

## **EDUCATION SERVICES STAFFING AGREEMENT**

This Education Services Staffing Agreement (hereinafter "Agreement") is entered into 6/27/2022, by and between Richmond Heights Local Schools located at 447 Richmond Rd. Richmond Heights, OH, 44143, referred to in this Agreement as "Customer," and **Maxim Healthcare Staffing Services, Inc.**, a Maryland Corporation including its affiliates and subsidiaries, with an office located at 2 Summit Park Drive Suite 410 Independence, Ohio, 44131 referred to in this Agreement as "Maxim."

### **RECITALS**

**WHEREAS**, Customer operates a School located in OH and wishes to engage Maxim to provide personnel to supplement Customer's staff.

**WHEREAS**, Maxim operates a staffing agency that provides supplemental healthcare staffing services to Customer.

**THEREFORE**, in consideration of the above premises set forth herein, and for other good and valuable consideration, the receipt and sufficiency of which are acknowledged by the Parties, and intending to be legally bound, Customer and Maxim hereby agree to the following terms and conditions.

### **ARTICLE I. DEFINITIONS**

**"Agreement"** means this Educational Staffing Services Agreement entered into as of the Effective Date between Maxim and Customer, including all Attachment(s) attached hereto, and all Statement(s) of Work entered into by Maxim and Customer pursuant to Section 3.1.

**"Assignment Confirmation"** means the details as agreed upon between Customer and Maxim for Assignment Personnel Providing Assignment Services.

**"Assignment Personnel"** means collectively Local Assignment Personnel and Travel Assignment Personnel providing Assignment Services.

**"Assignment Personnel Rate"** means a rate agreed upon between Customer and Maxim for that specific Assignment Personnel, as specified in "Attachment C" and controls where different from Base Rates set forth in "Attachment A."

**"Assignment Services"** means Services for a specific term and length of the time, as more specifically set forth in Section 8.1 herein and "Attachment C."

**"Attachment A"** means the position(s) of Personnel requested by Customer to provide Services, as set forth in Section 3.1 herein and rate(s), including Base Rates, and is incorporated into this Agreement by reference.

**"Attachment B"** means the pre-screening Personnel requirements pursuant to Section 3.2 and is incorporated into this Agreement by reference.

**"Attachment C"** means an Assignment Confirmation and is incorporated into this Agreement by reference.

**“Base Rate”** means the rates billed for Services performed by Personnel pursuant to terms of Agreement and “Attachment A” hereto.

**“Behavior Intervention Plan” or “BIP”** is defined as a written improvement plan created for a student based on the outcome of the functional behavior assessment (FBA).

**“Contractor”** means either independent contractor(s) or legal entity(ies) being utilized by Maxim to provide Services, as specified in Section 7.2.

**“Effective Date”** means the date first written above in the introductory paragraph of Agreement.

**“Float”** means Personnel reassigned to a different Customer department, unit, School Work Site, or to a different staff classification.

**“Individual Education Program” or “IEP”** is a plan developed as required under the Individuals with Disabilities Education Act (“IDEA”) providing eligible students with special education and related services that is reasonably calculated to enable the student to make progress appropriate in light of the child’s unique circumstances.

**“Individual Health Plan” or “IHP”** is defined as a health plan focusing specifically on student(s)’ medical needs, it may contain physician orders. If the services for a student’s medical needs can be performed during the school day for the student to benefit from the education, the medical services may be incorporated into the 504 Plan or IEP.

**“Medical Services”** services provided by a licensed physician to determine a student’s medically related disability that results in the student’s need for a 504 Plan or an IEP. These services include determining the health or related services needed for a particular student, developing the plan, changes to the plan, and level of healthcare or professional required.

**“Personnel”** means licensed and/or unlicensed clinical and other non-clinical healthcare, behavioral, educational assistance, and instructional employees of Maxim.

**“Placement”** is defined to mean where the student with a disability receives the services listed in the 504 Plan or the IEP.

**“Related Services”** is defined to mean developmental, corrective and other supportive services as may be required to assist a student with a disability to receive FAPE as described by a student’s 504 Plan or IEP that do not require a licensed professional to perform the services.

**“School Health Services”** is defined to mean health services required to be provided by a school nurse or other licensed professional that enable a student with a medically related disability to receive FAPE as described by a student’s 504 Plan, IHP or IEP.

**“School Work Site”** means any location Customer assigns Personnel to render Services.

**“Services”** means collectively School Health Services, Medical Services, and/or Related Services provided by Maxim to Customer, as more specifically set forth in Article III and any Attachment(s) and/or Statement(s) of Work.

**“Special Education”** is defined as specially designed instruction to meet the unique needs of a student with a disability.

**“Statement of Work” or “SOW”** means a statement of work describing the Services entered into by Maxim and Customer in accordance with Article III and “Attachment A” attached hereto.

**“Supplies”** means any and all necessary medical supplies to be used in administering and/or providing Services to student(s), including, but not limited to personal protective equipment (“PPE”).

**“Term”** has the meaning given is Section 2.1.

## **ARTICLE II. TERM**

**Section 2.1. Term.** This Agreement will commence on the Effective Date and will continue for a school calendar year, which runs from School Year Start to School Year End.

**Section 2.2 Renewal.** This Agreement shall automatically renew at the end of the term for successive one (1) year terms unless either Party provides written notice at least thirty (30) days prior to the end of the term or renewal term, as applicable, of such Party’s decision not to automatically renew this Agreement

## **ARTICLE III. NATURE AND SCOPE OF SERVICES**

### **Section 3.1 Scope of Services.**

**(a) Staffing.** Maxim is responsible for recruiting, screening, and hiring its Personnel as set forth herein to provide temporary staffing Services to Customer, with such Services provided by Personnel under Customer’s management and supervision at a School Work Site or in an environment controlled by Customer. Maxim will use its best efforts to provide Personnel who shall perform Services in accordance with the terms of this Agreement, as requested in “Attachment A.” Services include School Health Services, Related Services, and Special Education Services. Maxim will provide Personnel specific to the requirements provided by the Customer, following receipt of the BIP, IEP, IHP or 504 Plan (the “Plan”), as applicable, from the Customer. Maxim will use its best efforts to provide Personnel who meet the qualifications as specified by the Customer and shall perform services in accordance with the terms of this Agreement. Customer shall provide Maxim with the skill level, experience and services to be provided by Personnel to any student(s), and details from the applicable Plan for School Health Services or Related Services, necessary to perform Services hereunder.

**(b) Distance Learning Service(s).** Customer may request Personnel to provide services off-site, including, but not limited to remote services and/or in-home services at a student’s location (“Distance Learning Service(s)”) due to Customer school closings and/or delays. Customer is responsible for overseeing and directing placement outside of school for Distance Learning Service if requested. Customer will provide supplies and resources needed to implement Distance Learning Services and its own expense.

**(c) Changes.** From time to time, requests for additions, deletions, or revisions to the Services or Base Rates may be made (collectively, the “Changes”). The Party that wishes to make a Change shall deliver to the other Party a modified Statement of Work (“SOW”) or subsequent

“Attachment A” to reflect the changes to this Agreement expressly agreed to by the parties. The Changes will take effect upon signature by both parties.

**Section 3.2 School Health Services Requirements.** Maxim will perform the screening for School Health Services Personnel who meet the criteria as indicated in Attachment “B” hereto.

**Section 3.3 Related Services.** Maxim will perform the screening for Related Services and Special Education Personnel who meet the criteria as indicated in Attachment “B” hereto.

**Section 3.4 Special Education Services.** Maxim will perform the screening for Related Services and Special Education Personnel who meet the criteria as indicated in Attachment “B” hereto.

**Section 3.5 Maxim as Employer.** Maxim acknowledges and agrees that its Personnel are employees and shall be treated as such and not as employees of Customer. Maxim agrees that it (i) is responsible for providing any wages or other benefits to its Personnel; (ii) will make all appropriate tax, social security, Medicare, and other withholding deductions and payments with respect to its Personnel; (iii) will provide workers’ compensation insurance coverage for its Personnel; (iv) will make all appropriate unemployment tax payments with respect to its Personnel; and (v) will take any additional actions legally required to establish that the Personnel whose Services are provided under this Agreement are employees of Maxim.

**Section 3.6 Availability of Personnel.** The Parties agree that Maxim’s duty to supply Personnel is subject to the availability of qualified Personnel. The failure of Maxim to provide Personnel shall not constitute a breach of this Agreement if the requested Personnel are not available. To the extent that Maxim is unable to provide the modality of Personnel requested by Customer, Maxim will provide Customer with a higher skilled Personnel. Maxim will bill Customer at that Personnel’s fair market value rate for the modality provided.

#### **ARTICLE IV. SCHOOL WORK SITE REQUIREMENTS AND OBLIGATIONS**

**Section 4.1 Plan Implementation.** Customer is responsible for the Medical Services provided to its students. Customer will provide supervision of Personnel for Services provided to any student with a medical disability. Customer will make available to Maxim and any Personnel the applicable Plan(s), as requested. Customer shall provide student specific orientation for the requirements of the Plan(s). If the student requires school transportation, Customer shall assess whether the student’s disability would allow for safe transport by Customer. Customer shall orient Maxim Personnel on the transportation and emergency protocol. Customer will make all determinations on Placement.

**Section 4.2 Orientation and Evaluation.** Customer will provide Personnel with orientation of Customer’s policies, procedures and School Work Site specific training. Customer will provide School Work Site specific emergency protocol training for all student’s with a medically related disability. Customer will perform evaluations of Personnel annually and provide documentation of the evaluation to Maxim. If Customer identifies area for improvement for any Personnel, Customer will collaborate with Maxim to provide additional recourses for training and orientation.

**Section 4.3 Supplies.** Customer will provide all necessary Supplies to Personnel in performance of this Agreement. Customer shall be responsible for disposing of all medical waste and

biohazard produced by the Services and will comply with all applicable local, state, and federal rules, regulations, and laws governing such disposal.

**Section 4.4 Float Policy.** Subject to prior written notification, Customer may Float Personnel, if Personnel satisfies the Customer's requisite specialty qualifications. If Customer Floats Personnel, the Personnel must perform the duties of the revised assignment as if the revised assignment were the original assignment. Customer will provide the Personnel with additional orientation regarding the Float assignment as necessary. If Personnel Floats to a staff classification that has a lower Base Rate, then the Base Rate that was applicable to the original Personnel assignment remains the applicable Base Rate despite the Float. If Personnel Floats to a staff classification that has a higher Base Rate, then the Base Rate that is applicable to the newly assigned staff classification is the applicable Base Rate for as long as the Personnel continues to work in that staff classification.

**Section 4.5 Right to Dismiss.** If at any time Customer, in its reasonable judgment, determines that the staffing Services provided any Personnel provided hereunder is inadequate, unsatisfactory or has failed to comply with Customer's rules, regulations, or policies, Customer shall immediately advise Maxim. Maxim will remove Personnel from Customer's School Work Site as requested. Customer will cooperate with Maxim and provide reasonable detail(s) for the dismissal. Customer will provide Maxim with any reports it provides to any governing oversight agency(ies) as a result of Maxim Personnel's conduct, including all drug screens conducted, results of peer review and/or documentation of Customer's investigation.

**Section 4.6 Work Environment and OSHA.** Customer will provide a clean and properly maintained workspace(s) for Maxim to conduct the Services that will enable Maxim to safely provide Services to student(s). Customer will provide furniture at its sole risk to include, but not limited to, tables and chairs, and allow Personnel reasonable access to telephones for business use. Maxim will not be responsible for the proper maintenance of any property supplied by Customer. Customer will orient Personnel to the specific exposure control plan(s), emergency action plan(s), and/or protocol(s) of the Customer as it pertains to all federal OSHA requirements and equivalent state agency requirements, directives, or standards, with respect to blood borne pathogens, other emergent matters, and any of the Customer's specific policies and procedures for safety, hazardous communications and/or operations instructions. Customer will be responsible for all OSHA recordkeeping, logging, and reporting responsibilities required by law pertinent to Services provided under this Agreement.

**Section 4.7 Notification of Incidents and Claims.** Customer agrees to notify Maxim of any incident involving Maxim Personnel within forty-eight (48) hours of its occurrence. Customer agrees to provide Maxim documentation of any investigation conducted. Maxim and Customer agree to notify each other in writing of any asserted claim relating to this Agreement within ten (10) days of either discovery of the occurrence upon which the claim may be based or learning of the claim. Indemnity to Customer shall not cover any claims or liabilities in which there is a failure to give the indemnifying party prompt notice of any incident within forty-eight (48) hours of its occurrence.

**Section 4.8 Maxim Timeclock.** The Parties acknowledge and agree that notwithstanding any Customer manuals, instructions, or other Customer policies, Maxim reserves the right to utilize Maxim Timeclock, a proprietary web-based timekeeping system, for the provision of Services and is not required and/or mandated to use paper-based timekeeping records, unless otherwise required by applicable law. Personnel will submit hours worked to Customer via Maxim

Timeclock. Customer will be notified via electronic mail regarding the hours submitted and agrees to review and approve the submitted hours on a weekly basis, each Monday by noon local time. Customer approved hours will be utilized for the weekly payroll and billing. Any non-approved hours will be discussed between Customer and Maxim; notwithstanding this, Customer and Maxim agree to cooperate in good faith to ensure that all Personnel time is properly captured to ensure compliance with applicable local, state, and federal wage and hour laws.

## **ARTICLE V. CONVERSION OF PERSONNEL**

**Section 5.1 Non-Solicitation.** For a period of twelve (12) months following the date on which any Personnel either: (i) interviewed with Customer for purposes of Customer qualifying a candidate or applicant for a role or position or (ii) last worked a shift under this Agreement, or a subsequent Assignment through this Agreement, Customer agrees that it will take no steps to solicit, recruit, hire, or employ as its own employees, or as a contractor, those Personnel provided or introduced by Maxim during the term of this Agreement. Customer understands and agrees that Maxim is not an employment agency and that Personnel are assigned to the Customer to render temporary service(s) and are not assigned to become employed by the Customer. Customer further acknowledges and agrees that there is a substantial investment in business related costs incurred by Maxim in recruiting, onboarding, training, and employing Personnel, which necessarily includes recruiting, qualifying, credentialing, training, retaining, and supervising Personnel. In the event that Customer, or any Customer affiliate, subsidiary, department, division, School Work Site, or any other agent of Customer or agent acting on behalf of Customer solicits, hires, or employs any Personnel, Customer will be in material breach of this Agreement.

**Section 5.2 Placement Fee.** Notwithstanding this Article V, Customer may hire or contract with any Maxim Personnel provided by Maxim if Customer pays Maxim a placement fee equal to the greater of: five thousand dollars (\$5,000) or the sum of thirty percent (30%) of such Personnel's annualized salary (calculated as Weekday Hourly Bill Rate x 1,440 Hours x 30%).

**Section 5.3 Breach of Conversion of Personnel Section.** In the event that Customer hires or contracts with any Personnel in accordance with the requirements set forth above but does not notify Maxim, the Placement Fee that applies is no less than 150% of that set forth above.

## **ARTICLE VI. INVOICING, PAYMENT, AND TAXES**

**Section 6.1 Invoicing.** Maxim will supply Personnel under this Agreement at the rate(s) listed in the Attachment(s) to this Agreement. Maxim will submit invoices to Customer every week for Personnel provided to Customer during the preceding week. Customer Invoices shall be submitted to the following electronic mail address or by the applicable agreed upon Timecard Application.

Invoicing E-mail:  
Invoicing Contact:  
Invoicing Address:

**Section 6.2 Payment.** All amounts are due and payable within thirty (30) days from the date of invoice. Maxim's preferred payment is via electronic payment (EFT). If Customer is unable to pay electronically, Customer will send all payments to the address set forth on the invoice. If any portion of an amount billed by Maxim under this Agreement is subject to a good faith dispute between the Parties, Customer shall give written notice to Maxim of the amounts it disputes

("Disputed Amounts") upon the discovery of the billing dispute and include in such written notice the specific details and reasons for disputing each item. Written notice of a dispute must be provided within fourteen (14) days from date of invoice or the invoice amount is presumed to be valid. Customer shall pay by the due date all undisputed amounts, including, in the event of a billing rate dispute, the amount of the Services at the lower billing rate. Billing disputes shall be subject to the terms of Article XIII, Dispute Resolution.

**Section 6.3 Late Payment.** Payments not received within thirty (30) days from the applicable invoice date will accumulate interest, until paid, at the rate of one and one-half percent (1.5%) per month on the unpaid balance, equating to an annual percentage rate of eighteen percent (18%), or the maximum rate permitted by applicable law, whichever is less.

**Section 6.4 Annual Rate Increases.** Customer agrees to and accepts annual rate increases at the percentage listed on "Attachment A" of this Agreement.

**Section 6.5 Customer Bankruptcy or Insolvency.** Customer agrees that in the event Customer files bankruptcy, (i) to the extent Maxim pays the salary and other direct labor costs of Personnel it provides to Customer and such amounts incurred within one-hundred eighty (180) days prior to bankruptcy are not paid by Customer to Maxim prior to bankruptcy, and/or (ii) Customer is the assignee of claims held by such Personnel against Customer for such amounts incurred within one-hundred eighty (180) days prior to bankruptcy, then Maxim has a claim against Customer in bankruptcy for the amount of such salary and other direct labor costs, which is entitled to a priority under 11 U.S.C. §507(a)(4). All pre-bankruptcy conduct, including amounts due and actions related to payment that could be brought by Customer are released.

**Section 6.6 Assurances.** In the event Maxim in good faith becomes concerned about impending bankruptcy or other insolvency by Customer, the Parties agree that Maxim may request in writing from Customer a prepayment deposit in the amount equal to the average of two weeks of Services, which Maxim may apply to outstanding invoices in the event that Customer fails to timely pay such invoices. Customer agrees to provide the requested prepayment deposit within five (5) days. In the event that Maxim applies the prepayment deposit in accordance with this Section at such time that concern about Customer's impending insolvency remains, Customer agrees to replenish the prepayment deposit within five (5) days of receipt of written notice of its application.

**Section 6.7 Transaction Taxes.** Customer shall be responsible for any sales tax, gross receipts tax, excise tax or other state taxes applicable to the Services provided by Maxim. If Customer provides Maxim with a valid tax exemption certificate in accordance with local laws covering the Services provided by Maxim, Maxim will not collect Transaction Taxes.

## **ARTICLE VII. RELATIONSHIP OF THE PARTIES**

**Section 7.1 Independent Legal Entities.** Maxim and Customer are independent legal entities. Nothing in this Agreement shall be construed to create the relationship of employer and employee, or principal and agent, or any relationship other than that of independent parties contracting with each other solely for the purpose of carrying out the terms of this Agreement. Neither Maxim nor Customer nor any of their respective agents or employees shall control or have any right to control the activities of the other Party in carrying out the terms of this Agreement.

**Section 7.2 Use of Contractors.** Maxim may utilize the services of Contractors if Customer (i) requests practitioners who are contracted with Maxim Physician Resources, LLC d/b/a Maxim Locum Tenens and Advanced Practitioners in accordance with Article IX hereof; or (ii) in the event Customer makes a request for an urgent volume of staff and the use of Contractors is necessary to meet the requirements under this Agreement. Maxim will ensure that any Contractor Personnel provided to Customer by a Contractor will comply with the Personnel Requirements set forth in Section 3.2 and timely perform Services under this Agreement.

**Section 7.3 Conflict of Interest.** By entering into this Agreement, the Parties agree that all conflicts of interest shall and have been disclosed to the other Party for review in accordance with that Party's policies and procedures. A conflict of interest occurs when a Customer employee or Personnel has professional or personal interests that compete with his/her/their ability to provide Services to or on behalf of Maxim or Customer. Such competing interests may make it difficult for the Customer employee or Personnel to fulfill his/her/their duties impartially.

## **ARTICLE VIII. ASSIGNMENT SERVICES**

**Section 8.1 Assignment Services.** As part of the Services outlined herein, Maxim provides Assignment Services for a specific term and length of the time, and agrees to assign Assignment Personnel to work such specified assignments agreed to and confirmed in writing by the Parties, as set forth in "Attachment C." To the extent Assignment Personnel are utilized for such length and time the terms of Article VIII apply as indicated.

**Section 8.2 Interviews.** Maxim will provide Customer with Assignment Personnel candidate(s) available to provide Assignment Services, as applicable, and will provide all pertinent information requested by Customer for an interview. Customer has the opportunity and reserves the right to conduct a telephone interview with any Assignment Personnel prior to Assignment Services commencing. Maxim assumes no liability if said Assignment Personnel fail(s) to meet Customer's requirements. Additionally, Customer will not be relieved of paying Maxim the established fees set forth in this Agreement for said Assignment Services.

**Section 8.3 Assignment Cancellation by Maxim.** Maxim reserves the right to cancel the term of Assignment Personnel with written notification to Customer. Maxim will endeavor to provide a qualified replacement for cancelled Assignment Personnel within fourteen (14) days from the date of notification.

**Section 8.4 Assignment Cancellation by Customer.** Customer agrees to utilize Assignment Personnel for the specified period of time outlined in the "Attachment C" Assignment Confirmation. Should Customer staffing needs change and Customer wishes to cancel Assignment Personnel already being utilized on contract, Customer must give Maxim fourteen (14) days' notice before cancellation date. If Customer does not provide required notice, Customer will be required to pay Maxim a fee equal to: the sum of seventy-two (72) hours of such Assignment Personnel's rate subtracted by any hours worked by Assignment Personnel after notice is given (calculated as Assignment Bill Rate x 72 Hours - Hours Worked after cancellation notice).

**Section 8.5 Assignment Confirmations.** Each Assignment Services request will be confirmed in writing with the applicable Base Rate or Assignment Personnel Rate to be charged for Assignment Personnel to work a specific assignment set forth in Assignment Confirmations as "Attachment C." Hourly rates include reimbursement for ordinary and necessary travel expense



for meals incurred by Assignment Personnel, as accounted for on the invoice or periodic statement, where Customer is acknowledged to be subject to limitation on deduction under IRC § 274 and related regulations. As needed, Customer should request information beyond the accounting provided to comply with their obligation(s). If there is any conflict between this Agreement and any Assignment Confirmation(s) and/or Attachment(s), the terms of the Assignment Confirmation(s) will govern.

**Section 8.6 Assignment Confirmation Delivery.** Assignment Confirmations will be sent via electronic mail, or other means as agreed upon by the Customer and Maxim. In the event that Customer fails to respond to the Assignment Confirmation within forty-eight (48) hours, the Customer will be deemed to have accepted the terms in said Assignment Confirmation and Customer will assume responsibility for any applicable payment terms as outlined in the Assignment Confirmation. Should a dispute arise, the Assignment Confirmation shall supersede any and all prior oral and written understandings.

## **ARTICLE IX. ADDITIONAL SERVICES**

**Section 9.1 Locum Tenens Coverage.** Should Customer request Locum Tenens coverage from Maxim, the Parties shall enter into a separate Service Agreement for Locum Tenens Coverage in the form of Attachment [\_\_\_\_]. The terms set forth in Attachment [\_\_\_\_] will govern the provided Locums Tenens services and are incorporated herein by this reference.

**Section 9.2 MaxView.** Should Customer request utilization of Maxim's workforce technology solution, **MaxView** in conjunction with providing Personnel under this Agreement the Parties shall enter into a separate Service Agreement for MaxView in the form of Attachment [\_\_\_\_]. The terms set forth in Attachment [\_\_\_\_] will govern the provided utilization of MaxView, along with any applicable terms and conditions and terms of use and are incorporated herein by this reference.

## **ARTICLE X. INSURANCE**

**Section 10.1 Maxim Insurance.** Maxim will maintain (at its sole expense), or require the Contractors it utilizes under this Agreement to maintain, valid policies of insurance evidencing general and professional liability coverage of not less than \$1,000,000 per occurrence and \$3,000,000 in the aggregate, covering temporary staffing Services provided by Personnel. Maxim will provide a certificate of insurance evidencing such coverage upon written request by Customer.

**Section 10.2 Customer Insurance.** Customer will maintain at its sole expense valid policies of general and professional liability insurance with minimum limits of \$1,000,000 per occurrence and \$3,000,000 annual aggregate. Customer will give Maxim prompt written notice of any material change in Customer coverage. Customer shall name Maxim as an additional insured on its general liability policy.

## **ARTICLE XI. INDEMNIFICATION**

**Section 11.1 Indemnification by Maxim.** Maxim agrees, at its own expense, to indemnify, defend, and hold harmless Customer and its parent, subsidiaries, Affiliates, directors, officers, employees, and agents against any and all third-party losses, liabilities, judgments, awards, and

costs (including reasonable attorneys' fees and expenses) to the extent arising out of or relating to:

(a) bodily injury (including death) or any real or tangible property loss or damage as a direct result of Maxim's employees' negligent acts or omissions in the performance of Services under this Agreement; or

(b) any breach by Maxim of Section 3.2 or Section 3.3.

**Section 11.2 Indemnification by Customer** – Customer agrees, at its own expense, to indemnify, defend, and hold harmless Maxim and its parent, subsidiaries, affiliates, directors, officers, employees, and agents against any and all third-party losses, liabilities, judgments, awards, and costs (including reasonable attorneys' fees and expenses) to the extent arising out of or relating to:

(a) bodily injury (including death) or any real or tangible property loss or damage as a direct result of Customer's employees' negligent acts or omissions in the performance of Services under this Agreement; or

(b) any Transaction Taxes levied, assessed, or imposed by any taxing authority as a result of, or in connection with this Agreement, whatever the source and regardless of whether invoiced to or remitted by Customer.

**Section 11.3 Indemnification Procedures** – The Party seeking indemnification under this Article XI (the “**Indemnified Party**”) shall notify the other Party (the “**Indemnifying Party**”) promptly after the Indemnified Party receives notice of a claim for which indemnification is sought under this Agreement; provided, however, that no failure to so notify the Indemnifying Party shall relieve the Indemnifying Party of its obligations under this Agreement except to the extent that it can demonstrate damages directly attributable to such failure. To the extent permitted by law, the Indemnifying Party shall have authority to defend or settle the claim; provided, however, that the Indemnified Party, at its sole discretion and expense, shall have the right to participate in the defense and/or settlement of the claim, and provided further, that the Indemnifying Party shall not settle any such claim imposing any liability or other obligation on the Indemnified Party without the Indemnified Party's prior written consent.

## **ARTICLE XII. LIMITATION OF LIABILITY**

**Section 12.1 Limitation on Liability. IN NO EVENT SHALL EITHER PARTY BE LIABLE TO THE OTHER PARTY FOR ANY INDIRECT, INCIDENTAL, PUNITIVE, EXEMPLARY, RELIANCE OR SPECIAL OR CONSEQUENTIAL DAMAGES, INCLUDING DAMAGES FOR LOST PROFITS, LOSS OF USE, BUSINESS INTERRUPTION, OR LOSS OF DATA IN CONNECTION WITH OR ARISING OUT OF THIS AGREEMENT REGARDLESS OF THE FORM OF ACTION WHETHER IN**

**CONTRACT, WARRANTY, STRICT LIABILITY OR TORT AND EVEN IF SUCH PARTY HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES.**

**Section 12.2 Cap on Damages. THE TOTAL AGGREGATE LIABILITY OF EACH PARTY TO THE OTHER PARTY FOR DAMAGES UNDER THIS AGREEMENT OR OTHERWISE SHALL NOT EXCEED THE SUM OF ALL FEES PAID OR PAYABLE TO MAXIM BY CUSTOMER UNDER EITHER THE APPLICABLE STATEMENT OF WORK OR FOR SERVICES RENDERED DURING THE TWELVE (12) MONTHS IMMEDIATELY PRECEDING THE MONTH IN WHICH SUCH LIABILITY AROSE, WHICHEVER IS LESS. MULTIPLE CLAIMS UNDER THIS AGREEMENT OR THIS AGREEMENT WILL NOT ENLARGE THIS LIMIT. THIS LIMITATION OF LIABILITY SHALL APPLY NOTWITHSTANDING ANY FAILURE OF ESSENTIAL PURPOSE OF ANY EXCLUSIVE REMEDY HEREIN.**

### **ARTICLE XIII. DISPUTE RESOLUTION**

**Section 13.1 Dispute Resolution.** Except as otherwise provided in this Agreement, any dispute between the Parties regarding the interpretation or enforcement of this Agreement or any of its terms shall be addressed by good faith negotiation between the Parties.

**Section 13.2 Dispute Resolution Process.** To initiate such negotiation, a Party must provide to the other Party written notice of the dispute that includes both a detailed description of the dispute or alleged nonperformance and the name of an individual who will serve as the initiating Party's representative in the negotiation. The other Party shall have ten (10) business days to designate its own representative in the negotiation. The Parties' representatives shall meet at least once within forty-five (45) days after the date of the initiating Party's written notice in an attempt to reach a good faith resolution of the dispute. Upon agreement, the Parties' representatives may utilize other alternative dispute resolution procedures such as private mediation to assist in the negotiations.

**Section 13.3 Inability to Resolve.** If the Parties have been unable to resolve the dispute within forty-five (45) days of the date of the initiating Party's written notice, either Party may pursue any remedies available to it under this Agreement, at law, in equity, or otherwise, including, but not limited to, instituting an appropriate proceeding before a court of competent jurisdiction.

### **ARTICLE XIV. CONFIDENTIALITY AND USAGE OF DATA**

#### **Section 14.1 Confidentiality.**

**A. Maxim/Customer Information.** Subject to applicable intellectual property federal law(s), the Parties recognize and acknowledge that, by virtue of entering into this Agreement and providing Services hereunder, the Parties will have access to certain information of the other Party that is confidential and constitutes valuable, special, and unique property of the Party, and may be classified as trade secret or proprietary information. Each of the Parties agree that neither it nor its staff shall, at any time either during or subsequent to the term of this Agreement, disclose to others, use, copy, or permit to be copied, except pursuant to its duties for or on behalf of the other Party, any secret or confidential information of the Party, including, without limitation, information with respect to the Party's customers, cost structure, and/or business strategy or business methods at any time used, developed, or made by the Party during the term of this Agreement and that is not available to the public, without the other Party's prior written consent.

**B. Disclosure of Maxim/ Customer Partnership.** From time to time, Maxim lists or mentions its customers in its marketing, communication, and business initiatives barring any restrictions and obligations as set forth in Section 14.1(C) and/or Section 14.2 of this Agreement. Customer agrees that Maxim may disclose the partnership between Maxim and Customer, and use Customer's name for such marketing, communication, and business purposes and initiatives. The Parties will make all commercially reasonable efforts to facilitate and coordinate press announcements, press releases, and other joint-marketing efforts related to this Agreement and the Maxim/Customer partnership. If either Party reasonably objects to use or disclosure of said partnership in such initiative(s), the other Party may ask the Party that developed the marketing or promotional content to edit or adjust such materials, and such Party will not unreasonably disagree.

**C. Student Information:** In the event that Maxim receives student information, including student financial or medical information, Maxim shall not disclose any individual student records, including student financial or medical information for which Services are provided under this Agreement to any third-party, except where permitted or required by law or where such disclosure is expressly approved by Customer, Maxim, and if required, student in writing. Further, each Party and its employees shall comply with the other Party's policies and obligations. Maxim may maintain and use Student Education Records to perform the Services under this Agreement and may disclose de-identified data to third parties in performance of services under this Agreement. If Maxim is provided access to students' records, Maxim shall limit its personnel's access to the records to those persons for whom access is essential to the performance of the Services under this Agreement. Maxim shall, at all times and in all respects, comply with the terms of the Family Rights and Privacy Act of 1974, as amended. Maxim reserves the right to retain any Student Education Records for the length of time necessary to meet Maxim's contractual and legal commitments.

**D.** The obligations set forth in this Article XIV shall survive the termination of this Agreement.

**Section 14.2 Data Security.** Customer will be responsible for establishing and overseeing all access, maintenance, and transmission of Customer and Student data and information, including privacy and security measures required under Law, which may further be needed to maintain and protect the security of all computer systems, networks, and/or data related to the services under this Agreement. Customer will be responsible for providing all education and training to Personnel as it relates to Customer's privacy and security measures and processes, including, without limitation the Customer's processes and expectations for collecting, storing, securing, and transferring Customer or Student data and information accessed, collected, and maintained under this Agreement.

Customer acknowledges and understands and agrees that no Personally identifiable information ("PII") or Protected Health Information ("PHI") PHI will be relayed, transmitted, or otherwise provided to or stored by Maxim or Maxim Personnel, unless necessary to be provided in performance of Services under this Agreement. Customer further acknowledges that it will provide Maxim with deidentified data, whenever possible, including removal of direct identifiers. Customer shall indemnify and hold harmless Maxim, its directors, officers, shareholders, employees, and agents from and against any and all claims, losses, liabilities, costs and other expenses resulting from, or relating to, the negligent handling of PII or PHI, including the unauthorized use, access, or disclosure by Customer, its employees, agents, and subcontractors.

**Section 14.3 Aggregate Statistical Usage.** Customer acknowledges and agrees that Maxim will collect data related to the performance of the Services for the purposes of aggregation and the creation of a centralized benchmarking mechanism. Notwithstanding anything to the contrary in this Agreement, Customer acknowledges and agrees that Maxim shall have a perpetual right to collect, use, and disclose the data collected relating to the Services and derived from Customer's use of Maxim, Maxim Personnel, and Contractors affiliated with Maxim under this Agreement for the analysis, benchmarking, analytics, marketing, or other business purposes as long as all data collected is done in an anonymized aggregated manner, with Customer's data aggregated with data of other Maxim customers, so as to be non-specific to any individual Customer.

## **ARTICLE XV. TERMINATION**

**Section 15.1. Termination for Convenience.** Either Party may terminate this Agreement for any reason by providing at least thirty (30) days advance written notice of the termination date to the other Party.

**Section 15.2 Termination for Cause.** If payment default occurs, Maxim may terminate this Agreement upon seven (7) days advance written notice of the termination date to Customer.

**Section 15.3 Post Termination Obligations.** Termination will have no effect upon the rights and obligations resulting from any transactions occurring prior to the effective date of the termination.

## **ARTICLE XVI. GENERAL TERMS**

**Section 16.1 Non-discrimination.** Neither Maxim nor Customer will discriminate on the basis of race, color, religion, creed, national origin or ancestry, ethnicity, sex (including gender, pregnancy, sexual orientation, and gender identity), age, physical or mental disability, citizenship, past, current, or prospective service in the uniformed Services, genetic information, or any other characteristic protected under applicable federal, state, or local law.

**Section 16.2 Compliance with Laws.** Maxim agrees that all Services provided pursuant to this Agreement shall be performed in compliance with all applicable federal, state, and/or local rules and regulations. In the event that applicable federal, state, or local laws and regulations or applicable accrediting body standards are modified, Maxim reserves the right to notify Customer in writing of any modifications to the Agreement in order to remain in compliance with such law, rule, or regulation.

**Section 16.3 Governing Law, Jurisdiction.** This Agreement will be governed by and construed in accordance with the laws of the State of Maryland, without regard to its principles of conflict of laws. Any dispute or claim from this Agreement shall be resolved exclusively in the federal and state courts of the State of Maryland and the parties hereby irrevocably submit to the personal jurisdiction of said courts and waive all defenses thereto.

**Section 16.4 Assignment of Agreement.** Customer may not assign this Agreement without the prior written consent of Maxim, and such consent will not be unreasonably withheld. Maxim may assign this Agreement without consent and/or notice for assignment to either: (i) an entity owned by or under common control with assignor, (ii) in connection with any acquisition of all of the assets or capital stock of Maxim, and/or (iii) a name change by Maxim.

**Section 16.5 Attorneys' Fees.** In the event either Party is required to obtain legal assistance (including in-house counsel) to enforce its rights under this Agreement, or to collect any monies due to such Party for Services provided, the prevailing Party shall be entitled to receive from the other Party, in addition to all other sums due, reasonable attorney's fees, court costs, and expenses, if any, incurred enforcing its rights and/or collecting its monies, including any fees and costs incurred on an appeal.

**Section 16.6 Notices.** Any notice or demand required under this Agreement will be in writing; will be personally served or sent by certified mail, return receipt requested, postage prepaid, or by a recognized overnight carrier which provides proof of receipt; and will be sent to the addresses below. Either Party may change the address to which notices are sent by sending written notice of such change of address to the other Party.

Richmond Heights Local Schools

447 Richmond Rd.  
Richmond Heights, OH 44143

ATTN: Kelly Askew

Maxim Healthcare Staffing Services, Inc.

7227 Lee DeForest Drive  
Columbia, MD 21046  
ATTN: Contracts Department  
Email copy to:  
[ContractsEducationalServices@maxhealth.com](mailto:ContractsEducationalServices@maxhealth.com)

COPY TO:

Maxim Healthcare Staffing Services, Inc.  
2 Summit Park Drive Suite 410  
Independence, Ohio 44131  
ATTN: Ronald Maksim

**Section 16.7 Headings.** The headings of sections and subsections of this Agreement are solely for reference only and will neither affect nor control the meaning or interpretation of this Agreement.

**Section 16.8 Merger.** This Agreement constitutes the entire contract between Customer and Maxim regarding the Services to be provided hereunder. Any agreements, promises, negotiations, or representations not expressly set forth in this Agreement are of no force or effect. All terms of a later signed Agreement will supersede a prior signed Agreement. This Agreement may be executed in any number of counterparts, each of which will be deemed to be the original, but all of which shall constitute one and the same document.

**Section 16.9 Amendment.** No changes and/or amendments to this Agreement will be effective unless made in writing and signed by duly authorized representatives of both Parties except as provided in Section 3.1(a), Section 16.2, and Attachment(s).

**Section 16.10 Severability.** In the event that one or more provision(s) of this Agreement is deemed invalid, unlawful, and/or unenforceable, then only that provision will be omitted, and will not affect the validity or enforceability of any other provision; the remaining provisions will be deemed to continue in full force and effect.

Customer and Maxim have acknowledged their understanding of and agreement to the mutual promises written above by executing and delivering this Agreement as of the date set forth

Richmond Heights Local Schools:

MAXIM HEALTHCARE STAFFING  
SERVICES, INC.:

\_\_\_\_\_  
Signature of Authorized Representative

\_\_\_\_\_  
Signature of Authorized Representative

\_\_\_\_\_  
Printed Name & Title

\_\_\_\_\_  
Printed Name & Title

\_\_\_\_\_  
Date

\_\_\_\_\_  
Date

**ATTACHMENT "A"**  
**CUSTOMER REQUESTED PERSONNEL AND RATES - 6/27/2022**

**School Work Site.** This "Attachment A" shall apply to the following School Work Site(s):

<b>School Work Site Name</b>	<b>Address</b>	<b>School Work Site Contact</b>
Richmond Heights	447 Richmond Rd. Richmond Heights, OH 44143	Kelly Askew

**Base Rates.** Base Rates for the following positions shall apply. Where Base Rate on "Attachment C" is differing, "Attachment C" shall control.

<b>Service</b>	<b>Local Rates</b>
Audiologist	\$65.00-85.00
BCBA	\$85.00-95.00
BCaBA	\$65.00-75.00
Counselor	\$50.00-55.00
COTA	\$55.00-65.00
Educational Diagnostician	\$50.00-75.00
Intervention Specialist	\$58.00-70.00
Social worker	\$55.00-75.00
Orientation and Mobility Specialist	\$65.00-80.00
Paraprofessional	\$35.00
PT/OT	\$68.00-85.00
School Psychologist	\$80.00-95.00
SLP	\$80.00-100.00
SLP/CFY	\$65.00-70.00
LPN	\$46.00
LPN Sub	\$50.00
RN	\$56.00
RN Sub	\$60.00
General Education Teacher	\$50.00-60.00
Behavioral Tech	\$45.00-55.00

**Annual Rate Increase.** Effective on the Agreement renewal date and every year thereafter, base rates for all modalities listed above will be increased by three percent (3%) of Base Rate(s).

**Weekend.** Weekend rates will apply to shifts beginning at 11:00 p.m. on Friday and will apply through shifts ending at 7:00 a.m. on Monday.

**Orientation.** Base Rate(s) will be billed for all time spent in required Customer orientation.

**Overtime.** Overtime Rates are charged for all hours worked in excess of forty (40) per week or according to applicable state law. The overtime rate is a one and one-half times (1.5x) multiplier of the Base Rate for such hours, unless applicable state law requires a different multiplier.



**Holidays.** Holiday Rates will apply to shifts beginning at 11:00 p.m. the night before the holiday through 11:00 p.m. the night of the holiday. The Holiday rate is a one and one-half times (1.5x) multiplier of the Base Rate for the following holidays:

New Year's Day

Labor Day

Memorial Day

Thanksgiving Day

Independence Day

Christmas Day

**Changes.** Pursuant to Section 3.1(c) of the Agreement, the Parties agree that Changes may be made to "Attachment A" by execution of subsequent "Attachment A" document(s).

**Attachment "B"**  
**PRE-ASSIGNMENT SCREENING**

- I. **School Health Services Personnel Requirements.** Unless the Customer requests in writing that the provisions of Section IV hereof apply or requests any modification hereto, Maxim will supply Customer with School Health Services Personnel who meet the following criteria. Customer agrees any additional screening that may be required not listed herein, may take place following Personnel's placement. Maxim will:
- a. Conduct a criminal background check in accordance with applicable law;
  - b. Verify that the appropriate health screening(s) was completed;
  - c. Verify current license, registration, or certification for the Services to be provided;
  - d. Verify skills checklist of competencies for the position and exam;
  - e. Verify that a current diagnostic Tuberculosis (TB) test or screening is on file;
  - f. Verify relevant professional and specialty expertise;
  - g. Receive employment verification;
  - h. Confirm Personnel are authorized to work;
  - i. Perform and verify all federal exclusion and abuse check(s) are completed, including but not limited to, List of Excluded Individuals/Entities (LEIE) and the Excluded Parties List System (EPLS) and the National Sex Offender Registry.
- II. **Related Services Personnel Requirements.** Unless the Customer requests in writing that Section IV hereof apply, Maxim will supply Customer with Related Services Personnel who meet the following criteria. Customer agrees any additional screening that may be required not listed herein, may take place following Personnel's placement. Maxim will:
- a. Conduct a criminal background check in accordance with applicable law;
  - b. Verify that a current diagnostic Tuberculosis (TB) test or screening is on file if placed in a healthcare setting;
  - c. Receive employment verification;
  - d. Confirm Personnel are authorized to work;
  - e. Perform and verify all federal exclusion checks are completed, including but not limited to, List of Excluded Individuals/Entities (LEIE), Excluded Parties List System (EPLS) and the National Sex Offender Registry.
- III. **Special Education Services.** Unless the Customer requests in writing that Section IV hereof apply, Maxim will supply Customer with Special Education Personnel who meet the following criteria. Customer agrees any additional screening that may be required not listed herein, may take place following Personnel's placement. Maxim will:
- a. Conduct a criminal background check in accordance with applicable law;
  - b. Verify that a current diagnostic Tuberculosis (TB) test or screening is on file if placed in a healthcare setting;
  - c. Receive employment verification;

- d. Confirm Personnel are authorized to work;
- e. Perform and verify all federal exclusion checks are completed, including but not limited to, List of Excluded Individuals/Entities (LEIE), Excluded Parties List System (EPLS) and the National Sex Offender Registry.

**IV. Customer Criminal Background Report.** In the event that Customer requires its own criminal background screening for Maxim Personnel, Customer shall provide Maxim with a copy of the results and/or report, or the "Clear" or "Not Clear" status. Customer agrees that Personnel may begin assignment following completion of a successful Customer background screening.

**ATTACHMENT "C"**  
**ASSIGNMENT CONFIRMATION**

Maxim and Customer hereby agree the following personnel will be assigned to Customer's Work Site, listed below, under the terms and conditions outlined below and according to the Agreement signed between Customer and Maxim.

Customer and Maxim understand and agree that this assignment is contingent upon verification of personnel's compliance with the Agreement and the pre-assignment screening requirements in "Attachment B" prior to the assigned start date.

Customer Name:	
School Work Site Address:	
Confirmation Date:	

Customer hereby agrees to sign/return this document **WITHIN 48 BUSINESS HOURS** of the date listed above and understands that failure to do so may result in the delay of the assignment start date, and/or additional charges as defined in the Agreement.

Personnel Name, Discipline:	
Assigned Unit/Department:	
Float Requirement:	

Assignment Start Date:	
Assignment End Date:	
Guaranteed Weekly Hours/Schedule:	
Approved Time-Off:	

Base Bill Rate:	
Overtime and Holiday Rates:	
On Call/Call Back Rates:	
Approved Orientation Rate/Hrs.:	
Special Provisions:	

Authorized signature below indicates agreement to utilize Maxim Personnel under of ALL of the conditions specified above. The Staffing Services Agreement between Customer and Maxim shall govern any/all additional provisions that affect this assignment and/or the business relationship between the parties.

\_\_\_\_\_  
Authorized Customer Representative Signature

\_\_\_\_\_  
Printed Name & Title

\_\_\_\_\_  
Date

Please email a signed copy of this confirmation back to Ronald Maksim. Thank you.