

AGREEMENT
For Waypoynt™ Medicaid Billing Solution

THIS AGREEMENT is entered into as of July 13, 2012 by and among:

MSB Consulting Group (MSB™), a limited liability company, having an address of 12885 Research Boulevard, Suite 205, Austin, Texas 78750; and

Norton City Schools, (the "District"), having an address of 4128 South Cleveland-Massillon Road, Norton, Ohio 44203.

MSB™ is in the business of providing Waypoynt™, a Medicaid Billing Solution for school districts as defined in **Exhibit A**; and

MSB™ wishes to provide Waypoynt™ to the District; and

the District desires to utilize Waypoynt™;

the parties agree, for good and valuable consideration, the receipt of which is hereby acknowledged, and intend to be bound by the terms of this agreement as set forth in this document.

1) Agreement Term. The **Agreement Term** shall be from July 13, 2012 to July 12, 2015. Upon completion of the **Agreement Term**, this Agreement shall continue in force and the District will continue to be invoiced per the rates indicated in **Exhibit C**, as may be amended from time to time pursuant to Paragraph 3 hereof. The District agrees to pay all invoices within 30 days from the date of the invoice.

- Based upon the Agreement Term and **Exhibit C**, your rate for Waypoynt™ is:

1st Year Rate: 7%
2nd Year Rate: 7%
3rd Year Rate: 7%

2) Services and Responsibilities. MSB™ hereby agrees to provide Waypoynt™ as outlined in **Exhibit A**. The District agrees to perform the District Responsibilities outlined in **Exhibit B**.

3) Consideration. In exchange for MSB's provision of Waypoynt™, the District shall pay MSB™ an administration fee. The fee will be calculated either based on the agreed upon percentage of the amount actually received in Medicaid reimbursement, either direct deposit or checks delivered to the District, as defined in **Exhibit C**, or as a per child flat rate as defined in **Exhibit C**.

a. Administrative fee rates are based on the time of service delivery. Therefore, if claims for services delivered in June, for example, are eventually paid in the following September, the District will be invoiced at the fee for the June year and not at the new fee beginning September 1. ESY service delivery is, for the purposes of this Agreement, considered to be at the end of a given school year and have, therefore, the associated MSB™ Administrative fee associated with that contract year.

b. The administrative fee is payable upon receipt of each invoice which will accompany the fully reconciled remittance report.

MSB™ reserves the right to renegotiate the administrative fee rate as found in **Exhibit C** should either the federal and/or state governments revise the protocols for submitting and/or paying Medicaid claims.

4) Strict Compliance. If a Party fails to exercise any right or to insist that the other Party strictly comply with any obligation, no such failure or insistence shall be a waiver of the right of a Party to demand strict compliance with each duty or obligation. No custom or practice of the Parties that varies from this Agreement shall constitute a waiver of the right of a Party to demand exact compliance. Waiver by one Party of any particular default by the other Party shall not affect or impair a Party's rights in connection with any subsequent default of the same or of a different nature, nor shall any delay or omission of a Party to exercise any rights arising from such default affect or impair the rights of that Party as to such default or any subsequent default.

5) Jointly Drafted. This Agreement shall be deemed to have been drafted by both Parties and, in the event of a dispute, shall not be construed against either party.

6) Waiver of Equitable Remedies. The Parties waive all equitable remedies including equitable rescission and rescission at law.

7) Intellectual Property Rights/Confidentiality. It is agreed that any and all work, data and information that is the product of this **Licensed System** shall belong wholly to the District. All information and school data submitted or input into the **Licensed**

System remains the proprietary information of the District and may not be copied or used in any way without the express written permission of the District, with the exception that employees of MSB™ may access the **Licensed System** and data from the **Licensed System** for provision of **Support Services**, manipulation of data for appropriate purposes, and facilitation of data transfer to enable the District to meet its state and federal reporting requirements. At termination, the District may request, in writing, all District information stored in the **X Logs®** Service Delivery Tracking Solution. MSB™ will, within 60 days, provide to the District all of its information in such a format that MSB™ deems appropriate. Notwithstanding the above, this Agreement does not transfer ownership rights of the **Licensed System** to the District, or to any other third party. The District agrees not to modify, reverse engineer, disaggregate, or decompile any intellectual property of MSB™, including, but not limited to the **Licensed System** or intentionally create derivative works based on such intellectual property. The District agrees not to distribute the **Licensed System** to any person or entity other than District personnel or contracted district personnel, or make any other improper use of the **Licensed System**.

8) **Bankruptcy.** If, at any time, MSB™ seeks the protection of the U.S. Bankruptcy Act of 1978, as amended or any applicable state bankruptcy law and:

- a. Has a receiver in equity appointed for its property requests or consents to the appointment of a receiver, or
- b. Has a trustee in reorganization appointed for its property, or
- c. Files a voluntary petition for reorganization or arrangement, or
- d. Files a voluntary petition in bankruptcy, or
- e. Files an answer admitting bankruptcy or agreeing to a reorganization or arrangement, or
- f. Makes an assignment for the benefit of its creditors, then this Agreement shall expire. Any payments due from the bankrupt Party to the other Party under this Agreement shall be deemed an administrative expense under 11 U.S.C. §503. This Paragraph shall not apply in the event of a withdrawal or discharge of any petition that occurs within 45 days of the date on which any such petition is filed.

9) **Further Assurances.** If requested by one Party, the other Party shall execute and deliver such other documents and take such other action as may be necessary to effect the terms of this Agreement.

10) **Authority to Execute.** Each of the undersigned individuals represents and warrants that he or she is expressly and duly authorized by his or her respective entity or agency to execute this Agreement and to legally bind each such entity or agency as set forth in this Agreement.

11) **Termination.** Either party may terminate this Agreement at any time upon a 30-day written notice to the other Party after completion of the Agreement Term. The parties also agree that MSB™ may terminate this agreement if the District fails to provide timely payment as set forth in this agreement.

12) **Costs.** In the event that litigation is commenced to enforce any of the terms of this Agreement, the prevailing party in the litigation (whether by court or arbitration) shall be entitled to the costs thereof, including reasonable attorneys' fees.

13) **Exclusions.** MSB™ in no way implies nor should any language herein be construed that MSB™ guarantees that the utilization of Waypoint™ by the District will guarantee the district's compliance with State or Federal requirements relative to Medicaid reimbursements. No utilization of Waypoint™ by the district will constitute the formation of an attorney-client relationship between MSB™ and the District. The District also agrees to indemnify MSB™ for any costs or damages relating to claims asserted by any third parties not included in this agreement because of the District's utilization of Waypoint™. The time period within which the district may assert a cause of action arising from or incident to this Agreement is 365 consecutive calendar days from the date on which the cause of action accrued or the date on which the asserting Party should have known that the cause of action had accrued.

14) **Notices.** Except as otherwise expressly set forth in this Agreement, all notices, demands and other communications to be given or delivered under or by reason of the provisions of this Agreement will be in writing and will be deemed to have been given when delivered personally, or by documented overnight delivery service, or sent by telecopy, telefax, or other electronic transmission service, provided a confirmation copy is also sent no later than the next business day by first class certified mail, return receipt requested to the party at the address set forth at the head of this Agreement, or such other address as specified in writing by such party.

15) **Force Majeure.** The parties agree that MSB™ will not be held responsible for non-performance under the terms of this contract stemming from events reasonably outside of the control of MSB™, such as, but not limited to, fires, floods, war, terrorist attack, regulatory action, utility interruption, viruses and the like.

16) General. This Agreement: (i) may be executed in any number of counterparts, each of which, when executed by all parties to this Agreement shall be deemed to be an original, and all of which counterparts together shall constitute one and the same instrument; (ii) shall be governed by and construed under the laws of Ohio applicable to contracts made, accepted, and performed wholly within Ohio, without application of principles of conflicts of laws; (iii) constitutes the entire agreement of the parties with respect to its subject matter, superseding all prior oral and written communications, proposals, negotiations, representations, understandings, courses of dealing, agreement, contracts, and the like between the parties in such respect; (iv) may be amended or modified only by a writing signed by the parties and any right under this Agreement may be waived in whole or in part, only by a writing signed by the parties; (v) contains headings only for convenience, which headings do not form part, and shall not be used in construction, of this letter agreement; (vi) no party to this Agreement may assign this Agreement or its rights or obligations hereunder without the prior written consent of all other parties to this Agreement (vii) shall bind and inure to the benefit of the parties and their respective legal representatives, successors and permitted assigns; (viii) is not intended to inure to the benefit of any third-party beneficiaries; (ix) may be enforced only in courts located within the State of Ohio, and the parties hereby agree that such courts shall have venue and exclusive subject matter and personal jurisdiction, and consent to service of process by registered mail, return receipt requested, or by any other manner provided by law; (x) invalidity of any one or more of the provisions of this Agreement shall in no way affect any of the other provisions hereof which shall remain in full force and effect; and (xi) in the event litigation cases are settled prior to adjudication, the parties are responsible for their own attorney’s fees except in cases where the District has agreed to indemnify MSB™ per this agreement.

IN WITNESS WHEREOF, the parties hereby execute this Agreement to be effective as of the date first written above:

Norton City Schools

Name of Duly Authorized Agent: _____
Title of Duly Authorized Agent: _____
Signature of Duly Authorized Agent: _____
Signature Date: _____

MSB Consulting Group, LLC

Name of Duly Authorized Agent: _____
Title of Duly Authorized Agent: _____
Signature of Duly Authorized Agent: _____
Signature Date: _____



Exhibit A Summary of Waypoynt™

As the consulting and billing agent, MSB™ agrees to adhere to all rules and regulations that pertain to the submission of claims under the Rules and Regulations that govern School-Based Medicaid reimbursement programs.

MSB™ is pleased to provide the following services to your school district:

- Administrative, consulting, statistical and audit services to the District
- State and federal Medicaid information, liaisons, and updates: Timely and accurate information regarding the rules and regulations associated with Medicaid reimbursement to schools
- Training and instruction for administrators and case managers at the discretion of MSB™
- Accurate, dependable, and confidential billing process: Processing of all Medicaid claims using the electronic files generated by the school districts' health care practitioners and other qualified staff via **X Logs™** service documentation
- Tracking and Reconciliation of all submitted claims
- Reports which show the status of all Medicaid transactions, reimbursements and cataloguing of electronic service delivery records
- Special reports as requested by the school districts
- Complete resolution of all submitted claims
- Advise school districts in contract negotiations with non-employees regarding contract sections related to payment terms and proper documentation for billing purposes
- Assistance in audit preparation and facilitation to assist with proper procedure and rigorous compliance; Interface with State Medicaid Agencies and State Education Agencies as appropriate as a result of audit findings.
- A toll-free number (800.618.3111) to reach our courteous, responsive team of professionals who prioritize the needs of the district.
- **X Logs™** Licensed System
 - School data hosted on a secure server
 - **X Logs™** web-based software usage
 - Unlimited technical support --- 5 days a week via toll free number, Live Chat, and/or email
 - Supporting documentation (Online User Guides)
 - **X Logs™** software upgrades
 - Membership in the **X Logs™** Community

Exhibit B District Responsibilities

As the Provider of Record, the school district agrees to provide information to MSB™ that adheres to all Rules and Regulations that govern school-based Medicaid programs. Below is a list of responsibilities that the district agrees to fulfill:

The District is responsible for the following:

- Maintain **X Logs™** forms and fields related to certifications, licensures, etc. of all staff for whose services the District is seeking reimbursement
- Maintain individual education programs (IEP)s within the school-based Medicaid program guidelines for all services for which the District is seeking reimbursement
- Maintain necessary paperwork related to all Medicaid required referrals, orders or recommendations for services for which the District is seeking reimbursement
- Maintain and forward attendance records to our office on a monthly basis
- If necessary, provide actual cost data for covered services

Exhibit C
Product Pricing
Waypoynt™

Product: Waypoynt™

Price: 7% of total annual reimbursements

X Logs™: Included