

STAFFING AGREEMENT FOR PER DIEM

THIS AGREEMENT is entered into by and between NURSECORE MANAGEMENT SERVICES, LLC D/B/A NURSECORE OF SANTA BARBARA (hereinafter referred to as "Agency"), and SANTA BARBARA UNIFIED SCHOOL DISTRICT (hereinafter referred to as "Facility");

WITNESSETH:

WHEREAS, Agency is in the business of providing trained nursing personnel (Nurses) on a temporary basis to a Facility. Facility is in need of a source of supplemental nursing service personnel and wishes to engage Agency to provide temporary nursing staff, as it is able, to Facility under the terms and conditions contained herein; and

WHEREAS, this Agreement hereby supersedes and replaces in its entirety the Prior Agreements and the Prior Agreements are null and void and of no further force and effect. Upon execution by both parties to this Agreement, all provisions of, rights granted and covenants made in the Prior Agreements are hereby waived, released and superseded in their entirety and shall have no further force and effect; and

WHEREAS, the parties hereto wish to comply with the Administrative Simplification rules promulgated under the Health Insurance Portability and Accountability Act and set forth at 45 C.F.R. §160, et. seq. ("HIPAA");

NOW, THEREFORE, the parties agree as follows:

I. Term of Agreement and Cancellation Policy

This Agreement shall commence on the 7th day of September, 2018, and shall remain in effect until such time as either party provides thirty (30) days advance written notice to the other party requesting termination of the contract. Upon termination of this Agreement, all Protected Health Information ("PHI"), which includes electronic Protected Health Information ("e-PHI"), (as such terms are defined at 45 C.F.R. §160.103) provided by Facility to Agency or created or received by Agency on behalf of Facility shall be destroyed or returned to Facility. If return or destruction is not feasible, Agency shall extend the protections set forth in this Agreement to such PHI and shall limit further uses and disclosures of such PHI for so long as Agency maintains the PHI.

II. Obligations of Agency

A. In order to provide the highest level of service and to comply with federal and state requirements, Agency promises to follow these staffing criteria.

1. Agency shall match the skills and experience levels of its Nurses to the specific needs of Facility.
2. Agency Nurses shall report to their designated supervisor before he/she begins working.
3. Agency shall maintain an employee file on each of its Nurses containing the following:
 - a. A completed application which includes skills, specialties and preferences.
 - b. Documentation of education or training.
 - c. Skills Inventory.
 - d. Two recent work references
 - e. TB test and evidence of health status in accordance with State regulations.
 - f. Dates hired and oriented.
 - g. Job description.
 - h. Performance evaluation.
 - i. Copy of current license, registration or certification, as applicable.
 - j. INS Form I-9 and documents establishing identity and work authorization.
 - k. Background check
 - l. Drug testing results
 - m. CPR or ACLS Card
4. Agency will not actively solicit Facility employees for employment with Agency.

5. All Nurses assigned to Facility pursuant to this agreement shall, for the purposes of this agreement, be considered employees of Agency. Agency shall assume sole and exclusive responsibility for the payment of wages to its Nurses for services performed by them. Agency shall, with respect to said Nurses, be responsible for withholding federal and state income taxes, paying Social Security taxes, unemployment insurance and maintaining workers' compensation insurance coverage in an amount and under such terms as required by State law. Agency will verify the identity and work authority of each employee under the United States immigration laws.
 6. Agency is in compliance with all state and federal laws applicable to the employment of the Nurses assigned to Facility.
 7. Agency agrees not to discriminate in the assignment of its Nurses on the basis of race, creed, color, national origin, sex, age, disability or veteran status.
 8. Agency maintains and during the term of this Agreement will maintain, general liability and professional liability insurance coverage for Agency, its agents and employees, with a liability limit of not less than \$1,000,000 per occurrence. Agency will provide, upon request, Certificates of Insurance or other evidence of coverage, and it will notify Facility of any cancellation or modification of its liability insurance.
 9. Agency will comply with JCAHO standards for the use of supplemental nursing services by facilities.
- B. In order to provide the highest level of service Agency shall work with the Facility to provide Nurses as follows:
1. Upon request by Facility, Agency shall assign as many such Nurses as are available for such assignment. Agency cannot guarantee at any time that all staffing requests will be filled.
 2. Agency shall give Facility (24) twenty-four hours notice regarding nurses which Agency cannot provide on orders placed in advance for weekly positions.
 3. Agency shall notify Facility within thirty (30) minutes of a request for staff for emergency or same day periods.
 4. Facility orders will receive priority over orders of non-contract facilities.
- C. In relation to its provision of the above-described services, Agency agrees:
1. to not use or disclose PHI, other than as permitted or required by this Agreement or as "required by law" (as such term is defined in 45 C.F.R. §164.103);
 2. to use appropriate safeguards to prevent the use or disclosure of PHI other than as provided for by this Agreement;
 3. to implement administrative, physical, and technical safeguards that reasonably and appropriately protect the confidentiality, integrity, and availability of the e-PHI that it creates, receives, maintains, or transmits;
 4. to mitigate, to the extent practicable, any harmful effect that is known to Agency of a use or disclosure of PHI by Agency in violation of the requirements of this Agreement of which it becomes aware;
 5. to report to Facility any use or disclosure of PHI not provided for by this Agreement and any "security incident" (as such term is defined in 45 C.F.R. §164.304) of which it becomes aware;
 6. to ensure that any agent, including a subcontractor, to whom Agency provides PHI received from, or created or received by Agency on behalf of Facility, agrees to the same restrictions and conditions, including the implementation of reasonable and appropriate safeguards to protect e-PHI, that apply through this Agreement to Business Associate with respect to such information;
 7. to provide access, at the request of Facility, and in the time and manner designated by Facility, to PHI in a "designated record set" (as such term is defined in 45 C.F.R. §164.501) to Facility or, as directed by Facility, to an individual as required by HIPAA;
 8. to make any amendment(s) to PHI in a "designated record set" that Facility directs or agrees to pursuant to HIPAA at the request of Facility or an individual, and in the time and manner designated by Facility;
 9. to make its internal practices, books, and records, including policies, procedures, and PHI, relating to the use and disclosure of PHI received from, or created or received by Agency on behalf of Facility, available to Facility or to the Secretary of the Department of Health and Human Services (the "Secretary"), in a time and manner designated by Facility or the Secretary for purposes of the Secretary determining Facility's compliance with HIPAA; and
 10. to document disclosures of PHI and information related to those disclosures as would be required for Facility to respond to a request by an individual for an accounting of disclosures of PHI, and provide to Facility or an individual, in a time and manner designated by Facility, information collected in accordance with this Section II.C.10. of this Agreement, to permit Facility to respond to a request by an individual for an accounting of disclosures of PHI in accordance with HIPAA.

- D. Agency may use or disclose PHI to provide the above-described services to Facility if such use or disclosure of PHI would not violate HIPAA if done by Facility. Further, Agency may use or disclose PHI for its own management and administration or to carry out its legal responsibilities. If Agency discloses PHI for its management or administration, it shall obtain reasonable assurances from the person to whom the PHI is disclosed that it will remain confidential and used or further disclosed only as "required by law" or for the purpose for which it was disclosed to the person, and the person notifies Agency of any instances of which it is aware in which the confidentiality of the PHI has been breached.

III. Obligations of Facility

In order for the Facility and Agency to work as efficiently as possible together, the Facility agrees to the following:

1. All Nurses provided by Agency for the term of this contract are the employees of Agency. The Facility will take no steps to recruit those Nurses provided by Agency to become employees of the Facility during the term of the Agreement. Facility understands Agency is not an employment agency and that its employees are assigned to the Facility to render temporary service and are not assigned to become employed by the Facility. The Facility further acknowledges the considerable expense incurred by Agency to advertise, recruit, interview, evaluate, reference background check, drug screen and supervise its employees. Accordingly, the Facility may not hire Agency Nurses unless it first arranges with Agency the manner by which Agency is to be compensated for its expenses and loss of revenue.
2. Facility will not arbitrarily discriminate against its former employees who go to work for Agency regarding future assignment at the Facility through Agency.
3. During the term of this Agreement, Facility will not request through another service, Nurses previously assigned to it by Agency.
4. Facility agrees not to discriminate in the assignment of Agency Nurses on the basis of race, creed, color, national origin, sex, age, disability, or veteran status.
5. The Facility shall communicate its needs as precisely and specifically as possible so that the appropriate Nurse may be assigned. The Nurse assigned shall be assigned to perform the specific duties as agreed. The Facility understands that Agency will use the best efforts to fill their requests but that Agency may not always be able to fill all their staffing needs.
6. Facility will orient Nurses to the Facility and its rules and regulations, including the physical layout and equipment on any unit to which such Nurses are assigned.
7. Facility is responsible for supervision of nursing personnel sent by Agency.
8. Facility nursing supervisors will assist Agency, on a continuing basis, with evaluation of Agency Nurses by providing performance information and/or access to clinical areas for observation by Agency Clinical Director.
9. Facility shall allow Agency Nurses, at no expense to Facility, to attend appropriate facility staff development programs.
10. Facility will recommend and refer its private-duty in facility/sitter cases to Agency.
11. Facility will immediately notify Agency of any problems regarding Agency Nurses. Facility shall notify Agency immediately of the initiation of any complaint, inquiry, investigation, or review with or by any licensing or regulatory authority, peer review organization, hospital committee, or other committee, organization or body which reviews quality of medical care which complaint, inquiry, investigation, or review directly or indirectly, evaluates or focuses on the quality of care provided by Agency either in any specific instance or in general.
12. Facility will make available to Agency copies of all documentation about problems or incidents in which Agency employees are involved.
13. Facility shall:
 - a. notify Agency of any limitations in its notice of privacy practices produced in accordance with HIPAA, to the extent that such limitation may affect Staff Agency's use or disclosure of PHI;
 - b. notify Agency of any changes in, or revocation of, permission by an individual to use or disclose PHI to the extent that such changes may affect Agency's use or disclosure of PHI;
 - c. notify Agency of any restriction to the use or disclosure of PHI that Facility has agreed to in accordance with HIPAA to the extent that such restriction may affect Agency's use or disclosure of PHI; and
 - d. not request Agency to use or disclose PHI in any manner that would not be permissible under HIPAA if done by Facility except for uses and disclosures permitted under Section II of this Staffing Agreement.

IV. Recruiting

- A. If the Facility desires to hire an Agency's employee, the client will give immediate written notice to Agency. The employee will remain an employee of Agency for a period of one hundred and eighty (180) days from the date of receipt of such notice, and Agency will bill the client for the hours worked by the employee. At the end of the one hundred and eighty (180) days period, the employee will become an employee of the client.
- B. If Facility wishes to hire an employee who has been assigned to Facility through Agency in lieu of one hundred and eighty (180) days written notice to become a direct employee of Facility, Facility will pay a fee amount equal to thirty (30) percent of the employee's annual base or salary based level at the date of hire.

\$10,000 per RN
\$ 7,000 per LPN/LVN
\$ 5,000 per CNA/HHA/PCA

V. Payment and Cancellation Procedures

- A. Agency will invoice Facility on a weekly basis for its services. The rates for its services are attached as Exhibit A to this Agreement. The rates for services established in Exhibit A can be prospectively amended with two (2) weeks notice to the Facility in writing.
- B. Facility shall pay Agency invoices within (30) days from date of invoice. Invoices not paid within thirty (30) days are considered in default and a default charge will be imposed at one and one-half (1½ %) percent per month on the unpaid balance (annual percentage rate of 18 percent) or the maximum interest rate allowed by law, whichever is lower. Facility agrees to pay the default charge together with reasonable attorney's fees for the cost of collection.
- C. If, in the sole discretion of Facility, any Nurse assigned by Agency is incompetent, negligent, or has engaged in misconduct, Facility may require such person to leave its premises and shall inform Agency of this action immediately. Facility's obligation to compensate Agency for said services shall be limited to the hours actually worked by such person and Facility shall have no further obligation with respect to such assignment.
- D. Facility shall make every effort to request Nurses at least eight (8) hours prior to reporting time. If Nurses are requested less than two (2) hours prior to reporting time, Facility will be billed for the entire shift.
- E. If Facility changes or cancels an order less than two (2) hours before reporting time, Facility shall be liable for four (4) hours at the hourly rate for the Nurse involved. Facility then reserves the right to then employ the Nurse for four (4) hours. If the Facility is using several staffing services, Facility agrees that it will cancel its requests to Agency last.

VI. Indemnification

- A. Each party agrees to indemnify and hold the other, including directors, officers, agents and employees, harmless from all claims, suits, judgments and demands arising from the indemnifying party's negligent acts and omissions in the performance of the duties prescribed in this Agreement.
- B. Each party shall give the other party immediate written notice of any claim, suit or demand, which may be subject to this provision.
- C. This provision shall survive the termination of this Agreement.

VII. Notices

All notices shall be in writing and shall be addressed to the parties as set forth below. Notices shall be effective upon receipt when delivered personally or sent by fax and shall be effective upon mailing when properly addressed with postage prepaid.

Addressed to Agency:

NURSECORE MANAGEMENT SERVICES LLC
D/B/A NURSECORE OF SANTA BARBARA
P.O. Box 201925
Arlington, TX 76006

Addressed to Facility:

SANTA BARBARA UNIFIED SCHOOL DISTRICT
720 Santa Barbara Street
Santa Barbara, CA, 93101

Remit Address:

NURSECORE
DEPT#41753
PO Box 650823
Dallas, TX 75265

VIII. Access to Records

The parties hereto agree to make available to duly authorized representatives of the Department of Health and Human Services; all contracts, books, documents and records of the parties providing services hereunder necessary to verify the costs of the services provided under this Agreement. Such access will be granted until the expiration of four (4) years after the services are furnished under this Agreement. Similar access will also be granted to the contracts, books, records and documents subject to Section 1861 of the Social Security Act between the parties providing the services hereunder and any obligation related to such parties.

IX. Miscellaneous

- A. Any reference in this Agreement to HIPAA means HIPAA as in effect or as amended and for which compliance is required.
- B. The parties hereto agree to amend this Agreement as is necessary for Facility to comply with HIPAA.
- C. In the event of an inconsistency between the provisions of this Agreement and the mandatory terms of HIPAA, as may be expressly amended from time to time by the Department of Health and Human Services ("HHS") or as a result of interpretations by HHS, a court, or another regulatory agency with authority over the parties to this Agreement, the interpretation of HHS, such court, or such regulatory agency shall prevail. In the event of a conflict among the interpretations of these entities, the conflict shall be resolved in accordance with the rules of precedence.
- D. Where provisions of this Agreement are different from those mandated by HIPAA, but are nonetheless permitted by HIPAA, the provisions of this Agreement shall control.
- E. Except as expressly provided in HIPAA or this Agreement, this Agreement does not create any rights in third parties.

X. Binding Effect

Assurance of Compliance - This Agency complies with Title VI of the Civil Rights Act of 1964, Section 504 of the Rehabilitation Act of 1973, Title IX of the Education Amendments of 1972, and The Age Discrimination Act of 1975.

IN WITNESS WHEREOF, the parties have caused this Agreement to be executed on 7th day of September, 2018.

**NURSECORE MANAGEMENT SERVICES, LLC
D/B/A NURSECORE OF SANTA BARBARA**

SANTA BARBARA UNIFIED SCHOOL DISTRICT



Signature

By: Deborah Lollar

Title: President/CEO

Date: 9/7/2018

TIN: 75-2649689

Signature

By: _____

Title: _____

Date: _____

TIN: _____

EXHIBIT A

Rate Schedule, Overtime and Holiday Pay

The rates below shall commence on the 7th day of September, 2018. Said rates shall continue in effect unless and until amended upon two (2) weeks written notice.

CONTRACT HOURLY RATES

	VISIT	M-F 7a-3p
Registered Nurse	\$175.00	\$72.54
Licensed Vocational Nurse	\$150.00	\$65.95

Overtime must have Facility supervisor approval. The overtime rate will be billed as follows:

- Overtime is defined as those hours worked in excess of forty (40) hours in a one week pay period. Overtime must have Facility supervisor approval. The overtime rate is one and one-half times the regular billing rate for each hour worked.
- One and one-half ($1\frac{1}{2}$) times the regular billing rate for all hours worked in excess of eight hours up to and including twelve (12) hours in any workday, and for the first eight (8) hours worked on the seventh (7) consecutive day of work in a workweek; and
- Double the regular billing rate for all hours worked in excess of twelve (12) hours in any workday and for all hours worked in excess of eight (8) on the seventh (7) consecutive day of work in a workweek.

Holiday rates are paid for the day, evening and night shifts on New Year's Day, Easter Sunday, Mother's Day, Memorial Day, Independence Day, Labor Day, Thanksgiving Day and Christmas and for the evening and night shifts on Christmas Eve and New Year's Eve. The holiday billing rate is one and one-half ($1\frac{1}{2}$) times the regular billing rate for each hour worked.

Agency's work week begins at 7am Monday and continues through the 11pm shift the following Sunday and will be billed accordingly.