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(910) 576-6511 FAX (910) 576-2044

To: Board of Education

From: Barbara Slingerland, EC Director

Date: August 26, 2013

Re: Consent Agenda Item for your consideration

Attached please find a contract with Mission Medstaff, LLC for services by a Registered Nurse. This contract will allow the provision of services to our student(s) who require nursing as documented on the Individualized Education Program (IEP) throughout the 2013-2014 school year.

I am available to answer any questions that you may have about this contract.

## SERVICES AGREEMENT

THIS AGREEMENT (the "Agreement") is made and entered into as of the 26th day of August, 2013, by and between MISSION MEDSTAFF, LLC, a North Carolina limited liability company (the "Service Provider") and Montgomery County Schools, a North Carolina School System (the "School").

WHEREAS, Service Provider is engaged in the business of providing trained healthcare professionals;

WHEREAS, the School desires to engage the Service Provider to perform the services described herein, and Service Provider desires to provide such services, in accordance with the terms of this Agreement.

NOW THEREFORE, in consideration of the covenants, representations, warranties, and mutual agreements hereinafter set forth, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereto promise and agree as follows:

1. Services. During the term of this Agreement, Service Provider shall provide the services described on Schedule A, attached hereto and incorporated herein by this reference (the "Services").
2. Term. This Agreement shall commence on the Effective Date and shall continue in full force and effect thereafter for one year.
  - a. Effective Date. The Effective Date is August 26, 2013 the "Effective Date").
  - b. Termination for Breach. Either party may terminate this Agreement at any time in the event of a material breach by the other party which remains uncured after five (5) business days following written notice from the non-breaching party to the party in breach.
  - c. Termination. Either party may terminate this Agreement for any reason given 30 day written notice.
3. Fees. Service Provider's compensation for performing the Services shall set forth on Schedule B, which is attached hereto incorporated herein by this reference. Such compensation shall be payable solely by the Company. Service Provider acknowledges and agrees that the fees described on Schedule B represent the entire compensation to which the Service Provider shall be entitled to for performing the Services.
  - a. Independent Contractor Relationship. For all purposes, including, but not limited to, the Federal Insurance Contributions Act ("FICA"), the

Self Employment Contributions Act ("SECA"), the Social Security Act, the Federal Unemployment Tax Act ("FUTA"), the Internal Revenue Code, and any and all other federal, state, or local laws, rules, and regulations, each party hereto, including its officers, agents, and employees, shall be at all times an independent contractor relative to the other party. Nothing herein shall be construed to make or render either party, including any officers, agents, or employees, an agent, servant, or employee of, or a joint venture of or with, the other. If, for any reason, Service Provider, or any of its officers, agents, or employees, is deemed to be a common law employee of Company, Service Provider hereby waives any right to, and agrees to neither seek nor accept, any benefits under any benefit plans, even if Service Provider would be eligible for such benefits.

- b. Payment Terms. Service Provider will receive payment net (30) days of the receipt of any invoice for services rendered to the Company.
4. Nonexclusive Relationship. The parties' relationship is nonexclusive; Service Provider has the right to perform services for others during the term of this Agreement, including services that are similar to the Services.
5. Non-Disclosure. At all times, both during the term of this Agreement and after its termination, Service Provider, and its employees, officers, and owners, will keep in strict confidence and will not disclose any confidential or proprietary information relating to the School or any student at the School, to any person or entity, or make use of any such confidential or proprietary information for its own purposes or for the benefit of any person or entity, except as may be necessary in the ordinary course of performing its duties under this Agreement or under the law.
6. Assignment. This Agreement and the rights and obligations of the parties hereto shall bind and inure to the benefit of any successor or successors of the Service Provider by reorganization, merger, or consolidation or otherwise and any assignee of all or substantially all of its business and properties.
7. Insurance.
  - a. Workers' Compensation. The Service Provider shall take out and maintain during the life of this Agreement the applicable statutory Worker's Compensation Insurance, and in the case of any work sublet, the Service Provider shall require the subcontractor similarly to provide statutory Worker's Compensation Insurance for the latter's employees. Coverage shall be provided by an insurance company authorized to write such insurance in all states where the Service Provider will have employees located in the performance of this



contract, and the Service Provider shall require each of his subcontractors similarly to maintain Employer's Liability Insurance similarly to the Service Provider. Coverage limits for Workers' Compensation Insurance shall meet or exceed the minimum statutory limits in North Carolina.

- b. General Liability. The Service Provider shall maintain during the life of this Agreement, a policy of Commercial General Liability Insurance, with limits of, at least, \$1 million per Occurrence and \$2 million in the Aggregate, naming and protecting the Service Provider and the School against claims for damages resulting from (i) bodily injury, including wrongful death, and (ii) property damage which may arise from operations under this Agreement whether such operations be by the Service Provider or by any subcontractor or anyone directly or indirectly employed by either of them. The School is to be named as an Additional Insured on any insurance policy covering services performed under this Agreement.
8. Waiver of Subrogation. To the extent any damages are covered by insurance during the term of this Agreement, the Service Provider and the School waive all rights against each other and against the contractors, consultants, agents, and employees of the other for damages, except such rights as they may have to the proceeds of such insurance current as of the date of this Agreement.
9. Excuse. Neither party shall be liable for, or be considered in breach of this Agreement, on account of any delay or failure to perform as required by this Agreement as a result of any causes or conditions which are beyond such party's reasonable control and which such party is unable to overcome by the exercise of reasonable diligence.
10. Notice. Any notice or other communication shall be deemed given by (a) personal delivery; (b) facsimile; (c) overnight courier; or (4) a written notice mailed by certified mail, return receipt requested, provided that such notice is addressed to the parties at the addresses set forth below.

If to the Service Provider:

Attn: \_\_\_\_\_

Fax No. \_\_\_\_\_

If to the School:

Montgomery County Schools

Attn: Barbara Slingerland

Fax No. 910-857-2044

11. No Waiver. A waiver of any breach of any provision hereof shall not be deemed a waiver of any other breach of the same or any other provision.
12. Entire Agreement. This Agreement sets forth the entire agreement and supersedes any and all prior agreements between these parties concerning the subject matter addressed herein. This Agreement may not be amended except by written instrument signed by both parties hereto.
13. Construction; Severability; Survival. In the event that any provision of this Agreement conflicts with the law under which this Agreement is to be construed or if any such provision is held invalid by a court with jurisdiction over the parties hereto, (a) such provision shall be deemed to be restated to reflect as nearly as possible the original intentions of the parties in accordance with applicable law, and (b) the remaining terms of this Agreement shall remain in full force and effect. All provisions of this Agreement, which, by their nature, should reasonably survive the termination of this Agreement, shall survive the termination of this Agreement.
14. Counterparts. This Agreement may be executed in one or more counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument.
15. Applicable Law. This Agreement shall be governed by and construed in accordance with the laws of the State of North Carolina, excluding its conflict of laws or choice of laws principles. The parties agree that any controversies, which cannot be arbitrated as herein provided and which arise under this Agreement, shall be adjudicated before the State Courts for the State of North Carolina, sitting in Mecklenburg County, North Carolina, or the Federal

District Court for the Western District of North Carolina, sitting in Charlotte, North Carolina. Service Provider and Company hereby submit themselves to the personal jurisdiction of such courts in connection with any such proceedings, and agree to accept such service of process by mail. Both parties hereto agree to waive trial by jury in any action that arises out of or relates in any way to this Agreement, including but not limited to any claim arising from any breach of this Agreement

**IN WITNESS WHEREOF**, the parties have caused this Agreement to be executed as of the first date above written.

MISSION MEDSTAFF, LLC

By: \_\_\_\_\_

Print: \_\_\_\_\_

Title: \_\_\_\_\_

[SCHOOL]

By: \_\_\_\_\_

Print: \_\_\_\_\_

Title: \_\_\_\_\_



## SCHEDULE A "SERVICES"

Service Provider shall provide a licensed Registered Nurse or LPN ("Nurse") to provide daily care for students requiring the assistance of a healthcare provider. Service Provider shall review the student's medical/treatment orders and health care needs prior to assigning the Nurse.

The Nurse shall provide services that are in accordance with a plan of care ordered by an attending physician and the Nurse shall only perform such services as the Nurse is permitted to perform under State Law.

The Nurse shall be responsible for the daily medical and supportive care for the student while in school and transport to and from school if needed.

The Nurse performs all emergency procedures for the student. The Nurse may request assistance from the school nurse in emergency situations

The Nurse collaborates with the School nurse and teacher(s) to plan for the safety of the student during brief personal breaks (e.g., bathroom). At all times, The Nurse must remain in the School, notify the teacher(s) of his/her location, and be able to respond immediately to the student, if needed.

In many cases, the Nurse will remain with the student and eat lunch during a break in the student's nursing care needs or while the student eats lunch.

The Nurse may leave a stable student for a brief lunch break, providing that:

1. the Student's teacher or a School staff member in charge of the student is comfortable with the student being left in their care;
2. the Student's teacher or a School staff member is able to recognize a change in the student's condition that warrants notifying the Nurse; and
3. The Nurse is able to respond to the student immediately, if needed.

The Nurse collaborates with the teacher(s), School nurse, and principal to plan for emergency evacuation of the School, ensuring that the student is safely moved to an appropriate location and has all necessary supplies and equipment. The Nurse is responsible for providing medical and supportive care to the student during the evacuation.

Participation in the implementation of the student's academic program and other school activities, at the direction of the principal/ principal's designee and the classroom teacher(s), may be requested.

At the direction of teacher, The Nurse can assist with educational activities to the extent that they do not interfere with meeting the student's health care needs.

The Nurse notifies the principal, teacher(s) and/or School nurse of changes in the student's health status and any medical or treatment related issues that might impact on the student's school attendance, performance, or safety.

If the Student requires transportation with THE SCHOOL, a nurse will accompany the Student to and from school only.

Service Provider holds its employees to a high standard. We require the following be completed by each nurse prior to providing care for any student receiving skilled nursing care at THE SCHOOL.

- Service Provider conducts in-depth background checks (state and federal search, national sex offender registry, Department of Corrections, the OFAC, Terrorist Watch List, eVerify) on the nurses before providing care to our clients.
- Service Provider requires 2 references for each nurse.
- NCBON License verification
- Current CPR Verification
- Drug Testing – 5 panel



SCHEDULE B  
"FEES"

The School agrees to pay the Service Provider based on the following schedule of fees:

<u>Provider Type</u>	<u>Rate</u>
RN	\$41.00 per hour
LPN	\$37.00 per hour

- A. SCHOOL will pay for all time the SERVICE PROVIDER employee may spend on the bus or otherwise transporting the student to and from school.
- B. SERVICE PROVIDER will forward to SCHOOL an itemized bill on a weekly basis. Each weekly bill itemize the name of the SERVICE PROVIDER providing care, the date of service, the type and length of service provided
- C. SCHOOL agrees to pay submitted bills within thirty (30) days of receipt. Any bill not paid within the thirty (30) day period will be considered delinquent SERVICE PROVIDER may charge interest, at a rate of 1 ¼% each month (15% per year) on all delinquent accounts. SERVICE PROVIDER will also pursue collections remedies in an attempt to resolve a delinquent account. SERVICE PROVIDER agrees to reimburse SERVICE PROVIDER for all collection costs, including attorney's fees and expenses.