

**CONTRACT FOR "IN SCHOOL" NURSING SERVICES # 3135
PERTAINING TO [REDACTED]**

This AGREEMENT is made and entered into this 10th day of January, 2017, by **BAYADA Home Health Care, Inc.**, with a service office located at 1144 Hooper Ave., Suite 201A, Toms River, New Jersey 08753 (hereinafter referred to as **BAYADA**) and **Brick Township Board of Education**, located 101 Hendrickson Avenue, Brick, NJ 08724 (hereinafter referred to as **SCHOOL**).

BAYADA is a home health care agency, engaged in the business of providing nursing services and **SCHOOL** has identified a need for in-school nursing care of its student, [REDACTED], (hereinafter referred to as **STUDENT**).

WHEREAS, it is the desire of both parties to make provision for on site daily nursing care for **STUDENT**, in accordance with the terms of this Agreement.

THEREFORE, in consideration for the mutual covenants expressed herein, **BAYADA** and **SCHOOL** agree to the terms and conditions outlined herein:

I. RESPONSIBILITIES OF BAYADA

- A. Qualifications of Personnel. The Nurse supplied by **BAYADA** will be a Registered Nurse (RN) or Licensed Practical Nurse (LPN) who will hold a current license, registration or certification to practice in the State of New Jersey, and will provide services pursuant to the applicable state laws.
- B. Personnel Records Inspection. **BAYADA** will make available for inspection, upon the request of **SCHOOL**, the personnel files of its nurses who are caring for **STUDENT**. The contents of such file must include:
 - 1. Verification of current licensure or certification as applicable; and
 - 2. Completed application for employment or resume; and
 - 3. Verified references; and
 - 4. Evidence of annual performance evaluation; and
 - 5. A criminal record check, conducted upon hire, if required by state law; and
 - 6. Evidence of at least one, annual in-service education or training in accordance with applicable state regulations.
- C. Service. **BAYADA** will provide an RN or LPN to care for **STUDENT** each day that said student attends school. Nursing services will be provided subject to the availability of a qualified nurse. The services to be provided may include escorting **STUDENT** to and from **SCHOOL** on the school bus and providing care to **STUDENT** during the school day. Upon execution of this Agreement, **SCHOOL** will provide **BAYADA** with a schedule of the school calendar including all scheduled days off.
- D. Place of Performance. **BAYADA** will provide services primarily at schools located within **SCHOOL**'s district or other specified location where **STUDENT** will be during the school day. **SCHOOL** acknowledges and understands that **BAYADA** cannot guarantee services. All services will be provided subject to the availability of a qualified nurse.

E. Insurance.

1. **BAYADA** will maintain general liability and professional liability coverage for any negligent acts or omissions of **BAYADA** employees, which may give rise to liability under this Agreement. Throughout the term of this Agreement, **BAYADA** agrees to provide and maintain General Liability insurance coverage in the amount of one million dollars (\$1,000,000.00) per occurrence and three million dollars (\$3,000,000.00) in the aggregate, per year, and Licensed Professional Liability insurance coverage in the amount of one million dollars (\$1,000,000.00) per occurrence and three million dollars (\$3,000,000.00) in the aggregate, per year. **BAYADA** shall provide the School with evidence of such coverage upon request. Will name school as additional insured on general liability policy only and only to the extent of **BAYADA**'s negligence.
2. **BAYADA** will maintain Workers' Compensation insurance for its employees providing services to **STUDENT**.

F. Indemnification. **BAYADA** agrees to indemnify and hold harmless **SCHOOL** from all bodily injury and/or property damage claims arising out of the sole negligence of **BAYADA**, acting through its directors, agents, and employees. **BAYADA** agrees to defend and indemnify and hold harmless the **SCHOOL**, its affiliates, officers, agents, servants and employees from and against any and all claims and liabilities (including reasonable attorney's fees and expenses, including expert fees, incurred in the defense thereof) relating to personal injury or property damage or any other claim arising out of the sole negligence acts of **BAYADA**, or of any of its officers, directors, employees, agents, servants or independent contractors in connections with their responsibilities under this Agreement. **BAYADA**'s liability under this agreement shall continue after the termination of this agreement with respect to any liability, loss, expense or damage resulting from acts occurring prior to termination.

G. Payment of Personnel. **BAYADA**, as an employer, will remain responsible for the payment of wages and other compensation, reimbursement of expenses and compliance with Federal, State and local tax withholdings, Workers' Compensation, Social Security, employment and other insurance requirements for its personnel.

H. Equal Opportunity Employment. **BAYADA** agrees to comply with the New Jersey state requirements of N.J.S.A. 10:5-31 et seq., N.J.A.C. 17:27, and the Americans With Disabilities Act, where applicable, during the performance of this Agreement and will not discriminate against any employee or applicant for employment because of age, race, creed, color, national origin, ancestry, marital status, affectional or sexual orientation or sex. **BAYADA** will provide required reports as requested.

I. Policies and Procedures. **BAYADA** will follow the **SCHOOL**'s policies and procedures while providing care in the **SCHOOL** setting.

II. RESPONSIBILITIES OF SCHOOL

A. Payment for Services. **SCHOOL** will remain responsible to compensate **BAYADA** for services rendered pursuant to this Agreement. Section III hereunder shall govern billing terms and compensation.

B. Insurance.

1. **SCHOOL** shall maintain at its sole expense valid policies of general liability insurance, covering the negligent acts or omissions of **SCHOOL** acting through its directors, agents, employees or other personnel which may give rise to liability under this Agreement.

2. **SCHOOL** shall maintain, at its sole expense, Workers' Compensation insurance for its employees.
- C. Indemnification. Subject to the provisions of the New Jersey Tort Claims Act, N.J.S.A. 59:1-1 et seq., **SCHOOL** agrees to indemnify and hold harmless **BAYADA** from all bodily injury and/or property damage claims arising from any act or omission of **SCHOOL**, acting through its directors, agents, employees or other personnel.
- D. Employment Status. **SCHOOL** understands and agrees that the RN/LPN is an employee of **BAYADA** and **SCHOOL** will not attempt to solicit the RN/LPN to work privately for **SCHOOL**, without written authorization from **BAYADA**, during the term of this Agreement and for one (1) year following its termination or expiration. **SCHOOL** recognizes the recruiting, training and retention expenses that **BAYADA** encounters as an employer and acknowledges that **BAYADA** is not a placement or referral service. Should **SCHOOL** desire to hire one of **BAYADA**'s employees, **SCHOOL** agrees to provide **BAYADA** with written notice and pay a liquidated damages fee equal to four (4) months of the specific employee's annual gross salary or \$5,000.00 whichever is greater. This fee shall apply to any **BAYADA** employee **SCHOOL** wishes to hire.
- E. Compliance Program. **BAYADA** values honesty and confidentiality in all business interactions. In order to assure adherence to these values, **BAYADA** maintains a corporate compliance program, designed to detect and prevent illegal and unethical activities, including breaches of confidentiality. **SCHOOL** agrees to abide by this program, and understands its obligation to report questionable activities involving **BAYADA**'s employees to the local office Director named below or to the Compliance Hotline at 1-866-665-4295.
- F. Confidentiality. During the course of the business relationship, each party may be given access to proprietary or confidential information of the other, including, but not limited to, pricing policies, the identity and social security numbers of employees, and business policies and systems ("Confidential Information"). Each party shall hold Confidential Information of the other party in confidence, treating such Confidential Information with no less care than it treats its own, and shall not disclose such Confidential Information to any third party or use such Confidential Information for any purpose other than as contemplated by this Agreement. Upon termination of this Agreement, or sooner if requested by either party, each party shall return all Confidential Information of the other party in its possession, without retaining copies of such Confidential Information. This section shall not apply to information (i) that is in the public domain, or (ii) required to be disclosed by law or legal process.

III. BILLING AND COMPENSATION

- A. **SCHOOL** agrees to compensate **BAYADA** at a rate of \$52.00/hour for RN services and \$42.00/hour for LPN services provided under this Agreement. **SCHOOL** will also pay for all time the **BAYADA** employee spends on the bus or otherwise transporting the client to and from **SCHOOL**. Dependent on **STUDENT** needs and services to be conducted – **SCHOOL** would prefer this position be filled with an LPN. However, if services cannot be met with an LPN then an RN is to be provided. **STUDENT** will receive 7.25 hours of service per day. The total amount to be paid to **BAYADA** for **STUDENT** during this period is not to exceed \$40,339.00 for RN services or \$32,581.50 for LPN services.
- B. **BAYADA** will forward to **SCHOOL** an itemized bill on a weekly basis. Each weekly bill will itemize the name of the **BAYADA** employee providing care, the date of service, the type and length of service provided.

- C. **SCHOOL** agrees to pay submitted bills within sixty (60) days of receipt. Any bill not paid within the sixty (60) day period will be considered delinquent. **BAYADA** reserves the right to pursue any collection remedies in an attempt to resolve a delinquent account. **SCHOOL** agrees to reimburse **BAYADA** for all collection costs, including attorneys' fees and expenses.

IV. TERM AND TERMINATION

- A. This Agreement will come into effect beginning on January 10, 2017 and will remain in effect through June 30, 2017.
- B. Either party may terminate this Agreement, for any reason, upon thirty (30) days prior written notice.
- C. Either party may terminate this Agreement for cause due to the occurrence of one of the following events by giving ten (10) days prior written notice:
1. Dissolution or bankruptcy of either **BAYADA** or **SCHOOL**.
 2. Failure of either **BAYADA** or **SCHOOL** to maintain the insurance coverages required hereunder.
 3. Breach by **BAYADA** or **SCHOOL** of any of the material provisions in this Agreement.

V. ADDITIONAL TERMS

- A. Interpretations of Specifications and Contract. This Contract shall be construed pursuant to the laws of the State of New Jersey. Any litigation with respect to the interpretation of the terms of this Contract shall be within the sole jurisdiction of the Courts of the State of New Jersey and venue shall be in Ocean County.
- B. Relationship to Parties. The parties enter into this Agreement as independent contractors. Nothing contained in this Agreement will be construed to create a partnership, joint venture, agency or employment relationship between the parties.
- C. Assignment. This Agreement may not be assigned by either party, in whole or in part.
- D. Modification of Terms. No amendments or modifications to the terms of this Agreement will be binding unless evidenced in writing and signed by an authorized representative of each party hereto.
- E. Notices. Any Notice given in connection with this Agreement will be given in writing and will be delivered either by hand or by certified mail, return receipt requested, to the other party, at the party's address listed above. Any party may change its address as stated herein by giving Notice of the change of address in accordance with this Paragraph.
- F. Entire Agreement. This writing evidences the entire Agreement between **BAYADA** and **SCHOOL**; there are no prior written or oral promises or representations incorporated herein. Each Attachment, Fee Schedule, Exhibit or other documents referenced herein and/or attached to this Agreement are incorporated herein as if the same was set out in full in the text of this Agreement. This Agreement may be executed in two or more counterparts, each of which will be deemed an original, but all of which together will constitute one and the same instrument. Delivery of an executed signature page of this Agreement by facsimile or electronic (email) transmission shall be effective as delivery of a manually executed counterpart hereof.

- G. Independent Contractor. **BAYADA** is and will perform its Services as an independent contractor for the **SCHOOL**. Nothing in this Agreement shall be construed so as to render **BAYADA** an employee, agent, representative, joint venturer or partner of the **SCHOOL**, and **BAYADA** shall not hold itself out to others in such capacity. **BAYADA** shall not enter into any contracts, agreements or other obligations with any other parties which bind, or are intended to bind, the **SCHOOL**. **BAYADA** shall have no authority to bind the **SCHOOL** to contracts or to incur any other obligations on behalf of the **SCHOOL**, and any such contracts or obligations entered into or incurred by **BAYADA** shall be void.
- H. **BAYADA** shall conduct all of these activities in accordance with all state, local and federal guidelines, regulations and laws.
- I. Business Registration Certificate. The parties to this Contract agree to comply with the provisions of P.L. 2004, c. 57 and P.L. 2009, c. 315 in regards to Business Registration Certificate.
- J. In the event that any court of competent jurisdiction shall declare any section of this Agreement invalid for any reason, all other sections shall remain in full force and effect.

Date: _____

Date: _____

Cathy Mamola
Area Director
Signing with authority for
BAYADA Home Health Care, Inc.

James W. Edwards, Jr. CPA
Business Administrator
Signing with authority for
Brick Township Board of Education