

## **ATHLETIC TRAINING SERVICES AGREEMENT**

**THIS ATHLETIC TRAINING SERVICES AGREEMENT** (the “Agreement”) is made as of the \_\_\_\_ day of July 2015, by and between, **MARION COUNTY HIGH SCHOOL** (the “School”) and **KENTUCKY ORTHOPEDIC REHABILITATION, LLC**, for itself and on behalf of its subsidiaries and affiliates (“Contractor”).

### **W I T N E S S E T H:**

**WHEREAS**, the School desires to have certain Athletic Training services provided in connection with its athletic programs; and

**WHEREAS**, Contractor has agreed to perform such services for the School on the terms and conditions set forth in this Agreement.

**NOW, THEREFORE**, the parties, intending to be legally bound, and in consideration of the mutual covenants and agreements herein contained, agree as follows:

1. **Services, Exclusivity.**

- a) Contractor agrees to furnish those services as set forth on Exhibit A attached hereto (the “Services”) during such times and at those events set forth on Exhibit B attached hereto. In the event Contractor’s attendance would be required at more than one (1) event as set forth on Exhibit B as a result of multiple events being scheduled for the same time, the Athletic Director for the School will give Contractor reasonable prior notice as to whether Contractor shall divide its time between events or whether the Contractor shall only attend one (1) of the events. Contractor represents that its services shall be provided in a first-class high quality and professional manner and that it has the background and expertise and personnel necessary to provide the services for the School.
- b) During the term of this Agreement, Contractor shall be the **exclusive provider** of Athletic Training and rehabilitation services to Marion Co. HS. Contractor will also be the exclusive Physical Therapy advertiser at School. In exchange for Contractors services, the School shall recognize KORT as the exclusive rehabilitation provider for School and agrees not to enter into any agreements or arrangements to provide signage at the Schools home venues with any other providers of athletic training, physical therapy, occupational therapy, and occupational health.

2. **Responsibilities of the School.** At the School location, the School shall:

- a) Provide a dedicated area reasonably acceptable to Contractor (the “Athletic Training room”) to perform the Services, other than the Services provided at events.

- b) Provide all reasonably necessary and required supplies and equipment required in connection with the performance of the Services upon written request from Contractor. Any supplies and equipment furnished by the School and not consumed in the performance of the Services shall be returned to the School upon the expiration or earlier termination of this Agreement.
- c) Take such action and adopt such policies as are reasonable and desirable to facilitate communication between the School, its coaches and other representatives of its Athletic Department and Contractor.
- d) Designate the School's Athletic Director to serve as Contractor's primary contact for communication with the School.
- e) Provide Contractor with athletic event schedules approximately one (1) month prior to the first scheduled event each season and communicate revisions to the schedule to Contractor no less than two (2) weeks prior to any such revision.
- f) Provide Contractor with reasonable access to a telephone in, or in close proximity to, the Athletic Training room.
- g) Cooperate with Contractor in all other respects to achieve the objectives of this Agreement.
- g) Maintain a budget for athletic training supplies from which any medically necessary bracing or soft goods will be purchased subject to the Athletic Director's prior approval.

3. **Compensation.** In consideration for Contractor's performance of the Services, the School shall pay to Contractor those sums set forth on Exhibit C attached hereto and incorporated herein by reference. The School shall pay Contractor within thirty (30) days of receipt of said invoices. In the event that the School does not pay Contractor within the required thirty (30) day payment period, the School shall pay Contractor a service charge of one and one half percent (1.5%) per month, for each month or part thereof where Contractor does not receive payment by the due date. The School shall also pay Contractor the cost of collection, including reasonable attorneys' fees should Contractor have to pursue the School for unpaid services pursuant to this Section. In the event of termination prior to the end of the term of the Agreement, Contractor's compensation earned, prior to termination but not yet paid, shall be calculated based on a pro-rated hourly basis. Contractor shall immediately reimburse the School for any amount paid in advance but not yet earned. In the event of termination of this Agreement due to Monetary Default by the School in accordance with Section 4(c) below, the School shall remain obligated to pay the fees for all Services up to the date of such termination to the extent such fees are not yet paid to Contractor.

4. **Term.**

- a) This Agreement shall be effective for a term of one (1) year, beginning on July 1, 2015 and continuing through June 30, 2016 for each year the Agreement is in effect (the "Term"), unless sooner terminated in accordance with the terms hereof. Thereafter, the Agreement will automatically renew for successive one (1) year terms on the same terms and conditions.
- b) Notwithstanding the foregoing, either the School or Contractor shall have the right to terminate this Agreement by giving thirty (30) days prior written notice to the other. Upon expiration of said notice period, this Agreement shall be terminated and the parties shall have no further obligation hereunder, except obligations (Compensation obligations in Section 3 and Indemnification obligations in Section 8), which survive the termination of this Agreement.
- c) **Monetary Default.** Contractor may terminate this Agreement for Monetary Default, if the School fails to pay Contractor any fee, expense or other sum of money when due in accordance with the provisions of Section 3. Contractor will provide the School with an opportunity to cure within ten (10) days of notice thereof. Should the School fail to cure the breach within ten (10) days of any notice from Contractor, this Agreement will immediately terminate and all Services provided to the School hereunder will cease immediately.

5. **Independent Contractor.** Contractor, in performing the Services, is acting in the capacity of an independent contractor, and is not an agent, servant, partner, or employee of the School. Contractor will have control over the performance of the Services and shall be solely responsible for payment of its federal and local taxes, salary for its employees, social security payments, subject to the School's indemnification obligation set forth herein. However, the School shall be responsible for reimbursing Contractor for mileage expenses, where Contractor is obligated to travel and present, at an off-site location due to construction or other events on the main campus. School will be responsible for covering costs related to any regular season or post-season coverage in which the School requires the trainer to travel to events not covered under the terms of this Agreement. Such costs include monetary reimbursement for any lodging, food, and mileage costs incurred by the Athletic Trainer. None of the benefits provided by the School to its employees, including, but not limited to, worker's compensation insurance, disability insurance, medical insurance, and employment insurance shall be provided by the School to any of Contractor's employees. Contractor has no authority hereunder to assume or create any obligation or responsibility, express or implied, on behalf or in the name of the School or to bind the School in any way whatsoever.

6. **Personnel Requirements.** Contractor shall furnish one (1) individual to perform the Services.

7. **Insurance.**

- a) Contractor, at its expense, shall maintain adequate insurance coverage for its activities in connection with this Agreement, which insurance shall be issued by an insurance carrier reasonably acceptable to School. The coverage provided shall insure Contractor and each employee thereof against any act, error or omission of Contractor and Contractor's employees. Contractor also shall provide worker's compensation insurance as may be required and consistent with state law. Contractor agrees promptly to furnish to the School evidence of the maintenance and continued effectiveness of the insurance obtained prior to the commencement of services.
- b) The School, at its expense, shall carry a policy or policies of professional liability and general liability insurance, issued by an insurance carrier reasonably acceptable to Contractor, with minimum coverage limits of at least One Million Dollars (\$1,000,000) per occurrence and Three Million Dollars (\$3,000,000) in the aggregate. The insurance coverage provided shall insure the School and each employee thereof against any act, error or omission of the School and the School's employees. The School agrees to furnish to Contractor, prior to the effective date of this Agreement, written evidence of the maintenance and continued effectiveness of the insurance coverage required by this Paragraph 7.

8. **Indemnification.**

- a) Contractor shall indemnify, defend, and hold the School harmless from and against any and all liability, judgments, costs, damages, claims or demands, including, without limitation, reasonable attorney's fees, arising out of the negligent acts or omissions of Contractor in the performance of the Services. Notwithstanding any other provision contained herein, Contractor and its employees, officers, directors, independent contractors, agents and representatives, shall not be liable to the School for any consequential, incidental or special damages, whether in contract or in tort, including, but not limited to lost profits, economic loss or other losses by the School arising out of, or in connection with, Contractor's obligations under this Agreement.
- b) The School shall indemnify, defend, and hold Contractor harmless from and against any and all liability, judgments, costs, damages, claims or demands, including, without limitation, reasonable attorney's fees, arising out of the negligent acts or omissions of the School's athletic programs, maintenance of its facilities, or otherwise related to this Agreement.

9. **Non-Solicitation.** During the initial term and any renewal terms of this Agreement, and for a period of eighteen (18) months after the expiration or earlier termination of this

Agreement, the School covenants and agrees that it will not, directly or indirectly, without the express written consent of Contractor (which consent may be withheld in Contractor's sole discretion for any reason), solicit, contract, engage, hire or employ any person who is, or at any time was, an employee of Contractor.

10. **Notices.** All notices, requests, demands, directions and other communications required or permitted under the provisions of this Agreement, or otherwise with respect hereto, shall be in writing and shall be: (i) Mailed by first class registered or certified mail, return receipt requested, postage prepaid; or (ii) sent by next day business courier (such as Federal Express or the like); or (iii) personally delivered, as follows:

If to Contractor, to:

Kentucky Orthopedic Rehabilitation, LLC  
Attention: Doug Means  
13201 Magisterial Dr  
Louisville, KY 40223

With a copy to:

Select Medical Corporation  
4714 Gettysburg Road  
P.O. Box 2034  
Mechanicsburg, PA 17055  
Attention: Legal Department

If to the School, to:

Marion Co. HS  
c/o Athletic Director  
735 East Main St.  
Lebanon, KY 40033

Or to such other address(es) or to the attention of such other person(s) and officer(s) as the addressee of any such notice shall have previously furnished to the sender in writing. Each notice or communication which shall be transmitted in the manner described above shall be deemed sufficiently given, served, sent, or received for all purposes at such time as it is received by the addressee (with return receipt, delivery receipt being deemed conclusive evidence of such mailing, transmission or delivery), or at such time as delivery is refused by the addressee on presentation.

11. **Promotion.** Contractor shall be permitted to place a promotional banner (at contractors expense) at a mutually agreed upon location at each home venue at which School participates. Contractor shall receive a full page ad, free of charge, in each of the Schools sports programs. Contract shall be granted a minimum of two (2) PA announcements at each home sporting event. Contractor shall be allowed to promote that they are the "Official Sports Medicine/Rehabilitation

Provider” at School. Contractor shall have their logo and a link to KORT on the School’s athletic web page. Contractor shall have the opportunity to conduct on-site promotions, give-aways and sampling at home athletic events with appropriate notice and approval from the Athletic Director. Contractor shall be allowed to advertise in any newsletter sent to alumni free of charge. Contractor shall have the opportunity to participate in any “health fair or career day” event that the School may have free of charge.

12. **Binding Effect: Assignment.** This Agreement shall inure to the benefit of and be legally binding on the parties hereto, their successors and assigns. Neither party shall assign this Agreement to another, without the prior written consent of the other party, to this Agreement, which consent shall not be unreasonably withheld. Notwithstanding the foregoing, Contractor may assign its rights and/or obligations arising under this Agreement to a subsidiary or affiliate without the prior consent of the School.

13. **Waiver of Breach.** The waiver by either party of any breach of any provision of this Agreement by the other party shall not operate or be construed as a waiver of any subsequent breach hereunder. No waiver shall be valid unless in writing and signed by the party granting such waiver.

14. **Entire Agreement.** This Agreement contains the entire agreement and understanding between the parties hereto with respect to the subject matter hereof and supersedes any prior written or oral agreements or understandings and any contemporaneous oral agreements or understanding, between them respecting the subject matter hereof. There are no representations, agreements, arrangements or understanding, oral or written, between and among the parties hereto relating to the subject matter of this Agreement that are not fully expressed herein.

15. **Amendment or Modification.** This Agreement shall not be waived, changed, modified, extended, or discharged except by an agreement in writing, signed by both parties hereto.

16. **Severability.** If any provision of the Agreement shall, for any reason, be adjudged by a court of competent jurisdiction to be invalid or unenforceable, such invalidity shall not affect, impair or invalidate the remaining provisions of this Agreement.

17. **Headings.** The heading used in this Agreement are for convenience of reference only, and shall not control or affect the meaning or construction, or limit the scope or intent, of any provision of this Agreement.

18. **Counterparts.** This Agreement may be executed in several counterparts or with counterpart signature pages, each of which shall be deemed an original, but such counterparts shall together constitute but one and the same Agreement.

19. **No Rights in Third Parties.** Nothing in this Agreement shall be construed as creating or giving rise to any rights in any third parties or any person other than the parties hereto.

20. **Governing Law.** This Agreement shall be construed and interpreted and its validity shall be determined in accordance with laws of the Commonwealth of Kentucky, without regard to its conflicts of laws provisions.

**[REMAINDER OF PAGE INTENTIONALLY LEFT BLANK]**

**IN WITNESS WHEREOF**, the parties hereto have signed this Agreement as of the day and year first above written.

**MARION CO. HS**

By: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

And By: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

*(Signature required of Chairperson,  
Dept. of Athletics)*

**KENTUCY ORTHOPEDIC REHABILITATION, LLC**

By: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

## **EXHIBIT A**

1. Contractor will supply a NATA Certified Athletic Trainer employed or retained by Kentucky Orthopedic Rehabilitation, LLC or an affiliate or subsidiary thereof to provide the Services to the School at the times and during the events set forth on Exhibit B. The Services will be limited to (i) the evaluation and treatment of minor injuries; (ii) the application of first aid and other medical assistance as is reasonable and possible under the circumstances pending the arrival of ambulance services in the case of major injuries; (iii) preventative taping and strapping of athletes, as needed; (iv) providing nutritional information to student athletes; (v) providing basic educational information to student trainers and managers in the course of performing the Services; and, (vi) providing recommendations for exercise or other physical measures for minor injuries under the directions, supervision and review of a physician.
2. All Services will be provided on the School's premises with the exception of sports events at other schools where the School's athletes are the "visiting" team if Exhibit B requires such coverage.
3. Contractor will provide the School with accurate records of treatment rendered for all athletic injuries for which Contractor renders treatment and of all rehabilitation procedures provided by Contractor.
4. In cooperation with the Athletic Director, Contractor will develop a list of locations of emergency phones and emergency phone numbers to be distributed to student athletes and coaches.
5. Contractor will request from the School the equipment and supplies required to render the Services in sufficient time to permit the School to obtain such equipment and supplies when required by Contractor.
6. Contractor will facilitate communication among an injured athlete, the Athletic Director, parent/guardian and the team or family physician.
8. Contractor will provide consultation on equipment and program design when reasonably requested by the School.
9. Contractor to provide services under this Agreement shall prior to providing such services have submitted to a State and Federal criminal records check and be subject to provisions of KRS 160.380, notwithstanding Contractor is not an employee of Marion County Schools.
10. Contractor will provide the following additional services:
  - \* Baseline ImPACT testing (or similar concussion management tool) at \$1.00 per student to be set up and administered by the athletic trainer.
  - \* Athletic trainer will have access to an electronic injury tracking and coaching reporting system.

- \* Fast tracking of athletes into appropriate physician or the physician of choice that the family would like to use.
- \* Parent injury education programs at parent meetings that are conducted at the school periodically throughout the year.
- \* Coaching education on how to treat common injuries that may occur and emergency preparedness.
- \* Athletes will have access to Functional Movement Screening (or similar evidence based tool) completed at the school set up through the athletic trainer at an agreed upon time between the coach and athletic trainer.

## **EXHIBIT B**

### **ATTENDANCE SCHEDULE**

#### **I. ATHLETIC TRAINING ROOM COVERAGE**

##### **A. Coverage Requirements**

1. Contractor shall provide coverage for the athletic training room during the school year to fulfill all of the requirements of this contract. This will include covering all competitive varsity sports teams' home competitions per Section II in Exhibit B, that take place at a school venue in which the School team is playing and all practices when school is in session. Non-school session practices will be determined on an as needed basis. If the school is hosting a sports camp/tournaments and/or jamborees, outside of this contract and additional medical coverage is requested/needed, and the amount of hours, due to the medical needs of the tournament, exceeds the coverage requirement outlined above, then additional costs for coverage can be arranged and negotiated on a case by case basis.
2. Contractor shall provide coverage for the Athletic Training room for a maximum of six (6) days per week. During the school year, from mid-July through mid-May for each year this Agreement is in effect, Contractor shall provide training room and game coverage. This would include operating an on-campus training room in the afternoon and coverage of home games. From mid-May through mid-July for each year the Agreement is in place, Contractor shall provide coverage for up to ten (10) hours per week, as needed by the School.

Athletes will also have availability to receive treatment at a KORT clinic should the athletic training room not be open. KORT shall bill the student-athletes it treats directly and shall be entitled to bill the appropriate payor, the student-athlete's personal insurance plan, or the student directly. KORT will bill School and/or School's secondary insurance policy, as appropriate, for all student-athlete insurance claims in which the student-athlete's insurance was denied for any portion of the claim. Nothing contained in this Section shall be construed to in any way limit or impair the specific request of a student-athlete to utilize the physical therapy rehabilitation services of other providers.

2. Contractor shall not be required to provide Athletic Training room

coverage when Contractor is required to attend an event under Section II of this Exhibit B.

## **II. EVENT COVERAGE**

### **A. Fall Varsity Sports Coverage at Home Events in:**

1. Football (home and away games), Soccer, Cross Country, Tennis, Golf, Volleyball and/or any other KHSAA sanctioned sports played during this season.

### **B. Winter Varsity Sports Coverage at Home Events in:**

1. Soccer, Swimming, Basketball, and/or any other KHSAA sanctioned sports played during this season.

### **C. Spring Varsity Sports Coverage at Home Events in:**

1. Baseball, Softball, Track and Field, Tennis, and/or any other KHSAA sanctioned sports played during this season.

## **EXHIBIT C**

### **COMPENSATION AND PAYMENT SCHEDULE**

The School shall remit the following payments to Contractor within thirty (30) days of invoice by Contractor:

School year 2015 - 2016:      \$16,881.00

Thereafter, the compensation owed by School to Contractor will increase by three percent (3%) each year this Agreement is in effect.

The School shall remit payments to Contractor's address for notices as provided in Paragraph 10 of this Agreement.

## SPECIFICATIONS FOR SERVICES

1. A NATA Certified Athletic Trainer employed or retained by Kentucky Orthopedic Rehabilitation, LLC, or an affiliate or subsidiary thereof, will be available to provide Athletic Training services at the specified locations of the School (as set forth in the attached Agreement) on a regularly scheduled basis. All services will be provided at the specified locations of the School with the exception of those requiring equipment or therapeutic modalities unavailable at the School. The Athletic Trainer will be available for up to forty (40) hours per week during the school year and up to ten (10) hours per week during the summer, at the discretion of the Athletic Director, up to six (6) days per week. During this time, practice and event coverage will be provided. If two (2) or more games are being played simultaneously, the Athletic Trainer will be located at the event with the higher potential incidence of injury or at a location determined in conjunction with the Athletic Director. All coverage will include the season's respective tournaments.
2. The agreed upon services will include evaluation and treatment of athletic injuries, application of first aid and recommendation for exercise or physical measures for minor injuries under the direction, supervision, and review of the physicians to be determined in conjunction with Marion Co. HS.
3. The **Certified** Athletic Trainer will be responsible for the Athletic Training room while in attendance there, including opening and closing. The **Certified** Athletic Trainer will also advise the School on inventory status, requisitioning of supplies, and/or facility management.
4. The **Certified** Athletic Trainer will keep accurate records of all athletic injuries that are reported and all rehabilitation procedures. The **Certified** Athletic Trainer will also prepare reports on all athletic injuries for the nursing and athletic offices.
5. In cooperation with the Athletic Director and staff, the **Certified** Athletic Trainer will develop and distribute the following information: emergency procedures, emergency phone numbers and location of phones.
6. The **Certified** Athletic Trainer will inspect and take an inventory of all team medical kits prior to the beginning of each season.
7. The **Certified** Athletic Trainer will provide for coordination of communication between injured athletes, coaching staff, team or family physicians and the parent(s)/guardian(s).
8. The **Certified** Athletic Trainer is immediately responsible to the Athletic Director or his/her designee.
9. The **Certified** Athletic Trainer will serve as a speaker for educational programs in the School, provided that sufficient advance notice is provided to the **Certified** Athletic Trainer.

10. Contractor reserves the right to substitute an equally qualified **Certified** Athletic Trainer if the need should arise. The Athletic Director will be notified in advance if any substitutions are to be made.
11. If for any reason a **Certified** Athletic Trainer needs to be absent, the provider will do whatever possible to provide a suitable replacement for that coverage time.
12. All changes in practice times and games must be made available to the coverage **Certified** Athletic Trainer within twenty-four (24) hours for those events to be covered properly.
13. Coverage to the School beyond those contract obligations as specified herein are subject to **Certified** Athletic Trainer approval.
14. Additional medical coverage requested for sports camps, tournaments and/or jamborees, outside the scope of this contract, will incur additional medical costs that will be negotiated and billed to the school or tournament director.