

AGREEMENT FOR THERAPY SERVICES SCHOOL YEAR 2018-2019

This Agreement (the "Agreement") is made and entered into this 18 of May, 2018 by and between Professional Speech Services, Inc. an Ohio corporation, with its principal place of business located at 947 E. Johnstown Rd., Suite 184, Gahanna, Ohio, 43230, its own behalf and by reference (Vendor) and Big Walnut Schools ("School"), with its principal place of business located at:

Board Of Education, 110 Tippet Court, Sunbury, Ohio 43074

The parties may be referred to herein collectively as "the parties" and singularly as a "party."

RECITALS

WHEREAS, Vendor is licensed to provide therapy services ("Services") as are set forth in the Schedules which include speech therapy services and

WHEREAS, School owns, directly or indirectly, certain schools set forth in the Schedules (the "School(s)"), and

WHEREAS, School wishes to acquire the services of Vendor to provide Services to students of the School and

WHEREAS, Vendor has agreed to provide such Services to the students of the School in accordance with the terms and conditions of this Agreement.

NOW, THEREFORE, in consideration of the promises and mutual agreements contained herein, the parties, intending to be legally bound, agree as follows:

1. DUTIES AND OBLIGATIONS OF VENDOR

A. Services. Vendor shall provide all Services required by the School in order to satisfy the needs of its students and the requirements for participation in any governmental medical or health assistance program during the entire length of service.. Such Services shall be performed in accordance with currently accepted professional standards and all applicable federal, state and local laws and administrative regulations.

1. Provision of Services. Vendor shall provide Services to the School's students through the use of qualified staff, who shall be available to render Services 160 hours a week, with the option to increase if warranted in accordance with referrals of the school for the school year 2018-2019. Vendor also agrees to render Services in accordance with the intensity and frequency set forth in the individualized education plan. All Services shall be rendered in a competent, efficient and satisfactory manner, in compliance with applicable professional standards, and in accordance with a plan of treatment established.

2. Documentation. Vendor shall provide and maintain all of the documentation of treatment required by the School, federal and state governmental agencies or other third party reimbursement sources, including, but not limited to: (i) documenting treatment on student's charts, which documentation shall include progress notes and evaluations; (ii) providing the School with rehabilitation related information, and shall be completed by Vendor to the extent permitted by applicable law or regulation) as necessary to document or substantiate to federal and state governmental agencies or other third party reimbursement sources the nature of and results of the services delivered by Vendor.

3. Compliance with School's Policies. All Services shall be furnished in accordance with applicable requirements of federal and state laws and regulations, third party payers and the School's student policies. Vendor shall report directly to the individual designated by the School's Administrator.

4. Care Planning. Vendor shall participate in individual educational care planning meetings and staff meetings and conferences for the purpose of discussing policies and plans of treatment related to the Services rendered hereunder.

5. Reports. Vendor shall provide reports of Services rendered on a periodic basis as requested by the school including reports in the format designated by the School.

6. Periodic Audits of Billing and Documentation. . Vendor shall have a compliance program in place and agrees to regularly perform audits of its billing and documentation.

7. Compliance with Managed Care Agreements- Vendor agrees to comply with any terms and conditions in those managed care agreements the School participates in.

B. Statement of Qualifications- Vendor shall submit to the School evidence of the qualifications and experience of each clinician who is to provide Services to the School's Students, including,-

1. A copy of a valid license and/or certification to provide speech therapy in the state where the School is located;

2. A resume or similar statement of experience, and

3. A statement certifying that the clinician:

a. is not under suspension or subject to any disciplinary proceedings by the department or agency having jurisdiction over the professional activities of the clinician in the state where the School is located and is not under any formal, or informal investigation or preliminary inquiry by such department or agency for possible disciplinary action; and

b. has not been excluded from the Medicare or Medicaid programs.

4. Successful clearance of a criminal background check made prior to working with students

The School shall have the right to disapprove of any individual who is to render services to the School's residents pursuant to this Agreement. Following any such notice of disapproval, Vendor shall use his/her best efforts to furnish an alternative clinician to furnish services hereunder.

C. Notice of Actions. Vendor shall deliver written notice to the Company and the School within five (5) days of the date of occurrence of any of the following:

1. Any action that restricts, suspends, or revokes Vendor's registration or licenses to provide the Services required by this Agreement;

2. Any felony indictment naming Vendor-,

3. Any final non-appealable disciplinary proceeding or action involving Vendor before any administrative agency.

4. Information (written or oral) that the Vendor, its employees or agents may be under investigation by a Federal, state or local agency for fraud, improper billing, or other reasons that could lead to an indictment, complaint or action prosecuted by a state or federal government or individual acting on behalf of a Federal or state program pursuant to 31 U.S.C. §3729 et. seq. or any comparable provision of state law;

5. Exclusion or suspension of Vendor, its employees or agents from any health benefit program funded in whole or in part by the United States government (excluding the Federal Employee Health Benefit Program),

6. Imposition of any fines, civil monetary penalties, or other remedies (including, without limitation, any settlements) related to any alleged violation of any law or regulation related to the provision of Services by or billing practices of Vendor.

7. Vendor shall inform the School of information resulting from its audits, which may affect any of the terms and conditions of this Agreement including, but not limited to, School's billing of any governmental, third party or private payers.

D. Education and Training. Vendor shall provide in-service education for the School's professional staff, at least semiannually, in order to enhance the effectiveness and appropriateness of the care rendered to students of the School.

II. DUTIES AND OBLIGATIONS OF THE SCHOOL

A. Policies and Procedures. The School shall provide written policies and procedures for resident care, and shall comply in all material respects with applicable state and federal laws and regulations governing the provision of Services.

B. Students Charts. The School shall maintain individual student charts in accordance with state and federal law. The School shall make available to Vendor for review and inspection, upon reasonable request, individual education records necessary for the proper evaluation and treatment of the student. Vendor agrees to maintain the confidentiality of such records in accordance with applicable law.

C. Space and Supplies. The School shall provide adequate space and supplies and equipment for the provision of Services by Vendor under this Agreement. Adequate space and equipment shall be as defined in the sole but reasonable judgment of the School. Any additional supplies/equipment may be provided by the Vendor as space allows.

D. Responsibility for Services Performed. The School shall retain professional and Administrative responsibility for all Services provided under this Agreement.

III. PAYMENT FOR SERVICES

A. Compensation. The School shall compensate Vendor for the Services rendered hereunder in accordance with the Fee Schedule, Exhibit A set forth and attached hereto and hereby incorporated by reference.

B. Billing. Unless otherwise required by applicable federal or state laws, rules or regulations or by third party payers or managed care organizations, the School shall be solely responsible for billing their respective governmental or third party reimbursement sources for Services provided to the students of the School by Vendor under this Agreement. Vendor shall deliver to School billing information weekly using School's billing forms required for billing and shall issue a summary invoice by the fifth day of the month following the month services were rendered. Vendor shall not bill any student or any governmental or other third party reimbursement source for Services rendered to a student pursuant to this Agreement except as may be required by applicable federal or state laws, rules, or regulations.

C. Invoices. Vendor shall submit monthly invoices to the School. The invoice shall state, the hours the services were provided, the time the clinician spent at the school or traveling between schools. The School shall remit payment in full within thirty (30) days of the month Services are rendered. If there is a change in federal regulations, third party payer contracts, or Medicare -intermediary procedures that results in a delay of payment to the School beyond sixty (60) days, Vendor will be reimbursed within ten (10) days of receipt of payment from their funding source. This payment schedule will extend for the full term of this Agreement and any renewal terms of the Agreement.

D. Denial of Payment by Reimbursement Sources. Vendor shall be responsible for Disputing any claims of disallowances or denials by third-party reimbursement sources (whether governmental or private) pursuant to the following procedure-.

1. In the event that the School receives notice that the charges for Services provided by Vendor have been disallowed, which shall also include but not be limited to: (i) denial of payment for a Service that was not medically necessary, and (ii) denial of payment from incomplete or absent documentation in the student's educational record, (hereinafter "Disallowance"), the School shall deliver written notice of such Disallowance to Vendor within fifteen (15) days of receipt of the notice, Upon School's request, Vendor shall be responsible for disputing such Disallowance on its own time and its own expense and shall, to the extent permitted by law, be entitled to undertake the entire appeal of the Disallowance as the representative of the School. Vendor, in conjunction with the School, may compromise or settle the claim for the account and on behalf of the School.

2. In connection with such dispute, the School shall cooperate fully with Vendor and its representatives and provide reasonable access to any of their relevant books and records. The School shall execute any authorizations required by Vendor's counsel to prosecute the appeal in the name of the School.

3. Upon receipt of notice of the Disallowance, Vendor shall, within fifteen (15) days following its receipt of such request, at its option: (i) reimburse the School for the amount of the Disallowance, or (ii) authorize the School to deduct from future payments due to Vendor under this Agreement an amount equal to the amount required to be paid by the School.

4. Any Disallowance caused by or resulting from the failure of the School, its agents or employees to comply with any provisions of this Agreement or applicable laws shall be the sole responsibility of the School, and shall not be subject to the provisions of this section. If a Disallowance which resulted in a credit or refund to the School by Vendor is subsequently reversed or amended, the school shall repay to Vendor the amounts resulting therefrom.

IV. INDEPENDENT CONTRACTOR STATUS

None of the provisions of this Agreement are intended to create (nor shall be deemed or construed to create) any relationship between the parties other than that of independent entities contracting with each other solely for the purpose of effecting the provisions of this Agreement. Neither of the parties hereto, nor any of their respective officers, directors, employees or agents, shall have authority to bind the other or shall be deemed or construed to be the agent employee or representative of the other, except as may be specifically provided herein. Neither party, nor any employees or agents thereof, shall have any claim under this Agreement or otherwise against the other party for social security benefits, Ohio School Teacher's retirement contributions, worker's compensation, disability benefits, unemployment insurance, vacation, sick pay or any other employee benefits of any kind.

V. **INSURANCE**

The School and Vendor each agree, during the term of this Agreement to maintain at their own expense liability and professional malpractice insurance. Such policies shall have limits not less than One Million Dollars (\$1,000,000) per occurrence and Three Million Dollars (\$3,000,000) aggregate per year, on or prior to the effective date of this Agreement, Vendor shall furnish the school with a certificate of insurance evidencing the maintenance in full force of Vendor's insurance policy.

VI. **EQUAL OPPORTUNITY**

This Agreement shall be carried out in compliance with Title VI of the Civil Rights Act of 1964 and requirements imposed by or pursuant to the regulations of the Department of Health and Human Services (45 C.F.R., ¶80) issued pursuant to Title VI, to the end that no person in the United States shall, on the grounds of race, color, national origin or handicap, be excluded from participation in, be denied benefits of, or otherwise subjected to discrimination under any program or activity for which Federal funds are used in support.

VII. **TERM AND TERMINATION**

A. **Term.** This Agreement shall commence as of the date first set forth above and shall continue in full force and effect for the 2017-2018 school year. Thereafter this Agreement shall be automatically renewed unless terminated in accordance with the provisions of this Article VIII.

B. **Termination without Cause.** Either party may terminate this Agreement without cause by delivering thirty (30) days prior written notice of its intent to terminate this Agreement.

C. **Termination for Default.** Either- party may terminate this Agreement immediately in the event of an Event of Default,

D. Termination Upon Change in Law or Programs. Notwithstanding any other provision of this Agreement, in the event that any applicable federal, state or local law or any regulation, order or policy issued under any such law is changed (or any judicial interpretation thereof is developed or changed) in a way which will have a material adverse effect upon the practical realization of the benefits anticipated by a party to this Agreement (including, without limitation, material changes to the method or amount of reimbursement or payment for Services), the adversely affected party shall deliver written notice to the other party of such change and the effect of such change. The parties shall then enter into good faith negotiations to amend this Agreement in such a manner that will leave the parties as nearly as possible in the same economic positions in which they would have been under the original terms of this Agreement, had the change in law, regulation, order or policy (or change or development of the judicial interpretation thereof) not occurred. In the event that the parties are in good faith unable to agree upon such amendment within thirty (30) days of such written notice, this Agreement shall automatically terminate.

E. Effect of Termination. As of the effective date of termination of this Agreement, neither party shall have any further rights or obligations hereunder except for: (i) obligations accruing prior to the date of termination; and (ii) obligations or covenants contained in this Agreement that are expressly intended to survive the termination of this Agreement.

VIII. EVENT OF DEFAULT

The following events shall constitute Events of Default whether such event shall be voluntary or involuntary or come about or be effected by operation of law, pursuant to or in compliance with any judgment, decree or order of any court or any order, rule or regulation of any administrative or governmental body.

A. Either party hereto shall materially fail to comply with any of the obligations, liabilities or undertakings assumed by such party under this Agreement, and such failure shall continue uncured for ten (10) calendar days following delivery of written notice describing such breach by the non-defaulting party.

B. If either party hereto shall commit an act of "bankruptcy," which for the purposes of this Section VII(B) shall mean: (i) a party or any of its wholly-owned subsidiaries files a voluntary petition in bankruptcy, or admits in writing its inability to pay its debts as they become due, or makes a general assignment for the benefit of creditors, or a petition in bankruptcy shall be filed against a party and such petition remains undischarged, undismitted or unbonded for a period of sixty (60) days-, (ii) a party or any of its wholly-owned subsidiaries is adjudicated bankrupt or insolvent, or (iii) a party or any of its wholly-owned subsidiaries applies for, consents to or has appointed a receiver, trustee or liquidator or substantially similar agent for a substantial part of such party's or such wholly-owned subsidiary's assets.

C. With respect to the Vendor, any of the following:

1. Any action that restricts, suspends, or revokes Vendor's registration or licenses to provide the Services required by this Agreement,
2. Any felony indictment naming Vendor;
3. Any final non-appealable disciplinary proceeding or actions involving vendor before any administrative agency;

4. Vendor receives information (written or oral) that he or she may be under investigation by a Federal, state or local agency for fraud, improper billing, or other reasons that could lead to an indictment, complaint, or action prosecuted by a state or federal government, or individual acting on behalf of a Federal or state program pursuant to 31 U.S.C. § 3729 et. seq. or any comparable provision of state law.

5. Vendor is excluded or suspended from any health benefit program funded in whole or in part by the United States government (excluding the Federal Employee Health Benefit Program), or

6. Imposition of any fines, civil monetary penalties, or other remedies (including, but without limitation, any settlements) related to any alleged violation of any law or regulation related to the provision of Services by or billing practices of Vendor.

IX. **INDEMNIFICATION**

A. **Vendor.** Vendor hereby agrees to indemnify and hold harmless the School and Company from and against any and all claims, costs, actions, causes of action, adjustments including denial of payment caused by Vendor's failure to comply with its obligations, suits, judgments, damages, liabilities, losses or expenses, including, without limitation, attorneys' fees and the fees of expert witnesses and other consultants ("Costs"), which arise or are asserted against or imposed upon or incurred by the School as a consequence of any acts or omissions by Vendor under this Agreement, including, without limitation, any Costs directly or indirectly arising or resulting from any inaccurate or false information submitted to the School by Vendor.

B. **Company.** The Company agrees to indemnify and hold harmless Vendor from and against any and all Costs which arise or are asserted against or imposed upon or incurred by Vendor as a consequence of any acts or omissions by the Company or School, or any employees, agents or contractors of the Company or School, under this Agreement, including, without limitation, any Costs directly or indirectly arising or resulting from any inaccurate or false information submitted by the School to any payer or individual (except to the extent that such inaccurate or false information was provided to the School by Vendor).

C. **No Limitation.** Nothing in this Agreement shall be construed to limit the indemnity or contribution rights that the parties may have under law.

X. **COMPLIANCE WITH STUDENT PROTECTION AND OTHER LAWS**

Vendor and the School shall each comply with all applicable federal, state, and local laws, regulations and policies with respect to the rendering of services in schools or academic arenas and the protection of the rights of students, including, but not limited to, rights relative to confidentiality, privacy, quality of care rendered, consumer protection, and the like. In the event of any complaint filed by or with respect to a resident in the School or any investigation initiated by any governmental agency or any litigation commenced against the School, Vendor shall fully cooperate with the School in an effort to respond to and resolve the same in a timely and effective manner, and Vendor shall cooperate fully with any insurance company providing protection to the School in connection with investigations. In this connection, Vendor agrees that he or she shall promptly notify the School of any inquiries, claims and investigations and cooperate fully with the directions of the School with respect thereto.

XI. RECORD RETENTION

A. Vendor. In the event that the cost of services provided under this Agreement equals Ten Thousand Dollars (\$10,000) or more over a twelve-month period, Vendor, until the expiration of four (4) years after the furnishing of such services pursuant to this Agreement, shall make available, upon written request to the United States Secretary of Health and Human Services, or upon request to the Comptroller General of the United States, or any of their duly authorized representatives, this Agreement, and books, documents, and records of Vendor that are necessary to certify the nature and extent of the costs incurred.

B. Subcontract. If Vendor carries out any of the duties of this Agreement through a subcontract, with a value or cost of Ten Thousand Dollars (\$10,000) or more over a twelve (12) month period, with a related organization, such subcontract shall contain a clause to the effect that, until the expiration of four (4) years after the furnishing of such services pursuant to such subcontract, the related organization shall make available, upon written request to the United States Secretary of Health and Human Services, or upon request to the Comptroller General of the United States, or any of their duly authorized representatives, the subcontract, and books, documents, and records of such organization that are necessary to verify the nature and extent of such costs.

C. Disclosure. If Vendor is requested to disclose any books, documents, or records relevant to this Agreement for the purpose of an audit or investigation, Vendor shall notify the School of the nature and scope of such request and shall make available to the School, upon request by the School, all such books, documents, or records.

D. Access. Notwithstanding anything herein to the contrary, subject to applicable law and regulation, Vendor shall, upon request, provide the School (including any of its duly authorized representatives) with access to medical records, books, documents, and records related to the Services provided by Vendor pursuant to this Agreement. The provisions of this Section XII(D) shall not be deemed to waive or limit any other provision of this Agreement restricting retention, release or disclosure of records.

XII. RESTRICTIVE COVENANTS; CONFIDENTIALITY

A. Restrictions. Each party agrees that, during the term of this Agreement and for two years after the date, this Agreement is terminated for any reason whatsoever, with or without cause, it shall not entice or induce, contract with, employ, or solicit for employment, directly or indirectly, any employee of the other.

B. Confidentiality. Each party agrees that: except as may be required in fulfillment of its duties and responsibilities under this Agreement, or as required by applicable law or court process, it shall not divulge, furnish or make accessible to anyone any trade secrets, customer lists, computer programs or confidential information of any kind with respect to the customers or business operations of the other party hereto.

Following any termination of this Agreement, each party shall, upon the written request of any other party, return or destroy (with such destruction confirmed in writing), all reports, books, records, customer lists, manuals, computer programs and computer data, in whatever form or medium as the same are maintained, which are within its possession, custody or control, and which were either furnished by such other party or prepared using any information furnished by such other party.

C. Damages. The parties agree that damages for a breach of the covenants contained in this Article XII would be inadequate, and agree that a party seeking to enforce this Article XII shall be entitled to injunctive relief and specific performance in addition to all other remedies.

XIII. MISCELLANEOUS

A. Entire Agreement. This Agreement contains the entire understanding between the Vendor and the School and supersedes all prior and contemporaneous agreements and understandings, express or implied, oral or written. This Agreement may be modified or altered only by written agreement between the Vendor and the School. Neither the waiver by either of the parties hereto of a breach or a default under any of the provisions of this Agreement, nor the failure of any of the parties, on one of more occasions, to enforce any of the provisions of this Agreement or to exercise any right or privilege hereunder shall thereafter be construed as a waiver of any subsequent breach or default of a similar nature, or as of waiver of any of such provisions, rights or privileges hereunder.

B. Controlling Law. This Agreement shall be governed exclusively by the laws of the State of Ohio, without regard to the conflict of law provisions thereof. If a provision hereof or the application thereof to any person or circumstance shall, to any extent, be invalid or unenforceable, the remainder hereof, or the application of such provision to persons or circumstances other than those as to which it is held invalid or unenforceable, shall not be affected thereby, and each provision hereof shall be valid and be enforced to the fullest extent permitted by law, provided that the parties shall exercise their best efforts to accommodate the terms and intent of this Agreement to the greatest extent possible consistent with the requirements of law.

C. Notices. Any notices required under this Agreement shall be in writing and shall be deemed to have been given upon the earlier of: (I) the date actually received by the party in question, by whatever means and however addressed; (ii) the date sent by telecopy, if such telecopy transmission permits confirmation to the addresses or telecopy numbers set forth below, or (iii) on the date signed for, if sent by means of a prepaid overnight delivery service. Any notices shall be delivered to the addresses or telecopy numbers set forth below.

If to Vendor:

Professional Speech Services Inc.
947 East Johnstown Road, #184
Gahanna, Ohio 43230
Fax (740) 965-9084

If to the School:

Big Walnut Schools
110 Tippet Court
Sunbury, Ohio 43074
Fax:(740)965-4688

D. No Duty to Refer. The parties agree that the benefits to either party hereunder do not require, are not payment for, and are not in any way contingent upon the admission, referral, or any other arrangement for the provision of any item or service offered by either party.

E. Survival. The parties agree that the provisions of Articles IX, X, XI, and XII shall survive termination of this Agreement.

F. Assignment; Binding Effect. This Agreement may not be assigned by either party, nor any rights claimed hereunder for any other person or persons whatsoever, provided, however, that the School may: (I) assign its billing obligations pursuant to Section III(B) of this Agreement to a third party, and (ii)

assign this Agreement to an Affiliate. For purposes of this Article XIII, the term "Affiliate" shall mean an entity that is, directly or indirectly, controlling, controlled by, or under common control with, the School. Except as provided herein, this Agreement shall inure to the benefit of and be binding upon the parties hereto and their respective heirs, representatives successors and permitted assigns.

G. Headings. The descriptive headings of this Agreement are inserted for convenience only and do not constitute part of this Agreement.

H. Counterparts. This Agreement may be executed in one or more counterparts, each of which shall be deemed an original and all of which shall constitute one and the same document.

I. Amendment. Each party shall have the right to amend the billing and invoicing terms of this Agreement upon thirty (30) days written notice to the other party, or such lesser period of time as required by law, in order to confirm the terms and provisions of this Agreement to applicable state and federal laws.

IN WITNESS WHEREOF, the parties or their duly authorized representatives have executed this Agreement on the date first set forth above.

By: _____
Professional Speech Services Inc.
Representative

By: _____
Big Walnut Schools
Representative

PSS/BW 201819