

**AGREEMENT FOR OCCUPATIONAL THERAPY
AND PHYSICAL THERAPY SERVICES**

This Agreement for Occupational Therapy and Physical Therapy Services (“Agreement”) is entered into this _____ day of _____, 2022, by and between the Board of Education of Dawson Springs Independent School District (“District”), 118 East Arcadia Avenue, Dawson Springs, Kentucky 42408, and Caldwell County Hospital Inc. dba Caldwell Medical Center (“CMC”), 100 Medical Center Drive, Princeton, Kentucky 42445.

WHEREAS, the District presently provides educational services to approximately 15 students who from time to time require occupational therapy and/or physical therapy services;

WHEREAS, the District is required to provide occupational therapy and physical therapy services to its students who have a medical need for such services;

WHEREAS, CMC is capable of providing occupational therapy and physical therapy services to the students of the District who require such services and the District desires to contract with CMC to provide occupational therapy and physical therapy services to its students;

NOW THEREFORE, for and in consideration of the premises and mutual covenants and promises contained herein, the parties agree as follows:

1. Therapy Services; Compensation.

(a). CMC shall provide occupational therapy and physical therapy services to District students who have a medical need for such services (“Therapy Services”) as specifically requested by the District, which request shall include consent for treatment properly executed by the parent / legal guardian of the subject student. The Therapy Services shall be provided by qualified and licensed therapists (hereinafter “Therapist” or “Therapists”) and/or therapist assistants (hereinafter “Therapist Assistant” or “Therapist Assistants”) with whom CMC has an employment or independent contractor relationship. The Therapy Services shall be provided within a suitable and designated space upon the District’s premises which shall be provided by the District in accordance with Section 6 of this Agreement. CMC shall be the exclusive provider of Therapy Services during the Term of this Agreement.

(b). The District shall pay CMC pursuant to the following schedule for all services provided by CMC pursuant to this Agreement:

- i. The District shall pay CMC the sum of \$1.33 for each minute of Therapy Services which are provided by any Therapist.
- ii. The District shall pay CMC the sum of \$1.00 for each minute of Therapy Services which are provided by any Therapist Assistant.

- iii. The District shall pay CMC the sum of \$1.33 for each minute of time expended by any Therapist performing any administrative tasks associated with the provision of any Therapy Services.
- iv. The District shall pay CMC the sum of \$1.00 for each minute of time expended by any Therapist Assistant performing administrative tasks associated with the provision of any Therapy Services.

(c). CMC shall submit by the fifteenth (15th) day of each month an invoice to the District which itemizes the time expended during the preceding month by each Therapist and/or Therapist Assistant performing any Therapy Services and/or administrative tasks associated with the provision of Therapy Services. The District shall remit payment of each invoice to CMC within fifteen (15) days of the District's receipt of the invoice.

(d). The amount paid to CMC by the District as provided for in subsection b and subsection c of this Section 1 shall be CMC's sole compensation for the provision of all services pursuant to this Agreement. CMC shall not bill any student, insurance carrier or governmental healthcare program for any services rendered pursuant to this Agreement and CMC shall not be entitled to any portion of any fee, charge, payment, reimbursement or remuneration of any kind that is received by the District on account of Therapy Services provided pursuant to this Agreement.

2. Qualifications and Requirements of CMC Staff. CMC shall ensure that all Therapists, Therapist Assistants and other individuals providing any services pursuant to this Agreement (collectively, "CMC Staff") are duly licensed and/or certified by the Commonwealth of Kentucky as applicable. CMC shall provide all supervision needed for patient treatment and other services provided under this Agreement. The parties acknowledge and agree that the following shall apply to all CMC Staff, provided, however, that all CMC Staff shall be employees or contractors of CMC, as the case may be, and shall not be considered employees of the District for any purpose:

(a). CMC Staff shall remain CMC employees or contractors, as defined between those parties and shall be subject to CMC's direction, discipline and control.

(b). CMC Staff shall not be eligible for benefits through the District, including, but not limited to workers' compensation insurance, disability, insurance, medical insurance, and unemployment insurance.

(c). Neither party has or shall represent that it has the authority to act on behalf or in the place of the other. This Agreement shall not be read or treated as a designation of the CMC Staff as "school officials" for the Family Educational Rights and Protection Act ("FERPA") or the Kentucky Family Education Rights and Privacy Act ("KY FERPA"). Neither party shall represent itself as an affiliate of or operating under the auspices of the other, including, but not limited to, the use and content of signs, letterhead and logos. This Agreement shall not be read or treated as a delegation of any powers or responsibilities from one party to the other, except as otherwise expressly stated in this Agreement. Neither CMC nor its employees or contractors shall be considered the employees, agents, servants, partners or designees of the District. Neither CMC nor its employees

or contractors shall have the authority to assume or create an obligation or responsibility, express or implied, on the District's behalf.

(d). The District shall have the right to request temporary or permanent removal of a CMC Staff member if there is reasonable cause for such a request including, but not limited to, the following: (1) the CMC Staff member is disruptive to the District's functions; (2) the CMC Staff member refuses to cooperate with terms set out in this Agreement (3) the District receives complaints about the CMC Staff member's conduct; or (4) the CMC Staff member has been charged with a sex crime or violent offense crime including those covered in KRS 160.380(7)(a) (even though the person is not a school employee) or KRS 17.545, or has been charged with child abuse and/or neglect.

(e). While CMC shall retain control over whether a CMC Staff member remains employed or contracted with CMC or is otherwise disciplined, CMC shall not refuse any reasonable District request to remove an individual CMC Staff member from providing services under this Agreement.

(f). In the event that a CMC Staff member has been charged with a sex crime or violent offense crime including those covered in KRS 160.380 (even though the person is not a school employee) or KRS 17.545 or charged with child abuse and/or neglect, the District shall have the right to prohibit such CMC Staff member from entering school property.

(g). All CMC Staff who work on District property shall undergo state and federal criminal background checks that satisfy KRS 160.380(7). CMC shall submit to a national and state criminal history background check by the Department of Kentucky State Police and the Federal Bureau of Investigation and have a letter to be prepared for the CMC Staff member, from the Cabinet for Health and Family Services stating the CMC Staff member has no findings of substantiated child abuse or neglect found through a background check of child abuse and neglect records mandated by the Cabinet for Health and Family Services and conduct such background checks before CMC Staff begins working upon District property. CMC shall warrant to the District that no CMC Staff with a history of violent offenses or of being charged with a sex crime shall be assigned to provide services under this Agreement. Upon request by the District, CMC shall provide the results of criminal background checks to the District. The District shall maintain the information as confidential and shall not distribute or disclose the information to any person or entity except where necessary for legitimate school business or in response to summons or court order.

(h). CMC shall promptly notify the District of any CMC Staff member whom CMC becomes aware either, (1) is or has been charged with a crime that, if convicted, would disqualify the CMC Staff member under applicable law or regulation or policy from entry onto school premises, or (2) is or has been charged with child abuse and/or neglect.

(i). All CMC Staff who work on District property shall be in compliance with KRS 17.545 and any related District policies.

(j). To avoid potential conflicts or appearance of conflicts, no CMC Staff member who works on District property shall be related to a District Board member, the Superintendent, the host school building's Principal, or the District's Health Coordinator in any of the following ways: father, mother, brother, sister, husband, wife, son, or daughter. CMC warrants that no School Board Member, School District Administrator, or member of such persons' immediate families has any financial interest, directly or indirectly, in CMC.

(k). All Therapists and Therapists Assistants shall document and input their time spent providing services to students of the District through the ezEdMed system that is maintained by District. Such time entry shall be completed on a daily basis. Any training that is necessary to facilitate the Therapists' and/or Therapists Assistants' use of the ezEdMed system will be provided by District at its own cost, and time expended by Therapists and/or Therapists Assistants in connection with such training will be billed to District as an administrative task as provided for in Section 1(b)(iii) and Section 1(b)(iv) of this Agreement.

3. Access to Infinite Campus. Access to the District's Infinite Campus (health, census, and class schedule portions only) will be made available for CMC Staff and administrative staff employed by CMC for the purpose of providing the services required under this Agreement.

4. Referrals. The parties agree that nothing in this Agreement requires or provides payment for the referral of patients to CMC by either the District or its representatives.

5. Term. The term of this Agreement shall be as follows:

(a). Term. Unless otherwise terminated pursuant to this Section 5, this Agreement shall be for an initial term commencing on December 1, 2022 and ending on November 30, 2023 ("Initial Term"). Thereafter, this Agreement shall automatically renew for consecutive one year terms (each a "Renewal Term," collectively with the Initial Term, the "Term"), unless either party notifies the other party in writing at least ninety (90) days prior to the scheduled expiration of the then current term that such party does not desire to renew this Agreement.

(b). Termination Without Cause. After the Initial Term, this Agreement may be terminated by either party without cause by giving one hundred eighty (180) days' written notice to the other party.

(c). Termination for Breach. This Agreement may be terminated by either party for the other party's breach of a material obligation herein upon thirty (30) days' written notice to the breaching party. The non-breaching party shall set forth in the written notice the specific nature of the breach and the conditions that must be met within the thirty (30) day period to cure the breach and avoid termination. In the event the breach is cured to the reasonable satisfaction of the non-breaching party within the above-referenced thirty (30) days, the notice of breach shall be deemed rescinded and the Agreement shall continue in full force and effect. Otherwise, the Agreement shall terminate upon the thirtieth (30th) day following the breaching party's receipt of the written notice of breach, unless the parties agree in writing to a longer period.

(d). Immediate Termination: This Agreement may be terminated immediately for any of

the following reasons:

- (i). By the District, in the event of the failure for any reason by CMC to obtain or maintain all necessary licenses and certifications required for it to carry out the terms of this Agreement.
- (ii). By the District, upon the cancellation of CMC's professional and/or general liability insurance required by this Agreement.
- (iii). By either party, upon the other party's assignment of this Agreement without consent as prohibited by Section 11 of this Agreement.
- (iv). By the District, upon CMC's insolvency, placement in receivership, or general assignment for the benefit of its creditors.
- (v). By the District, in the event CMC dissolves or ceases activity to carry on business.
- (vi). By the District, if CMC commits any act of misrepresentation, fraud, theft, embezzlement, or similar malfeasance.
- (vii). By the District, if CMC violates any applicable federal and state statutes, regulations, rules and/or applicable codes of professional conduct where the violation of such would prevent its provision of Therapy Services in a manner consistent with accepted standards of care.
- (viii). By either party, if it would be subject to civil or criminal liability for continued performance under this Agreement.
- (ix). By the District, if the Kentucky Department of Education either denies or rescinds approval of the lease as addressed in Section 8(e) of this Agreement.

(e). Consequences of Termination: In the event of termination for any reason, each party shall return to the other party any and all property and confidential information and copies therefore received from the other party pursuant to or in contemplation for this Agreement within thirty (30) business days of the termination of this Agreement, to the extent reasonably feasible. If the return of some or all of the property and confidential information is not reasonably feasible, the receiving party shall destroy the property and confidential information and copies thereof in its possession, custody and control within the aforesaid thirty (30) business day period, and certify same to the disclosing party, unless such destruction is prohibited by federal or state law. It is understood that protected health information under paragraph 7(c) is excluded from the operation of this paragraph and that governmental payors require that documentation of services rendered be maintained for a minimum period of time.

6. Lease of Space for Provision of Therapy Services / Equipment / Utilities / Signage.

(a). The District shall provide, at no charge to CMC, adequate space upon District premises to enable CMC to perform the services described in this Agreement (“Therapy Space”). The Therapy Space shall be located upon the District premises and shall be adequate to allow District students to be examined and treated in a private and confidential setting. If the designated area does not conform to privacy standards as set forth by the Health Insurance Portability and Accountability Act (“HIPAA”) and the Health Information Technology for Economic and Clinical Health Act (“HITECH”) an alternate service location must be provided by the District.

(b). The District shall also supply, at no charge to CMC, the therapy equipment identified on Exhibit A attached hereto, all utilities, computer data lines, high speed internet access and telephone lines necessary for CMC’s provision of services upon District premises. Neither CMC nor any of its employees or representatives shall use District computer data lines, internet access or telephone lines for illegal activity, nor shall they use said lines in a way that damages District property or compromises the safety, privacy or wellbeing of the District’s data or District students or employees. CMC shall supply all other equipment and supplies needed to provide the Therapy Services.

(c). The District shall supply and designate parking spaces for CMC Staff. CMC Staff shall only have access to the Therapy Space and such other parts of the school buildings as permissible based upon reasonable request and approved by the principal at the subject school.

(d). While upon District property, CMC Staff shall abide by such rules and policies as may be provided by the District or the principal at each school.

(e). Any contaminated waste generated from the provision of Therapy Services shall be kept in an appropriately marked separate container. The handling and removal of contaminated waste shall be performed by CMC and not by the District or its employees.

(f). The District shall be solely responsible for making all routine repairs and for performing routine maintenance to the Therapy Space but shall not be responsible for the repair or maintenance of equipment that belongs to CMC. CMC shall inform the District in writing about CMC equipment that is not to be handled or disturbed by any District employee, including without limitation, District employees assigned to clean or maintain any Therapy Space, and the District shall require those District employees to abide by that information.

(g). CMC may place signage upon District property (both within the building and outside), subject to the District’s prior approval, which approval shall not be unreasonably withheld. During the Term of this Agreement, the District shall not allow any other entity or organization that provides or performs occupational therapy or physical therapy services to have or place signage or advertising materials upon any District property.

7. Interaction of CMC and School. The interaction between CMC and school officials shall be subject to the following:

(a). Discharge of Students from School. CMC Staff shall not discharge any students from school. The school officials located in each school shall maintain the sole authority to

discharge a student from school. In the event a qualified member of the CMC Staff treats a student and determines that it is in the best interest of the student and/or the District for that student to be discharged from school to go home or seek further treatment, that CMC Staff member shall provide a written recommendation to the student for delivery to the appropriate school official to make the final determination regarding discharge from school.

(b). 504 Disability Services. The District shall not rely on CMC to provide 504 disability services, Individuals with Disabilities Education Act (IDEA) services or other services that the District is required to provide students pursuant to an educational plan except as specifically requested by the District and agreed upon in writing signed by the District and CMC.

(c). Confidentiality and Protected Health Information. CMC has established policies and procedures to protect private health information of all patients in a manner consistent with HIPAA, HITECH and other state and federal laws and regulations, as applicable, including the Privacy, Security, Breach Notification, and Enforcement Rules. All CMC medical records including those generated for the District's students and/or employees shall be maintained confidentially in a manner consistent with CMC's established policies and procedures and shall only be disclosed in a manner consistent therewith. As a provider of education, the District maintains educational information in a manner consistent with FERPA, KY FERPA, all applicable federal and state laws and regulations, and policies and procedures established by the District. The District shall share protected education records and other information in the District's custody or control with CMC and its staff only in a manner consistent with state and federal law. Access to Infinite Campus by CMC staff is granted only for legitimate school purposes of checking student health information, using the class schedule feature to locate students, parent, or guardian contact information or other educational purposes (see Section 3) as defined in the Caldwell County School District's FERPA Annual Notification of Rights. Other functions or use of Infinite Campus will be prohibited. Any further use of information from Infinite Campus must be authorized by District personnel prior to being extracted. Nothing about the parties' relationship shall waive or modify the parties' respective obligations under law.

(d). Primary Contact Person. Each party shall designate a primary contact person for communication purposes under this Agreement. Each party may change the primary contact person as necessary upon written notice to the other party.

The primary contact person for the District shall be:

Kristin Merrill, Special Education Director
Dawson Springs Independent Schools
118 East Arcadia Avenue
Dawson Springs, Kentucky 42408
Telephone: (270)797-2991, Extension 1004

The primary contact person for CMC shall be:

Dan Odegaard, CEO
Caldwell Medical Center

100 Medical Center Drive
Princeton, Kentucky 42445

(e). Medical Records. All documentation in Infinite Campus will be the property of the District. Any requests for medical records from Infinite Campus must be approved by the District. CMC shall establish and maintain medical records for each District student or employee that is a patient through its Electronic Medical Records System, (hereafter “Medical Records”). CMC shall maintain, store, archive and destroy inactive Medical Records pursuant to CMC’s policies for maintaining medical records, which may be amended from time to time. Both parties acknowledge and agree that all Medical Records of District students and employees are the property of CMC. Standard forms required by the Kentucky Department of Education that are initiated by the District and customarily filed in a student’s education record are not medical records and are the property of the District. CMC has established policies and to protect private health information of all patients in a manner consistent with HIPAA, HITECH, and other state and federal laws and regulations, as applicable, including the Privacy, Security, Breach Notification, and Enforcement Rules. The District acknowledges that the Medical Records are confidential and the District shall not seek access to the records or information contained therein, except in accordance with applicable law.

(f). Emergency Situations. Nothing contained in this Agreement shall be construed to obligate, restrict or prohibit CMC employees or contractors with respect to the provision of assistance in the case of any emergency situation.

8. Licensure and Compliance.

(a). No Remuneration for Referrals. The parties agree that neither party is entitled to any payment nor compensation from the other party for any services, rights or privileges other than as specifically provided in this Agreement. CMC shall not offer or give any remuneration, either direct or indirect, for the referral of patients or for arranging for the furnishing of any item or service for which payment may be made in whole or in part by a governmental payor, or which otherwise may be deemed to violate any federal or state law or regulation.

(b). Licenses and Certificates. CMC shall be solely responsible for securing all necessary licenses and certificates required for the provision of Therapy Services where required by law. CMC shall promptly notify the District if any relevant license or certificate, including any license or certificate of CMC Staff, are suspended, disciplined or revoked or lapsed.

(c). Compliance with Laws. CMC shall comply with all applicable state and federal civil rights laws, including, but not limited to, KRS Chapter 344 and the Americans with Disabilities Act, regarding operation the provision of Therapy Services and interaction with District students and employees. CMC shall comply with applicable provisions of OSHA and KOSHA regarding provision of Therapy Services.

(d). Board Policies. Recognizing that the Therapy Services will be provided upon District property, CMC Staff, to the extent reasonable, shall honor relevant policies and procedures from the District’s Policies and Procedures manual (referred to herein as “Board Policies” or “BP”),

and shall cooperate and coordinate with the District to facilitate implementation. The District shall provide CMC Staff with copies of all Board Policies and Procedures with which CMC Staff are expected to comply. In addition, the District shall provide CMC Staff with annual orientation(s) on the Board Policies and Procedures applicable to CMC Staff. Nothing about CMC's agreement to reasonably honor, cooperate with and coordinate the following of Board Policies confer any CMC employee or contractor with status or rights as a District employee. The District acknowledges and understands that its recourse concerning a failure to honor these policies is limited to (a) requesting removal from the District's property of the specific CMC Staff member; (b) acting pursuant to the terms of this Agreement, up to and including termination of this Agreement; and (c) actions to recover compensatory damages only.

(e). Approval of Kentucky Department of Education. The District shall obtain the approval of the Kentucky Department of Education to lease the Therapy Space to CMC. In the event the Department of Education denies the District's request to approve of any lease of Therapy Space or rescinds approval of any such lease at any time, the District shall be required to reimburse CMC for its reasonable costs and expenses incurred in performing, and/or preparing to perform, its obligations under this Agreement.

9. Insurance and Indemnification.

(a). Liability Insurance. CMC shall carry professional liability insurance coverage of at least \$1,000,000 per occurrence and \$3,000,000 in the aggregate insuring the professional acts or omissions of CMC Staff providing services pursuant to this Agreement. CMC shall name the District as an additional insured under the Professional Liability Coverage and agrees to indemnify and hold the District and its employees harmless for any liability that results from any acts or omissions of CMC, its contractors or its employees.

(b). Liability Coverage. CMC shall also carry insurance coverage for general liability claims that may arise out of CMC's provision of any services pursuant to this Agreement. Such coverage shall be for not less than \$1,000,000 per occurrence and \$3,000,000 million in the aggregate. CMC shall name the District as an additional insured under this coverage.

(c). Indemnification. CMC agrees to indemnify and hold the District and its directors, officers and employees harmless for any liability that results from any acts or omissions of CMC, its contractors or its employees arising out of CMC's provision of services pursuant to this Agreement or CMC's use of District property. The District agrees to indemnify and hold CMC and its directors, officers and employees harmless for any liability that results from any acts or omissions of the District, its contractors or its employees.

10. Section Left Blank Intentionally.

11. Assignment. This Agreement may not be assigned by any party without the prior written consent of the other party hereto. Any attempted assignment in the absence of such consent shall be void as if never assigned at all.

12. Parties in Interest. This Agreement shall inure to the benefit of and be binding upon the

parties, and their respective heirs, executors, administrators, successors, and permitted assigns.

13. Waiver. The waiver by either party of any breach of any provision of this Agreement shall not operate or be construed as a waiver of any subsequent breach.

14. Notices. All notices under this Agreement shall be sent by certified or registered U.S. Mail, postage prepaid, return receipt requested, Federal Express or other expedited delivery service, or delivered personally to the parties through the contacts designated pursuant to Section 8(f) of this Agreement. The date of the notice shall be the date of the postmark or, if by personal delivery, the date delivery is made.

15. Illegality or Unenforceability. If any one or more of the provisions contained in this Agreement shall for any reasons be held invalid, illegal or unenforceable for any reason, such invalidity, illegality or unenforceability shall not affect any other provisions of this Agreement, which shall be construed as if such invalidity, illegality or unenforceable provisions had never been contained herein. It is the intention of the parties that if any provision of this Agreement is capable of two constructions, one of which would render the provision void and the other of which would render the provision valid, then the provision shall have the meaning which renders it valid.

16. Counterparts. This Agreement may be executed in one or more counterparts each of which shall be deemed an original, but all of which together shall constitute one and the same instrument.

17. Third Parties. Nothing in this Agreement shall be construed as creating any rights in any third parties or any persons other than the District and CMC.

18. Jurisdiction and Venue. This Agreement shall be interpreted according to the laws of the Commonwealth of Kentucky and the Caldwell Circuit Court shall have exclusive venue and jurisdiction over the parties and any dispute arising out of this Agreement or the enforcement hereof, unless otherwise required by law. The parties agree that either (a) prior to the institution of any action in Circuit Court upon the written request of either party, or (b) by agreed order upon the institution of any action but following the answer by the other party to the complaint or petition, the parties shall submit to mediation before a mediator mutually agreeable to the parties, and if there be none, a mediator appointed by the Circuit Court, the cost of mediation to be borne equally by the parties.

19. Headings / Drafting of Agreement. The paragraph headings contained in this Agreement are for reference purposes only and shall not control the interpretation of this Agreement. Each party has participated fully in the drafting, review and revision of this Agreement. Any rule of construction to the effect that ambiguities are to be resolved against the drafting party shall not apply in interpreting this Agreement. The language in this Agreement shall be interpreted as to its fair meaning and not strictly for or against any party.

20. Entire Agreement and Modification. This writing constitutes the entire agreement between the parties hereto and may be modified only by a writing executed by both parties. Each and every modification and amendment of this Agreement must be in writing and signed by all of the parties hereto. In the event that the District obtains school funding through a state, federal or private grant or endowment that relates to or affects the provision of Therapy Services under this Agreement, the

parties agree to work in good faith to make those modifications necessary to comply with the terms of said funding. Each and every waiver of any covenant, representation, warranty or other provision of this Agreement must be in writing and signed by the party whose interest are adversely affected by such waiver. No waiver granted in any one instance shall be construed as a continuing waiver applicable in any other instance.

WITNESS the signatures of the parties as of the dates written below:

THE BOARD OF EDUCATION OF
DAWSON SPRINGS INDEPENDENT
SCHOOLS

CALDWELL COUNTY HOSPITAL, INC.
DBA CALDWELL MEDICAL CENTER

By: _____
Signature

By: _____
Signature

Its: _____

Its: _____

Date: _____

Date: _____

EXHIBIT A

INVENTORY OF THERAPY EQUIPMENT