendment thereto. The Covered Entity shall notify Sutton of any limitation(s) in its notice of privacy practices of The Covered Entity in accordance with 45 CFR § 164.520, to the extent that such limitation may affect Sutton’s use or disclosure of PHI.

(b) The Covered Entity shall notify Sutton of any changes in, or revocation of, permission by an Individual to use or disclose PHI, to the extent that such changes may affect Sutton’s use or disclosure of PHI.

(c) The Covered Entity shall notify Sutton of any restriction to the use or disclosure of PHI that the Covered Entity has agreed to in accordance with 45 CFR § 164.522, to the extent that such restriction may affect Sutton’s use or disclosure of PHI. If the Covered Entity agrees to any restriction that materially increases Sutton cost of performing its services pursuant to the Addendum (other than a restriction required by 45 CFR § 164.522(b)(ii), the Trust shall pay an additional fee as needed to defray the additional cost.

5. **Permissible Request by the Covered Entity.** The Covered Entity shall not request Sutton to use or disclose PHI in any manner that would not be permissible under the Privacy Rule or its Privacy Policy if done by the Covered Entity. However, this will not be deemed to prevent Sutton from using or disclosing PHI for Data Aggregation or management to the extent required by the Addendum or for Sutton’s administrative activities. If the Covered Entity agrees to any restriction that materially increases Sutton cost of performing its services pursuant to the Addendum (other than a restriction required by 45 CFR § 164.522 (b)(ii), Covered Entity shall pay an additional fee as needed to defray the additional cost.

6. **Permissible Requests by Covered Entity.** Covered Entity will not request Sutton to use or disclosure PHI in any manner that would not be permissible under the Privacy Rule or its Privacy Policy if done by the Covered Entity. Covered Entity will abide by the terms of the Privacy Rule and the Covered Entity’s Privacy Policy. Covered Entity will
not request that Sutton disclose to it PHI in excess of the minimum necessary to satisfy the need that underlies any such request.

7. Terms and Termination.

(a) This Addendum shall be effective as of April 14, 2004 or such other date as the Privacy Rule may require, and shall terminate when all of the PHI provided by the Covered Entity to Sutton, or created or received by Sutton on behalf of the Covered Entity, is destroyed or returned to the Covered Entity, or if it is infeasible to return or destroy PHI, protections are extended to such information, in accordance with the termination provisions in this Section.

(b) Upon the Covered Entity’s knowledge of a material breach by Sutton, the Covered Entity shall give Sutton written notice detailing the nature of the breach. The Covered Entity shall provide an opportunity for Sutton to cure the breach or end the violation. If Sutton fails to substantially cure the breach within 30 days after receiving notice from the Covered Entity, the Covered Entity may terminate this Addendum. However, if termination is not feasible, the Covered Entity will report the violation to the Secretary.

(c) Except as expressly provided in this section, upon termination of the Addendum, for any reason, Sutton shall return or destroy all PHI received from the Covered Entity, or created or received by Sutton on behalf of the Covered Entity. This provision shall also apply to PHI that is in the possession of subcontractors or agents of Sutton. Sutton shall retain no copies of the PHI. However, if Sutton determines that returning or destroying the PHI is infeasible, Sutton shall provide to the Covered Entity notification of the conditions that make return or destruction infeasible. Upon Sutton’s determination that return or destruction of PHI is infeasible, Sutton shall extend the protections of this Addendum to such PHI and limit further uses and disclosures of such PHI to those purposes that make the return or destruction infeasible, for so long as Sutton maintains such PHI.
8. **Miscellaneous**

(a) A reference in this Addendum to a section in the Privacy Rule means the section as in effect or as amended.

(b) The parties agree to take such action as is necessary to amend the Addendum and this Addendum from time to time as is necessary for the Covered Entity to comply with the requirements of the Privacy Rule.

(c) The respective rights and obligations of Sutton under Section 7 of this Addendum shall survive the termination of this Addendum.

(d) Any ambiguity in this Addendum shall be resolved to permit the Covered Entity to comply with the Privacy Rule.

IN WITNESS WHEREOF, the parties have signed this Business Associate Addendum on the dates indicated below.

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Monroe County Community School Corporation

By: ____________________________  Date: ______________________

R.E. Sutton & Associates, LLC

By: ____________________________  Date: November 1, 2009