

SPORTS MEDICINE SERVICES AGREEMENT
(With Sponsorship Contribution)

THIS SPORTS MEDICINE SERVICES AGREEMENT (“Agreement”) is entered into as of January 1, 2025 or the date of the last parties’ signature below, whichever is later (the “Effective Date”) and is by and between St. Mary’s Duluth Clinic Health System on behalf of itself and its affiliates (“Essentia Health”) and Independent School District #709 d/b/a Duluth Public Schools (“School”).

RECITALS

WHEREAS, Essentia Health is a nonprofit health system dedicated to the promotion of health and welfare and provides health care services, including sports medicine services, in and around the community where School is located; and

WHEREAS, School conducts various athletic events and activities for eligible student participants (individually, a “Student” and, collectively, the “Students”), and desires to contract with Essentia Health for sponsorship and services relating to the same; and

NOW, THEREFORE, in consideration of the mutual promises hereinafter recited, the parties agree as follows:

AGREEMENT

1. *Essentia Health Responsibilities.* In consideration for School’s recognition of Essentia Health as the exclusive health care industry sponsor of School’s athletic events and program, Essentia Health agrees to the below obligations and responsibilities.

1.1 **Sports Medicine and Related Services.** Essentia Health shall provide certified athletic trainer(s) to School to perform any rehabilitation, taping, evaluations, or other related athletic training services to Students for home games, training room coverage, home tournament coverage for any level, practice coverage, first aid and emergency care, treatment of injuries (subject to physician supervision and modality limitations), injury assessment (including making appropriate recommendations for medical evaluation and treatment as warranted by the circumstances), injury reporting, and other related athletic training services as mutually agreed between the parties (collectively, the “Services”).

1.2 **Supplies.** Essentia Health shall provide the basic medical supplies required to furnish the Services up to an amount equal to One Thousand Dollars (\$1,000) per year during each Term of this Agreement.

1.3 **Standards.** The Services shall be provided in accordance with all applicable statutes, regulations, and accrediting bodies. Essentia Health shall determine and select the individual(s) assigned to provide Services to School; provided, however, that School may, in its sole discretion, request Essentia Health remove an individual providing Services hereunder, in which case Essentia Health shall use its best efforts to substitute another qualified athletic trainer.

1.4 **Sponsorship Contribution.** Essentia Health agrees to make a financial contribution to School in the amount of Three Hundred and Twenty-Five Thousand Dollars (\$325,000) for use towards its athletic and student wellness programs (the “Sponsorship Contribution”). The Sponsorship Contribution will be paid out in five (5) equal

installments of Sixty-Five Thousand Dollars (\$65,000) each during the Term, with the first such installment paid to School within thirty (30) days from the Effective Date and all subsequent annual installments paid to School within thirty (30) days from the corresponding Renewal Term.

2. *School Responsibilities.* In consideration of Essentia Health's Services and Sponsorship Contribution herein, School agrees to the below obligations and responsibilities.

2.1 Exclusive Health Care Industry Sponsorship. School agrees to identify and acknowledge Essentia Health as the exclusive health care industry sponsor of School's athletic events and program, which sponsorship includes but is not necessarily limited to, those marketing and advertising opportunities set forth on Exhibit A, attached hereto.

2.2 Duties. School agrees to provide the following to facilitate the effective provision of Services by Essentia Health:

2.2.1 providing all necessary basic medical supplies costing over and above the annual One Thousand Dollar (\$1,000) amount provided by Essentia Health required to furnish the Services;

2.2.2 facilitating communication with Essentia Health in connection with the provision of Services;

2.2.3 providing Essentia Health with sports competition schedules prior to the first scheduled sporting event for the upcoming regularly scheduled athletic season together with practice schedules in advance as necessary to ensure coverage by Essentia Health personnel;

2.2.4 confirming the health history and consent for treatment forms are obtained and returned to School for each Student to the extent required under School and any state High School League participation requirements; and

2.2.5 to the extent applicable pursuant to the Services provided hereunder, recognize the responsibility and authority of an Essentia Health medical professional to make a final determination regarding each Student's ability to safely participate in athletic events and practices, and to communicate the same to applicable School personnel (e.g., coaches, etc.).

3. *Term and Termination.* The term of this Agreement is Five (5) years, effective as of the Effective Date (the "Initial Term"). Thereafter, this Agreement shall automatically renew for additional one (1) year periods (each, a "Renewal Term"). The Initial Term and each Renewal Term is referred to herein as the "Term." Notwithstanding the stated Term, this Agreement may be terminated as follows:

3.1 By Essentia at any time upon not less than sixty (60) days' prior written notice;

3.2 By either party at any time in the event that the other party is in material breach of any provision of this Agreement and the breaching party has not cured the breach within thirty (30) days of receipt of notice from the non-breaching party;

- 3.3 By either party at any time in the event that (i) the business of either party is terminated or suspended, (ii) a petition for bankruptcy is filed by or against either party, (iii) a receiver is appointed on account of either party's insolvency, or (iv) any assignment is made of either party's business for the benefit of its creditors; or
- 3.4 By Essentia Health, immediately upon notice to School if, in Essentia Health's sole discretion, termination is necessary to preserve the quality of patient services or to protect the health, safety, or welfare of patients, employees, or other persons.
4. **Insurance.** School agrees to maintain throughout the Term of the Agreement, at its sole cost and expense, insurance coverage in sufficient amounts to cover the work being performed by School pursuant to the Agreement. Such coverage must cover all of School's obligations hereunder, including, but not limited to, Commercial General Liability Insurance covering products and completed operations, property damage, bodily injury and personal & advertising injury on an "occurrence" basis with limits no less than \$1,000,000 per occurrence and \$3,000,000 annual aggregate; Professional Liability (Errors and Omissions) Insurance, with limits no less than \$1,000,000 per occurrence and \$3,000,000 annual aggregate; and applicable statutory limits for Workers' Compensation. By requiring insurance, neither party represents that coverage and limits will necessarily be adequate to protect the other party, and such coverage and limits shall not be deemed as a limitation on a party's liability in connection with the Agreement.
5. **Indemnification.** To the extent permissible under law, School will defend, indemnify and hold harmless Essentia Health and its agents, officers, and employees from and against any and all claims, damages, losses and expenses, including but not limited to attorneys' fees, arising out of or resulting from (1) School's negligent or wrongful actions or omissions relating to or arising from this Agreement, or (2) the negligent or wrongful actions or omissions of School's sub-contractors, anyone directly or indirectly employed or contracted by School, or anyone for whose actions or omissions School may be liable.
6. **No Exclusion/Debarment.** Each party hereby represents and warrants to the other that neither it nor any employee, contractor, or agent now or hereafter engaged by such party to provide services under the Agreement (collectively, a "Representative") is, and at no time has been, excluded from participation in any federally-funded health care program, including the Medicare and Medicaid programs. Each party hereby agrees to immediately notify the other of any threatened, proposed, or actual exclusion of such party or any Representative from any federally-funded health care program, including the Medicare and Medicaid programs. In the event that a party or any Representative is excluded from participation in any federally-funded health care program during the Term of this Agreement, or if at any time after the Effective Date it is determined that a party or a Representative is in breach of this Section, the Agreement shall automatically terminate as of the date of such exclusion or breach; provided, however, that if the breaching party immediately removes a Representative who is so excluded or has otherwise breached the provisions of this Section from the performance of services under the Agreement, the Agreement shall not automatically terminate. Each party shall indemnify (the "Indemnifying Party") and hold harmless the other party against all actions, claims, demands and liabilities, and against all loss, damage, costs, and expenses, including reasonable attorneys' fees, arising directly or indirectly, out of any violation of this Section by the Indemnifying Party. The provisions of this Section shall survive the expiration or termination of the Agreement for any reason.
7. **Access to Records.** If required by 42 U.S.C. § 1395x(v)(1)(I), until the expiration of four (4) years after the termination of this Agreement, School shall make available, upon written request by the Secretary of the Department of Health and Human Services, or upon request by the

Comptroller General of the United States General Accounting Office, or any of their duly authorized representatives, a copy of this Agreement and such books, documents, and records as are necessary to certify the nature and extent of the costs of the services provided by Essentia Health under this Agreement. If School carries out any of its duties under this Agreement through a subcontract with a value or cost of \$10,000 or more over a twelve (12) month period, such subcontract shall contain the same requirements.

8. **Independent Contractors.** The parties are independent contractors to one another and nothing herein shall be construed as creating an employment, agency, joint venture, or partnership relationship between the parties.
9. **Limitation of Liability.** Each party shall be responsible for its own acts and omissions, including the acts and omissions of its employees or agents, and shall not be responsible for the acts and omissions of the other party, its agents, or employees.
10. **No Referrals.** Nothing in this Agreement, nor any consideration in connection herewith, contemplates or requires the referral of any patient or any other business between the parties.
11. **Relationship between Essentia Health and Students.** This Agreement does not create an express or implied contract to provide medical care to Students beyond that which is set forth herein. Further, Essentia Health's commitment to provide Services hereunder does not obligate Students to utilize such Services. Students who receive Services are being served as student athletes of School and not as patients of Essentia Health. Essentia Health has no clinical obligation to Students beyond the provision of Services described herein. It is each Student's responsibility to obtain any medical care that may be necessary/appropriate, and which is outside the scope of this Agreement, and it is the Student's prerogative to choose the provider from whom or from which such medical care (if any) is obtained.
12. **Confidentiality.** Essentia Health acknowledges the confidentiality of School's student records in accordance with state and federal law and agrees to maintain the confidentiality of such records as Essentia Health may be given access to hereunder.
13. **Jeopardy.** If Essentia Health reasonably determines that continued performance of this Agreement jeopardizes Essentia Health's or any of its affiliated entities' (i) licensure, (ii) participation in or recovery from any reimbursement or payment program, (iii) accreditation status, or (iv) tax exempt or bond financing status, Essentia Health shall notify School so the parties may resolve the issue. If no resolution is reached within fifteen (15) days, Essentia Health may terminate this Agreement immediately and without penalty.
14. **Nondiscrimination.** Neither party shall discriminate in the provision of services to patients based on race, color, national origin, ancestry, religion, gender, marital status, disability, sexual orientation, age, or any other legally prohibited basis, except as may be medically indicated.
15. **Legal Compliance.** In its respective performance hereunder, each party shall comply with all applicable laws, rules, and regulations.
16. **Notices.** All notices and other communications required or permitted to be given hereunder shall be in writing and shall be considered given and received when (a) personally delivered to the party, (b) delivered by courier, (c) delivered by facsimile, or (d) deposited in the U.S. mail, postage prepaid, return receipt requested, addressed to a party as follows:

Essentia Health
Attn: Sports Medicine Director
502 E. 2nd St.
Duluth, MN 55805

Independent School District #709
Attn: Superintendent
~~215 North First Avenue East~~ 709 Portia
Johnson Drive
Duluth, MN 5581102
With a copy to:

With a copy to:

Essentia Health
Attn: Chief Legal Officer
502 E. 2nd St.
Duluth, MN 55805

17. *Miscellaneous Provisions.*

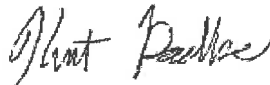
- 17.1 Entire Agreement; Amendment. This Agreement constitutes the entire agreement between the parties regarding the subject matter hereof and replaces and supersedes any prior agreement or understanding of the parties regarding the same, including that certain Sports Medicine Services Agreement effective as of January 21, 2020. This Agreement may only be modified by the parties' mutual signed written agreement.
- 17.2 Governing Law. This Agreement shall be construed under and governed by the laws of the state of Minnesota.
- 17.3 Waiver. Waiver of a breach of or default under any term or provision of this Agreement by either party, by course of dealing or otherwise, shall not be deemed a waiver of any other breach of or default under the same or a different provision of this Agreement.
- 17.4 Partial Invalidity. If any term or provision of this Agreement is rendered invalid or unenforceable by any valid act of law or is held by any court of competent jurisdiction to be invalid, void, or unenforceable, the remaining provisions of this Agreement shall remain in full force and effect.
- 17.5 Assignment. Neither this Agreement nor any rights or duties hereunder may be assigned by a party without the other party's written consent.
- 17.6 No Third-Party Beneficiaries. This Agreement is executed for the benefit of the named parties only. Nothing in this Agreement or in the negotiation of the same has the effect of conferring any rights or expectations on any third party. No person other than a party to this Agreement or a party's permitted successor or assign shall have the right to enforce any term of the Agreement.
- 17.7 Counterparts. This Agreement may be executed in counterparts, each of which shall be deemed an original, but all such counterparts together shall constitute one and the same instrument.

Signature Page to Follow

IN WITNESS WHEREOF, the parties have executed this Agreement as set forth below.

ESSENTIA HEALTH

SCHOOL

By: 
Print Name: Kurt Radke
Title: Operations Senior Director
Date: 7/01/24


By: 
Print Name: Simone Zurch
Title: Exec Director Business Services
Date: July 15, 2024

EXHIBIT A

Marketing and Advertisement Opportunities

School shall provide the following marketing and advertising opportunities to Essentia Health. School agrees not to offer, grant, or sell the same or similar marketing and advertising opportunities outlined below to any other party engaged in the business of healthcare.

- Short, pre-scripted announcements provided by Essentia Health to be read during designated timeouts or at halftimes;
- Crowd t-shirt giveaways, with the option for School to co-brand t-shirts with Essentia Health;
- Display of Essentia Health banners in mutually agreed upon locations but in no event shall School provide less than two (2) locations acceptable to Essentia Health;
- Display of Essentia Health logos on electronic scoreboard displays in gymnasiums;
- Essentia Health recognition as the provider of athletic training services in all programs for sporting events;
- Holding a “Meet your Essentia Health Orthopedic/Sports Medicine team” night at up to one (1) game during a varsity season;
- Making health-sponsored content available to School’s parents, students, and community members via electronic distribution, upon Essentia’s request and in coordination with School leadership;
- Distribution of Essentia Health information relevant to sports medicine to School’s student athletes;
- Distribution of health and wellness information (mental health, tobacco cessation, sports nutrition, etc.) to students and/or parents; and
- Such other marketing and advertising opportunities as may be mutually agreed between the parties from time to time. Acknowledge at all home games/venues, via signage, program advertisement and public address announcement, that orthopedic & sports medicine services are provided by Essentia Health;
- Signage at the front and back of the football stadium press box to be created and installed by Essentia and approved by School;
- At Essentia’s sole cost and expense, logo on the field turf at the football stadium;
- At Essentia’s sole cost and expense, banners on the light poles in the football stadium parking lot;
- At Essentia’s sole cost and expense, grant exclusive rights to Essentia on all signage on training room and weight room doors to acknowledge that orthopedic & sports medicine services are

provided by Essentia, signage to be prominently displayed with approval of the School facilities director to ensure compliance with then-current School policies and requirements;

- At Essentia's sole cost and expense, grant sole rights to Essentia for additional highly prominent signage placements at all other home sports venues (such as signage at entrance gates, scoreboards and field graphics) with approval of the School facilities director to ensure compliance with then-current School policies and requirements;
- Use information or materials approved or provided by Essentia, including ads, logos, scripting, etc. for the signage, public address announcement and program advertisement; and
- Provide additional promotion opportunities as agreed to by Essentia's marketing team and School at no additional cost to Essentia, including, but not limited to, advertising in Booster Club programs, events, and other activities.