

## CLIENT SERVICE AGREEMENT

**THIS CLIENT SERVICE AGREEMENT** (the “**Agreement**”) is made and entered into the 17th day of July, 2014, (the “**Effective Date**”) by and among Long Quality Care, LLC, DBA BrightStar of the Lehigh Valley with its principal place of business at 427 Main Street, Suite #2, Hellertown, Pa. 18055 and Southern Lehigh School District, a Public School District, with its principal place of business at 5775 Main St. Center Valley, Pa. 18034 (the “**Client**”) which includes providing Skilled Medical Health Care Staffing. The Client and BrightStar are hereinafter referred to collectively as the “**Parties**” and individually as a “**Party**”.

### WITNESSETH:

**WHEREAS**, BrightStar is a staffing agency licensed by the State of Pennsylvania to provide nursing and medical personnel to hospice and palliative care agencies and other health care provider entities;

**WHEREAS**, Client is a school district in need of health care staffing services; and

**WHEREAS**, BrightStar and the Client desire to enter into an agreement pursuant to which BrightStar will provide certain staffing services to Client in accordance with the terms and conditions set forth herein.

**NOW, THEREFORE**, in consideration of the mutual covenants and promises set forth below, the Parties agree as follows:

**1. Engagement.** Client hereby engages BrightStar to provide, and BrightStar hereby agrees to provide the staffing services identified on **Exhibit A** attached hereto (the “**Services**”) pursuant to the terms and conditions set forth in this Agreement.

**2. Status of Parties.** In accordance with the mutual intentions of BrightStar and Client, this Agreement establishes between them an independent contractor relationship, and all of the terms and conditions of this Agreement shall be interpreted in light of that relationship. This Agreement does not create any employer-employee, agency, joint venture or partnership relationship between the Parties or between a Party and the employees, agents or independent contractors of the other Party.

**3. Responsibilities of BrightStar.**

3.1 BrightStar shall provide its best efforts in providing the Services to Client pursuant to the terms and conditions of this Agreement and shall provide all Services in a professional manner consistent with the standards of practice existing within the community and all applicable federal, state and local laws and regulations, including, without limitation, the provisions of the Equal Employment Opportunity Act and the Fair Labor Standards Act.

3.2 BrightStar shall recruit, interview, select and employ applicants qualified, in BrightStar’s sole judgment, to provide the Nursing Services to Client’s student (hereinafter the “**Student**”) as described in **Exhibit A**. The Client(SLSD) will have the ability to interview appropriate candidates as deemed by BrightStar. These applicants, once hired shall hereinafter for purposes of this Agreement be “**Nursing Personnel.**” Prior to assigning any Nursing Personnel to perform services for Client under this agreement, BrightStar shall furnish to Client evidence of current criminal background checks for all employees who may come into contact with the Student, including:

· Act 114 Federal (FBI) Fingerprint Criminal History Report. Only PA Dept of Education version accepted – <https://www.pa.cogentid.com><<https://www.pa.cogentid.com/>>

· Act 151 PA Child Abuse History Clearance – obtain form at <http://www.dpw.state.pa.us><<http://www.dpw.state.pa.us/>>

· Act 34 Pennsylvania State Criminal History Record – <https://epatch.state.pa.us><<https://epatch.state.pa.us/>>

Clearances for all employees must be current, within less than 12 months. BrightStar is also required to submit new clearances for each employee every three years. The responsibility for hiring and discharging Nursing Personnel assigned to provide services to Client shall rest entirely upon BrightStar. BrightStar shall respond in writing to all District referred parental concerns or complaints relating to Nursing Personnel. BrightStar shall provide information to Client on the resolution of the concern or complaint. BrightStar further agrees that Client shall have the right to request, which shall not be unreasonably denied, the removal and/or reassignment of a particular employee of BrightStar from providing services to Client under this Agreement.

3.3 BrightStar shall employ the Nursing Personnel assigned to the Client under the Agreement. Consistent with its role as employer, BrightStar will: (i) maintain all necessary personnel and payroll records for its employees, (ii) compute wages and withhold applicable Federal, State and local taxes and Federal Social Security payments, (iii) remit employee withholdings to the proper government authorities and make employer contributions for Federal FICA and Federal and State unemployment insurance payments; (iv) pay net wages and fringe benefits, if any, directly to its employees, (v) provide for liability, fidelity and Workers' Compensation insurance coverage in the amounts set forth at Section 10 herein. The costs of the aforementioned activities (the "**Payroll Burden Costs**") are included in the hourly billing rates set forth in **Exhibit B**.

3.4 BrightStar does agree to provide substitute nurses when needed and to fill all proposed shifts. It is the BrightStar agency's policy to cover all shifts and assignments as requested by the Client.

3.5 Nursing Personnel assigned to Client under this Agreement shall provide patient care in compliance with a patient care plan provided by Client and the applicable standard of care. However, the Client shall have a process in place permitting Nursing Personnel to address concerns when, based upon their professional judgment and expertise, the contents of the patient care plan provided by Client cause Nursing Personnel concern for a patient's welfare and/or health. Client shall provide a copy of this process to BrightStar prior to execution of this Agreement. If the Client does not have such a process in place, the Parties hereto agree to develop a process within a reasonable time from the execution date of this Agreement, which shall then be given to the relevant Nursing Personnel. Client shall at all times be solely responsible for the patient care plan and any acts which flow therefore.

3.6 The Parties hereto agree at all times to have policies and procedures in place which comply with federal and state privacy laws.

#### **4. Responsibilities of Client.**

4.1 In its performance of this Agreement, Client shall interact with BrightStar employees in a professional manner consistent with the standards of practice existing within the community and all applicable federal, state and local laws and regulations, including, without limitation, applicable health, privacy, safety and security rules and regulations and the provisions of the Equal Employment Opportunity Act and the Fair Labor Standards Act.

#### **5. Representations and Warranties of Brightstar**

5.1 BrightStar represents and warrants that all Nursing Personnel assigned to the Client (i) shall possess all licenses, certificates or other applicable permits from all relevant

governmental authorities that are legally required for the provision of the nursing services they are assigned to perform; (ii) all such licenses, certificates or permits are valid and in full force and effect; (iii) they are not in material violation of the terms of any such license certificate or permit; (iv) have been subject to a background check upon hiring; and (v) they otherwise do not have knowledge that any governmental authority is considering limiting, suspending, modifying or revoking any such applicable license, certificate or permit. If any such license, certificate or permit is suspended or revoked during the term of this Agreement, BrightStar will notify Client in writing and Nursing Personnel affected will be replaced.

## **6. Representations and Warranties of Client.**

6.1 Client represents and warrants that it (i) shall possess all licenses, certificates or other applicable permits from all relevant governmental authorities that are legally required for the provision of health care services BrightStar Nursing Personnel will be assigned to perform; (ii) all such licenses, certificates or permits are valid and in full force and effect; (iii) they are not in material violation of the terms of any such license certificate or permit; and (iv) they otherwise do not have knowledge that any governmental authority is considering limiting, suspending, modifying or revoking any such applicable license, certificate or permit. If any such license, certificate or permit is suspended or revoked during the term of this Agreement, Client will notify BrightStar immediately in writing.

6.2 Client shall have and shall maintain at all times throughout the term of this Agreement appropriate insurance coverage including but not limited to, professional liability coverage and premise liability coverage.

**7. Compensation for Services.** In consideration for Client's provision of the Services, Client shall pay BrightStar for the Services at the hourly rates specified in **Exhibit B**, subject to the terms and conditions of this Agreement:

7.1 The number of compensable hours worked each week by Nursing Personnel assigned to Client will be determined by the Client and documented by time sheets submitted by Nursing Personnel on a weekly basis. Client will designate members of its staff authorized to sign time sheets prepared by Nursing Personnel on Client's behalf. Time sheets submitted to BrightStar bearing the signature of authorized Client staff shall be conclusive of the number of compensable hours worked by Nursing Personnel assigned to Client each week.

7.2 BrightStar will invoice Client on a weekly basis for Services. Invoices will be sent to Client at the following address:

Ms. Andria Buchman  
Southern Lehigh School District  
5775 Main St.  
Center Valley, Pa. 18034  
ATTN: Accounts Payable  
Phone- 610-282-3121 x5501  
Fax- 610-282-0193  
e-mail- buchmana@sbsd.org

Payment for all Services is due upon receipt by Client of the weekly invoice from BrightStar. Payment shall be made within thirty (30) days of the receipt of the invoice. Client shall remit all payments to the remit to address printed on the invoice. Any payments not received by BrightStar within thirty (30) of the invoice date will be subject to a late charge of 1.5% per month. Unless otherwise prohibited by the law of the State where this engagement occurred, in the event that Client fails to pay the charges of Brightstar, Brightstar will pursue legal remedy for the full invoice charges and the Client shall be liable for all costs incurred by Brightstar as a result of these collection efforts, including, but not limited to, collection agency costs, and/or attorney fees whether or not litigation is initiated.

7.3 The parties acknowledge that the hourly rates set forth in **Exhibit B** apply only to the first forty (40) hours or less worked by non-exempt Nursing Personnel in any Workweek. For the purposes of this Agreement, a “**Workweek**” is defined as a calendar week beginning on a Monday and ending on a Sunday. For any hours worked by individual Nursing Personnel assigned to Client in excess of forty (40) hours in a Workweek, such hours in excess of forty (40) hours (“**Overtime Hours**”) shall be subject to an “**Overtime Pay Rate**” equal to one hundred and fifty percent (150%) of the hourly rates set forth in **Exhibit B**. Client agrees to pay for such Overtime Hours at the Overtime Pay Rate. Overtime Hours shall be evidenced by the time sheets as described in Section 7.1.

7.4 Hours worked by Nursing Personnel assigned to Client on holidays (“**Holiday Hours**”) are subject to a “**Holiday Pay Rate**” equal to one hundred and fifty percent (150%) of the hourly rates set forth on **Exhibit B**. Holidays subject to the Holiday Pay Rate set forth in this Section 7.4 are set forth on **Exhibit B**. Client agrees to pay for such Holiday Hours at the Holiday Pay Rate. Holiday Hours will be performed only at the specific request of the Client, and shall be evidenced by the time sheets set forth in Section 7.1.

7.5 The Parties acknowledge that the hourly rates set forth in **Exhibit B** are comprised of employee wages, Payroll Burden Costs, and gross profit. To the extent BrightStar is required to increase employee wages or Payroll Burden Costs as the direct result of any determination, order or action of any Federal, State or local governmental authority, collective bargaining unit or third party insurer, Client agrees that the hourly rates set forth in **Exhibit B** shall be increased in an amount equal to BrightStar’s increased employee wage and/or Payroll Burden Costs.

7.6 Client acknowledges that the hourly rates set forth in **Exhibit B** do not include State or local sales tax that may be assessed on the Services provided under this Agreement and agrees to pay, in addition to the hourly rates set forth in **Exhibit B** and any other amounts due under this Agreement, any State or local sales tax applicable to the Services provided hereunder. Any such sales taxes will be included on the weekly invoices for Services provided to the Client by BrightStar and shall be payable according to the terms set forth in Section 7.2.

7.7 The Parties expressly agree that BrightStar’s cancellation policy shall be in full force and effect. Four hours’ notice is required for Client cancellation. If Client cancels with less than four hours’ notice, Client shall pay a four hour minimum charge or the full visit rate depending on type of service that was cancelled.

## **8. Term and Termination.**

8.1 This Agreement shall commence on the **Effective Date**, and unless earlier terminated as provided in this Section 8 or elsewhere in this Agreement and continue for a term of one year (“**Term**”) such term commencing the first day after this Agreement has been executed. This Agreement shall automatically renew for one year Terms unless either Party notifies the other in writing thirty days prior to the end of the current Term.

8.2 This Agreement may be terminated at any time during the Term as follows:

8.2.1 By either Party upon providing written notice to the other if the other Party should fail in any material respect to comply with the terms of this Agreement, and such failure continues for a period of thirty (30) days after written notice thereof has been given by the non-defaulting Party; or

8.2.2 In the event of termination hereunder the total sums payable by Client pursuant to this Agreement shall be payable in full upon receipt of the final weekly invoice for Services, subject to the provisions of Section 7.2.

9. **Nonsolicitation.** Client acknowledges that employees of BrightStar represent our inventory of skilled professionals and their continued employment represents a valuable asset of BrightStar. During the term of employment of individual Nursing Personnel with BrightStar and

for a period of twelve months following the termination of the individual Nursing Personnel's employment with BrightStar, Client shall not, directly or indirectly through another entity, induce or attempt to induce any employee of BrightStar to leave the employ of, or terminate services to, BrightStar, or in any way interfere with the relationship between BrightStar and any employee or Client thereof; provided, however, that BrightStar may waive the forgoing provision, at its sole discretion, and permit Client to hire, or cause to be hired, any BrightStar employee upon receipt of payment by Client of a fee in the amount of thirty percent (30.0%) of the full-time salary of such employee (the "**Conversion Fee**"). Should a BrightStar employee be hired by Client under the provisions of this Section 9 on a part-time basis, the applicable Conversion Fee will equal to twenty five percent (25.0%) of the full-time equivalent salary of such employee.

## **10. Insurance.**

10.1 BrightStar agrees to maintain in effect throughout the duration of this Agreement the following insurance policies:

10.1.1 Workers' Compensation and Occupational Disease Insurance in accordance with applicable State and Federal laws, and Employer Liability Insurance with a limit of liability of at least \$500,000.

10.1.2 Commercial General Liability/Professional Liability Insurance on an occurrence basis with a combined Bodily Injury and Property Damage limit of at least \$1,000,000 per occurrence and \$3,000,000 per project aggregate, issued by a reputable carrier licensed to do business in the State of Pennsylvania.

## **11. Indemnification.**

11.1 BrightStar agrees to indemnify and hold harmless Client, its agents, employees, successors and assigns for all claims for Workers' Compensation Benefits asserted against Client by any BrightStar employee assigned to Client under this Agreement or by the heirs, estate or personal representative of any deceased former BrightStar employee who was assigned to Client under this Agreement. Such indemnification is limited to the extent of benefits available under BrightStar's Workers' Compensation Insurance policy as set forth in Section 10.1.

11.2 BrightStar agrees to indemnify and hold harmless Client, its agents, employees, successors and assigns for all liabilities, claims, demands, suits, losses, damages, costs and expenses (including reasonable attorneys' fees) arising out of any bodily injury to or death of any person (other than an officer or employee of BrightStar), or damage to or destruction of any property, directly caused by any willful, wanton or reckless act on the part of BrightStar, its officers or employees, except for any such liabilities, claims, suits, losses damages, costs and expenses resulting from any negligent act or omission on the part of the Client, its officers, employees, agents, or independent contractors. However, if the bodily injury or damage to any property is the direct or indirect result of some act, failure to act or misdirection or notation in the patient Care Plan, then, Brightstar shall be under no obligation to indemnify Client.

11.3 BrightStar agrees to indemnify and hold harmless Client, its agents, employees, successors and assigns for all liabilities, claims, demands, suits, losses, damages, costs and expenses (including reasonable attorneys' fees) arising out of any alleged violation of or noncompliance with applicable State, Federal or local laws on the part of BrightStar, its officers or employees, except for any such liabilities, claims, suits, losses damages, costs and expenses resulting from any negligent act or omission on the part of the Client, its officers, employees, agents, or independent contractors.

11.4 Client agrees to indemnify and hold harmless BrightStar, its agents, employees, successors and assigns for all liabilities, claims, demands, suits, losses, damages, costs and expenses (including reasonable attorneys' fees) arising out of any bodily injury to or death of any person, or damage to or destruction of any property, directly caused by any negligent act or omission on the part of Client, its officers or employees, except for any such liabilities, claims, suits, losses damages, costs and expenses resulting from any negligent act or omission on the part of BrightStar, its officers, employees, agents, or independent contractors.

11.5 Client agrees to indemnify and hold harmless BrightStar, its agents, employees, successors and assigns for all liabilities, claims, demands, suits, losses, damages, costs and expenses (including reasonable attorneys' fees) arising out of any alleged violation of or noncompliance with applicable State, Federal or local laws on the part of Client, its officers or employees, except for any such liabilities, claims, suits, losses damages, costs and expenses resulting from any negligent act or omission on the part of BrightStar, its officers, employees, agents, or independent contractors.

11.6 Client agrees to indemnify and hold harmless BrightStar, its agents, employees, successors and assigns for all liabilities, claims, demands, suits, losses, damages, costs and expenses (including reasonable attorneys' fees) arising out of Client's violation of its noncompliance with any collective bargaining agreement under Section 12.2, except for any such liabilities, claims, suits, losses damages, costs and expenses resulting from any negligent act or omission on the part of BrightStar, its officers, employees, agents, or independent contractors.

## **12. Labor Organizations.**

12.1 Under no circumstances will Client enter into any agreement or understanding with any union organization affecting any BrightStar employee assigned to Client hereunder. In the event BrightStar enters into any collective bargaining agreement covering BrightStar employees assigned to Client, BrightStar shall have sole control of and responsibility for, and will be sole signatory under, and connected with, all such labor negotiations, grievances, collective bargaining agreements and related labor matters.

12.2 Client shall not violate the terms of any collective bargaining agreement entered into by BrightStar covering BrightStar employees assigned to Client. BrightStar shall be responsible for notifying Client of any such terms.

**13. Notice.** Any notice delivered to a Party pursuant to this Agreement must be in writing and delivered personally or will be deemed to be delivered when deposited in the U.S. Mail, postage prepaid, registered or certified mail, return receipt requested, addressed to the Party at the address indicated below, or at such other address that may have been specified by written notice delivered in accordance with this provision:

If to Client:

Ms. Andria Buchman  
Director of Special Education  
Southern Lehigh School District  
5775 Main Street  
Center Valley, Pa. 18034  
Phone- 630-282-3121 x5501  
Fax- 610-282-0193  
e-mail- buchmana@sbsd.org

If to BrightStar:

BrightStar of the Lehigh Valley  
427 Main St. Suite #2  
Hellertown, Pa. 18055  
Attn.: Marilyn Long, CFO  
Phone- 610-814-7300 (office)  
Cell- 484-547-8585  
Fax- 484-241-4490  
e-mail: Marilyn.Long@brightstarcare.com

**14. Waiver.** The waiver by any Party of a breach of any provision of this Agreement will not be construed as a waiver of a subsequent breach of the same provision by that Party or the breach of any other provision of this Agreement. The delay or failure of a Party to

give any written notice will not constitute a waiver by that Party of any breach of this Agreement.

**15. Governing Law.** This Agreement will be governed by the laws of the State of Pennsylvania without regard to conflict of law principles.

**16. Severability.** If any provision of this Agreement is held to be illegal, invalid, or unenforceable under present or future laws, that provision will be removed from this Agreement and this Agreement will be interpreted and enforced as if the illegal, invalid, or unenforceable provision had never been a part of this Agreement and the remaining provisions will remain in effect and will not be affected by the illegal, invalid or unenforceable provision or its removal. Instead of the illegal, invalid or unenforceable provision, there will be added, as part of this Agreement, a provision as similar in terms to the illegal, invalid or unenforceable provision as may be possible and still be legal, valid and enforceable.

**17. Entire Agreement.** This Agreement and its attachments is the entire understanding of the Parties, and supersedes all prior agreements or understandings, whether written or oral, with respect to this subject matter. No terms, conditions, or warranties, other than those written in this Agreement, and no amendments or modifications of this Agreement will be binding on the Parties unless in writing and signed by the Parties.

**18. Force Majeure.** If either Party is delayed or prevented from fulfilling its respective obligations under this Agreement by any cause beyond its reasonable control, then that Party will not be liable under this Agreement for that delay or failure.

**19. Counterparts.** This Agreement may be executed in two or more counterparts, each of which will be considered an original, but which together will constitute one and the same agreement.

**20. Headings.** The headings contained in this Agreement are for convenience of reference only and shall not affect or alter the meaning or effect of any provision hereof.

**IN WITNESS WHEREOF,** the Parties have executed this Agreement as of the day and year first written above.

**Client:**

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

Print Name \_\_\_\_\_

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

Date: \_\_\_\_\_

**BrightStar:**

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

Print Name \_\_\_\_\_

Title: Owner/CFO

Date: 07/17/2014

## **EXHIBIT A**

### **Staffing Services**

BrightStar will provide an RN or LPN to care for student (s) each day that in accordance with the client supplied plan of care. Nursing services will be provided subject to the availability of a qualified nurse. The services to be provided may include, but not limited to, escorting student (s) to and from school on the school bus and providing care to student, in accordance with the client supplied care plan. Upon execution of this agreement, client will provide BrightStar with a schedule of the school calendar, and requested hours and days for each student/assignment being contracted for, including all scheduled days off.

#### **BrightStar Project Contact(s):**

Marcia Monplaisir, Branch Manager  
Marilyn Long, Owner/CFO  
BrightStar of the Lehigh Valley  
427 Main St. Suite #2  
Hellertown, Pa. 18055  
(610)814-7300 24 Hour/ 7 Day Phone  
Fax: (484)241-4490  
e-mail: BSLehighValley@brightstarcare.com

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**EXHIBIT B**

**Compensation**

In exchange for Services described in this Agreement, Client shall compensate BrightStar as follows:

**I. Compensation.**

(a) Bill Rates:

<b>Position</b>	<b>Staffing Only*</b>
<b><i>RN/LPN</i></b>	<b>\$49.00/hour</b>

\* **Holiday Pay.** It is mutually agreed that if an employee works on a holiday the rate will be charged at one and one-half times the above rates. The following days are considered holidays: New Year's Day, Memorial Day, and July 4th, Labor Day, Thanksgiving and Christmas.