

CONSULTANT SERVICES CONTRACT

This Agreement is entered into this 25 day of October, 2022 by and between Board of Education of the Malverne Union Free School District (hereinafter the "DISTRICT"), having its principal place of business for the purpose of this Agreement at, 301 Wicks lane Malverne, NY 11565 and Trusting Hands Homecare Agency (hereinafter "CONSULTANT"), having its principal place of business for the purpose of this Agreement at 72 Guy Lombardo Ave Ste 2 Freeport, NY 11520.

A. TERM

The term of this Agreement shall be from October 25, 2022, through June 30, 2023, inclusive, unless terminated early as provided for in this Agreement. It is understood that the DISTRICT is under no obligation to renew this Agreement upon its expiration.

B. SERVICES AND RESPONSIBILITIES:

1. During the term of this Agreement, the services to be provided by the CONSULTANT to the DISTRICT shall include, but not be limited to the following:

SEE ATTACHED SERVICES SCHEDULE

2. The CONSULTANT shall provide the services set forth in this Agreement to those student(s) referred by the DISTRICT in writing.

3. All services provided by CONSULTANT to students under this Agreement shall be in accordance with each student's Individualized Education Plan (IEP), as it may be modified from time to time. Prompt written notice shall be given by the DISTRICT to the CONSULTANT upon any modification of a student's IEP.

4. CONSULTANT shall perform all services under this Agreement in accordance with all applicable Federal, State and local laws, rules, and regulations, as well as the established policy guidance from the New York State Education Department.

5. Services provided pursuant to this Agreement shall be provided without regard to race, creed, color, sex, sexual orientation, national origin, religion, age, disability, or sponsorship.

6. CONSULTANT shall comply with all applicable provisions of the Safe Schools Against Violence in Education (SAVE) Act, including, but not limited to background checks and fingerprinting of all staff directly providing services to students. All persons providing services to the DISTRICT pursuant to this Agreement must receive clearance for employment by the New York State Education Department prior to the provision of such services.

7. CONSULTANT represents that all services under this Agreement shall be provided by qualified individuals of good character, and in good professional standing. CONSULTANT represents that no individuals providing services under this Agreement are currently charged, nor in the past have been charged with any relevant criminal or professional misconduct or incompetence.

8. The CONSULTANT represents and warrants that it, its employees, and contractors, are not excluded from participation, and are not otherwise ineligible to participate, in a "federal health care program" as defined in 42 U.S.C. § 1320a-7b(f) or in any other government payment program.

In the event CONSULTANT, or one of its employees or contractors, is excluded from participation, or becomes otherwise ineligible to participate in any such federal health care program during the Term, CONSULTANT will notify the DISTRICT in writing within three (3) days after such event. Upon the

occurrence of such an event, whether such notice is given to the CONSULTANT, the DISTRICT reserves the right to immediately cease contracting with the CONSULTANT, as per Paragraph D below.

If CONSULTANT is an Employment Agency, the Vendor/Contractor represents and warrants that its employees and contractors are not excluded from participation in a "federal health care program" as defined in 42 U.S.C. § 1320a-7b(f) or debarred from participation in any federal or other program.

The CONSULTANT further represents and warrants it will, at a minimum, check monthly all of its employees and subcontractors against:

- * The General Services Administration's Federal Excluded Party List System (or any successor system),
- * The United States Department of Health and Human Services Office of the Inspector General's Lists of Excluded Individuals and Entities or any successor list,
- * The New York State Department of Health's Office of the Medicaid Inspector General's list of Restricted, Terminated or Excluded Individuals or Entities.

8. Upon execution of this Agreement, CONSULTANT shall provide copies of required licenses/certifications of all professionals providing services to student(s) under this Agreement. If the required license/certification of any agent or employee of CONSULTANT providing services under this Agreement is revoked, terminated, suspended, or otherwise impaired, CONSULTANT shall immediately notify the DISTRICT in accordance with the requirements for all notices pursuant to this Agreement set forth below.

9. DISTRICT reserves the right to reject any of the CONSULTANT'S staff, which the DISTRICT, at its sole discretion, may deem unqualified.

10. CONSULTANT shall observe and comply with all applicable DISTRICT Policies and Regulations while on the grounds of the DISTRICT or providing services pursuant to this Agreement.

11. CONSULTANT shall provide all services pursuant to this Agreement in a competent, professional, and timely manner.

12. CONSULTANT will work cooperatively with the Committee on Special Education (CSE), the Committee on Preschool Special Education (CPSE), the DISTRICT'S administrative staff and medical staff. The CONSULTANT shall make relevant personnel available to participate in meetings of the DISTRICT'S CSE or CPSE when appropriate, upon reasonable prior notice to the CONSULTANT of such meetings.

13. CONSULTANT shall maintain records, logs and/or reports in accordance with all applicable laws, regulations, requirements of the New York State Education Department or Health Department and DISTRICT policies and procedures in force during the term of this Agreement. The DISTRICT shall have the right to examine any or all records or accounts maintained and/or created by the CONSULTANT in connection with this Agreement, and upon request shall be entitled to copies of the same.

14. Both parties to this Agreement understand that they may receive and/or encounter protected health information as defined by the Health Insurance Portability and Accountability Act of 1996 (HIPAA). The parties hereby acknowledge their respective responsibilities pursuant to HIPAA and shall comply with said Regulations, if applicable.

15. Both parties, their employees, and/or agents agree that all information obtained in connection with the services performed pursuant to this Agreement is deemed confidential information. Both parties, their employees, and/or agents shall not use, publish, discuss, disclose, or communicate the contents of such information, directly or indirectly with third parties, except as provided for in this Agreement and/or by law. Both parties further agree that any information received by either party's employees and/or agents in connection with this Agreement which concerns the personal, financial, or other affairs of the parties, their

employees, agents, and/or students will be treated as confidential and will not be revealed to any other persons, firms, organizations, or third parties. In addition, both parties agree that information concerning any student covered by the terms of this Agreement shall not be released except as provided for by applicable law, rule, or regulation, including but not limited to the Family Educational Rights and Privacy Act (FERPA).

16. CONSULTANT shall provide substitute coverage in the event of the absence of the regularly scheduled service provider. The services of the substitute provider shall be in accordance with all terms and conditions of this Agreement.

17. If the parent or person in parental relation to a student(s) receiving services pursuant to this Agreement initiates litigation in connection with such services, CONSULTANT shall promptly give written notice of the same to the DISTRICT.

18. Insurance:

a. Notwithstanding any terms, conditions, or provisions, in any other writing between the parties, CONSULTANT hereby agrees to effectuate the naming of the DISTRICT as an additional insured on CONSULTANT'S insurance policies, except for workers' compensation and N.Y. State Disability insurance.

b. The policy naming the DISTRICT as an additional insured shall:

i. Be an insurance policy from an A.M. Best rated "secured" or better insurer, authorized to conduct business in New York State. A New York licensed insurer is preferred. The decision to accept specific insurers lies exclusively with the DISTRICT.

ii. State that the organization's coverage shall be primary and noncontributory coverage for the DISTRICT, its Board, employees, and volunteers.

iii. Additional insured status shall be provided by standard or other endorsements that extend coverage to the DISTRICT for both on-going and completed operations. The decision to accept an endorsement rest solely with the DISTRICT. A completed copy of the endorsements must be attached to the certificate of insurance.

c. The certificate of insurance must describe the specific services provided by CONSULTANT that are covered by the liability policies.

d. At the DISTRICT'S request, CONSULTANT shall provide a copy of the declaration page of the liability and umbrella policies with a list of endorsements and forms. If so requested, CONSULTANT will provide a copy of the policy endorsements and forms.

e. CONSULTANT agrees to indemnify the DISTRICT for any applicable deductibles and self-insured retention.

f. Required Insurance:

i. **Commercial General Liability Insurance:** \$1,000,000 per occurrence/ \$2,000,000 general and products / completed operations aggregates. The general aggregate shall apply on a per-project basis.

ii. **Automobile Liability:** \$1,000,000 combined single limit for owned, hired and borrowed and non-owned motor vehicles. N/A

iii. **Workers' Compensation, Employers Liability and NYS Disability Insurance** Statutory Workers' Compensation, Employers' Liability Insurance and NYS Disability Insurance for all employees. Proof of coverage must be on the approved specific form, as required by the New York State Workers' Compensation Board. ACORD Certifications are not acceptable.

g. CONSULTANT acknowledges that failure to obtain such insurance on behalf of the DISTRICT constitutes a material breach of the Agreement and subjects it to liability for damages, indemnification, and all other legal remedies available to the DISTRICT. CONSULTANT is to provide the DISTRICT with a certificate of insurance, evidencing the above requirements have been met, prior to the commencement of work or use of facilities.

C. COMPENSATION:

1. The DISTRICT shall pay CONSULTANT in accordance with the following fee schedule, following the presentation of detailed invoices by CONSULTANT to the DISTRICT:

SEE ATTACHED FEE SCHEDULE

2. The CONSULTANT shall submit invoices for payment monthly. All invoices shall include the services provided, the total hours, the dates that the invoice covers, and the total amount due for the period specified. The DISTRICT shall pay CONSULTANT within thirty (30) days of the DISTRICT's receipt of such invoice.

3. If a scheduled session is canceled by the CONSULTANT, the DISTRICT shall not be billed for that session. If, however a scheduled session is canceled by the DISTRICT, the DISTRICT will be billed for that session unless the DISTRICT provides the CONSULTANT with reasonable notice of the cancellation.

4. The DISTRICT shall give the CONSULTANT notice of any invoice disputes within twenty (15) days of its receipt of the invoice, and reserves the right to withhold payment pending the resolution of the dispute.

5. Neither CONSULTANT nor any of its personnel shall share or accept any fee or gratuity for services provided pursuant to this Agreement except as expressly set forth in this Agreement.

D. MISCELLANEOUS

1. Termination:

a. Either the CONSULTANT or the DISTRICT may terminate this Agreement upon thirty (30) days prior written notice to the other party. Such notice shall be given in accordance with the requirements for all notices pursuant to this Agreement set forth below.

b. The parties agree that CONSULTANT'S failure to comply with any terms or conditions of this Agreement will provide a basis for the DISTRICT to immediately terminate this Agreement without any further liability to CONSULTANT. In addition, and without limiting DISTRICT'S rights hereunder, the DISTRICT may immediately terminate this Agreement in the event DISTRICT is notified of a change of status of CONSULTANT, its contractors or employees with respect licensure, eligibility for participation in Medicaid, and/or standing and character, as determined by the DISTRICT, to provide professional services.

c. In the event the CONSULTANT or the DISTRICT terminates this Agreement with or without cause, such termination of the Agreement shall not discharge the parties' existing obligations to each other as of the effective date of termination.

2. Independent Contractor:

a. CONSULTANT will be engaged as an independent Contractor, and therefore be solely responsible for the payment of federal and state income taxes applicable to this Agreement.

b. Neither CONSULTANT nor any of its employees, agents, or assigns will be eligible for any employee benefits whatsoever relative to this contract including, but not limited to, Social Security, New

York State Workers Compensation, unemployment insurance, New York State Employee's Retirement System, health or dental insurance, or malpractice insurance, or the like.

c. DISTRICT, if required by Federal or State requirements, will submit a Form 1099 and IT 2102.1 respectively at year-end to the Federal Government for all individuals having a gross income exceeding \$600, which thereupon will be reported for income tax purposes.

3. Defense / Indemnification

a. CONSULTANT agrees to defend, indemnify and hold harmless the DISTRICT, its officers, directors, agents, or employees against all claims, demands, actions, lawsuits, costs, damages and expenses, including attorneys' fees, judgments, fines and amounts arising from any willful act, omission, error, recklessness or negligence of the CONSULTANT, its officers, directors, agents or employees in connection with the performance of services pursuant to this Agreement. The obligations pursuant to this provision shall survive the termination of this Agreement.

4. Notices: All notices which are required or permitted under this Agreement shall be in writing, and shall be deemed to have been given if delivered personally or sent by registered or certified mail, addressed as follows:

To District: Malverne UFSD
301 Wicks Lane
Malverne, NY 11553

To Consultant: Trusting Hands Homecare Agency
72 Guy Lombardo Ave Ste 2
Freeport, NY 11520

5. Assignment: It is expressly understood that this Agreement shall not be assigned or transferred without prior written consent of the other party.

6. No Waiver: The failure of either party to enforce any provision of this Agreement shall not be construed as a waiver or limitation of that party's right to subsequently enforce every provision of this Agreement.

7. Severability: Should any provision of this Agreement, for any reason, be declared invalid and/or unenforceable, such decision shall not affect the validity of the remaining provisions of this Agreement. Such remaining provisions shall remain in full force and effect as if this Agreement had been executed with the invalid provision(s) eliminated.

8. Governing Law: This Agreement and the rights and obligations of the parties hereunder shall be construed in accordance with, and governed by, the laws and regulations of the State of New York and applicable Federal laws and regulations.

9. Venue: Any dispute arising under this Agreement shall be litigated in the Courts of Nassau County, New York.

10. Entire Agreement: This Agreement, is the complete and exclusive statement of the Agreement between the parties, and supersedes all prior or contemporaneous, oral or written: agreements, proposals, understandings, representations, conditions or covenants between the parties relating to the subject matter of the Agreement.

11. Amendment: This Agreement may not be changed orally, but only by an Agreement, in writing, signed by authorized representatives of both parties.

12. Execution: This Agreement, and any amendments to this Agreement, will not be in effect until agreed to in writing and signed by authorized representatives of both parties.

IN WITNESS THEREOF, the parties hereto have executed this Agreement the day and year first above written.

Trusting Hands Homecare Agency

Malverne UFSD

By: Zaqia Chaplin, RN, BSN, MPH

By: _____

Title: Administrator

President, Board of Education

Date: October 25, 2022

Date : _____