

## SERVICE AGREEMENT

This Agreement, made this 22<sup>nd</sup> day of July 2016, by and between

**Epic Health Services, and Epic Health Services, Inc., Pennhurst Group, LLC dba/  
Epic Developmental Services**

[Hereinafter "Independent Contractor/ Epic"]

**AND**

**Southern Lehigh School District**

[Hereinafter "Contractor/ Board"]

**Duration:**

This Agreement shall be effective as of August 1, 2016

**Services of Independent Contractor:**

The Independent Contractor, pursuant to this agreement, may provide:

**Therapy Services**, defined as Therapy services, including paraprofessional services, school psychologist services and BCBA services necessary for the identification and implementation of Section 504 accommodations or IDEA special education and related services to eligible students.

**Privacy:**

Epic, by executing this Agreement, verifies that it has read, understands and agrees to comply with the laws and regulations relevant to Contractor's responsibility to protect the privacy and confidentiality of Contractor's students, employees and other information and data. In all ways possible, the privacy, confidentiality and security of all such information and data shall be strictly maintained. Epic agrees to abide by all applicable laws, regulations, policies, standards and the like, of any governmental or quasi-governmental entity having jurisdiction, and all of the Contractor's policies pertaining to privacy, security, safety, employment, and civil rights, including but not limited to, all requirements of the Family Educational Rights and Privacy Act, the Health Insurance Privacy and Accountability Act, and Contractor's Acceptable Use of Technology Policy. Epic may not use the names of any students and/or any private, confidential, and/or personally identifiable information pertaining to any of Contractor's students or employees, and/or any of Contractor's confidential information and/or data, and Epic may not re-disclose any such information to any other person or source.

**Confidentiality:**

Epic acknowledges the confidentiality of Contractor's data, passwords and other confidential and proprietary information, and hereby agrees not to use or disseminate any of such confidential information except for the express purpose of enabling Epic to perform its obligations hereunder. Without the prior written consent of Contractor, Epic agrees that it will not disclose or distribute any of Contractor's confidential information or permit any person or entity to have access to any such confidential information, other than Epic's employees, independent contractors, and such other parties as may reasonably require access for purposes of Epic's performance hereunder. Epic agrees that it will not duplicate or distribute to anyone any of Contractor's confidential information without the prior written consent of Contractor. Epic shall use, at a minimum, the same degree of care as to such confidential information, and shall maintain its confidentiality as Epic uses in respect to its own proprietary and confidential information. Upon termination of this Agreement for any reason, Epic shall immediately return to Contractor all of Contractor's confidential information, and shall destroy any confidential information retained by Epic.

**Termination of Agreement:**

This agreement may be terminated by either party by giving of sixty (60) days written notification of such termination.

**Payment and Frequency of Payment:**

The Independent contractor shall be paid at the hourly rate of:

- \$ 28.00 per hour for Classroom Behavior Support Services
- \$ 90.00 per hour for Master's Level BCBA Services
- \$ 120.00 per hour for PHD Level BCBA Services

**Independent Contractor Responsibility:**

The Independent Contractor, and any professional provided by the Independent Contractor, is not an employee of the Contractor, and is responsible to pay his or her own federal, state and local income taxes, Social Security payments, and any and all other payments incurred. The Independent Contractor shall not be entitled to receive School District employee benefits or any other privileges available to School District employees.

All employees of Independent Contractor shall be subject to background checks of prospective employees as required by 23 Pa. C.S.A. §6354 et seq. and 24 P.S. 1-111. Independent Contractor shall notify the Contractor in writing prior to the replacement of any of its employees providing services under this Agreement, which replacement employees shall be subject to the same background check requirements as set forth herein above.

Independent Contractor shall assume all risks and responsibilities for losses of every description in connection with the service which can be attributed either directly or indirectly to the Independent Contractor. Independent Contractor agrees to indemnify, defend and hold harmless the Contractor, its agents and employees for or on account of any damages, loss or injury including the cost of litigation or legal counsel resulting from, but not limited to, the actions of the Independent Contractor or the Independent Contractor's employees in fulfilling the terms of the Agreement, except to the extent such damage is caused by the negligent acts or omissions of the Contractor, its agents or employees.

**Arbitration:**

Any disagreement involving the interpretation of any section or sections of this agreement shall be referred to binding arbitration by the American Arbitration Association or any mutually agreed upon arbitrator. The cost of arbitration is to be shared equally by the parties.

**Governing Law:**

This Agreement shall be interpreted, construed and governed according to the laws of the State of Pennsylvania.

**Amendments:**

No amendments or variations of the terms and conditions of this Agreement shall be permitted unless in writing and signed by all parties hereto.

**Right to Dismiss:**

If School District's Director of Special Education or its designee determines that anyone provided is incompetent, has engaged in misconduct, or has been negligent, School District may require the individual to leave the premises and will notify Epic immediately. School District's obligation to compensate Epic for such individual's services will be limited to the number of hours actually worked. Epic will not reassign the individual to School District without prior approval of the District's Director of Special Education or Supervisor of Special Education.

**Orientation:**

The District must orient the Epic employee to the District and must train Epic personnel on the district's hazard communication procedures and exposure control plan as it pertains to OSHA requirements for blood borne pathogens.

**Non-discrimination:**

Neither Epic nor School District will discriminate on the basis of age, race, color, national origin, religion, sex, disability, being a qualified disabled veteran, being a qualified veteran of the Vietnam era, or any other category protected by law.

**Rates:**

Epic can change the hourly rates with at least thirty (30) days advance notice to the District. The District and Epic must agree in writing to the rate changes unless the District does not object to the rate revision or terminate the agreement prior to the effective date of the rate revisions. Then, the rate revision will go into effect.

**Billing:**

Epic will submit invoices to School District monthly for Personnel provided to School District. Invoices shall be submitted to School District at School District's Notice Address (as defined in Section 15.a. below). All invoices will be accompanied by verified timesheets, and separated according to service and student. All invoices will reference the school districts purchase number.

**Payment:**

Epic will submit monthly invoices to the District. The District must pay the invoices within five (5) business days after the District's next regularly scheduled Board meeting. If the invoices are received at the beginning of each month, this may be feasible for the District. However, if the invoice is received the day before the Board meeting, this may not be feasible. The District should consider revising this language to payment shall be made within thirty (30), or even forty-five (45) days after receipt of the invoice.

School District will send all payments to Epic at the following address:

**Therapy Invoices to:**  
Epic Developmental Services.  
4 Neshaminy Interplex Dr. Suite 202  
Trevose, PA 19053

**Term and Termination.** This Agreement will be in effect through 30 June 2016. Either party with or without cause, in accordance with the Termination of Agreement provision set forth on page one (1) of this Agreement such termination will have no effect upon the rights and obligations resulting from any transactions occurring prior to the effective date of the termination.

**Indemnification:**

Epic shall indemnify, defend and hold harmless the Contractor and its officers, directors, agents and employees from and against third party claims, damages and expenses, including, but not limited, to reasonable attorneys' fees and defense costs ("Losses"), solely to the extent arising out of the acts or omissions constituting negligence, gross negligence or willful misconduct of Epic, including its officers, directors, employees, representatives, assigns and agents.

The Contractor shall indemnify, defend and hold harmless Epic and its officers, directors, agents and employees from and against Losses, solely to the extent arising out of the acts or omissions constituting negligence, gross negligence or willful misconduct of the Contractor, including its officers, directors, employees, representatives, and agents. Such obligation shall not be construed to negate, abridge or reduce other rights or obligations of indemnity which would otherwise exist.

In no event will either party be required to indemnify or hold harmless the other for the other's negligence, gross negligence or willful misconduct. Notwithstanding the foregoing, (a) each party shall advise the other party in writing of any claims, notices or other information received by it or of which it becomes aware for which such party will seek indemnification hereunder, in such time and manner as not to impair or prejudice the ability of the indemnifying party to defend such claims or investigate such notice, (b) each party shall provide the indemnifying party with the cooperation and assistance necessary to defend such claim requested by the indemnifying party, and (c) neither party shall settle or compromise any claim admitting the fault, liability or negligence of the other party without the other party's prior written consent, which shall not be unreasonably withheld. However, in no event shall the Contractor's liability either directly or for indemnity be greater than it could be liable under the Pennsylvania Political Subdivision Tort Act. The protections and immunities of the Political Subdivision Tort Act are expressly not waived by the Contractor. The obligations set forth in this paragraph shall survive the termination of this contract.

**Notices.** All notices, requests, consents and other communications required or permitted under this Agreement shall be in writing and shall be deemed to have been given if delivered or sent by electronic media, upon receipt, or if sent by registered or certified mail, return receipt requested, upon the sooner of the date on which receipt is acknowledged or the expiration of five (5) days after deposit in United States post office facilities properly addressed with postage prepaid.

**All notices to a party will be sent to the addresses set forth below or to such other address as such party may designate by notice to the other party hereunder:**

- a. \_\_\_\_\_  
Client Name
  
- Attn: \_\_\_\_\_  
Contact Name
  
- \_\_\_\_\_  
Address
  
- \_\_\_\_\_, \_\_\_\_\_, \_\_\_\_\_  
City State Zip
  
- P: \_\_\_\_\_
  
- E: \_\_\_\_\_

b. Epic Developmental Services

4 Neshaminy Interplex Dr. Suite 202

Trevose, PA 19053

P: 215.322.8860 ext. 216

C: 484.919.1000

Email:david.hunter@epicdevelopmentalservices.com

**Miscellaneous.**

- a) All captions in this Agreement are intended solely for the convenience of the parties, and none shall affect the meaning or construction of any provision.
- b) This Agreement, with the attached Addendum A (which may be amended from time to time pursuant to the terms hereof) constitutes the entire understanding between Epic and School District regarding the subject matter hereof. No prior or present agreements or representations regarding the subject matter hereof shall be binding upon any of the parties hereto unless incorporated in this Agreement. No modification or change in this Agreement shall be valid or binding upon the parties unless in writing and executed by the parties to be bound thereby.
- c) This Agreement may be executed in several counterparts, each of which will be deemed to be an original, and each of which alone and all of which together, shall constitute one and the same instrument, but in making proof of this Agreement it shall not be necessary to produce or account for each copy of any counterpart other than the counterpart signed by the party against whom this Agreement is to be enforced. This Agreement may be transmitted by facsimile, and it is the intent of the parties for the facsimile (or a photocopy thereof) of any autograph printed by a receiving facsimile machine to be an original signature and for the facsimile (or a photocopy thereof) and any complete photocopy of the Agreement to be deemed an original counterpart.
- d) Epic agrees that all services provided pursuant to this Agreement shall be performed in compliance with all applicable federal, state, or local rules and regulations. If any law or regulation is enacted, modified, or judicially interpreted so that any section of this Agreement would be found not to comply with such law or regulation, such section shall be deemed null and void and this Agreement shall be construed and continued in effect as if such section had never been contained herein.

- e) Except as may be otherwise provided herein and without limiting such other relief to which the prevailing litigant may be entitled under this Agreement and/or applicable law, in the event of litigation regarding this Agreement, the parties hereto agree that, in addition to such other relief to which the prevailing litigant may be entitled under this Agreement and/or applicable law, the prevailing litigant shall be allowed to recover the prevailing litigant's reasonable attorneys' fees and expenses and costs of court from the losing litigant.
- f) This Agreement shall bind and inure to the benefit of the parties and their successors and assigns; provided, however, that neither party may assign its rights under this Agreement, except with the prior written consent of the other party.

Notwithstanding the preceding, approval shall be deemed given for the assignment of the rights and obligations of a party to an entity owned or controlled by such assigning party.

- h) Nothing contained herein or any document executed in connection herewith shall be deemed or construed by the parties hereto, nor by any third party, as creating the relationship of principal and agent, employer and employee, partnership, or joint venture between the parties. The parties hereby declare and acknowledge that the relationship existing is one of independent contractor.
- i) Nothing in this Agreement shall be construed to waive or reduce the immunities from civil liability granted by or to enlarge the limitations on immunity imposed by the Pennsylvania Political Subdivision Tort Claims Act.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed as of the date set forth above by their duly authorized representatives.

**Epic Developmental Services**

(Independent Contractor)

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



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

7.22.2016

Name: David Hunter

Title: Vice President, Staffing Services

**Southern Lehigh School District**

(Contractor)

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

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

Name: \_\_\_\_\_

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