

PROVIDER AGREEMENT

This Provider Agreement, dated July 1, 2021, is between **Union Township Board of Education** ("SCHOOL") and **Epic Health Services, Inc. d/b/a AVEANNA Healthcare**. ("AVEANNA").

SCHOOL has entered into an agreement with AVEANNA to provide healthcare services to student(s) of the SCHOOL. These services are defined in Schedule "A".

Accordingly, the parties agree as follows:

1. Obligations of AVEANNA.

a. General. AVEANNA represents and warrants that it and all of its employees, agents and representatives hold and will continue to hold all federal, state and local licenses required by law in order to render the Services pursuant to this Agreement. AVEANNA shall provide on a non-exclusive basis the Services described on Schedule A (attached hereto and incorporated herein by reference) to SCHOOL during the term of this Agreement the Services, in such amounts as SCHOOL shall require in its sole discretion. There is no requirement imposed upon SCHOOL pursuant to this Agreement to purchase any quota of Services hereunder.

b. Provision of Services. AVEANNA shall schedule Services as requested by the SCHOOL. AVEANNA shall comply with all relevant policies and procedures of SCHOOL and AVEANNA, including the preparation and submission of student records and other reports, emergency procedures and student complaints.

c. Personnel. AVEANNA shall be responsible for providing qualified personnel to deliver the Services. AVEANNA shall not subcontract any of the Services to be performed without the prior written consent of SCHOOL.

d. Background Checks. AVEANNA will have conducted criminal background checks on each of its employees who provide Services under this Agreement, and, with respect to its background checks, AVEANNA agrees to adhere to the requirements specified and governed by state and local laws.

e. Invoice. AVEANNA shall provide SCHOOL with weekly or monthly invoices as indicated on the signatory page. FINAL INVOICES for the school year MUST be received by the SCHOOL by the date indicated on the signatory page.

f. Force Majeure. AVEANNA shall use its best efforts to provide the Services requested by SCHOOL, but AVEANNA shall not be responsible for delays caused by an act of God or any other cause reasonably beyond AVEANNA's control. This includes unforeseen unavailability of AVEANNA nurses. SCHOOL agrees that in such event AVEANNA, without liability, may allocate the Services covered by this Agreement among all of its customers. If, for reasons beyond the control of AVEANNA, an assigned person becomes unavailable and/or an assignment must be interrupted or terminated, AVEANNA will immediately notify SCHOOL and will make every effort to secure a replacement individual with similar qualifications so that services are not interrupted.

2. Obligations of SCHOOL.

a. General. SCHOOL shall purchase from AVEANNA, on a non-exclusive basis, during the term of this Agreement the Services in such amounts as SCHOOL elects to purchase. SCHOOL shall pay only for the Services actually provided.

b. Purchase Price; Payment. SCHOOL shall pay to AVEANNA the fees for the Services as set forth in Schedule B (attached hereto and incorporated herein by reference). SCHOOL shall not be obligated to pay for any Services delivered by AVEANNA that were not requested by SCHOOL.

c. **Payment Terms.** The SCHOOL's billing contact information, whether the billing frequency is to be monthly or weekly, and the date by which final invoices must be received will be indicated on this Agreement's signatory page, and such terms are incorporated herein. All payments to be made by SCHOOL to AVEANNA under this Agreement are due 30 days from SCHOOL's receipt of a related invoice. For each month the claim remains unadjudicated SCHOOL must pay AVEANNA interest on all clean claims that are not paid within 30 days at the lesser of (i) 1.5% per month, or (ii) the maximum rate allowed under law. SCHOOL's obligation for payment to AVEANNA is independent of any reimbursement received by SCHOOL from any other source.

d. **Safe Environment.** SCHOOL shall provide an appropriate and safe environment that allows for AVEANNA's nurses to properly provide Services pursuant to the Agreement.

e. **Non-Solicitation of AVEANNA Nurses.** SCHOOL hereby acknowledges that because AVEANNA spends significant resources recruiting nurses with pediatric experience and provides extensive pediatric training and in servicing to its nurse employees, the identity of AVEANNA nurses staffing particular cases is confidential information. Accordingly, SCHOOL, on behalf of itself and its employees, agrees that neither SCHOOL nor its employees shall hire or directly or indirectly solicit for hire any AVEANNA nurse employees with whom SCHOOL or SCHOOL's employees have contact as a result of this Agreement. In violation of the preceding sentence, it would be impractical and extremely difficult to anticipate or determine AVEANNA's actual damages in the event of such a breach. Therefore, as AVEANNA's exclusive monetary remedy for any such breach by SCHOOL, SCHOOL shall pay the amount of Five Thousand Dollars (\$5,000) to AVEANNA as liquidated damages in the event of a breach, which amount the parties agree is not a penalty. The provisions of this paragraph may be waived by the mutual written agreement of AVEANNA and SCHOOL.

3. **Term/Termination.**

a. **This Agreement shall be effective July 1, 2021 through June 30, 2022.** Either party may terminate this Agreement upon the happening of an Event of Default (as defined in Section 3(b) below). In addition, either party, at its option may terminate this Agreement at any time upon thirty (30) days written notice to the other party.

b. It shall be an Event of Default if any warranty, representation or covenant contained herein is untrue as of the date hereof or is breached during the term hereof, and any such breach which is capable of remediation is not remedied within 15 days after the written notice thereof from the non-breaching party. Upon the happening of an Event of Default, the aggrieved party shall be entitled to avail itself cumulatively of any and all remedies available at law or in equity, including the right of termination of this Agreement.

c. In the event that the performance by either party hereto of any term, covenant, condition or provision of this Agreement should jeopardize the licensure of either party, its participation in Medicare, Medicaid or other governmental reimbursement or payment programs, or any applicable state or nationally recognized accreditation organization, or if for any other reason said performance should be in violation of any statute, ordinance, or be otherwise deemed illegal, or be deemed unethical by any recognized body, agency or association in the medical or student care fields, either party may at its option terminate this Agreement forthwith.

4. **Miscellaneous.**

a. **Indemnification.**

(i) SCHOOL shall defend, indemnify and hold harmless AVEANNA and each of its officers, directors, employees, agents and stockholders (the "AVEANNA Parties"), from and against any and all claims, liabilities, losses, damages, costs or expenses of any kind (including attorneys' fees and disbursements) ("Indemnified Amounts") incurred by the AVEANNA Parties or any of them as a result of,

or arising out of, or relating to SCHOOL's conduct, actions, or inactions, but only to the extent that such Indemnified Amounts are caused by the negligence or willful misconduct of SCHOOL.

(ii) AVEANNA shall defend, indemnify and hold harmless SCHOOL and each of its officers, directors, employees, agents and stockholders (the "SCHOOL Parties"), from and against any and all Indemnified Amounts incurred by the SCHOOL Parties or any of them as a result of, or arising out of, or relating to AVEANNA's conduct, actions, or inactions, but only to the extent such Indemnified Amounts are caused by the negligence or willful misconduct of any of the AVEANNA Parties.

(iii) The party seeking indemnification pursuant to this Section 4.a shall notify the other party in writing of the assertion of any claim, or the commencement of any suit, action or proceeding by any party in respect of which indemnity may be sought under this Agreement within ten (10) days of such assertion or commencement. Failure to notify the other party will result in the waiver of indemnity rights with respect to such claim, suit, action or proceeding. The parties shall cooperate with each other in the defense of any such claim, suit, action or proceeding.

b. Insurance. As applicable and permissible by State Law, each party agrees to maintain the following insurance covering its activities performed pursuant to this Agreement;

(i) Comprehensive General Liability, including malpractice liability, product liability and contractual liability, in an amount not less than One Million Dollars (\$1,000,000) per occurrence combined single limit for bodily injury and property damage.

(ii) Worker's Compensation in accordance with applicable statutory requirements.

(iii) Each party agrees to ensure that any licensed professional who performs any activity pursuant to this Agreement on its behalf and is not an employee of such party is covered by professional liability insurance in an amount not less than One Million Dollars (\$1,000,000) per occurrence combined single limit for bodily injury and property damage.

(iv) Each party shall make a good faith effort to assure that its insurance policy shall be endorsed to provide for written notification to the other party by the insurer not less than 30 days prior to cancellation, expiration or material change in insurance coverage. Certificates of insurance relevant to this Agreement shall be furnished upon reasonable request. AVEANNA may maintain its insurance coverage through a combination of commercially-placed insurance and self-insurance.

In the event that SCHOOL requires AVEANNA to accompany student during transport to and from school or to and from alternate sites, SCHOOL shall maintain coverage for automobile/relevant vehicle liability with limits not less than \$1,000,000.00 combined single limit or \$1,000,000.00 per person/\$1,000,000.00 per accident bodily injury.

c. Independent Contractor. AVEANNA shall be an independent contractor and will employ appropriate personnel to deliver the Services. In no event shall any employee of AVEANNA be considered an employee or agent of the SCHOOL. AVEANNA is responsible for meeting all tax obligations related to its employees and for maintaining all required insurance coverage related to its employees, including workers' compensation insurance.

d. Assignment. Neither party may assign this Agreement without the prior written consent of the other party which shall not be unreasonably withheld, provided, however, either party may assign this Agreement to any of its wholly-owned affiliates at any time.

e. Confidentiality. AVEANNA and SCHOOL shall maintain the confidentiality of all confidential information regarding students in accordance with any applicable state and federal statutes and regulations and shall maintain the confidentiality of any books, records or information shared by the Parties pursuant to this Agreement. Confidential information shall not be disclosed or shared with any third-party, except as necessary for AVEANNA to perform Services under this Agreement and as otherwise may be required by law or court order. If AVEANNA receives a valid request by a third party for

confidential information related to the performance of services pursuant to this Agreement, unless legally unable to do so, AVEANNA will notify SCHOOL of the request prior to providing the requested information.

f. **Amendment.** No amendment, modification or discharge of this Agreement, and no waiver hereunder shall be valid or binding unless set forth in writing and duly executed by the party against whom enforcement of the amendment, modification, discharge or waiver is sought.

g. **Entire Agreement.** This Agreement contains the entire agreement between the parties, supersedes all discussions and writings by and between the parties which may have occurred prior to entering into this Agreement and shall be binding upon and inure to the benefit of the parties and their successors and assigns.

h. **Venue and Governing Law.** The parties agree that any action or proceeding arising out of or relating to this Agreement shall be commenced in the State of New Jersey, and each party submits to the jurisdiction of the State of New Jersey. This Agreement and the rights and obligations of the parties hereunder shall be governed by and construed in accordance with the laws of the State of New Jersey, without regard to its conflicts of law doctrine.

i. **Severability.** If any term, provision, covenant or restriction of this Agreement is held by a court of competent jurisdiction to be invalid, void or unenforceable, the remainder of the terms, provisions, covenants and restrictions of this Agreement shall remain in full force and effect and shall in no way be affected, impaired or invalidated.

j. **Notices.** Any notice, demand or other communication required or permitted hereunder shall be given in writing at the address set forth on the signature page and will become effective if mailed, by certified mail, postage prepaid and return receipt requested, five days after deposit in the US mail, one day after deposit with a nationally recognized overnight courier, freight prepaid, when confirmation of transmission is received or the date of personal delivery. Any address or name specified above may be changed by a notice given by the addressee to the other party in accordance with this Section.

k. **Captions.** The captions in this Agreement are for convenience only and shall not be considered a part hereof or affect the construction or interpretation of any provisions of this Agreement.

l. **Waiver.** Waiver by either party of an event of default hereunder or of any breach of the provisions of this Agreement, shall not constitute a waiver of any other event of default or breach or right, nor of the same event of default or breach or right on a future occasion.

m. **Survival of Obligations.** Termination of this Agreement for any cause shall not release either party from any liability which at the time of termination has already accrued to the other party or which thereafter may accrue in respect to any act or omission occurring prior to termination or from any obligation which is expressly stated herein to survive termination.

n. Notwithstanding any other provisions in this contract, AVEANNA remains responsible for:

1. ensuring that any service provided pursuant to this contract complies with all pertinent provisions of Federal, State and local statutes, rules and regulations;
2. ensuring the quality of all services provided by the agency; and
3. ensuring adherence by AVEANNA staff to the plan of care established for students for whom AVEANNA provides care pursuant to this Agreement.

The authorized representatives of the parties have signed this Agreement.

Union Township Board of Education
2369 Morris Avenue
Union, NJ 07083
Phone: 908-851-6411

By: _____

Print Name: _____

Title: _____

Date: _____

The DATE FINAL INVOICES for school year must be received
by SCHOOL: _____

Email address for invoice submission: _____

INVOICE/BILLING ADDRESS:
Contact Name and phone number for questions related
to invoices

BILLING FREQUENCY:

___ - Weekly

___ - Monthly

Epic Health Services, Inc. dba Aveanna Healthcare
400 Interstate N. Parkway, SE Suite 1600
Atlanta, GA 30339
Attn: Managed Care
managedcare@aveanna.com

By: _____

Print Name: James Elkington

Title: SVP Revenue Cycle Management

Date: _____

Tax ID # 26-3203921

EPIC HEALTH SERVICES, INC. dba AVEANNA HEALTHCARE

**Schedule "A"
Services/Description**

In addition to the terms and conditions identified in previous sections of the contract, AVEANNA agrees to provide the services listed herein and participate in any tasks or sessions related to the services and/or required by SCHOOL, including, but not limited to, care conferences with SCHOOL and orientations given or required by SCHOOL.

Services to be Provided:

- 1:1 RN hourly
- 1:1 LPN hourly
- Substitute Nurse RN
- Substitute Nurse LPN
- Transport Nurse
- Skilled Nurse Visit

EPIC HEALTH SERVICES, INC. dba AVEANNA HEALTHCARE

**Schedule "B"
Pricing**

Service	Standard Hourly Rate
1:1 RN	\$60.00
1:1 LPN	\$50.00
Substitute Nurse RN	\$75.00
Substitute Nurse LPN	\$75.00
Transport Nurse RN*	\$130.00 per trip (up to 2 hours, then 1:1 hourly rate for additional hours)
Transport Nurse LPN*	\$130.00per trip (up to 2 hours, then 1:1 hourly rate for additional hours)
Skilled Nursing Visit RN	\$100.00 (up to 2 hours, then 1:1 hourly rate for additional hours)
Skilled Nursing Visit LPN	\$100.00 (up to 2 hours, then 1:1 hourly rate for additional hours)

