

ATHLETIC TRAINER SERVICES AGREEMENT

THIS AGREEMENT is made as of April 29, 2022 and effective as of August 15, 2022 ("Effective Date") by and between IvyRehab Physical Therapy, PLLC, having an address of 1311 Mamaroneck Avenue, Suite 140, White Plains, New York 10605 (the "Ivy") and Malverne School District (the "School District") having a principal address of 80 Ocean Avenue, Malverne, New York 11563.

Recitals: The following recitals are hereby incorporated into this Agreement.

- A. The School District maintains athletic programs for students. The School District believes that its students would receive great benefit from the presence of a certified athletic trainer (the "Athletic Trainer") at athletic practices and sporting events.
- B. As part of its mission to improve the health and welfare of those in its service area, Ivy recognizes a community need to make available qualified athletic trainers to (i) attend area school districts' student athletic practices and sporting events to address athletic injuries and (ii) otherwise assist area school districts in providing educational services to their students and coaches in areas related care and prevention of sports injuries.
- C. In furtherance of its community outreach and in furtherance of its mission to improve the health and welfare of those in its service area, Ivy desires to provide benefit to the community by providing the services of an Athletic Trainer to the School District in accordance with the terms and conditions contained herein.

NOW THEREFORE, in consideration of the mutual covenants contained herein and for other good and valuable consideration, the School District and Ivy agree as follows:

- 1. Services. Ivy shall make one or more Athletic Trainers available on a part-time basis, to provide limited services at the School District as further provided herein. In accordance with the education and certification requirements under New York State Public Health laws and regulations, the Athletic Trainer's duties shall be limited as set forth on Schedule A.
- 2. Certification. The Athletic Trainers provided by Ivy shall be certified under New York State law to perform athletic training and services and shall comply with New York State law in providing the services. The School District recognizes and acknowledges that the services to be provided hereunder by the Athletic Trainers are limited to athletic training services and shall not include medical services.
- 3. Supervising Physician. The School District shall be responsible for (a) arranging for appropriate physician supervision reasonably satisfactory to Ivy of the Athletic Trainer's services (as required by law) throughout the School District; (b) notifying Ivy in writing of the chosen supervising physician (who need not be a member of Ivy's medical staff); and (c) providing prompt written notice of any other physician (who must also be reasonably acceptable to Ivy) who it may arrange to replace the original supervising physician. The School District shall be responsible to ensure physician supervision of the Athletic Trainer providing services under this Agreement in compliance with the law. The School District shall ensure that the supervising physician has at all times, adequate medical malpractice insurance consistent with the amounts required of Ivy's medical staff. Written proof of such insurance shall be provided to Ivy for each supervising physician.

4. Equipment, Supplies and Services. The School District will purchase all necessary supplies and equipment or make arrangements at its expense to secure them for the services provided pursuant to this Agreement. Ivy, or Athletic Trainer as the case may be, shall, from time to time, advise the School District as to necessary supplies and equipment. The School District agrees to provide the Athletic Trainer with safe and adequate space, as well as staff assistance as needed to fulfill the Athletic Trainer's duties hereunder.

5. Hours. The services of the Athletic Trainer hereunder shall be on a part-time basis in the range of, in the aggregate, 20 hours per week (not to exceed 800 hours per contract year), inclusive of all time spent at the School District. The athletic director will assist, upon request, in recommendations as to the allocation of the Athletic Trainer's time.

6. Compensation. In consideration of the services provided by the Athletic Trainer under this Agreement, the School District shall compensate Ivy Thirty-Five Dollars (\$35) per hour (the "Fee"), which Fee shall be invoiced monthly, with each invoice becoming due and payable within thirty (30) days of receipt of an invoice from Ivy for the services rendered by the Athletic Trainer on behalf of the School District in the prior month. Additional hours above 800 hours per contract year shall be compensated at a rate of Thirty-Five Dollars (\$35) per hour.

7. Term. This Agreement shall be effective as of the Effective Date and shall continue in effect for the term of one (1) school year, terminating on June 23, 2023. Subject to ratification by the School District's school board, this Agreement shall automatically renew for additional one (1) year terms unless either party provides written notice of non-renewal within sixty (60) calendar days of the end of the then current term. In the event that the School District's school board elects not to ratify such renewal, the School District shall promptly notify Ivy in writing and the Agreement shall not automatically renew for an additional term but, rather, shall expire at the end of the then current term.

8. Termination. This Agreement may be terminated at any time (a) by a party upon thirty (30) days written notice to the other party and (b) upon the written mutual consent of the parties. In the event either party materially defaults in the performance of any of its obligations under this Agreement, the non-defaulting party may terminate this Agreement immediately upon written notice.

9. Insurance: Ivy, at its sole expense, shall procure and maintain such policies of commercial general liability, malpractice and umbrella/excess liability as shall be necessary to insure and/or protect Ivy and the School District against any claim for liability, personal injury, or death occasioned directly or indirectly by Ivy, the Supervising Physician and/or the Athletic Trainer, in connection with the performance of the responsibilities of the Contractor, the Supervising Physician and/or the Athletic Trainer under this Agreement. Each such policy of commercial general liability, malpractice and umbrella/excess liability shall either be separate or may be maintained on a self-insured basis and shall provide the following minimum coverages:

Commercial General Liability - Two Million Dollars (\$2,000,000.00) per occurrence subject to an annual aggregate of Four Million Five Hundred Thousand Dollars (\$4,000,000)

Professional Liability – One Million Dollars (\$1,000,000.00) per occurrence subject to an annual aggregate of Three Million Dollars (\$3,000,000)

Additional insured status on the commercial general liability policy shall be provided to the School District on a primary and noncontributory basis, through ISO additional insured endorsement CG 2026 or equivalent.

Upon request, Ivy will supply the School District with a Certificate of Insurance.

The School District shall maintain general liability insurance coverage in commercially reasonable amounts.

10. Independent Contractors. It is expressly understood between the parties that Ivy and the Athletic Trainers are independent contractors and not employees of the School District. It is recognized by the School District and Ivy that Ivy has authority to perform services only as expressly set forth in this Agreement, and neither party has authority to act for, or on behalf of, the other party, or to bind the other party to any agreement or in any other manner except as provided in this Agreement, unless such authority is expressly given in writing.

11. Medical Referrals. Nothing herein shall require or encourage the School District or any of its employees, agents, parents or students to make any referrals to Ivy or its affiliated providers for any kind of medical or other services.

12. Confidentiality. Any student records of the School District which Ivy and Athletic Trainers may have access to by virtue of this Agreement are confidential records and shall not be disclosed to any third party without the prior written approval of the School District, except as may be required by law or by the New York State Department of Health.

13. Waiver. No term or provision of this Agreement shall be deemed waived and no breach excused unless such waiver or excusal shall be in writing and signed by the party claimed to have waived or excused. Any consent by any party to, or waiver of, breach by the other, whether expressed or implied, shall not constitute a consent to, waiver of, or excuse for, any other different or subsequent breach.

14. Notice. All notices hereunder shall be in writing and shall be deemed sufficient if delivered personally or mailed by certified mail, return receipt requested to the School District or Ivy at their respective addresses as set forth in this Agreement to the attention of (a) David Zabell, General Counsel for Ivy, and (b) _____ for School District.

15. Choice of Law. This Agreement shall be governed by and construed in accordance with the laws of the State of New York, exclusive of conflict of law principles.

16. Force Majeure. No party shall be liable for delays in performing or any failure to perform any of the terms of this Agreement caused by the effects of fire, strike, war (declared or undeclared), insurrection, government restriction or prohibition, force majeure or other causes reasonably beyond its control and without its fault, but the party failing to perform shall use all reasonable efforts to resume performance of this Agreement as soon as feasible.

17. Assignment. Neither party may assign or transfer its rights or obligations under this Agreement to any person, firm or corporation, unless prior approval of such action is obtained from the other party, unless to a successor or affiliate entity.

18. Entire Agreement. This Agreement constitutes the entire Agreement between the parties hereto and may be modified only by a written instrument agreed to and executed by both parties. This

Agreement may be executed in counterparts and each such counterpart, when taken together, shall constitute a single and binding agreement.

19. Amendment. This Agreement may only be extended, renewed or otherwise amended by the mutual written consent of parties hereto.

IN WITNESS WHEREOF, the parties hereto have affixed their signatures and executed this Agreement as of the Effective Date.

IVYREHAB PHYSICAL THERAPY, PLLC

MALVERNE SCHOOL DISTRICT

By: 

By: _____

Name: Joseph Sullivan

Name: _____

Title: Regional Director

Title: _____

Date: 5/1/22

Date: _____