

School Staffing Services Agreement

THIS AGREEMENT is effective as of this 26th day of June, 2016, by and between SHC Services, Inc. dba Supplemental Health Care (hereinafter "SHC"), with principle offices located at 1640 W. Redstone Center Drive, Suite 200, Park City, Utah 84098 and Kenmore Tonawanda Union Free School District, on behalf of itself, its schools and other facilities (hereinafter collectively referred to as the "Client") with its principle offices located at 1500 Colvin Boulevard, Buffalo, New York 14223.

RECITALS

WHEREAS, SHC is a Delaware corporation in the business of providing supplemental staffing referral services to its clients on an as needed basis;

WHEREAS, the Client is a School agency with the need to provide health care services to identified students served by the Client;

WHEREAS, Client desires to engage SHC to make available its pools of qualified health care professionals and to act as a referral agent of Nurses, Therapists, Technicians, and/or other ancillary medical personnel ("Health Care Personnel") to supplement its staff; and

WHEREAS, SHC is willing to use its best efforts to recruit licensed and qualified Health Care Personnel to work shifts as described herein and at locations specified by Client;

NOW, THEREFORE, in consideration of the mutual covenants hereinafter set forth, Client and SHC agree as follows:

1. SHC OBLIGATIONS:

- a. SHC, upon request by Client, will use its best efforts to locate, recruit and assign Health Care Personnel to Client to supplement Client's existing staff.
- b. SHC shall only provide Health Care Personnel with the experience, education and training requested by Client.
- c. SHC shall maintain a Health Care Personnel file, containing the following:
 - i. A completed application, which includes skills, specialties, and preferences.
 - ii. Documentation of special education or training.
 - iii. A minimum of two references, which reflect satisfactory performance within the job category.
 - iv. Verification of identity, credentials, and authority to work.
 - v. Copy of current license, Basic Life Support/CPR, registration or certification as required by position.
 - vi. Evidence of health status, including evidence of a current physical (within one year), MMR, PPD, Hepatitis B, and any other immunizations required by Client;
 - vii. Dates of employment and performance evaluations.
 - viii. Confirmation that a criminal background investigation and pre-employment drug screen were completed.
 - ix. Office of Inspector General's List of Excluded Individuals/Entities Search.
- d. SHC shall provide SHC orientation for all new Health Care Personnel, which includes but is not limited to, child and dependent adult abuse reporting obligations and procedures, and may also include Client-specific information upon Client request.
- e. Health Care Personnel, who are assigned to the Client for the first time, shall report to the designated Client contact before beginning work at Client.
- f. SHC will use its best efforts to assign Health Care Personnel who agree to follow the policies adopted by the Client, and provided to SHC, to protect the health and welfare of the Client's students.
- g. SHC will notify Client via written correspondence, fax, email or phone, of the initiation of any action, of which it becomes aware of, commenced for the purpose of suspending, revoking or limiting of any Health Care Personnel's license that is providing services to Client under this Agreement. Written description of SHC Quality Assurance process is available upon request.
- h. SHC will comply with Title VI of the Civil Rights Act of 1964, Section 504 of the Federal Rehabilitation Act of 1973, and all other State and Federal Statutory and constitutional non-discrimination provisions

(Handwritten initials)



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- g. SHC will notify Client via written correspondence, fax, email or phone, of the initiation of any action, of which it becomes aware of, commenced for the purpose of suspending, revoking or limiting of any Health Care Personnel's license that is providing services to Client under this Agreement. Written description of SHC Quality Assurance process is available upon request.
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which prohibit discrimination on the basis of sex, age, race, color, national origin, religion, veteran status, sexual orientation, or handicap and/or marital status.

- i. SHC shall maintain continuous compliance with all applicable provisions of federal, state and local laws, rules and regulations. In addition, SHC complies with the guidelines of The Joint Commission and OSHA standards regarding the use of supplemental staffing services.
- j. All Health Care Personnel providing services pursuant to this agreement shall be considered employees of SHC, unless otherwise specified. Should the Client and SHC decide and agree in writing to use subcontractors or independent contractors to provide any of the Health Care Personnel required under this agreement, SHC ensures that all services will be performed under the same terms as defined in this agreement.
- k. SHC shall assume sole and exclusive responsibility for the payment of wages to Health Care Personnel for services performed by them for Client. SHC shall be responsible for all withholdings of federal and state taxes, maintaining worker's compensation insurance coverage in an amount and under such terms as required by state law, benefits (i.e. 401k, health insurance, dental insurance, etc.) and reimbursement of meals and lodging expenses as applicable where SHC and Client are entered into a reimbursement arrangement.
- l. SHC and all Health Care Personnel providing services pursuant to this agreement shall at all times keep confidential student information in accordance with New York state law and the federal Family Educational Rights and Privacy Act. As well as all applicable Health Insurance Portability and Accountability Act (HIPAA) Privacy laws and regulations regarding HIPAA and HIPAA training.
- m. SHC shall provide certification that all Health Care Personnel providing services pursuant to this agreement who will have direct contact with the Client's students have not been convicted of a felony or any offense involving the sexual molestation, physical or sexual abuse of a child.

2. CLIENT OBLIGATIONS:

- a. Client shall provide sufficient specific information (job order or job profile) to enable SHC to match the job requirements to the skills and experience of Health Care Personnel. Clinical competency will be determined by the appropriate Client administrator or supervisor and may be communicated to the company via written correspondence, fax, email or communicated via phone. However, Client, in its sole discretion, shall determine the suitability of Health Care Personnel to provide services for Client.
- b. Client acknowledges that SHC's ability to fill jobs or shifts is subject to the availability of qualified personnel. Client further acknowledges that the ability to attract and retain qualified Health Care Personnel to fill the positions required by Client is a competitive advantage belonging to SHC, that SHC's database of Health Care Personnel constitute an asset of SHC and is confidential, proprietary and not disclosable to Client; and Client will take all steps necessary to avoid interfering with SHC's ability to attract or retain qualified Health Care Personnel.
- c. Client shall provide direction, supervision, management, and productivity expectations to Health Care Personnel while providing professional services under this Agreement and to the extent Health Care Personnel provide health-related services to Client's students, will ensure such services comply with all treatment plans and is consistent with Client's students' best interests as determined by Client. Client agrees that SHC is not responsible for Health Care Personnel's productivity while on assignment and therefore Client will pay invoiced amounts in full without regard to productivity requirements placed on Health Care Personnel by Client.
- d. Client will not require Health Care Personnel to perform in a manner other than that which is reasonable and customary within their profession. Health Care Personnel shall not be called upon to perform services outside the general job description provided by Client or the education, licensing, certification, skills or clinical competence of the Health Care Personnel. Health Care Personnel must receive proper orientation to the policy, procedures and patient care area to which they are assigned, floated or reassigned, prior to providing patient care.
- e. Client shall provide and orientation to Health Care Personnel on the specific required information pertaining to the services to be provided to their students as well as training on its policies and procedures on the first day of their assignment. Client is responsible for providing Health Care Personnel with the specific reporting information for any suspected cases of abuse, required by the Client's policies.
- f. Client will immediately notify SHC via written correspondence, fax, email or phone, of the initiation of any licensing issues, clinical and patient care issues, unexpected incidents and errors, suspicious behaviors and any complaints regarding our Health Care Personnel. These include, but are not limited to: risk management actions or concerns; occupational/safety hazards, events or injuries; events or

sentinel events of which Client is aware regarding SHC Health Care Personnel. Written description of SHC Quality Assurance process available upon request. Client will make available appropriate panel for peer review as necessary.

- g. Client will not discriminate in its employment or referral of Health Care Personnel on the basis of sex, age, race, color, national origin, religion, veteran status, sexual orientation, or handicap.
- h. Client agrees not to employ, either directly or indirectly, any Health Care Personnel that was first referred to Client by SHC, for one year after SHC makes its referral unless the conversion provisions set forth in Schedule A have been met.
- i. Client represents that it is not currently in the process of being investigated nor has been or is being indicted by any state or federal agency for violations of the Social Security Act, Medicare or Medicaid laws, or any other programs administered by, through or under any state or federal agency.
- j. Client may request that SHC terminate any Health Care Personnel providing services under this Agreement, who is insubordinate, lacks appropriate licensure, training and experience; or fails to follow Client's policies and procedures, or fails to engage in accepted standards of care. Client will pay for all services performed through the date of termination. Client will provide specific basis for the request for termination, in writing, which will be referred to the Health Care Personnel and reported as required to state professional licensing standards.
- k. Client will not give access to or entrust Health Care Personnel with confidential medical records in violation of HIPAA.
- l. Client acknowledges that SHC provides a valuable service to Client and that it will, pursuant to the terms of this Agreement and/or industry standards or practice, compensate SHC for those services.
- m. In the event any Health Care Personnel are injured in the performance of their duties for Client, Client shall cooperate with SHC in SHC's investigation and response to such claim.

3. COMPENSATION AND BILLING:

- a. SHC will bill Client weekly for its services in accordance with the rate schedule attached as Schedule "A" (Rate Schedule) and shall remain in effect for the term of the Agreement, unless SHC and Client agree in writing to a rate adjustment. SHC reserves the right to request an adjustment to the stated rates, due to increased employment costs, upon thirty (30) days written notice to the Client.
- b. Mileage costs will be invoiced by SHC and paid by Client unless stated in the Rate Schedule.
- c. The rates on Schedule A are inclusive of all costs associated with the specific assignment such as wages, payroll taxes, insurance, and meals and lodging costs for travel assignments authorized by Client, unless otherwise stated. SHC and Client are entered into a reimbursable arrangement and SHC will maintain adequate records or other sufficient evidence to satisfy the substantiation requirements of Internal Revenue Code Section ("IRC") 274(d) and will provide this to the Client on the invoice.
- d. Invoices are due and payable in accordance with the Client's State Prompt Payment Act, if applicable.
- e. Client agrees to pay all attorneys' fees and costs incurred by SHC in collecting past due invoices. If Client disputes an invoice for services provided by SHC, Client must notify SHC in writing within fourteen (14) days of the date of the disputed invoice. All invoices that are not disputed in writing within 14 days of receipt are conclusively presumed to be valid and accepted by Client.
- f. Client is obligated to timely pay SHC invoices regardless of Client's ability to bill or collect from third party payors for professional services rendered by Health Care Personnel under this Agreement, this includes any of Client's billing issues based on Health Care Personnel's productivity requirements as defined by Client.

4. **TERM:** The term of this Agreement is twelve (12) months from the date first stated above, unless sooner terminated by either party under this Section. Either Party may terminate this agreement with 30 days written notice to the other party. The non-breaching or non-defaulting party may immediately terminate this Agreement in writing upon the occurrence of any of the following events: failure to timely pay invoices, voluntary or involuntary filing for bankruptcy protection, or any material breach of the Agreement.

5. **RELATIONSHIP OF PARTIES:** Neither party is the agent of the other. Neither party is authorized to bind the other to any responsibility or obligation, without the written consent of the other. SHC and Client are independent contracting entities and do not create a joint venture, partnership or association under federal or state law. Client agrees it will make no payments to SHC's Health Care Personnel, nor promise to discuss any such payments to or with SHC's Health Care Personnel, without SHC's express written consent.

6. **INSURANCE:** SHC will maintain (at its sole expense) the following coverage's: Commercial General Liability Insurance with a minimum of \$1,000,000 per occurrence limit; \$2,000,000 annual aggregate; Professional Liability insurance in an amount of not less than \$1,000,000 per claim / \$3,000,000 aggregate; Automobile Liability of not less than \$1,000,000. General Liability policy shall name Client as an Additional Insured. SHC shall provide Client with a Certificate of Insurance on or before the commencement of any work under this agreement. The Certificate of Insurance shall include all pertinent endorsement forms, if required.
7. **INDEMNIFICATION:** To the extent permitted by law, each party to this Agreement agrees that they shall hold harmless, indemnify and defend the Client, its shareholders, directors, officers, agents and employees against any and all claims, causes of action, injuries and damages including, but not limited to, personal injury and property damage, to the extent caused by any act or omission on the part of the other party, its agents, contractors or employees. This provision shall include all costs and disbursements, including with limitation court costs and reasonable attorneys' fees, and shall survive the termination of the Agreement. SHC agrees it will indemnify and defend Client against any claims by its Health Care Personnel for unpaid wages or for workers' compensation, subject to SHC's right of subrogation.
8. **ACCESS TO RECORDS:** SHC will maintain accounting records in accordance with generally accepted accounting principles and practices to substantiate all invoiced amounts. SHC shall ensure that such records are available for examination by the Client during SHC's normal business hours. SHC shall maintain such records for a period of three (3) years after the date of the invoice.
9. **COMPLIANCE:** Performance under the Agreement shall be: (a) in accordance with all applicable federal, state, and local laws, rules, ordinances and regulation in force during the term of this Agreement. SHC shall do nothing that would jeopardize the Client's participation in the Medicare and/or Medicaid programs.
10. **NON-APPROPRIATION:** It is understood and agreed between the parties hereto that Client shall be bound and obligated hereunder only to the extent that funds shall have been appropriated and budgeted for the purposes of this agreement. In the event funds are not appropriated and budgeted in any fiscal year for payments due under this agreement, Client shall immediately notify SHC of such occurrence and this agreement shall terminate on the last day of the fiscal year for which an appropriation was received without penalty or expense to Client of any kind whatsoever.
11. **OWNERSHIP OF DOCUMENTS.** All data, specifications, calculations, estimates, plans, drawings, construction documents, photographs, summaries, reports, memoranda, and other documents, instruments, information and material prepared or accumulated by the Health Care Personnel in rendering services hereunder shall be the sole property of the Client who shall have the sole responsibility for maintaining all original documentation. Provided, that the SHC or the Health Care Personnel shall in no way be liable or legally responsible to anyone for the Client's use of any such materials, or following termination.
12. **Contingent Fees Prohibited.** The SHC warrants that he or she has not employed or retained any company or person, other than a bona fide employee working solely for the SHC, to solicit or secure this Agreement and that he or she has not paid or agreed to pay any person, company, corporation, individual, or firm, other than a bona fide employee working solely for the SHC any fee, commission, percentage, gift, or other consideration contingent upon or resulting from the award or making of this Agreement. In the event of a breach of this provision, the SCHOOL BOARD shall have the right to terminate this Agreement without further liability, and at its discretion, deduct from the contract price, or otherwise recover, the full amount of any such fee, commission, percentage, gift, or consideration paid in breach of this Agreement.
13. **NOTICES:**
 - a) All notices, demands, or other writings required to be given or made or sent in this Agreement, or which may be given or made or sent, by either party to the other, shall be deemed to have been fully given or made or sent when in writing and addressed as follows:

Client:

Attn: Kenmore Tonawanda Union Free School District
1500 Colvin Boulevard
Buffalo, New York 14223

SHC:

Attn: Contracting
SHC Services, Inc.
1640 West Redstone Center Drive, Suite 200
Park City, UT 84098

SHC Initials 
Revised: 10/2014

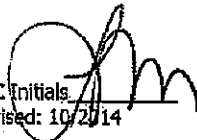
Client Initials _____

- b) All notices required, or which may be given hereunder, shall be considered properly given if (1) personally delivered, (2) sent by certified United States mail, return receipt requested, or (3) sent by Federal Express or other equivalent overnight letter delivery company.
- c) The effective date of such notices shall be the date personally delivered, or if sent by mail, the date of the postmark, or if sent by overnight letter delivery company, the date the notice was picked up by the overnight delivery company.
- d) Parties may designate other parties or addresses to which notice shall be sent by notifying, in writing, the other party in a manner designated for the filing of notice hereunder.

14. SUSPENSION AND DEBARMENT: Federal Executive Order (E.O.) 12549 "Debarment and Suspension" requires that all contractors receiving individual awards, using federal funds, and all sub-recipients certify that the organization and its principals are not debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded by any Federal department or agency from doing business with the Federal Government. By signature below the parties certify that they nor any principal of the entity is presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction by any federal department or agency.

15. MISCELLANEOUS:

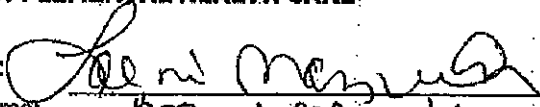
- a) The laws of the State of New York shall govern this Agreement to the exclusion of the law of any other forum, without regard to the jurisdiction in which any action or special proceeding maybe instituted. Any lawsuit concerning this agreement may be brought only in the County of Erie, State of New York.
- b) Neither party shall have the power to assign any of the duties or rights or any claim arising out of or related to the Agreement, whether arising in tort, contract, or otherwise, without the written consent of the other party. These conditions and the entire Agreement are binding on the heirs, successors, and assigns of the parties hereto.
- c) This Agreement gives no rights or benefits to anyone other than the SHC and the Client.
- d) This Agreement shall constitute the entire Agreement of the parties. This Agreement also supersedes any and all other agreements or contracts, written or oral, between the parties with respect to the matters addressed herein. This Agreement may be modified at any time by mutual agreement of the parties, providing that such amendment is in writing and executed by both parties hereto.
- e) In the event that any clause in this Agreement is found to be invalid or unenforceable under the applicable laws, all other clauses are severable and will remain in full force and effect.
- f) This Agreement may be executed in multiple counterparts, each of which shall be an original and all of which taken together shall constitute one and the same agreement. Furthermore, this Agreement may be executed and delivered by exchange of facsimile copies showing the signatures of the parties hereto, and those signatures of the parties will constitute originally signed copies of the same Agreement requiring no further execution by the parties.
- g) The parties agree that the terms and conditions of this Agreement are confidential to the extent permitted by law. Neither party shall distribute this Agreement, or any part thereof, to other parties unless required by law or regulation.
- h) Waiver of a term or condition of this Agreement is not enforceable, unless in writing, signed by the party against whom waiver is advanced. Any waiver shall only constitute waiver of a specific condition and will not operate to waive any other term or condition of the Agreement, or as a continuing waiver of the same condition.
- i) 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.



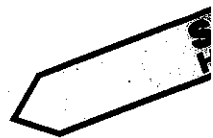

IN WITNESS WHEREOF, the parties hereto have executed this Agreement on the respective dates under each signature.

**SHC SERVICES, INC. dba
SUPPLEMENTAL HEALTH CARE**

Kenmore Tonawanda Union Free School District

By: 
Name: Lori M. [unclear]
Title: Market Manager

By: _____
Name: _____
Title: _____



SCHEDULE A

Bill Rates:

Specialty	Hourly Rate
Registered Nurse	\$47.00/hour
Licensed Practical Nurse	\$37.00/hour
Physical Therapist	\$56-60/hour
Occupational Therapist	\$56-60/hour
COTA	\$39-43/hour
PTA	\$39-43/hour
Speech Language Pathologist	\$57-61/hour

***Travel and local rates (if applicable) should be shown separately**

Billable Mileage or Transportation Costs: In the event that Client requires Health Care Personnel to travel between facilities during any work day, mileage between facilities will be billed to Client at the current IRS approved per mile rate.

Billable Meals and Lodging Costs: rates are inclusive of meals and lodging costs if incurred.

Billable Employment Conversion Costs: Any Health Care Personnel, whose application has been submitted to Client by SHC, may not be employed at Client either directly or through another Agency for one year following the termination of the assignment for any reason. However, any Health Care Personnel may become an employee of the Client with no additional fee following the completion by that individual of 1040 hours of service at the Client facility. If less than 1040 hours of service are completed and Client desires to make a Health Care Personnel a direct employee, Client agrees to pay SHC a conversion fee of \$7,000 for the positions of PT/OT/SLP/RN and \$5,000, for the positions of PTA/COTA/LPN/LVP and \$2,500 for C.N.A.

Billable Shift or Assignment Cancellation Terms:

- a. **Cancellation of Travel Assignments:** Client shall provide SHC with a minimum, of thirty (30) days written notice for the cancellation of any Travel Assignments under this Agreement. SHC shall invoice Client for any costs incurred for travel and lodging that could not be cancelled. If less than thirty (30) days' notice is provided Client shall pay the contracted amount for the Health Care Personnel for the actual time worked as well as the amount outstanding as if they had worked the full thirty (30) day notice.
- b. **Cancellation of Per Diem Assignments:** A Twenty-four (24) hour cancellation of PRN shifts is required; otherwise a four (4) hour minimum billing for PRN Shifts will be assessed.

*All rates include payroll costs, employee benefits, workers' compensation insurance, malpractice insurance, and travel expenses if required.

SHC Initials 

Client Initials _____