

OAK HILL SCHOOL
AND
MT. DIABLO UNIFIED SCHOOL DISTRICT

NONPUBLIC, NONSECTARIAN
SCHOOL/AGENCY SERVICES

MASTER CONTRACT

2018-2019

TABLE OF CONTENTS

I.	<u>GENERAL PROVISIONS</u>	
	1. MASTER CONTRACT	1
	2. DEFINITIONS	2
	3. TERM OF MASTER CONTRACT	3
	4. CERTIFICATION AND LICENSES	3
	5. COMPLIANCE WITH LAWS, STATUTES, REGULATIONS.....	4
	6. RIGHT TO REPORT MASTER CONTRACT VIOLATIONS.....	4
	7. INTEGRATION/CONTINUANCE OF CONTRACT FOLLOWING EXPERATION OR TERMINATION	5
	8. INDIVIDUAL SERVICE AGREEMENT.....	5
II.	<u>ADMINISTRATION OF CONTRACT</u>	
	9. NOTICES.....	6
	10. MAINTENANCE OF RECORDS.....	6
	11. SEVERABILITY CLAUSE.....	7
	12. SUCCESSORS IN INTEREST.....	7
	13. VENUE AND GOVERNING LAW.....	7
	14. MODIFICATIONS AND AMENDMENTS.....	6
	15. TERMINATION OF MASTER CONTRACT AND/OR INDIVIDUAL SERVICES AGREEMENT.....	7
	16. INSURANCE.....	7
	17. INDEMNIFICATION AND HOLD HARMLESS.....	9
	18. INDEPENDENT CONTRACTOR.....	9
	19. SUBCONTRACTING.....	9
	20. CONFLICTS OF INTEREST.....	10
	21. NON-DISCRIMINATION.....	10
III.	<u>EDUCATIONAL PROGRAM</u>	
	22. FREE AND APPROPRIATE PUBLIC EDUCATION (FAPE).....	10
	23. GENERAL PROGRAM OF INSTRUCTION.....	11
	24. INSTRUCTIONAL MINUTES.....	12
	25. CLASS SIZE.....	12
	26. CALENDARS.....	13
	27. DATA REPORTING.....	13
	28. LEAST RESTRICTIVE ENVIRONMENT/DUAL ENROLLMENT.....	13
	29. STATEWIDE ACHIEVEMENT TESTING	14
	30. ATTENDANCE AT DISTRICT MANDATED MEETINGS.....	14
	31. POSITIVE BEHAVIOR INTERVENTIONS.....	14
	32. STUDENT DISCIPLINE.....	15
	33. IEP/IFSP TEAM MEETINGS.....	16
	34. SURROGATE PARENTS.....	16
	35. DUE PROCESS PROCEEDINGS.....	16
	36. COMPLAINT PROCEDURES.....	16
	37. LEA STUDENT PROGRESS REPORTS/REPORT CARDS AND ASSESSMENTS.....	17
	38. TRANSCRIPTS.....	17
	39. LEA STUDENT CHANGE OF RESIDENCE.....	17
	40. WITHDRAWAL OF LEA STUDENT FROM PROGRAM.....	18

41. PARENT ACCESS.....	18
42. SERVICES AND SUPERVISION ON PUBLIC SCHOOL CAMPUSES...	18
43. LICENSED CHILDREN’S INSTITUTION CONTRACTORS.....	18
44. STATE MEAL MANDATE.....	19
45. MONITORING.....	19
IV. <u>PERSONNEL</u>	
46. FINGERPRINT CLEARANCE REQUIREMENTS.....	19
47. STAFF QUALIFICATIONS.....	20
48. VERIFICATION OF LICENSES, CREDENTIALS AND OTHER DOCUMENTS.....	20
49. STAFF ABSENCE.....	21
V. <u>HEALTH AND SAFETY MANDATES</u>	
50. HEALTH AND SAFETY.....	21
51. FACILITIES, FACILITIES MODIFICATIONS AND FIRE DRILLS.....	21
52. ADMINISTRATION OF MEDICATION.....	21
53. INCIDENT/ACCIDENT REPORTING.....	22
54. MANDATED REPORTING REQUIREMENTS.....	22
55. SEXUAL HARASSMENT.....	22
56. REPORTING OF MISSING CHILDREN.....	23
VI. <u>FINANCIAL</u>	
57. ENROLLMENT, CONTRACTING, SERVICE TRACKING, ATTENDANCE REPORTING, AND BILLING PROCEDURES.....	23
58. RIGHT TO WITHHOLD PAYMENT.....	23
59. PAYMENT FROM OUTSIDE AGENCIES.....	23
60. NONPUBLIC SCHOOL STUDENT ABSENCE.....	25
61. NONPUBLIC AGENCY STUDENT ABSENCE.....	25
62. INSPECTION AND AUDIT.....	25
63. RATE SCHEDULE.....	27

NONPUBLIC SCHOOL/AGENCY/RELATED SERVICES PROVIDER:

Oak Hill School

NONPUBLIC, NONSECTARIAN SCHOOL/AGENCY SERVICES MASTER CONTRACT

AUTHORIZATION FOR MASTER CONTRACT AND GENERAL PROVISIONS

1) MASTER CONTRACT

- a) This Master Contract is entered into this 1st day of July, between the Mt. Diablo Unified School District/SELPA (hereinafter referred to as "LEA") and Oak Hill School (hereinafter referred to as "CONTRACTOR") for the purpose of providing special education and/or related services to LEA students with exceptional needs under the authorization of California Education Code sections 56157, 56361 and 56365 et seq. and Title 5 of the California Code of Regulations section 3000 et seq., AB490 (Chapter 862, Statutes of 2003) and AB1858 (Chapter 914, Statutes of 2004). It is understood that this Master Contract does not commit LEA to pay for special education and/or related services provided to any LEA student, or CONTRACTOR to provide such special education and/or related services, unless and until an authorized LEA representative approves the provision of special education and/or related services by CONTRACTOR pursuant to an Individualized Education Program (hereinafter referred to as "IEP"), and/or Individual Family Service Plan (hereinafter referred to as IFSP)
- b) **SELPA Collaborative:** The LEA is a member of the Diablo Area Districts Collaborative. Nonpublic schools and nonpublic agencies that are geographically located in one of the participating SELPAs agree to participate in this collaborative process to establish a uniform contract for identified services and standards. The established system provides NPA/Ss with an opportunity to have input to the development of the process, contract issues, etc., and a simplified, standard process for rate negotiation with the participating SELPAs. Issues listed on the Rate Schedule portion of this Master Contract may be reviewed on an annual basis upon request of the CONTRACTOR using the established Diablo Area Districts Collaborative system. CONTRACTOR agrees that the rates set forth in this Master Contract will remain unchanged from July 1 through June 30 of the term of contract, with no changes in the services provided, unless changed in a duly executed amendment to this Master Contract signed by both parties. Increases in rates will be considered on an annual basis and remain unchanged for the term of the contract from July 1 through June 30, with no changes in level of service provided without written approval by both parties.
- c) NPA/S's that are not geographically located in a participating SELPA should negotiate rates with their geographically corresponding SELPA(s). The LEA will contact the corresponding SELPA to verify established rates. Increases in rates will be considered on an annual basis and remain unchanged for the following year from July 1 through June 30, with no changes provided without written approval by both parties.
- d) Any CONTRACTOR not participating as a member of the Diablo Area Districts Collaborative shall individually negotiate rates following local SELPA and/or LEA procedures. Those CONTRACTORS shall notify the SELPA with whom they contract of any proposed rate changes effective July 1 by March 1 of the preceding year.
- e) The DADC Chair shall maintain, annually update and disseminate to all LEAs, NPS/As who are members of the Collaborative, a master rate schedule reflecting such NPS/A rates.

- f) Upon CONTRACTOR's acceptance of a student referred by the LEA, the LEA shall complete an Individual Services Agreement (hereinafter referred to as "ISA") as specified in the LEA Procedures which shall identify the provider of each service required by the student's IEP/IFSP). For purposes of enrollment, the LEA must provide approval before any authorization for payment can be made. Such authorization may be provided electronically, by telecommunications, by mail or by fax. Unless otherwise agreed in writing, or in the student's ISA, CONTRACTOR acknowledges its obligation to provide all services specified in the pupil's IEP/IFSP. The LEA acknowledges its responsibility to pay for all services rendered to LEA students by CONTRACTOR. The ISA shall be executed within ninety (90) days of an LEA student's enrollment. (Education Code Section 56366(c)(1)) LEA and CONTRACTOR shall enter into an ISA for each LEA student served by CONTRACTOR. CONTRACTOR shall notify the LEA in writing in advance of providing any service(s) when CONTRACTOR is unable to meet the requirements of this Master Contract or of any Individual Services Agreement.
- g) Unless placement is made pursuant to an Office of Administrative Hearings (hereinafter referred to as "OAH") order, a lawfully executed agreement between LEA and parent or authorized by LEA for a transfer student pursuant to California Education Code section 56325, LEA is not responsible for the costs associated with nonpublic school placement until the date on which an IEP team meeting is convened, the IEP team determines that a nonpublic school placement is appropriate, and the IEP is signed by the student's parent.

2) DEFINITIONS

The following definitions shall apply for purposes of this contract:

- a) The term "CONTRACTOR" means a nonpublic, nonsectarian school/agency certified by the California Department of Education and its officers, agents and employees.
- b) The term "authorized LEA representative" means a LEA administrator designated to be responsible for nonpublic school/agencies. It is understood, a representative of the Special Education Plan Local Area (SELPA) of which the LEA is a member is an authorized LEA representative in collaboration with the LEA. The LEA maintains sole responsibility for the contract, unless otherwise specified in the contract.
- c) The term "credential" means a valid credential, life diploma, permit, a county office of education Temporary County Certificate or document in special education or pupil personnel services issued by, or under the jurisdiction of, the State Board of Education if issued prior to 1970 or the California Commission on Teacher Credentialing, which entitles the holder thereof to perform services for which certification qualifications are required as defined in Title 5 of the California Code of Regulations section 3001(j).
- d) The term "qualified" means that a person holds a certificate, permit or other document equivalent to that which staff in a public school are required to hold to provide special education and designated instruction and services and has met federal and state certification, licensing, registration, or other comparable requirements which apply to the area in which he or she is providing special education or related services, including those requirements set forth in Title 34 of the Code of Federal Regulations sections 200.56 and 200.58, and those requirements set forth in Title 5 of the California Code of Regulations Sections 3064 and 3065, and adheres to the standards of professional practice established in federal and state law or regulation, including the standards contained in the California Business and Professions Code.
 - i) Nothing in this definition shall be construed as restricting the activities in services of a graduate needing direct hours leading to licensure, or of a student teacher or intern leading to a graduate degree at an accredited or approved college or university, as authorized by state laws or regulations.
- e) The term "license" means a valid non-expired document issued by a licensing agency within the Department of Consumer Affairs or other state licensing office authorized to grant licenses and authorizing the bearer of the document to provide certain professional services, including but not limited to mental health and board and care services at a residential placement, or refer to themselves using a specified professional title. If a license is not available through an appropriate state licensing agency, a certificate of registration with the appropriate

professional organization at the national or state level which has standards established for the certificate that are equivalent to a license shall be deemed to be a license as defined in Title 5 of the California Code of Regulations section 3001(r).

- f) Parent means a biological or adoptive parent, unless the biological or adoptive parent does not have legal authority to make educational decisions for the child, a guardian generally authorized to act as the child's parent or authorized to make educational decisions for the child, an individual acting in the place of a biological or adoptive parent, including a grandparent, stepparent, or other relative with whom the child lives, or an individual who is legally responsible for the child's welfare, a surrogate parent, a foster parent if the authority of the biological or adoptive parent to make educational decisions on the child's behalf has been specifically limited by court order in accordance with Code of Federal Regulations 300.30(b)(1) or (2). Parent does not include the state or any political subdivision of government or the nonpublic school or agency under contract with the LEA for the provision of special education or designated instruction and services for a child. (California Education Code section 56028).
- g) The term "days" means calendar days unless otherwise specified.
- h) The phrase "billable day" means a school day in which instructional minutes meet or exceed those in comparable LEA programs.
 - (1) The phrase "billable day of attendance" means a school day as defined in California Education Code Section 46307, in which a student is in attendance and in which instructional minutes meet or exceed those in comparable LEA programs unless otherwise stipulated in an IEP or ISA.
- i) It is understood that the term "Master Contract" also means "Agreement" and is referred to as such in this document.

3) **TERM OF MASTER CONTRACT**

The term of this Master Contract shall be from July 1, 2018 to June 30, 2019 (Title 5 California Code of Regulations section 3062(a)). Neither the CONTRACTOR nor the LEA is required to renew this Master Contract in subsequent contract years. However, the parties acknowledge that any subsequent Master Contract is to be re-negotiated prior to June 30, 2019. If the subsequent Master Contract has not been executed prior to June 30, 2019, this Contract shall remain in force and effect, including current rates, until terminated as provided herein or a new Master Contract is executed for a period not to exceed 120 days at which time the contract is terminated.

No Master contract will be considered fully executed until all of the contracting requirements have been satisfied:

- a) Current CDE NPS/NPA certification with service authorization identified.
- b) Current Certificate of Insurance (COI) with required insurance levels addressed and related endorsement pages
- c) NPS/NPA verification of staff DOJ clearance, staff license or credential authorizations, staff mandated reporter training, blood borne pathogen training.

4) **CERTIFICATION AND LICENSES**

CONTRACTOR shall be certified by the California Department of Education (hereinafter referred to as "CDE") as a nonpublic, nonsectarian school/agency. All nonpublic school and nonpublic agency services shall be provided consistent with the area of certification specified by CDE Certification and as defined in California Education Code, section 56366 *et seq* and within the professional scope of practice of each provider's license, certification and/or credential. A current copy of CONTRACTOR's nonpublic school/agency certification or a waiver of such certification issued by the CDE pursuant to Education Code section 56366.2 must be provided to LEA on or before the date this contract is executed by CONTRACTOR. This Master Contract shall be null and void if such certification or waiver is expired, revoked, rescinded, or otherwise nullified during the effective period of this Master Contract. Total student enrollment shall be limited to capacity as stated on CDE certification.

In addition to meeting the certification requirements of the State of California, CONTRACTOR that operates a non-public school or agency outside of this State shall be certified or licensed by that state to provide, respectively, special

education and related services and designated instruction and related services to pupils under the federal Individuals with Disabilities Education Act (20 U.S.C. Sec. 1400 et seq.).

- a) If CONTRACTOR is a licensed children's institution (hereinafter referred to as "LCI"), CONTRACTOR shall be licensed by the state, or other public agency having delegated authority by contract with the state to license, to provide nonmedical care to children, including, but not limited to, individuals with exceptional needs. The LCI must also comply with all licensing requirements relevant to the protection of the child, and have a special permit, if necessary, to meet the needs of each child so placed. If the CONTRACTOR operates a program outside of this State, CONTRACTOR must obtain all required licenses from the appropriate licensing agency in both California and in the state where the LCI is located.
- b) A current copy of CONTRACTOR's licenses and nonpublic school/agency certifications, or a validly issued waiver of any such certification must be provided to LEA on or before the date this Master Contract is executed by CONTRACTOR. CONTRACTOR must immediately (and under no circumstances longer than three (3) calendar days) notify LEA if any such licenses, certifications or waivers are expired, suspended, revoked, rescinded, challenged pursuant to an administrative or legal complaint or lawsuit, or otherwise nullified during the effective period of this Master Contract. If any such licenses, certifications or waivers are expired, suspended, revoked, rescinded, or otherwise nullified during the effective period of this Master Contract, this Master Contract shall be null and void.
- c) Notwithstanding the foregoing, if current (re)certification documents are not available through no fault of the NPS/A, this Master Contract shall remain in effect until such documents are made available to the NPS/A, which shall in turn submit copies of same to the LEA within five (5) business days of receipt by the NPS/A. The NPS/A shall, within five (5) business days of any change in the status of its approved capacity to serve a specific number of students notify the LEA of the change.
- d) With respect to CONTRACTOR's certification, failure to notify the LEA and CDE of any changes in: (1) credentialed/licensed staff; (2) ownership; (3) management and/or control of the agency; (4) major modification or relocation of facilities; or (5) significant modification of the program may result in the suspension or revocation of CDE certification and/or suspension or termination of this Master Contract by the LEA.

5. COMPLIANCE WITH LAWS, STATUTES, REGULATIONS

- a) During the term of this Master Contract the CONTRACTOR and the LEA shall comply with all applicable federal and state laws and regulations relating to the provision of special education and related services, and facilities for individuals with exceptional needs.
- b) CONTRACTOR shall also comply with all policies pursuant to the Local Plan, unless, taking into consideration all of the surrounding facts and circumstances, a policy or policies or a portion of a policy does not reasonably apply to CONTRACTOR.
- c) CONTRACTOR hereby acknowledges and agrees that it accepts all risks and responsibilities for its failure to comply with LEA policies and shall indemnify LEA under the provisions of section 16 of this Master Contract for all liability, loss, damage and expense (including reasonable attorneys' fees) resulting from or arising out of CONTRACTOR's failure to comply with LEA policies.
- d) The CONTRACTOR shall comply with those policies, relating to among other things, the provision of special education and/or related services, facilities for individuals with exceptional needs, LEA pupil enrollment and transfer, LEA student inactive status, corporal punishment, student discipline, and positive behavior interventions.

6) RIGHT TO REPORT MASTER CONTRACT VIOLATIONS

CONTRACTOR and LEA acknowledge and understands that either party may report to the CDE any violations of the provisions of this Master Contract; and that this may result in the suspension and/or revocation of CDE nonpublic

school/agency certification pursuant to California Education Code section 56366.4(a) or action by the CDE against the LEA.

7) INTEGRATION/CONTINUANCE OF CONTRACT FOLLOWING EXPIRATION OR TERMINATION

- a) This Master Contract includes the LEA Procedures and each Individual Services Agreement and they are incorporated herein by this reference. Upon written request, LEA agrees to make all of its policies and procedures available to CONTRACTOR, either electronically or by hard copy. This Master Contract supersedes any prior or contemporaneous written or oral understanding or agreement with respect to the terms set forth in this Master Contract. This Master Contract may be amended only by written amendment executed by both parties. Notwithstanding the foregoing, the LEA may modify the LEA procedures from time to time without the consent of CONTRACTOR.
- b) CONTRACTOR shall provide the LEA with information as requested in writing to secure a Master Contract or a renewal.
- c) At a minimum, such information shall include copies of teacher credentials and clearance, insurance documentation and CDE certification. The LEA may require additional information as applicable. In the event that this Master Contract expires or terminates, CONTRACTOR shall continue to be bound to all of the terms and conditions of the most recent executed Master Contract between CONTRACTOR and LEA for so long as CONTRACTOR is servicing authorized students at the discretion of the LEA.

8) INDIVIDUAL SERVICES AGREEMENT

- a) This contract shall include an Individual Services Agreement (ISA) developed for each LEA student to whom CONTRACTOR is to provide special education and/or related services. An ISA shall only be issued for LEA student's enrolled with the approval of the LEA pursuant to Education Code section 56366 (a)(2)(A).
- b) ISAs are void upon termination or expiration of the Master Contract. In the event that this Master Contract expires or terminates, CONTRACTOR and the LEA shall continue to be bound to all of the terms and conditions of the most recent executed ISAs between CONTRACTOR and LEA for so long as CONTRACTOR is servicing authorized LEA students, until such time as a new Master Contract is executed.
- c) Any and all changes to a LEA student's educational placement/program provided under this Master Contract and/or an ISA shall be made solely on the basis of a revision to the LEA student's IEP/IFSP. At any time during the term of this Master Contract, a LEA student's parent, CONTRACTOR, or LEA may request a review of a LEA student's IEP/IFSP subject to all procedural safeguards required by law, including notice to and participation by the CONTRACTOR in the IEP Team meeting.
- d) Unless otherwise provided in this Master Contract, the CONTRACTOR shall provide all services specified in the IEP/IFSP unless the CONTRACTOR and the LEA agree otherwise in the ISA. (California Education Code sections 56366(a) (5) and 3062(e)). In the event the CONTRACTOR is unable to provide a specific service at any time during the term of the ISA, the CONTRACTOR shall notify the LEA in writing within five (5) business days of the last date a service was provided.
- e) If a parent or LEA contests the termination of an ISA by initiating a due process proceeding with the California Office of Administrative Hearings (hereinafter referred to as "OAH"), CONTRACTOR shall abide by the "stay-put" requirement of state and federal law unless the parent agrees otherwise or an interim alternative educational placement is deemed lawful and appropriate by LEA or OAH.
- f) Disagreements between LEA and CONTRACTOR concerning the formulation of an ISA or the Master Contract may be appealed to the local SELPA office prior to appeal to the State Superintendent of Public Instruction pursuant to the provisions of California Education Code section 56366 (C) (2).

ADMINISTRATION OF CONTRACT

9) NOTICES

- a) All notices provided for by this contract shall be in writing. Notices shall be faxed, emailed with verification of receipt, mailed by first class mail deposited with the United States Postal Service or delivered by hand and shall be effective as of the date of receipt by addressee. All notices mailed to LEA shall be addressed to both:
- | | |
|---------------------------|------------------------|
| b) Name _____ | Name _____ |
| c) LEA _____ | LEA _____ |
| d) Address _____ | Address _____ |
| e) City, State, Zip _____ | City, State, Zip _____ |
| f) Phone _____ | Phone _____ |

Notices to CONTRACTOR shall be addressed as indicated on signature page.

10) MAINTENANCE OF RECORDS

- a) All records shall be maintained by CONTRACTOR as required by state and federal laws and regulations. Notwithstanding the foregoing sentence, CONTRACTOR shall maintain all records for at least five (5) years after the termination of this Master Contract. For purposes of this Master Contract, "records" shall include, but not be limited to: student records as defined by California Education Code section 49061(b); cost data records as set forth in Title 5 of the California Code of Regulations section 3061; registers and roll books of teachers and/or daily service providers; daily service logs and notes and other documents used to record the provision of related services including supervision; daily service logs and notes used to record the provision of services provided through additional instructional assistants, NPA behavior intervention aides, and bus aides; absence verification records (parent/doctor notes, telephone logs, and related documents) if the CONTRACTOR is funded for excused absences, bus rosters; staff lists specifying credentials held and documents evidencing other staff qualifications, social security numbers, dates of hire, and dates of termination; records of employee training and certification, staff time sheets; non-paid staff and volunteer sign-in sheets; transportation and other related services subcontracts; school calendars; bell/class schedules when applicable; liability and worker's compensation insurance policies; state nonpublic school and/or agency certifications; by-laws of current board of directors/trustees, if incorporated; statement of income and expenses; general journals; cash receipts and disbursement books; general ledgers and supporting documents; documents evidencing financial expenditures; federal/state payroll quarterly reports; and bank statements and cancelled checks or facsimile thereof.
- b) CONTRACTOR shall maintain LEA electronic and physical student-records in a secure location to ensure confidentiality and prevent unauthorized access. CONTRACTOR shall maintain a current list of the names and positions of CONTRACTOR's employees who have access to confidential records. CONTRACTOR shall maintain an access log for each LEA student's record which lists all persons, agencies, or organizations requesting or receiving information from the record and the legitimate interests thereof (California Education Code Section 49064). Such log shall be maintained as required and include the name, title, agency/organization affiliation, and date/time of access for each individual requesting or receiving information from the LEA student's record. Such logs need to record access to the LEA student's records by: (a) the LEA student's parent; (b) an individual to whom written consent has been executed by the LEA student's parent; or (c) employees of LEA or CONTRACTOR having a legitimate educational interest in requesting or receiving information from the record (Education Code Section 49064). CONTRACTOR/LEA shall maintain copies of any written parental concerns granting access to student records. For purposes of this paragraph, "employees of LEA or CONTRACTOR" do not include subcontractors. CONTRACTOR shall grant parents access to student records, and comply with parents' requests for copies of student records, as required by state and federal laws and regulations. CONTRACTOR agrees, in the event of school or agency closure, to forward LEA student records to LEA within five (5) business days. These records shall include, but not be limited to, the LEA student's current transcripts, IEP/IFSPs, and reports. LEA and/or SELPA shall have access to and receive copies of any and all records upon request within five (5) business days.

11) SEVERABILITY CLAUSE

If any provision or portion of a provision of this Master Contract is held, in whole or in part, to be unenforceable for any reason, the remainder of that provision and of the entire Master Contract shall be severable and remain in effect.

12) SUCCESSORS IN INTEREST

This Master Contract binds CONTRACTOR’s successors and assignees. Contractor shall notify the LEA within 30 days of any change of ownership or corporate control.

13) VENUE AND GOVERNING LAW

The laws of the State of California shall govern the terms and conditions of this Master Contract with venue in the County where the LEA is located.

14) MODIFICATIONS AND AMENDMENTS

This Master Contract may be modified or amended by the LEA to conform to administrative and statutory guidelines issued by any state, federal or local governmental agency. The LEA shall provide the CONTRACTOR thirty (30) days’ notice of any such changes or modifications made to conform to administrative or statutory guidelines and a copy of the statute or regulation upon which the modification or changes are based.

15) TERMINATION OF MASTER CONTRACT AND/OR INDIVIDUAL SERVICES AGREEMENT

This Master Contract may be terminated with or without cause by either the CONTRACTOR or LEA. To terminate the Master Contract either party shall give twenty (20) calendar days prior written notice (California Education Code Section 56366(a)(4)). At the time of termination, CONTRACTOR shall provide to LEA any and all documents CONTRACTOR is required to maintain under this Master Contract. ISAs are void upon termination of this Master Contract, as provided in Section 5 or 6. CONTRACTOR or LEA may terminate an ISA for cause. To terminate the ISA, either party shall give twenty (20) calendar days prior written notice (refer to Section 7).

In the event of the closure of a non-public school or agency, the LEA will be given as much notice as is reasonably possible.

16) INSURANCE

Contractor shall, at his, her, or its sole cost and expense, maintain in full force and effect, during the term of this Agreement, the following insurance coverage from a California licensed and/or admitted insurer with an A minus (A-), VII, or better rating from A.M. Best, sufficient to cover any claims, damages, liabilities, costs and expenses (including counsel fees) arising out of or in connection with Contractor's fulfillment of any of its obligations under this Agreement or either party's use of the work or any component or part thereof:

PART I

- A. Commercial General Liability Insurance, including both bodily injury and property damage, with limits as follows:
 - \$2,000,000 per occurrence
 - \$ 500,000 fire damage
 - \$ 5,000 medical expenses
 - \$1,000,000 personal & adv. Injury
 - \$3,000,000 general aggregate
 - \$2,000,000 products/completed operations aggregate

The policy may not contain an exclusion for coverage of claims arising from claims for sexual molestation or abuse. In the event that CONTRACTOR’s policy should have an exclusion for sexual molestation or abuse claims, then CONTRACTOR shall be required to procure a supplemental policy providing such coverage.

- B. Business Auto Liability Insurance for all owned scheduled, non-owned or hired automobiles with a \$1 million combined single limit.

If no owned automobiles, then only hired and non-owned is required.

If CONTRACTOR uses a vehicle to travel to/from school sites, between schools and/or to/from students' homes or other locations as approved service locations by the LEA, CONTRACTOR must comply with State of California auto insurance requirements.

- C. Workers' Compensation and Employers Liability Insurance in a form and amount covering Contractor's full liability under the California Workers' Compensation Insurance and Safety Act and in accordance with applicable state and federal laws.

Part A – Statutory Limits

Part B - \$1,000,000/\$1,000,000/\$1,000,000 Employers Liability

- D. Errors & Omissions (E & O)/Malpractice (Professional Liability) coverage, including Sexual Molestation and Abuse coverage, unless that coverage is afforded elsewhere in the Commercial General Liability policy by endorsement or separate policy, with the following limits:

\$1,000,000 per occurrence

\$2,000,000 general aggregate

- E. Contractor, upon execution of this contract and periodically thereafter upon request, shall furnish the LEA with certificates of insurance evidencing such coverage. The certificate of insurance shall include a ten (10) day non-renewal notice provision. The Commercial General Liability and Automobile Liability policy shall name the LEA and the Board of Education additional insured's premiums on all insurance policies and shall be paid by Contractor and shall be deemed included in CONTRACTOR's obligations under this contract at no additional charge.
- F. Any deductibles or self-insured retentions above \$100,000 must be declared to and approved by the LEA. At its option, LEA may require the CONTRACTOR, at the CONTRACTOR's sole cost, to: (a) cause its insurer to reduce to levels specified by the LEA or eliminate such deductibles or self-insured retentions with respect to the LEA, its officials and employees, or (b) procure a bond guaranteeing payment of losses and related investigation.
- G. For any claims related to the services, the CONTRACTOR's insurance coverage shall be primary insurance as respects to the LEA, its subsidiaries, officials and employees. Any insurance or self-insurance maintained by the LEA, its subsidiaries, officials and employees shall be excess of the CONTRACTOR's insurance and shall not contribute with it.
- H. All Certificates of Insurance may reference the contract number, name of the school or agency submitting the certificate, and the location of the school or agency submitting the certificate on the certificate.

PART II - INSURANCE REQUIREMENTS FOR NONPUBLIC SCHOOLS AFFILIATED WITH A RESIDENTIAL TREATMENT FACILITY ("RTC")

When CONTRACTOR is a nonpublic school affiliated with a residential treatment center (NPS/RTC), the following insurance policies are required:

- A. Commercial General Liability coverage of \$3,000,000 per Occurrence and \$6,000,000 in General Aggregate. The policy shall be endorsed to name the LEA and the Board of Education as named additional insured and shall provide specifically that any insurance carried by the LEA which may be applicable to any claims or loss shall be deemed excess and the RTC's insurance primary despite any conflicting provisions in the RTC's policy. Coverage shall be maintained with no Self-Insured Retention above \$100,000 without the prior written approval of the LEA.
- B. Workers' Compensation Insurance in accordance with provisions of the California Labor Code adequate to protect the RTC from claims that may arise from its operations pursuant to the Workers' Compensation

Act (Statutory Coverage). The Workers' Compensation Insurance coverage must also include Employers Liability coverage with limits of \$1,000,000/\$1,000,000/\$1,000,000.

- C. Commercial Auto Liability coverage with limits of \$1,000,000 Combined Single Limit per Occurrence if the RTC does not operate a student bus service. If the RTC provides student bus services, the required coverage limit is \$5,000,000 Combined Single Limit per Occurrence.
- D. Fidelity Bond or Crime Coverage shall be maintained by the RTC to cover all employees who process or otherwise have responsibility for RTC funds, supplies, equipment or other assets. Minimum amount of coverage shall be \$250,000 per occurrence, with no self-insured retention.
- E. Professional Liability/Errors & Omissions/Malpractice coverage with minimum limits of \$3,000,000 per occurrence and \$6,000,000 general aggregate.
- F. Sexual Molestation and Abuse Coverage, unless that coverage is afforded elsewhere in the Commercial General Liability or Professional liability policy by endorsement, with minimum limits of \$3,000,000 per occurrence and \$6,000,000 general aggregate.

If LEA or CONTRACTOR determines that a change in insurance coverage obligations under this section is necessary, either party may reopen negotiations to modify the insurance obligations.

17) INDEMNIFICATION AND HOLD HARMLESS

CONTRACTOR shall indemnify and hold LEA and its Board Members, administrators, employees, agents, attorneys, volunteers, and subcontractors ("LEA Indemnities") harmless against all liability, loss, damage and expense (including reasonable attorneys' fees) resulting from or arising out of this Master Contract or its performance, to the extent that such loss, expense, damage or liability was caused by sole negligence or willful misconduct of CONTRACTOR, including, without limitation, its agents, employees, subcontractors or anyone employed directly or indirectly by it (excluding LEA and LEA Indemnities).

- a) LEA shall indemnify and hold CONTRACTOR and its Board Members, administrators, employees, agents, attorneys, and subcontractors ("CONTRACTOR Indemnities") harmless against all liability, loss, damage and expense (including reasonable attorneys' fees) resulting from or arising out of this Master Contract or its performance, to the extent that such loss, expense, damage or liability was proximately caused by the gross negligence or willful act of LEA, including, without limitation, its agents, employees, subcontracts or anyone employed directly or indirectly by it (excluding CONTRACTOR and/or any CONTRACTOR indemnities).
- b) LEA represents that it is self-insured in compliance with the laws of the state of California, that the self-insurance covers district employees acting within the course and scope of their respective duties and that its self-insurance covers LEA's indemnification obligations under this Master Contract.

18) INDEPENDENT CONTRACTOR

This Master Contract is by and between two independent entities that have an independent contractual relationship. CONTRACTOR shall provide all services under this Agreement as an independent contractor, and neither party shall have the authority to bind or make any commitment on behalf of the other. Nothing contained in this Master Contract shall be deemed to create any association, partnership, joint venture or relationship of principal and agent, master and servant, or employer and employee between the LEA and CONTRACTOR and any of their employees, agents, affiliates or other representatives, or between the LEA and any individual assigned by CONTRACTOR to perform any services for the LEA.

19) SUBCONTRACTING

- a) CONTRACTOR shall provide written notification to LEA before subcontracting for special education and/or related services pursuant to this Master Contract. CONTRACTOR shall enter into an initial subcontract only with a provider who is certified as a nonpublic school or nonpublic agency to delivery any of the instructional or related services contemplated under this Master Contract. The LEA and the CONTRACTOR shall maintain a copy of the written approval. CONTRACTOR shall provide all required clearances for its employees,

including, but not limited to fingerprint requirements, and tuberculosis. When subcontracting with a nonpublic agency, CONTRACTOR shall not charge LEA a higher rate than its own approved collaborative rate.

- b) Furthermore, when CONTRACTOR enters into subcontracts for the provision of special education and/or related services (including without limitation transportation) for any student, CONTRACTOR shall cause each subcontractor to procure and maintain insurance during the term of each subcontract. Such subcontractor's insurance shall comply with the provisions of Section 16. Each subcontractor shall furnish the LEA with original endorsements and certificates of insurance effecting coverage required by Section 16. The endorsements are to be signed by a person authorized by that insurer to bind coverage on its behalf. The endorsements are to be on the forms provided by the LEA. All endorsements are to be received and approved by the LEA before the subcontractor's work commences. As an alternative to the LEA's forms, a subcontractor's insurer may provide complete, certified copies of all required insurance policies, including endorsements affective the coverage required by this Master Contract. All subcontractors must meet the requirements as contained in Section 46 Fingerprint Clearance Requirements and Section 47 Staff Qualifications of this Master Contract.

20) CONFLICTS OF INTEREST

- a) CONTRACTOR and any member of its Board of Directors (or Trustees) shall avoid any relationship with LEA that constitutes or may constitute a conflict of interest pursuant to California Education Code Section 56042 and including, but not limited to, employment with LEA, provision of private party assessments and/or reports, and attendance at IEP/IFSP team meetings acting as a student's advocate.
- b) Unless CONTRACTOR and LEA otherwise agree in writing, LEA shall neither execute an ISA with CONTRACTOR nor amend an existing ISA for a LEA student when a recommendation for special education and/or related services is based in whole or in part on assessment(s) or reports provided by CONTRACTOR to the LEA student without prior written authorization by LEA. This paragraph shall apply to CONTRACTOR regardless of when an assessment is performed or a report is prepared (i.e., before or after the LEA student is enrolled in CONTRACTOR's school/agency) or whether an assessment of the LEA student is performed or a report is prepared in the normal course of the services provided to the LEA student by CONTRACTOR.

21) NON-DISCRIMINATION

CONTRACTOR shall not unlawfully discriminate on the basis of actual or perceived race, color, national origin, ancestry, religion, age, marital status, pregnancy, physical or mental disability, medical condition, veteran status, gender, sex or sexual orientation, in employment or operation of its programs.

EDUCATIONAL PROGRAM

22) FREE AND APPROPRIATE PUBLIC EDUCATION (FAPE)

- a) LEA shall provide CONTRACTOR with a copy of the IEP/IFSP including the Individualized Transition Plan (hereinafter referred to as "ITP") of each LEA student served by CONTRACTOR. Unless otherwise agreed to by the CONTRACTOR and the LEA, CONTRACTOR shall provide to each LEA student special education and/or related services (including transition services) within the nonpublic school or nonpublic agency consistent with the LEA student's IEP/IFSP and as specified in the ISA. If CONTRACTOR is a NPS, CONTRACTOR shall not accept an LEA student if it cannot provide or ensure the provision of the services outlined in the student's IEP/IFSP (California Education Code Section 56366.10(a)).
- b) Unless otherwise agreed to between CONTRACTOR and LEA, CONTRACTOR shall be responsible for the provision of all appropriate supplies, equipment, or facilities for LEA pupils, as specified in the LEA student's IEP/IFSP and ISA. Supplies and equipment purchased and/or provided by the LEA remains the property of the LEA. Supplies and/or equipment provided by the CONTRACTOR remains the property of the CONTRACTOR, if CONTRACTOR is not specifically reimbursed by the LEA for that specific supply or equipment. CONTRACTOR shall make no charge of any kind to parents for special education and/or related services as specified in the LEA pupil's IEP/IFSP and ISA (including, but not limited to, screenings, assessments, or interviews that occur prior to or as a condition of the LEA pupil's enrollment under the terms of this Master Contract).

- c) Voluntary services and/or activities not necessary for the LEA student to receive a free appropriate public education shall not interfere with the LEA pupil's receipt of special education and/or related services as specified in the LEA student's IEP/IFSP and ISA.

23) GENERAL PROGRAM OF INSTRUCTION

a) General Program

- i) All nonpublic school and nonpublic agency services shall be provided consistent with the area of certification specified by CDE Certification and as defined in California Education Code section 56366 et seq. No service will be provided by the CONTRACTOR outside of the CONTRACTOR's certification unless otherwise agreed to by the LEA.
- ii) When CONTRACTOR is a nonpublic school, CONTRACTOR's general program of instruction shall: (a) be consistent with LEA's standards regarding required courses of study and curriculum; (b) include curriculum that addresses mathematics, literacy and the use of educational, assistive technology and transition services; (c) be consistent with CDE's standards regarding the particular course of study and curriculum; (d) provide the services as specified in the LEA student's IEP/IFSP and ISA. The State Standards and coursework selected for each student shall be aligned with the student's IEP/IFSP to meet the individual student's needs.
- iii) LEA students shall have access to the following educational materials, services, and programs that are consistent with each student's individualized educational program: (a) For kindergarten and grades 1-8 inclusive, state adopted Common Core State Standards ("CCSS") for curriculum and instructional materials; and for grades 9-12 inclusive, standards-aligned, core curriculum and instructional materials used by any local educational agency that contracts with the non-public, non-sectarian school; (b) college preparation courses; (c) extracurricular activities, such as art, sports, music and academic clubs; (d) career preparation and vocational training, consistent with transition plans pursuant to state and federal law and; (e) supplemental assistance, including individual academic tutoring, psychological counseling, and career and college counseling (California Education Code 56366.10). CONTRACTOR's general program of instruction shall be described in writing and a copy provided to LEA within 5 days upon request.
- iv) When NPS CONTRACTOR serves LEA students in grades nine through twelve inclusive, LEA shall provide to CONTRACTOR a specific list of the course requirements to be satisfied by LEA students leading toward graduation or completion of diploma requirements. When CONTRACTOR is a nonpublic agency and/or related services provider, CONTRACTOR's general program of instruction and/or services shall be consistent with LEA and CDE guidelines and provided as specified in the LEA student's IEP/IFSP and ISA. The nonpublic agency providing Behavior Intervention Development services shall review or develop a written plan that specifies the nature of its' nonpublic agency service for each LEA pupil within thirty (30) days of enrollment which shall be available upon request. CONTRACTOR shall immediately notify LEA in writing if no parent, guardian or adult care giver is present at the IEP meeting held to review and approve the plan. CONTRACTOR shall provide to LEA a written description of the general program of instruction and/or services provided prior to the effective date of this Master Contract. Contractors providing Behavior Intervention services must have a Board Certified Behavior Analyst, or an appropriately trained professional.
- v) Except for emergency situations requiring a change of location in order to continue the education of LEA students, school-based services may not be unilaterally converted by CONTRACTOR to a substitute program or provided at a location not specifically authorized by the IEP/IFSP team. Except for services provided by a contractor that is a licensed children's institution, all services not provided in the school setting require the presence of, or the prior written consent of a parent, guardian or adult care giver during the delivery of services. LCI contractors shall ensure that appropriate and qualified residential or clinical staff is present during the provision of services under this Master Contract.

b) Transportation Services.

- i) In the event that transportation services for a student served by CONTRACTOR pursuant to an Individual Services Agreement are to be provided by a party other than CONTRACTOR or the LEA or its transportation providers, such services shall be reflected in a separate agreement signed by the parties hereto, and provided to the LEA and SELPA Director by the CONTRACTOR. Except as provided below, CONTRACTOR shall compensate the transportation provider directly for such services, and shall charge the LEA for such services at the actual and reasonable rates billed by the transportation provider, plus a ten percent (.10) administrative fee, unless a “flat rate” is provided in the transportation contract. In the event that the transportation provider notifies the LEA or SELPA Director that CONTRACTOR is more than 90 days behind in payment for transportation services, LEA shall have the right, in its sole and exclusive discretion, but not the obligation, to make payment for such services directly to the transportation provider, and to deduct such payments from any sums owed to CONTRACTOR pursuant to this Master Contract and any Individual Services Agreement between the parties. In the event that the LEA makes direct payment of the transportation provider’s charges, it shall be entitled to withhold both the transportation charges themselves and such additional amount as shall be reasonably necessary to compensate the LEA for the staff and other costs incurred in making direct payment of those charges. The remedies provided to the LEA pursuant to this Paragraph shall not be exclusive. CONTRACTOR shall not include transportation through the use of services or equipment owned, leased or contracted through the LEA unless expressly provided in the Individual Services Agreement for the student transported.
- ii) When CONTRACTOR is a nonpublic agency, CONTRACTOR shall not provide transportation nor subcontract for transportation services for LEA student unless the LEA and the CONTRACTOR agree otherwise in writing.

24) INSTRUCTIONAL MINUTES

- a) When CONTRACTOR is a nonpublic school, the total number of instructional minutes per school day provided by CONTRACTOR shall be at least equivalent to the number of instructional minutes per school day provided to LEA students at like grade level, attending LEA schools, unless otherwise specified in the student’s IEP/IFSP, and shall be specified in the LEA student’s ISA developed in accordance with the LEA student’s IEP/IFSP.
- b) For NPS students in grades pre-kindergarten through 12, unless otherwise specified in the LEA student’s IEP/IFSP, the number of instructional minutes, excluding recess, lunch, and passing time, shall be at least the minimum as specified in Education Code Sections 46110-46147, and in no case will be less than the amount as specified in the IEP/IFSP. In addition, the total number of annual instructional minutes shall be at least equivalent to the total number of annual instructional minutes provided to LEA students attending LEA schools in like grade level unless otherwise specified in the LEA student’s IEP/IFSP.
- c) When CONTRACTOR is a nonpublic agency and/or related services provider, the total number of minutes per school day provided by CONTRACTOR shall be specified in the LEA student’s ISA developed in accordance with the LEA student’s IEP/IFSP.

25) CLASS SIZE

- a) When CONTRACTOR is a nonpublic school, CONTRACTOR shall ensure that class size shall not exceed a ratio of one teacher per fourteen (14) pupils. Each classroom with 2 or more students shall be assigned at least one paraprofessional. Upon written approval by an authorized LEA representative, class size may be temporarily increased by a ratio of 1 teacher to sixteen (16) pupils when necessary to provide services to pupils with disabilities. For any billing period where the class size has exceeded sixteen (16) students for five consecutive school days, the CONTRACTOR shall have a 10% decrease in its approved daily rate for those LEA students that exceeded sixteen (16), for those days (over five).
- b) In the event a nonpublic school is unable to fill a vacant teaching position responsible for direct instruction to students, and the vacancy has direct impact on the California Department of Education Certification of that school, the nonpublic school shall develop a plan to assure appropriate coverage of student by first utilizing existing certificated staff. The nonpublic school and the LEA may agree to one 30 school day period per

contract year where class size may be increased to assure coverage by an appropriately credentialed teacher. Such an agreement shall be in writing and signed by both parties. This provision does not apply to a nonpublic agency.

- c) CONTRACTOR providing special education instruction for individuals with exceptional needs between the ages of three and five years, inclusive, shall also comply with the appropriate instructional adult to child ratios pursuant to California Education Code sections 56440 et seq.

26) CALENDARS

- a) When CONTRACTOR is a Non-Public School, the CONTRACTOR shall submit to LEA a school calendar with the total number of billable days not to exceed 180 days for the regular school year, plus extended school year billable days as determined by the IEP/IFSP team ((34 CFR § Section 300.106); a minimum of 20 instructional days (excluding July 4th). Billable days shall include only those days that are included in the submitted and approved school calendar, and/or required by the IEP/IFSP for each student. CONTRACTOR shall adhere to the requirements for providing Extended School Year as outlined in Title 5, Article 4 of the California Code of Regulations. Unless otherwise specified by the students IEP/IFSP, educational services shall occur at the school site.
- b) When CONTRACTOR is a nonpublic agency, CONTRACTOR shall be provided with a LEA developed/approved calendar; CONTRACTOR herein agrees to observe holidays as specified in the LEA-developed/approved calendar. CONTRACTOR shall provide services pursuant to the LEA-developed/approved calendar, or as specified in the LEA pupil's IEP/IFSP and ISA. Unless otherwise specified in the LEA student's IEP/IFSP and ISA, CONTRACTOR shall provide related services to LEA pupils on only those days that the LEA pupil's school of attendance is in session and the LEA student attends school. CONTRACTOR shall bill only for services provided on billable days of attendance as indicated on the LEA calendar unless otherwise specified in the LEA student's IEP/IFSP and ISA.

27) DATA REPORTING

- a) CONTRACTOR shall agree to provide all data related to student information and billing information with LEA. CONTRACTOR shall agree to provide all data related to any and all sections of this contract and requested by and in the format require by the LEA. CONTRACTOR shall provide the LEA with invoices, attendance reports and progress reports for LEA students enrolled in CONTRACTOR's nonpublic school or nonpublic agency.
- b) The LEA shall provide the CONTRACTORS with approved forms and/or format for such data including but not limited to invoicing, attendance reports and progress reports. The LEA may approve use of CONTRACTORS-provided forms at their discretion.

28) LEAST RESTRICTIVE ENVIRONMENT/DUAL ENROLLMENT

- a) CONTRACTOR and LEA shall follow all LEA policies and procedures that support Least Restrictive Environment ("LRE") placement options and/or Dual Enrollment options for students to have access to the general curriculum and to be educated with their nondisabled peers to the maximum extent appropriate.
- b) CONTRACTOR and LEA shall ensure that LRE placement options are addressed at all IEP/IFSP team meetings regarding students for whom ISAs have been or may be executed. This shall include IEP/IFSP team consideration of supplementary aids and services, goals and objectives necessary for placement in the LRE and that may be necessary to enable students to transition to less restrictive settings. The District has the responsibility to determine the offer of FAPE in the Least Restrictive Environment.
- c) When an IEP/IFSP team has determined that an LEA student should be transitioned into the public school setting, CONTRACTOR shall assist the LEA in implementing the IEP/IFSP team's recommendations to support the transition.

29) STATEWIDE ACHIEVEMENT TESTING

- a) When CONTRACTOR is a nonpublic school, CONTRACTOR shall be available to administer all Statewide assessments within the California Assessment of Student Performance and Progress (“CAASPP”), Desired Results Developmental Profile (“DRDP”), achievement and abilities tests (using LEA-authorized assessment instruments), the Fitness Gram, and California English Language Development Test (“CELDT” or alternate “CELDT”), as appropriate to the student, and mandated by LEA pursuant to LEA and state and federal guidelines. In the event the LEA requests that the NPS administer the assessments, NPS staff will be trained by a contracting LEA in the administration of all State-wide assessments in accordance with the guidelines of Ed Code 56385. Verification of training will be maintained with CONTRACTOR.
- b) NPS CONTRACTOR is subject to the alternative accountability system developed pursuant to Education Code section 52052, in the same manner as public schools. Each LEA student placed with CONTRACTOR by the LEA shall be tested, as determined by the student’s IEP, by qualified staff of CONTRACTOR in accordance with that accountability program. Contractor shall report the test results to the CDE as required by Education Code section 56366(a)(8)(A). Test results shall be made available to the CONTRACTOR by the LEA, if the results are not sent to the CONTRACTOR by the test publisher or CDE.
- c) LEA shall provide NPS with the SSID for each LEA student. LEA shall cooperate with CONTRACTOR to accommodate CONTRACTOR’s testing window. (Education Code Section 56366(a)(8)(B))

30) ATTENDANCE AT DISTRICT MANDATED MEETINGS

CONTRACTOR shall attend District mandated meetings when legal mandates, and/or LEA policy and procedures are reviewed, including but not limited to the areas of: curriculum, high school graduation, standards-based instruction, cultural and linguistic needs of students with disabilities, dual enrollment responsibilities, LRE responsibilities, transition services, and standardized testing. LEA shall provide CONTRACTOR with reasonable notice of mandated meetings. Attendance at such meetings does not constitute a billable service hour(s). After attending one meeting during the school year (including Extended School Year), upon request, a CONTRACTOR who is providing NPA services may request payment for services for attending any additional meetings mandated by the LEA. The request for payment will be at the CONTRACTOR’S agreed upon hourly rate.

31) POSITIVE BEHAVIOR INTERVENTIONS

- a) CONTRACTOR shall comply with the requirements of Education Code section 56521.5 regarding positive behavior interventions. LEA students who exhibit serious behavioral challenges must receive timely and appropriate assessments and positive supports and interventions in accordance with the federal law and its implementing regulations. If the individualized education program (“IEP”) team determines that a student’s behavior impedes his or her learning or the learning of others, the IEP team is required to consider the use of positive behavioral interventions and supports, and other strategies, to address that behavior, consistent with Section 1414(d)(3)(B)(i) and (d)(4) of Title 20 of the United States Code and associated federal regulations. This could mean that instead of developing a BIP, the IEP team may conclude it is sufficient to address the student’s behavioral problems through the development of behavioral goals and behavioral interventions to support those goals. NPS site based staff and relevant NPA staff will be trained in positive behavior strategies prior to working with students.
- b) CONTRACTOR shall maintain a written policy pursuant to California Education Code section 56521.1 regarding emergency interventions and Behavioral Emergency Reports (BER).
- c) CONTRACTOR providing behavior support shall ensure that all of its relevant staff members are trained annually in crisis intervention and emergency procedures as related to appropriate behavior management strategies. Other contracted agency personnel shall be trained as needed. This is not to be construed as in lieu of general positive behavior management training.
- d) Staff will not participate in restraint of students until trained in crisis prevention programs. Evidence of training in a SELPA approved crisis intervention program to staff working in a staffing ratio of 1:1 with students with severe behavioral needs shall be submitted to the LEA at the beginning of the school year and within thirty (30) days of any new hire as referenced above. .If the training is not able to be provided within

30 days, the non-public school or agency will notify the LEA to determine a plan to provide the training in a timely manner.

- e) Pursuant to Education Code section 56521.1 emergency interventions shall not be used as a substitute for a Behavior Intervention Plan (BIP), and instead may only be used to control behavior that is unpredictable and spontaneous. For an emergency intervention to be used, the behavior must pose a clear and present danger of serious physical harm to the individual with exceptional needs, or others. Before emergency interventions may be applied, the behavior must be of the kind that cannot be immediately prevented by a response less restrictive than the temporary application of a technique used to contain the behavior. Emergency intervention shall not be employed longer than necessary to contain the behavior. If a situation requires prolonged use of emergency intervention, staff must seek assistance from the school site administrator or a law enforcement agency.
- f) CONTRACTOR shall complete a BER when an emergency occurs that is defined as a serious, dangerous behavior that staff has determined to present a clear and present danger to others. It requires a non-violent physical intervention to protect the safety of student, self, or others and a physical intervention has been used; or a physical intervention has not been used, but an injury or serious property damage has occurred. Personal Safety Techniques may or may not have been used. Emergencies *require* a BER form be completed and submitted to the LEA within twenty-four (24) hours for administrative action. CONTRACTOR shall notify Parent within twenty-four (24) hours via telephone. If the student does not have a Behavior Intervention Plan (“BIP”) or Positive Behavior Intervention Plan (“PBIP”), an IEP team shall schedule a meeting to review the BER, determine if there is a necessity for a functional behavioral assessment, and to determine an interim plan. If the student already has a BIP, the IEP team shall review and modify the BIP if a new serious behavior has been exhibited or existing behavioral interventions have proven to be ineffective. CONTRACTOR shall schedule with LEA an IEP meeting within two (2) days.
- g) Pursuant to Education Code section 56521.2, CONTRACTOR shall not authorize, order, consent to, or pay for the following interventions, or any other interventions similar to or like the following:
 - i) Any intervention that is designed to, or likely to, cause physical pain, including, but not limited to, electric-shock
 - ii) An intervention that involves the release of noxious, toxic, or otherwise unpleasant sprays, mists, or substances in proximity to the face of the individual.
 - iii) An intervention that denies adequate sleep, food, water, shelter, bedding, physical comfort, or access to bathroom facilities.
 - iv) An intervention that is designed to subject, used to subject, or likely to subject, the individual to verbal abuse, ridicule, or humiliation, or that can be expected to cause excessive emotional trauma.
 - v) Restrictive interventions that employ a device, material, or objects that simultaneously immobilize all four extremities. including the procedure known as prone containment, except that prone containment or similar techniques may be used by trained personnel as a limited emergency intervention.
 - vi) Locked seclusion, unless it is in a facility otherwise licensed or permitted by state law to use a locked room.
 - vii) An intervention that precludes adequate supervision of the individual.
 - viii) An intervention that deprives the individual of one or more of his or her senses.
- h) NPS/NPA staff shall not use prone restraint.
- i) In the case of a child whose behavior impedes the child’s learning or that of others, the individualized education program team shall consider the use of positive behavioral interventions and supports, and other strategies, to address that behavior, consistent with Section 1414(d)(3)(B)(i) and (d)(4) of Title 20 of the United States Code and associated federal regulations.

32) STUDENT DISCIPLINE

- a) CONTRACTOR shall maintain and abide by a written policy for student discipline that is consistent with state and federal law and regulations.

- b) When NPS CONTRACTOR seeks to remove a LEA student from his/her current educational placement for disciplinary reasons, CONTRACTOR shall immediately submit a written discipline report to the LEA. Written discipline reports shall include, but not be limited to: the LEA student's name; the time, date, and description of the misconduct; the disciplinary action taken by CONTRACTOR; and the rationale for such disciplinary action. A copy of the LEA student's behavior plan, if any, shall be submitted with the written discipline report. CONTRACTOR and LEA agree to participate in a manifestation determination at an IEP/IFSP meeting no later than the tenth (10th) day of suspension. LEA shall notify and invite CONTRACTOR representatives to the IEP/IFSP team meeting where the manifestation determination will be made.

33) IEP/IFSP TEAM MEETINGS

- a) Upon referral of an LEA student to CONTRACTOR, the LEA shall provide CONTRACTOR with a copy of that student's IEP/IFSP, as well as available assessment information, and facilitate, if requested, an observation of the student. CONTRACTOR retains the right to decline enrollment of any student, unless ordered by the Office of Administrative Hearing (OAH) or a Court of Competent Jurisdiction. CONTRACTOR shall notify the LEA written notification of its intent to decline enrollment of the LEA student.
- b) An IEP/IFSP team meeting shall be convened at least annually to evaluate: (1) the educational progress of each student placed with CONTRACTOR, including all state assessment results pursuant to the requirements of Education Code section 52052; (2) whether or not the needs of the LEA student continue to be best met at the nonpublic school; and (3) whether changes to the LEA student's IEP/IFSP are necessary, including whether the student may be transitioned to a public school setting. With parent and LEA concurrence, an IEP team may excuse a required IEP team member either from the entire meeting or after the member's report.
- c) Each LEA student shall be allowed to provide confidential input to any representative of his or her IEP/IFSP team. Except as otherwise provided in the Master Contract, CONTRACTOR and LEA shall participate in all IEP/IFSP team meetings regarding LEA students for whom ISAs have been or may be executed. A CONTRACTOR who is providing NPA services may request payment for services for attending any meeting that occurs after the Annual Review of the IEP/IFSP. At any time during the term of this Master Contract, the parent, the CONTRACTOR or the LEA may request a review of the student's IEP/IFSP, subject to all procedural safeguards required by law, including reasonable notice given to, and participation of, the CONTRACTOR in the meeting. Every effort shall be made to schedule IEP/IFSP team meetings at a time and place that is mutually convenient to parents, CONTRACTOR and LEA. CONTRACTOR shall provide to LEA assessments and written assessment reports by service providers upon request and/or pursuant to LEA policy and procedures.
- d) Changes in any LEA student's educational program, including instruction, services, or instructional setting, provided under this Master Contract may only be made on the basis of revisions to the student's IEP/IFSP. In the event that the CONTRACTOR believes the student requires a change of placement, the CONTRACTOR may request a review of the student's IEP/IFSP for the purposes of consideration of a change in the student's placement. Student is entitled to remain in the last agreed upon and implemented placement unless parent agrees otherwise or an interim alternative educational placement is deemed lawful and appropriate by LEA or OAH.

34) SURROGATE PARENTS AND FOSTER YOUTH

CONTRACTOR shall comply with LEA surrogate parent assignments. A student in foster care shall be defined pursuant to California Education Code section 42238.01(b). The LEA shall annually notify the CONTRACTOR who the LEA has designated as the educational liaison for foster children. When a student in foster care is enrolled in a nonpublic school by the LEA any time after the completion of the student's second year of high school, the CONTRACTOR shall schedule the student in courses leading towards graduation based on the diploma requirements of the LEA unless provided notice otherwise in writing pursuant to Section 51225.1.

35) DUE PROCESS PROCEEDINGS

CONTRACTOR shall fully participate in special education due process proceedings including mediations and hearings, as requested by LEA. CONTRACTOR shall also fully participate in the investigation and provision of

documentation related to any complaint filed with the State of California, the Office of Civil Rights, or any other state and/or federal governmental body or agency. Full participation shall include, but in no way be limited to, cooperating with LEA representatives to provide complete answers raised by any investigator and/or the immediate provision of any and all documentation that pertains to the operation of CONTRACTOR's program and/or the implementation of a particular student's IEP/Individual and Family Service Plan ("IFSP").

36) COMPLAINT PROCEDURES

CONTRACTOR shall maintain and adhere to its written procedures for responding to parent complaints. These procedures shall include annually notifying and providing parents of LEA students with appropriate information (including complaint forms) for the following: (1) Uniform Complaint Procedures pursuant to Title 5 of the California Code of Regulations section 4600 et seq.; (2) Nondiscrimination policy pursuant to Title 5 of the California Code of Regulations section 4960 (a); (3) Sexual Harassment Policy, California Education Code 231.5 (a) (b) (c); (4) Title IX Pupil Grievance Procedure, Title IX 106.8 (a) (d) and 106.9 (a); and (5) Notice of Privacy Practices in compliance with Health Insurance Portability and Accountability Act (HIPPA). CONTRACTOR shall include verification of these procedures to the LEA upon request.

37) LEA STUDENT PROGRESS REPORTS/REPORT CARDS AND ASSESSMENTS

- a) Unless LEA requests in writing that progress reports be provided on a monthly basis, progress reports shall be sent by CONTRACTOR to LEA and parents no later than October 30th, January 30th, April 30th, and July 30th or as otherwise specified on the IEP/IFSP or requested in writing by the LEA, with respect to LEA students enrolled in CONTRACTOR's educational program. An updated report shall be submitted if there is no current progress report when LEA student is scheduled for a review by the LEA's IEP/IFSP team or when an LEA student's enrollment is terminated. Payment of invoices may be held until progress reports are provided. A copy of the progress reports/report cards shall be maintained at the CONTRACTOR's place of business and made available upon request of LEA and/or the LEA student's parent(s).
- b) CONTRACTOR shall complete academic or other assessment of the LEA student one month prior to the LEA student's annual or triennial review IEP/IFSP team meeting for the purpose of reporting the LEA student's present levels of performance at the IEP/IFSP team meeting as required by state and federal laws and regulations and pursuant to LEA policies, procedures, and/or practices. Supporting documentation, such as test protocols and data collection, shall be made available to LEA upon request. LEA may elect to conduct assessment and will notify the contractor if they elect to do so in advance. CONTRACTOR shall not charge the LEA student's parent(s) or LEA for the provision of progress reports, report cards, and/or any assessments, interviews, or meetings. Additional formalized standardized assessments shall be at the determination of the IEP team and the responsibility of the LEA unless otherwise agreed upon between LEA and CONTRACTOR. If Contractor is asked to provide formalized standardized assessment, such service will be paid at the rate stated in Section 62.

38) TRANSCRIPTS

When CONTRACTOR is a nonpublic school, CONTRACTOR, at the close of each semester or upon LEA student transfer, shall prepare transcripts for LEA students in grades nine through twelve inclusive, and submit them to the LEA student's district of residence, for evaluation of progress toward completion of diploma requirements, or if appropriate, a Certificate of Completion, as specified in LEA Procedures. CONTRACTOR shall submit to the LEA names of LEA students and their schools of residence for whom transcripts have been submitted as specified by the LEA.

39) LEA STUDENT CHANGE OF RESIDENCE

- a) Within three (3) school days after CONTRACTOR or LEA becomes aware of a LEA student's change of residence, CONTRACTOR shall notify LEA and/or the LEA shall notify CONTRACTOR of the LEA student's change of residence as specified in LEA Procedures. Upon enrollment, CONTRACTOR shall notify parents in writing of the parent's obligation to notify CONTRACTOR of the LEA student's change of residence. CONTRACTOR shall maintain, and provide upon request by LEA, documentation of such notice to parents.

- b) If the LEA student's change of residence is to a residence outside of LEA's service boundaries or CONTRACTOR fails to follow the procedures specified in this provision, LEA shall not be responsible for the costs of services delivered after the LEA student's change of residence, if CONTRACTOR had knowledge or should reasonably have had knowledge of the LEA student's change of residence. LEAs will adhere to requirements for students identified as homeless or foster youth under current education code.

40) WITHDRAWAL OF LEA STUDENT FROM PROGRAM

CONTRACTOR shall immediately report, by telephone, to the LEA when a LEA student is withdrawn from school and/or services. CONTRACTOR shall confirm such telephone call with written submission within three (3) days.

41) PARENT ACCESS

- a) CONTRACTOR shall provide for reasonable parental access to students and all facilities including, but not limited to, the instructional setting, recreational activity areas, meeting rooms and student living quarters. CONTRACTOR shall comply with any known court orders regarding parental visits and access to LEA students.
- b) CONTRACTOR operating programs associated with a NPS/RTC shall cooperate with a parent's reasonable request for LEA student therapeutic visits in their home or at the NPS/RTC. CONTRACTOR shall require that parents obtain prior written authorization for therapeutic visits from the CONTRACTOR and the LEA at least thirty (30) days in advance. CONTRACTOR shall facilitate all parent travel and accommodations and for providing travel information to the parent as appropriate. Payment by LEA for approved travel-related expenses shall be made directly through the LEA.
- c) CONTRACTOR providing services in the student's home as specified in the IEP shall assure that at least one parent of the child, or an adult caregiver with written and signed authorization to make decisions in an emergency, is present. The names of any adult caregiver other than the parent shall be provided to the LEA prior to the start of any home based services, including written and signed authorization in emergency situations. The parent shall inform the LEA of any changes of caregivers and provide written authorization for emergency situation. The adult caregiver cannot also be an employee or volunteer associated with the NPS/NPA service provider.
- d) For services provided in a student's home as specified in the IEP, CONTRACTOR must assure that the parent or LEA approved responsible adult is present during the provision of services. All problems and/or concerns reported to parents, both verbal and written, shall also be provided to the LEA.

42) SERVICES AND SUPERVISION ON PUBLIC SCHOOL CAMPUSES

- a) If CONTRACTOR provides services on LEA public school campuses, CONTRACTOR shall comply with Penal Code Section 627.1 et. seq., and LEA procedures regarding visitors to school campuses specified by LEA policy and in the LEA Procedures, and shall follow the procedures of the campus at which services are being provided.
- b) CONTRACTOR shall be responsible for purchase and provision of the supplies and assessment tools necessary to implement the provision of services on LEA public school campuses.

43) LICENSED CHILDREN'S INSTITUTION CONTRACTORS

- a) If CONTRACTOR is a licensed children's institution (hereinafter referred to as "LCI"), CONTRACTOR shall adhere to all legal requirements regarding educational placements for LCI students as stated in Education Code 56366 (a) (2) (C), 56366.9 (c) (1), Health and Safety Code section 1501.1(b), AB 1858 (2004), AB490 (Chapter 862, Statutes of 2003), AB 1261 (2005), AB 1166 Chapter 171 (2015), AB 167 Chapter 224 (2010), AB 2016 Chapter 324 (2013), AB 379 Chapter 772 (2015), AB 1012 Chapter 703 (2015), A LCI shall not require that a student be placed in its nonpublic school as a condition of being placed in its residential facility.
- b) If CONTRACTOR is a nonpublic, nonsectarian school that is owned, operated by, or associated with a LCI, CONTRACTOR shall provide to LEA, on a quarterly basis, a list of all LEA students, including those identified as eligible for special education. For those identified special education students, the list shall

include: 1) special education eligibility at the time of enrollment, and 2) the educational placement and services specified in each student's IEP/IFSP at the time of enrollment.

44) STATE MEAL MANDATE

When CONTRACTOR is a nonpublic school, CONTRACTOR and LEA shall satisfy the State Meal Mandate under California Education Code sections 49530, 49530.5 and 49550.

45) MONITORING

- a) CONTRACTOR shall allow access by LEA to its facilities for periodic monitoring of each LEA student's instructional program and shall be invited to participate in the review of each student's progress. LEA shall have access to observe each LEA student at work, observe the instructional setting, interview CONTRACTOR, and review each LEA student's records and progress. Such access shall include unannounced monitoring visits. When making site visits, LEA shall initially report to CONTRACTOR's site administrative office.
- b) If CONTRACTOR is also a LCI, LEA shall annually evaluate whether CONTRACTOR is in compliance with Education Code section 56366.9 and Health and Safety Code section 1501.1(b).
- c) During the term of this Master Contract, CONTRACTOR shall participate in a District Review to be conducted as aligned with the CDE On-site Review or more often if necessary. This review will address programmatic aspects of the Nonpublic School/Agency, compliance with relevant state and federal regulations, and Master Contract compliance.
- d) CONTRACTOR shall participate in compliance reviews of LEA in accordance with requirements of CDE. CONTRACTOR will use all SELPA IEP forms. CONTRACTOR will adhere to all SELPA assurances and procedures required for compliance.
- e) CONTRACTOR understands that LEA reserves the right to institute a program audit with or without cause. The program audit may include, but is not limited to, a review of core compliance areas of health and safety; curriculum/instruction; related services; and contractual, legal, and procedural compliance.
- f) When CONTRACTOR is a nonpublic school, CONTRACTOR shall prepare a School Accountability Report Card in accordance with California Education Code Section 56366(a)(9) and 33126 and state guidelines.

PERSONNEL

46) FINGERPRINT CLEARANCE REQUIREMENTS

- a) CONTRACTOR shall comply with the requirements of California Education Code section 44237, 35021.1 and 35021.2 including, but not limited to: obtaining clearance from both the California Department of Justice (hereinafter referred to as "CDOJ") and clearance from the Federal Bureau of Investigation (hereinafter referred to as "FBI") for CONTRACTOR's employees and volunteers, unless CONTRACTOR determines that the volunteers will have no direct contact with LEA students, prior to service with any LEA student. CONTRACTOR hereby agrees that CONTRACTOR's employees and volunteers, unless CONTRACTOR determines that the volunteers will have no direct contact with LEA pupils, shall not come in contact with LEA students until CDOJ and FBI clearance are ascertained. CONTRACTOR shall certify in writing to LEA that none of its employees, and volunteers, unless CONTRACTOR determines that the volunteers will have no direct contact with LEA students, or contractors who may come into contact with LEA students have been convicted of a violent or serious felony as those terms are defined in California Education Code section 44237(h), unless despite the employee's conviction of a violent or serious felony, he or she has met the criteria to be eligible for employment pursuant to California Education Code section 44237(i) or (j). In addition, CONTRACTOR shall make a request for subsequent arrest service from the CDOJ as required by California Penal Code section 11105.2.
- b) According to Education Code sections 44237 and 56366.1 CONTRACTOR shall verify that it has received a successful criminal background check clearance and has enrolled in subsequent arrest notice service, as specified, **for each owner, operator, and employee of the nonpublic, nonsectarian school or agency who**

may have contact with students. Further this bill deletes the exemption for applicants possessing a valid California state teaching credential or who are currently licensed by another state agency that requires a criminal record summary, from submitting 2 sets of fingerprints for the purpose of obtaining a criminal record summary from the Department of Justice and the Federal Bureau of Investigation. Notwithstanding the restrictions on sharing and destroying criminal background check information, CONTRACTOR, upon demand, shall make available to the State Superintendent evidence of a successful criminal background check clearance and enrollment in subsequent arrest notice service, as provided, for each owner, operator, and employee of the nonpublic, nonsectarian school or agency. CONTRACTOR is required to retain the evidence with their "Custodian of Records", as specified, for all staff, including those licensed or credentialed by another state agency. Background clearances and proof of subsequent arrest notification service as required by California Penal Code section 11105.2 for all staff shall be provided upon request to the State Superintendent.

47) STAFF QUALIFICATIONS

- a) CONTRACTOR shall ensure that all individuals employed, contracted, and/or otherwise hired by CONTRACTOR to provide classroom and/or individualized instruction or related services hold a license, certificate, permit, or other document equivalent to that which staff in a public school are required to hold in the service rendered consistent with Education Code section 56366.1(n)(1) and are qualified pursuant to Title 5 of the California Code of Regulations sections 3064 and 3065.
- b) Only those nonpublic, nonsectarian schools or agencies located outside of California that employ staff that hold a current valid credential or license to render special education and related services as required by that state shall be eligible to be certified. NPA/NPS staff shall be required to hold credentials and licenses within the state where they are providing services regardless of where the agency is located.
- c) CONTRACTOR shall comply with personnel standards and qualifications regarding instructional aides and teacher assistants respectively pursuant to Federal requirements and California Education Code sections 45340 et seq. and 45350 et seq. CONTRACTOR shall comply with all laws and regulations governing the licensed professions, including but not limited to, the provisions with respect to supervision.
- d) Notwithstanding the foregoing, if current license or credential documents are not available through no fault of the NPS/A, timely application having theretofore been made, this Master Contract shall remain in effect until such documents are made available to the NPS/A from the Consumer Affairs Department or the Commission on Teacher Credentialing. The NPS/A shall in turn submit copies of same to the LEA within five (5) business days of receipt by the NPS/A.

48) VERIFICATION OF LICENSES, CREDENTIALS AND OTHER DOCUMENTS

- a) CONTRACTOR shall submit to LEA a staff list, and copies of all current licenses, credentials, permits and/or other documents, which entitle the holder to provide special education and/or related services by individuals employed, contracted, and/or otherwise hired by CONTRACTOR. CONTRACTOR shall notify the CDE and the LEA in writing as specified in the LEA Procedures and CDE within forty-five (45) days when personnel changes occur which may affect the provision of special education and/or related services to LEA students as specified in the LEA Procedures. Notwithstanding the foregoing, if current license or credential documents are not available through no fault of the NPS/A, timely application having theretofore been made, this Master Contract shall remain in effect until such documents are made available to the NPS/A from the Consumer Affairs Department or the Commission on Teacher Credentialing. The NPS/A shall in turn submit copies of same to the LEA within five (5) business days of receipt by the NPS/A.
- b) CONTRACTOR shall monitor the status of licenses, credentials, permits and/or other documents for all individuals employed, contracted, and/or otherwise hired by CONTRACTOR to provide special education services to LEA students. CONTRACTOR shall provide to LEA updated information regarding the status of licenses, credentials, permits and/or other documents as specified in LEA Procedures. CONTRACTOR will be considered to be in breach of this contract for any service provided by an unqualified provider or one who has an expired credential. In such an event, the provider shall be paid at 70% of the agreed upon rate.

49) STAFF ABSENCE

- a) When CONTRACTOR is a nonpublic school and CONTRACTOR's classroom teacher is absent, CONTRACTOR shall provide an appropriately credentialed substitute teacher in the absent teacher's classroom in accordance with California Education Code section 56061. CONTRACTOR shall provide to LEA documentation of substitute coverage on LEA substitute teacher log. Substitute teachers shall remain with their assigned class during all instructional time. LEA shall not be responsible for payment for instruction and/or services when an appropriately credentialed substitute teacher is not provided. If a teacher is absent and a non-qualified substitute has been provided, CONTRACTOR will notify the LEA immediately. The LEA will determine how to address the denial of FAPE.
- b) When CONTRACTOR is a nonpublic agency and/or related services provider, and CONTRACTOR's service provider is absent, CONTRACTOR shall provide a qualified (as defined in section eight (8) of this Master Contract and as determined by LEA) substitute, unless LEA provides appropriate coverage in lieu of CONTRACTOR's service providers. LEA will not pay for services unless a qualified substitute is provided and/or CONTRACTOR provides a mutually agreed upon plan evidencing the provision of "make-up" services by a qualified service provider within thirty (30) calendar days from the date on which the services should have been provided. Provider shall notify LEA immediately of the development of the plan for any missed services that include: 5 or more consecutive days of specialized academic instruction (SAI) or more than 2 weeks of missed related services. CONTRACTOR shall not "bank" or "carry over" make up service hours under any circumstances, unless otherwise agreed to in writing by CONTRACTOR and LEA.

HEALTH AND SAFETY MANDATES

50) HEALTH AND SAFETY

- a) CONTRACTOR shall comply with all applicable federal, state, local, and LEA laws, regulations, ordinances, policies, and procedures regarding student and employee health and safety. CONTRACTOR shall comply with the requirements of California Education Code sections 35021 et. seq. regarding the examination of CONTRACTOR's employees and volunteers for tuberculosis. CONTRACTOR shall provide to LEA documentation for each individual volunteering, employed, contracted, and/or otherwise hired by CONTRACTOR of such compliance before an individual comes in contact with an LEA student. CONTRACTOR will comply with the requirements of California Education Code section 35021 et seq., regarding preventing registered sex offenders from volunteering and to request fingerprinting clearance of volunteers.
- b) CONTRACTOR shall comply with OSHA Blood Borne Pathogens Standards, Title 29 Code of Federal Regulations (CFR) section 1910.1030, when providing medical treatment or assistance to a student. CONTRACTOR further agrees to provide annual training regarding universal health care precautions and to post required notices in areas designated in the California Health and Safety Code.

51) FACILITIES, FACILITIES MODIFICATIONS AND FIRE DRILLS

- a) Facilities : CONTRACTOR shall provide special education and/or related services to LEA pupils in facilities that comply with all applicable federal, state, and local laws, regulations, and ordinances related to, but not limited to: disability access; fire, health, sanitation, and building standards and safety; fire warning systems; zoning permits; and occupancy capacity. CONTRACTOR shall be responsible for any structural changes and/or modifications to CONTRACTOR's facilities as required complying with applicable federal, state, and local laws, regulations, and ordinances.
- i) Fire Drills: When CONTRACTOR is a nonpublic school, CONTRACTOR shall conduct fire drills monthly for elementary and intermediate students and twice per school year for secondary students, as required by Title 5 California Code of Regulations, Section 550.

52) ADMINISTRATION OF MEDICATION

- a) CONTRACTOR shall comply with the requirements of Federal Regulations and California Education Code and the California Code of Regulations, when CONTRACTOR serves an LEA student that is required to take prescription and/or over-the-counter medication during the school day. CONTRACTOR may designate

personnel to assist the LEA student with the administration of such medication after the LEA student's parent(s) provides to CONTRACTOR:

- i) a written statement from a physician detailing the type, administration method, amount, and time schedules by which such medication shall be taken; and
 - ii) a written statement from the LEA student's parent(s) granting CONTRACTOR permission to administer medication(s) as specified in the physician's statement.
- b) CONTRACTOR shall maintain, and provide to LEA upon request, copies of such written statements. CONTRACTOR shall maintain a written log for each LEA student to whom medication is administered. Such written log shall specify the LEA student's name; the type of medication; the date, time, and amount of each administration; and the name of CONTRACTOR's employee who administered the medication.
 - c) CONTRACTOR maintains full responsibility for assuring appropriate staff training in the administration of such medication consistent with physician's written orders or current student's Individual Health Care Plan. Any change in medication type, administration method, amount or schedule must be authorized by both a licensed physician and parent.

53) INCIDENT/ACCIDENT REPORTING

- a) CONTRACTOR shall notify the LEA within 12 hours of learning of any significant accident or incident. CONTRACTOR shall properly submit required accident or incident reports within one business day pursuant to the procedures specified in LEA Procedures.

54) MANDATED REPORTING REQUIREMENTS

- a) CONTRACTOR hereby agrees to annually train all staff members, so that they are familiar with and agree to adhere to its own child and dependent adult abuse reporting obligations and procedures as specified in California Penal Code section 11164 et seq. and California Education Code 44691. To protect the privacy rights of all parties involved (i.e., reporter, child and alleged abuser), reports will remain confidential as required by law and professional ethical mandates. A written notice acknowledging the legal requirements of such reporting and verification of staff adherence to such reporting shall be submitted to the LEA upon request.
- b) CONTRACTOR agrees to provide annual training to all employees regarding mandated child abuse reporting laws, and shall maintain documentation, signed by each staff member receiving such training. CONTRACTOR agrees that its obligations to report incidents of abuse or neglect to the LEA are in addition to, and not in lieu of, CONTRACTOR's obligation to immediately report suspected abuse or neglect to the appropriate public authorities; a written report should be submitted within 36 hours (PC 11166(a)). CONTRACTOR shall maintain confidential records of any report of suspected child abuse and shall inform the LEA by facsimile or email within 24 hours (and followed up with U.S. mail) of becoming aware of circumstances including, but not limited to allegations of abuse involving a staff member.
- c) CONTRACTOR shall notify the LEA of general concerns regarding the health and safety of a student that may impact the student's educational program, including the need for mental health services, injuries requiring medical attention or injuries resulting from physical restraint.

55) SEXUAL HARASSMENT

- a) CONTRACTOR shall maintain, and provide upon request, a Sexual and Gender Identity harassment policy that clearly describes the kinds of conduct that constitutes sexual harassment and that is prohibited by the CONTRACTOR's policy, as well as federal and state law. The policy should include procedures to make complaints without fear of retaliation, and for prompt and objective investigations of all sexual harassment complaints. CONTRACTOR further agrees to provide annual training to all employees regarding the laws concerning sexual harassment and related procedures.

56) REPORTING OF MISSING CHILDREN

- a) CONTRACTOR assures LEA that all staff members, including volunteers, are familiar with and agree to adhere to requirements for reporting missing children as specified in California Education Code section 49370. A written statement acknowledging the legal requirements of such reporting and verification of staff adherence to such reporting shall be properly submitted to the LEA upon request.
- b) In the event a child elopes from an NPS or Residential Treatment Center and evades adult supervision, the LEA shall be notified immediately following contact to law enforcement.

FINANCIAL

57) ENROLLMENT, CONTRACTING, SERVICE TRACKING, ATTENDANCE REPORTING, AND BILLING PROCEDURES

- a) CONTRACTOR shall assure that the school or agency has the necessary financial resources to provide an appropriate education for the students enrolled and will distribute those resources in such a manner to implement the IEP/IFSP for each and every student.
- b) CONTRACTOR shall be paid for the provision of special education and/or related services specified in the LEA student's IEP/IFSP and ISA. All payments by LEA shall be made in accordance with the terms and conditions of this Master Contract.
- c) CONTRACTOR shall maintain registers for the basic education program and each related service. Original attendance forms shall be completed by the actual service provider whose signature shall appear on such forms and shall be available for review, inspection, or audit by LEA during the effective period of this contract and for a period of five (5) years after the date of origination. CONTRACTOR shall verify the accuracy of minutes of reported attendance that is the basis of services being billed for payment.
- d) CONTRACTOR shall submit accurate and timely invoices and related documents to LEA for payment, for each calendar month when education or related services were provided to an LEA student. Invoices shall be submitted no later than thirty (30) days after the end of the attendance accounting period in which the services were rendered. LEA shall make payment to CONTRACTOR based on the number of billable days of attendance and hours of service at rates specified in this contract within forty-five (45) days of LEA's receipt of properly submitted hard copy of invoices prepared and submitted as specified in California Education Code Section 56366.5. CONTRACTOR shall correct deficiencies and submit rebilling invoices no later than thirty (30) calendar days after the invoice is returned by LEA. LEA shall pay properly submitted re-billing invoices no later than forty-five (45) days from the date a completely corrected re-billing invoice is received by LEA.
- e) If the LEA fails to comply with the provision of payment within 45 days of receipt of the request for payment of services, the CONTRACTOR may require the LEA to pay an additional amount of 1-1/2 percent of the unpaid balance per month until full payment is made (California Education Code 56366.6 (b)). Upon written notification of dispute, CONTRACTOR shall not apply additional charges to the disputed bill until the matter is resolved.

58) RIGHT TO WITHHOLD PAYMENT

- a) LEA may withhold payment to CONTRACTOR when:
 - i) CONTRACTOR has failed to perform, in whole or in part, under the terms of this contract
 - ii) CONTRACTOR was overpaid by LEA as determined by inspection, review, and/or audit of its program, work, and/or records
 - iii) CONTRACTOR has failed to provide supporting documentation with an invoice, as required by Section 57
 - iv) education and/or related services are provided to LEA pupils by personnel who are not appropriately credentialed, licensed, or otherwise qualified
 - v) LEA has not received prior to school closure or contract termination, all documents concerning one or more LEA pupils enrolled in CONTRACTOR's educational program
 - vi) CONTRACTOR fails to confirm a pupil's change of residence to another district or confirms the change or residence to another district, but fails to notify LEA with five (5) days of such confirmation

- vii) CONTRACTOR receives payment from Medi-Cal or from any other agency or funding source for a service provided to a LEA pupil.
- b) The amount which may be withheld by LEA with respect to each of the subparagraphs of the preceding paragraph are as follows:
- i) the value of the service CONTRACTOR failed to perform
 - ii) the amount of overpayment
 - iii) the entire portion of the invoice for which satisfactory documentation has not been provided by CONTRACTOR
 - iv) the amount invoiced for services provided by the individual not appropriately credentialed, licensed, or otherwise qualified
 - v) the proportionate amount of the invoice related to the applicable pupil for the time period from the date of the violation occurred and until the violation is cured
 - vi) the proportionate amount of the invoice related to the applicable pupil for the time period from the date of the violation occurred and until the violation is cured
 - vii) the amount paid to CONTRACTOR by Medi-Cal or another agency or funding source for the service provided to the LEA pupil.
- c) If LEA determines that cause exists to withhold payment to CONTRACTOR, LEA shall, within ten (10) business days of receipt of such invoice, provide to CONTRACTOR written notice that LEA is withholding payment. Such notice shall specify the basis or bases for LEA's withholding payment and the amount to be withheld. Within thirty (30) days from the date of receipt of such notice, CONTRACTOR shall take all necessary and appropriate action to correct the deficiencies that form the basis for LEA's withholding payment or submit a written request for extension of time to correct the deficiencies. Upon receipt of CONTRACTOR's written request showing good cause, LEA shall extend CONTRACTOR's time to correct deficiencies (usually an additional thirty (30) days), otherwise payment will be denied.
- d) If after subsequent request for payment has been denied and CONTRACTOR believes that payment should not be withheld, CONTRACTOR shall send written notice to LEA specifying the reason it believes payment should not be withheld. LEA shall respond to CONTRACTOR's notice within thirty (30) business days by indicating that a warrant for the amount of payment will be made or stating the reason LEA believes payment should not be made. If LEA fails to respond within thirty (30) business days or a dispute regarding the withholding of payment continues after the LEA's response to CONTRACTOR's notice, CONTRACTOR shall invoke the following escalation policy.
- i) Persons involved after forty-one (41) business days: If CONTRACTOR notifies LEA that the dispute has not been resolved by the LEA Specialist, LEA's Administrator will become involved and shall attempt to resolve the dispute. The LEA Coordinator shall respond to the CONTRACTOR in writing within ten (10) business days.
 - ii) Persons involved after fifty-one (51) business days: If CONTRACTOR notifies LEA that the dispute has not been resolved by the LEA Administrator, the SELPA Director shall become involved. The SELPA Director shall respond to the CONTRACTOR in writing within ten (10) business days. This shall be the final LEA determination regarding the withholding of payment.
 - iii) Persons involved after sixty-one (61) business days: Dispute Resolution, as defined in the SELPA's Local Plan, shall be followed.
- e) If the dispute has not been resolved through the SELPA's Dispute Resolution process, the party claiming injury may seek legal or CDE redress, or may submit, if mutually agreed to in writing by the parties, the matter to binding arbitration by an arbitrator or arbitration service agreed upon by the parties. Each party shall be responsible for their own fees for arbitration, if applicable. The parties agree that this Master Contract provision dealing with Master Contract disputes does not alter the parties' right to bring action in accordance with the applicable statute of limitations under state or federal law.

59) PAYMENT FROM OUTSIDE AGENCIES

CONTRACTOR shall notify LEA when Medi-Cal or any other agency is billed for the costs associated with the provision of special education and/or related services covered by this Master Contract or the ISA to LEA pupils. Upon request, CONTRACTOR shall provide to LEA any and all documentation regarding reports, billing, and/or payment by Medi-Cal or any other agency for the costs associated with the provision of special education and/or related services covered by this Master Contract or ISA to LEA pupils.

60) NON PUBLIC SCHOOL STUDENT ABSENCES

- a) LEA shall not be responsible for payment for more than 6 cumulative days of absences, for each of the first ninety days and second ninety days of the school year i.e., semester; unless a written time extension is granted by LEA.
- b) On the 4th consecutive day of a student's absence, CONTRACTOR shall notify LEA. If CONTRACTOR fails to provide such notice by the 4th day of consecutive absence, CONTRACTOR shall not be compensated for services delivered during continuing absence after the 4th consecutive day of absence.
- c) All absences must be verified and a copy must be submitted to LEA with the monthly invoice. All documentation must be kept for at least five (5) years from the date of origination.
- d) Only the individuals listed below may verify the reason for absence:
 - i) School or public health nurse
 - ii) Physician
 - iii) Principal
 - iv) Teacher
 - v) School employee assigned to make such verification
 - vi) Student eighteen years of age or over
 - vii) Parent
- e) Any reasonable method which established the reason for the absence may be used:
 - i) Written note from parent, guardian, representative or adult pupil (over 18 or emancipated)
 - ii) Telephone conversation with parent, guardian, representative, or adult pupil (over 18 or emancipated)
- f) Standards for excused absences are defined in the education code. Contractor is responsible for verification of excused absence in accordance with current requirements.
- g) In the event of an NPS school closure due to an emergency consistent with guidelines followed by LEAs under Education Code Section 41422, the NPS would be permitted to schedule a makeup day of service. Days need to be made up to ensure FAPE for student(s). The NPS would work collaboratively with LEAs and inform them of a date(s) during the current school calendar year on which the makeup day of service would occur.

61) NONPUBLIC AGENCY STUDENT ABSENCE

- a) If CONTRACTOR is a nonpublic agency, it shall notify LEA of the absence of an LEA student no later than the fifth consecutive service day of the student's absence. A unit of service for payment purposes shall not be credited for an excused absence when CONTRACTOR is provided 24 hours advance verbal notification of the student's absence. A unit of service for payment purposes shall not be credited to CONTRACTOR for CONTRACTOR'S staff development days.

62) INSPECTION AND AUDIT

- a) The CONTRACTOR shall maintain and the LEA shall have the right to examine and audit all of the books, records, documents, accounting procedures and practices and other evidence that reflect all costs claimed to have been incurred or fees claimed to have been earned under this Master Contract.
- b) CONTRACTOR shall provide access to LEA to all records including, but not limited to student records as defined by California Education Code section 49061(b). CONTRACTOR shall make available to LEA all

budgetary information including operating budgets submitted by CONTRACTOR to LEA for the relevant contract period being audited.

- c) CONTRACTOR shall provide access to LEA to all records including, but not limited to:
- i) student records as defined by California Education Code section 49061(b)
 - ii) registers and roll books of teachers
 - iii) daily service logs and notes or other documents used to record the provision of related services
 - iv) Medi-Cal/daily service logs and notes and other documents used to record provision of services provided by instructional assistants, behavior intervention aides, bus aides, and supervisors
 - v) absence verification records (parent/doctor notes, telephone logs, and related documents)
 - vi) bus rosters
 - vii) staff lists specifying credentials held, business licenses held, documents evidencing other qualifications, social security numbers, dates of hire, and dates of termination
 - viii) staff time sheets; non-paid staff and volunteer sign-in sheets
 - ix) transportation and other related service subcontracts
 - x) school calendars
 - xi) bell/class schedules
 - xii) liability and worker's compensation insurance policies
 - xiii) state nonpublic school and/or agency certifications
 - xiv) marketing materials
 - xv) by-laws
 - xvi) lists of current board of directors/trustees, if incorporated; statements of income and expenses
 - xvii) general journals
 - xviii) cash receipts and disbursement books
 - xix) general ledgers and supporting documents
 - xx) federal/state payroll quarterly reports; and bank statements and canceled checks or facsimile thereof.
- xxi) Such access shall include unannounced inspections by LEA. CONTRACTOR shall make available to LEA all budgetary information including operating budgets submitted by CONTRACTOR to LEA for the relevant contract period being audited.
- d) CONTRACTOR shall make all records, or copies of records, available at either the office of the LEA or at the CONTRACTOR's offices (to be specified by LEA) at all times and without charge. All records shall be provided to LEA within ten (10) working days of a written request from LEA. CONTRACTOR shall, at no cost to LEA, provide assistance for such examination or audit. LEA's rights under this section shall also include access to CONTRACTOR's offices for purposes of interviewing CONTRACTOR's employees. If any document or evidence is stored in an electronic form, a hard copy shall be made available to the LEA, unless the LEA agrees to the use of the electronic format. CONTRACTOR may request from the LEA an extension of time to comply with any records request, which shall not be unreasonably withheld.
- e) If an inspection, review, or audit by the LEA, a state agency, a federal agency, and/or an independent agency/firm determines that the CONTRACTOR or the LEA owes the other monies as a result of over billing, underpayment, or failure to perform, in whole or in part, any of its obligations under this Master Contract, the party owed money shall provide to the other party written notice demanding payment and specifying the basis or bases for such demand. Unless otherwise agreed in writing, the party that owes money shall make such payment within thirty (30) days of receipt of the written notice demanding payment. In the event that a party from whom payment is demanded disputes that any payment is owed, the matter shall be resolved in accordance with the dispute resolution section of this Master Contract.
- f) The attached rate schedule limits the number of LEA students that may be enrolled and maximum dollar amount of the contract. It may also limit the maximum number of students that can be provided specific services. Per diem rates for LEA students whose IEPs authorize less than a full instructional day shall be adjusted proportionally. Special education and/or related services offered by CONTRACTOR, shall be provided by qualified personnel as per State and Federal law, and the codes and charges for such educational and/or related services during the term of this contract, shall be as stated in Section 62.

RATE SCHEDULE

63. CONTRACTOR

Per Diem rates for students whose IEPs authorize less than a full instructional day may be adjusted proportionally. In such cases only, the adjustments in basic education rate shall be based on the percentage the required minimum number of minutes per grade level as noted in California Education Code Section 46200-46208.

Special education and/or related services offered by CONTRACTOR shall be provided by qualified personnel as per State and Federal law, and the codes and charges for such educational and/or related services during the term of this contract, shall be as stated below.

4.1 RATE SCHEDULE FOR CONTRACT YEAR

The CONTRACTOR: OAK HILL SCHOOL

The CONTRACTOR CDS NUMBER: 21-75002-7104474

PER ED CODE 56366 – TEACHER-TO-STUDENT RATIO: MAX. CAPACITY 72

Education service(s) offered by the CONTRACTOR and the charges for such service(s) during the term of this contract, as negotiated on behalf of the LEAs, shall be as follows:

Non-Bundled Education Program

1) General Program Tuition Daily Rate: \$ 219.00

2) Related Services

<u>SERVICE</u>	<u>RATE</u>	<u>PERIOD</u>
<u>Intensive Individual Services (340)</u>	<u>\$37.50</u>	<u>PER HOUR</u>
<u>Language and Speech (415) INDIVIDUAL</u>	<u>\$114.00</u>	<u>PER HOUR</u>
<u>Language and Speech (415) GROUP</u>	<u>\$90.00</u>	<u>PER HOUR</u>
<u>Language and Speech (415) CONSULTION</u>	<u>\$80.00</u>	<u>PER HOUR</u>
<u>Health and Nursing: Specialized Physical Health Care (435)</u>	<u>_____</u>	<u>_____</u>
<u>Health and Nursing: Other Services (436)</u>	<u>_____</u>	<u>_____</u>
<u>Assistive Technology Services (445)</u>	<u>_____</u>	<u>_____</u>
<u>Occupational Therapy (450) INDIVIDUAL</u>	<u>\$114.00</u>	<u>PER HOUR</u>
<u>Occupational Therapy (450) GROUP</u>	<u>\$90.00</u>	<u>PER HOUR</u>
<u>Occupational Therapy CONSULTION</u>	<u>\$80.00</u>	<u>PER HOUR</u>
<u>Physical Therapy (460) INDIVIDUAL</u>	<u>_____</u>	<u>_____</u>
<u>Physical Therapy (460) INDIVIDUAL</u>	<u>_____</u>	<u>_____</u>
<u>Individual Counseling (510)</u>	<u>_____</u>	<u>_____</u>

<u>Counseling and Guidance (515)</u>	_____	_____
<u>Parent Counseling (520)</u>	_____	_____
<u>Social Work Services (525)</u>	_____	_____
<u>Psychological Services (530) INDIVIDUAL</u>	<u>\$114.00</u>	<u>PER HOUR</u>
<u>Psychological Services (530) FAMILY</u>	<u>\$114.00</u>	<u>PER HOUR</u>
<u>Psychological Services (530) GROUP</u>	<u>\$90.00</u>	<u>PER HOUR</u>
<u>Psychological Services (530) CONSULTATION</u>	<u>\$80.00</u>	<u>PER HOUR</u>
<u>Interpreter Services (715)</u>	_____	_____
<u>Audiological Services (720)</u>	_____	_____
<u>Specialized Vision Services (725)</u>	_____	_____
<u>Orientation and Mobility (730)</u>	_____	_____
<u>Specialized Orthopedic Services (740)</u>	_____	_____
<u>Reader Services (745)</u>	_____	_____
<u>Transcription Services (755)</u>	_____	_____
<u>Recreation Services, Including Therapeutic (760)</u>	_____	_____
<u>College Awareness (820)</u>	_____	_____
<u>Work Experience Education (850)</u>	_____	_____
<u>Job Coaching (855)</u>	_____	_____
<u>Mentoring (860)</u>	_____	_____
<u>Travel Training (870)</u>	_____	_____
<u>Other Transition Services (890)</u>	_____	_____
<u>Other (900) TRANSPORTATION ROUND TRIP</u>	<u>\$60.00</u>	_____
<u>Other (900) TRANSPORTATION ONE WAY</u>	<u>\$30.00</u>	_____

Bundled Education Program

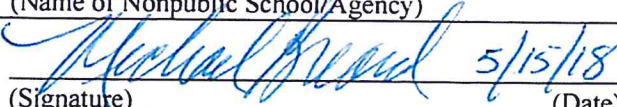
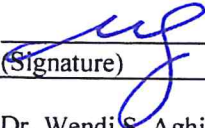
(Includes Educational Counseling, (not ed. related mental health) services, Speech & Language services, Behavior Intervention Planning, and Occupational Therapy as specified on the student's IEP.)

DAILY RATE: _____

MASTER CONTRACT APPROVED BY THE GOVERNING BOARD ON _____

TOTAL AMOUNT OF CONTRACT NOT TO EXCEED
\$240,000.00

The parties hereto have executed this Individual Services Agreement by and through their duly authorized agents or representatives as set forth below.

-CONTRACTOR-	-DISTRICT-
<u>Oak Hill School</u> (Name of Nonpublic School/Agency)	<u>MT. DIABLO UNIFIED SCHOOL</u> (Name of School District)
 (Signature)	 (Signature)
<u>5/15/18</u> (Date)	<u>5-18-18</u> (Date)
<u>Michael Breard, Executive Director</u> (Name and Title of Authorized Representative)	<u>Dr. Wendi S. Aghily, Ed. D. Special Education Director</u> (Name of Superintendent or Authorized Designee)
<u>Michael Breard, Executive Director</u> (Notices to Contractor shall be addressed to)	<u>Dr. Wendi S. Aghily, Ed. D. Special Education Director</u> (Notices to LEA shall be addressed to)
<u>300 Sunny Hills Drive</u> (Contractor Address)	<u>1936 Carlotta Drive</u> (LEA Address)
<u>San Anselmo, CA 94960</u> (Contractor City, State, Zip Code)	<u>Concord, CA 94520</u> (LEA City, State, Zip Code)
Phone: 415-457-7601 Fax: Email: mbreard@myoakhill.org Website: www.myoakhill.org	Phone: 925-682-8000 ext. 4047 Fax: 925-687-3139 Email: aghilyw@mdusd.org Website: www.mdusd.org
	<u>Bryan Cassin, ADR Administrator</u> (Additional Notice to LEA shall be addressed to) Phone: 925-682-8000 ext. 4192 Fax: 925-687-3139 Email: cassinb@mdusd.org

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

ADDITIONAL INSURED – DESIGNATED PERSON OR ORGANIZATION

This endorsement modifies Insurance provided under the following:

COMMERCIAL GENERAL LIABILITY COVERAGE PART

SCHEDULE

Name Of Additional Insured Person(s) Or Organization(s):

Any person or organization that you are required to add as an additional insured on this policy, under a written contract or agreement currently in effect, or becoming effective during the term of this policy. The additional insured status will not be afforded with respect to liability arising out of or related to your activities as a real estate manager for that person or organization.

Information required to complete this Schedule. If not shown above, will be shown in the Declarations.

A. Section II – Who Is An Insured is amended to include as an additional insured the person(s) or organization(s) shown in the Schedule, but only with respect to liability for "bodily injury", "property damage" or "personal and advertising injury" caused, in whole or in part, by your acts or omissions or the acts or omissions of those acting on your behalf:

1. In the performance of your ongoing operations; or
2. In connection with your premises owned by or rented to you.

However:

1. The insurance afforded to such additional insured only applies to the extent permitted by law; and
2. If coverage provided to the additional insured is required by a contract or agreement, the insurance afforded to such additional insured will not be broader than that which you are required by the contract or agreement to provide for such additional insured.

B. With respect to the insurance afforded to these additional insureds, the following is added to Section III – Limits Of Insurance:

If coverage provided to the additional insured is required by a contract or agreement, the most we will pay on behalf of the additional insured is the amount of insurance:

1. Required by the contract or agreement; or
2. Available under the applicable Limits of Insurance shown in the Declarations; whichever is less.

This endorsement shall not increase the applicable Limits of Insurance shown in the Declarations.



**NONPROFITS INSURANCE ALLIANCE
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www.insurancefornonprofits.org

COMMERCIAL UMBRELLA POLICY DECLARATIONS

PRODUCER: Sweet & Baker Insurance
44 Second Street
San Francisco, CA 94105

POLICY NUMBER: 2017-16765-UMB
RENEWAL OF NUMBER: 2016-16765-UMB-NPO

Item 1 NAME OF INSURED AND MAILING ADDRESS:
Oak Hill School of California
300 Sunny Hills Dr. Building 6 & 7
San Anselmo, CA 94960

Item 2 POLICY PERIOD: FROM 12/01/2017 TO 12/01/2018
AT 12:01 A.M. STANDARD TIME AT YOUR MAILING ADDRESS SHOWN ABOVE

BUSINESS DESCRIPTION: School for children with autism

IN RETURN FOR THE PAYMENT OF THE PREMIUM, AND SUBJECT TO ALL THE TERMS OF THIS
POLICY, WE AGREE WITH YOU TO PROVIDE THE COVERAGE AS STATED IN THIS POLICY.

Item 3 THE ANNUAL AND MINIMUM PREMIUM DUE AT INCEPTION: **\$6,050**

Item 4 LIMITS OF INSURANCE:

a. Each Occurrence (other than Directors' & Officers' Liability, Improper Sexual Conduct and Physical Abuse Liability, and Social Service Professional Liability)	2,000,000
Each Wrongful Act - Directors' & Officers' Liability	2,000,000
Each Occurrence - Improper Sexual Conduct Liability	2,000,000
Each Occurrence - Social Service Professional Liability	2,000,000
b. Products Completed Operations Aggregate [(where applicable)]	2,000,000
c. General Aggregate	2,000,000
d. Directors' & Officers' Liability Aggregate	2,000,000
e. Improper Sexual Conduct Liability Aggregate	2,000,000
f. Social Services Professional Liability Aggregate	2,000,000
g. Retained Limit	10,000

Item 5 RETROACTIVE DATES - SEE SCHEDULE OF UNDERLYING INSURANCE

FORMS AND ENDORSEMENTS ATTACHED TO THIS POLICY AT INCEPTION (NUMBER AND EDITION DATE):
CU 21 33 01 15, NIAC-E42 01 17, SCHEDULE A 01 80, UMB 228 08 13, UMB 231 06 16, UMB 232 06 16, UMB1000 03 99, UMB61 05 13

COUNTERSIGNED: 11/20/2017 BY

(AUTHORIZED REPRESENTATIVE)

THESE DECLARATIONS, THE ATTACHED SCHEDULE OF UNDERLYING INSURANCE, TOGETHER WITH THE ATTACHED SCHEDULE OF FORMS AND ENDORSEMENTS, AND ANY FORMS AND ENDORSEMENTS WE MAY LATER ATTACH TO REFLECT CHANGES, MAKE UP AND COMPLETE THE ABOVE NUMBERED POLICY.

Notice: This risk pooling contract is issued by a pooling arrangement authorized by California Corporations Code Section 5005.1. The pooling arrangement is not subject to all of the insurance laws of the State of California and is not subject to regulation by the Insurance Commissioner. Insurance guaranty funds are not available to pay claims in the event the risk pool becomes insolvent.



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SCHEDULE A - SCHEDULE OF UNDERLYING INSURANCE

POLICY NUMBER: 2017-16765-UMB-NPO

CONTROL NUMBER: 16765

NAME OF INSURED: Oak Hill School of California

TYPE OF POLICY	APPLICABLE LIMITS		INSURER POLICY #	APPLICABLE PERIOD
(A) Automobile Liability Business Auto	Bodily Injury and Property Damage Combined Single Limit.....	\$1,000,000	NIAC 2017-16765 - NPO	12/1/2017 TO 12/1/2018
	Uninsured/Underinsured Motorist.....	N/A		
	(Does not include:Terrorism Coverage - Certified Acts)			
(B) Commercial General Liability	Each Occurrence Limit	\$1,000,000	NIAC 2017-16765 - NPO	12/1/2017 TO 12/1/2018
	General Aggregate Limit	\$2,000,000		
	Products/Completed Operations Aggregate Limit..	\$2,000,000		
	Personal & Advertising Injury Limit	\$1,000,000		
	Damage to Premises Rented to You	N/A		
(Does not include:Terrorism Coverage - Certified Acts)				
(C) Social Service Professional Liability	Each Occurrence Limit	\$1,000,000	NIAC 2017-16765 - NPO	12/1/2017 TO 12/1/2018
	Aggregate Limit	\$2,000,000		
(Does not include:Terrorism Coverage - Certified Acts)				
(D) Standard Workers Compensation & Employers Liability	Coverage B - Employers Liability			
	Bodily Injury by Accident	N/A	Each Accident	
	Bodily Injury by Disease	N/A	Each Employee	
	Bodily Injury by Disease	N/A	Policy Limit	
(E) Improper Sexual Conduct	Each Occurrence Limit	\$1,000,000	NIAC 2017-16765 - NPO	12/1/2017 TO 12/1/2018
	General Aggregate Limit	\$1,000,000		
(Does not include:Terrorism Coverage - Certified Acts)				
(F) Directors' And Officers'	Each Wrongful Act Limit	\$1,000,000	NIAC 2017-16765-DO - NPO	12/1/2017 TO 12/1/2018
	Aggregate Limit	\$1,000,000		
(Does not include:Terrorism Coverage - Certified Acts)				
(G) Liquor Liability	Each Common Cause Limit	\$1,000,000	NIAC 2017-16765 -NPO	12/1/2017 TO 12/1/2018
	Aggregate Limit	\$1,000,000		
(Does not include:Terrorism Coverage - Certified Acts)				



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INDEX OF FORMS ATTACHED TO THE POLICY

POLICY NUMBER: 2017-16765-UMB-NPO

NAME OF INSURED: Oak Hill School of California

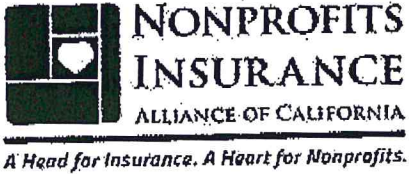
Page 1

UMBRELLA FORMS AND ENDORSEMENTS

FORM NUMBER/EDITION DATE

Exclusion of Terrorism	CU 21 33 01 15
Nuclear, Chemical and Biological Hazard Exclusion	NIAC-E42 01 17
Schedule A - Schedule of Underlying Insurance	SCHEDULE A 01 80
Prior Acts Exclusion	UMB 228 08 13
Privacy Liability and Cyber Coverage Exclusion	UMB 231 06 16
Medical Payments Exclusion	UMB 232 06 16
Commercial Umbrella Policy	UMB1000 03 99
Employers' Liability Exclusion	UMB61 05 13

This list of forms is not part of the actual policy, but is for your information only.
Please refer to the policy(s) for actual limits, coverages and exclusions.



THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

PRIOR ACTS EXCLUSION

This insurance does not apply to wrongful acts, offenses, bodily injury or property damage taking place before the inception date of this policy. However, this prior acts exclusion does not apply to the Directors and Officers coverage as shown in Item 4 a, Limits of Insurance, of the Umbrella Declarations.



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COMMERCIAL UMBRELLA POLICY

THIS POLICY PROVIDES COVERAGE ON A CLAIMS MADE BASIS UNDER COVERAGE A IF THE SCHEDULED UNDERLYING POLICY PROVIDES CLAIMS MADE COVERAGE. IF COVERAGE IS SO PROVIDED ON A CLAIMS MADE BASIS, IT APPLIES ONLY TO CLAIMS MADE AGAINST AN INSURED DURING THE POLICY PERIOD OR EXTENDED REPORTING PERIOD, IF APPLICABLE. PLEASE READ CAREFULLY.

Throughout this policy the words "you" and "your" refer to the Named Insured shown in the Declarations, and any other person or organization qualifying as a Named Insured under this policy. The words "we," "us" and "our" refer to the Company providing this insurance.

Other words and phrases that appear in bold print have special meanings found in Section VI - DEFINITIONS.

I. INSURING AGREEMENTS

We, the Company, in return for the payment of the premium, agree with you, as follows:

A. Coverage A -- Excess Liability Insurance (Following Form)

Coverage A is excess insurance and follows the underlying insurance except as otherwise stated in this policy.

We will pay, on behalf of the **insured**, sums in excess of the amount payable under the terms of any Underlying Insurance as stated in the Schedule of Underlying Insurance, that the **insured** becomes legally obligated to pay as damages because of injury or damage to which this insurance applies.

Coverage A is subject to the same terms, conditions, warranties, agreements, exclusions and definitions as the Underlying Insurance except as otherwise provided in this policy; provided, however, that in no event will this insurance apply unless the Underlying Insurance applies or would apply but for the exhaustion of its applicable Limit of Liability.

B. Coverage B -- Umbrella Occurrence Based Liability Coverage Over Retained Limit

Coverage B is excess insurance over a self-insured retention. Coverage B applies only to exposures which are not covered by Coverage A and are not otherwise excluded by this policy or any of the underlying policies.

We will pay, on behalf of the **insured**, damages with respect to liability for loss in excess of the Retained Limit as specified in Item 4(d) of the Declarations, or the amount payable by any **other insurance**, whichever is greater, up to the applicable Limits of Insurance shown in the Declarations when liability is imposed on the

insured by law or when liability is assumed by the **insured** under an **insured contract** because of:

1. **bodily injury or property damage** which occurs during the **Policy Period** and is caused by an **occurrence**; and
2. **personal injury or advertising injury** to which this coverage applies, caused by an **occurrence** committed during the **Policy Period**.

Coverage B will NOT apply to any loss for which insurance is afforded under Coverage A or which arises out of subjects of insurance or exposures to loss for which Underlying Policies are required to be maintained under Section V - CONDITIONS, I. MAINTENANCE OF SCHEDULED UNDERLYING INSURANCE.

C. Extended Reporting (Applicable to Coverage A Only)

1. Extended Reporting Periods
If Scheduled Underlying Policy(ies) provide coverage on a **claims made** basis then, as set forth in Section I, paragraph A above, this policy provides coverage on a **claims made** basis and:
 - a. We will provide a Basic Extended Reporting Period as described in subparagraph 2 below and, if you purchase it, a Supplemental Extended Reporting Period as described in subparagraph 3 below, IF,
 - i) this insurance is cancelled or not renewed; or
 - ii) we renew or replace this insurance with other insurance that:
 - (a) has a Retroactive Date later than the Retroactive Date shown in the Declarations of this policy; or
 - (b) does NOT apply to injury or damage on a **claims made** basis.

2. **Basic Extended Reporting Period**

A Basic Extended Reporting Period, equal in length to the Basic Extended Reporting Period provided in the applicable Underlying Insurance, is automatically provided as set forth above at no additional charge and provides that:

- a. claims first made within the Basic Extended Reporting Period; and
- b. claims first made after the Basic Extended Reporting Period for injury or damage caused by an occurrence and reported to us in writing within the Basic Extended Reporting Period;

will be deemed to have been made during the **Policy Period** of this policy.

The Basic Extended Reporting Period provided in the Underlying Policy means that extended reporting period provided at no additional charge.

The Basic Extended Reporting Period does NOT apply to claims that are covered under any subsequent insurance you purchase, or that would be covered, but for exhaustion of the amount of insurance otherwise applicable to such claims.

3. **Supplemental Extended Reporting Period**

- a. A Supplemental Extended Reporting Period is available only by an endorsement and for an additional charge. This period starts at the end of the Basic Extended Reporting Period and will be equal in length to the Supplemental Extended Reporting Period you purchased in the applicable Underlying Insurance. Claims first made during this Supplemental Extended Reporting Period will be deemed to have been made during the **Policy Period** of this policy, but will be subject to the separate Aggregate Limits of Liability set forth in subdivision c below.

The Supplemental Extended Reporting Period provided by the Underlying Policy means that extended reporting period provided at an additional charge.

If the Underlying Policy does not provide a Supplemental Extended Reporting Period then this policy does not offer a Supplemental Extended Reporting Period.

- b. The first named **insured** listed in Item 1 of the Declarations must give us a written request for the Endorsement within 60 days after the end of the **Policy Period**. The Supplemental Extended Reporting Period will NOT go into effect unless the first named **insured** pays the additional premium promptly when due.
- c. If said first named **insured** complies with subdivision b above we will issue the Supplemental Extended Reporting Period

Endorsement, and will provide the separate Aggregate Limits of Liability described below, but only for claims to which this subparagraph 3 applies.

The separate Aggregate Limits of Liability will be equal to the dollar amount shown in the Declarations in effect at the end of the **Policy Period** for:

- i) General Aggregate Limit;
- ii) Products Completed Operations Aggregate.

Paragraphs B and C of Section II - LIMITS OF LIABILITY will be amended accordingly. The Each Occurrence Limit shown in the Declarations will then continue to apply, as set forth in paragraph A of Section II - LIMITS OF LIABILITY.

- d. We will determine the additional premium for the Supplemental Extended Reporting Period in accordance with our rates.
 - e. The Supplemental Extended Reporting Period Endorsement will set forth the terms, not inconsistent with this section, applicable to the Supplemental Extended Reporting Period, including a provision to the effect that the insurance afforded is excess over any **other insurance**, available under policies in force after the Supplemental Extended Reporting Period starts.
4. **How Extended Reporting Periods Apply**
- a. Extended Reporting Periods apply **ONLY** to claims for injury or damage which occur before the end of the **Policy Period** but **NOT** before the Retroactive Date shown in the Declarations.
 - b. Extended Reporting Periods do **NOT**:
 - i) extend the **Policy Period** or change the scope of coverage provided;
 - ii) reinstate or increase the Limits of Liability applicable to any claim to which this insurance applies, except as described in subparagraph 3 of this section.
 - c. Extended Reporting Periods may **NOT** be cancelled once in effect.
5. **Notification Of Injury, Damage or Claim**
- Notification of injury, damage or claim must be in accordance with **DUTIES IN THE EVENT OF OCCURRENCE, CLAIM OR SUIT** as stated in Section V -**CONDITIONS** of this policy.
- Any **insured's** failure to comply with any of the **DUTIES IN THE EVENT OF OCCURRENCE, CLAIM OR SUIT** will void any Extended Reporting Period coverage under this policy, and we will promptly refund any additional premium you paid for the Extended Reporting Period coverage.

II. LIMITS OF LIABILITY – COVERAGES A AND B COMBINED

- A. The Limits of Liability, Coverages A and B Combined shown in the Declarations and the rules below fix the most we will pay regardless of the number of:
1. the number of persons and organizations who are **insureds** under this policy;
 2. the number of coverages provided under this policy;
 3. the number of claims made and **suits** brought against any or all **insureds**;
 4. the number of persons or organizations making claims or bringing **suits**.
- B. The Products Completed Operations Aggregate as stated in Item 4(b) of the policy Declarations is the most we will pay for all damages to which this policy applies under Coverages A and B because of injury and damages included in the **products-completed operations hazard**.
- C. The Directors and Officers Liability Aggregate as stated in Item 4.d. of the policy Declarations is the most we will pay for all damages to which this policy applies for Directors and Officers Liability.
- D. The Improper Sexual Conduct Aggregate as stated in Item 4.e. of the policy Declarations is the most we will pay for all damages to which this policy applies for Improper Sexual Conduct.
- E. The General Aggregate as stated in Item 4.c. of the Declarations is the most we will pay for all damages to which this policy applies under Coverages A and B, except for:
1. damages included in paragraphs B., C. and D. above, and;
 2. coverages included in the Scheduled Underlying Policy(ies) to which no underlying aggregate(s) applies.
- F. If the Limit of Liability of the Scheduled Underlying Policy(ies) as stated in the Schedule of Underlying Insurance has been exhausted by payments made on behalf of any **Insured** by the Underlying Insurer, this policy shall apply as the applicable Underlying Insurance subject to all the terms and conditions of such Underlying Insurance and the terms and conditions of this policy. If the Limit of Liability of the Scheduled Underlying Policy(ies) as stated in the Schedule of Underlying Insurance has been reduced by payments made on behalf of any **insured** by the Underlying Insurer, this policy will drop down to become immediately excess of the reduced underlying limit. Such claims or **suits** will be subject to the terms of Coverage A.
- G. The Limits of Insurance of the Scheduled Underlying Policy(ies) will be reduced or exhausted only by payments made on behalf of the **insured** for injury or damage to which this insurance would apply, but for the amount of such injury or damage.
- H. In NO event will our liability under this policy be greater than the total of the Products Completed

Operations Aggregate and the General Aggregate as stated in Items 4.b. and 4.c. of the Declarations.

- I. The Limits of Insurance of this policy apply separately to each consecutive annual period and to any remaining period of less than 12 months, starting with the beginning of the **Policy Period** shown in the Declarations, unless the **Policy Period** is extended after issuance for an additional period of less than 12 months. In that case, the additional period will be deemed part of the last preceding period for purposes of determining the Limit of Insurance.

III. DEFENSE PROVISIONS

- A. We will have the same defense obligations under this policy as are in the applicable Scheduled Underlying Insurance when:
1. The applicable Limits of Liability of the Scheduled Underlying Policies, plus the applicable limits of other insurance have been exhausted by payments, or
 2. Damages are sought for **bodily injury, property damage, personal injury or advertising injury** which are not covered by Underlying Insurance or other insurance.
- B.
1. If a Scheduled Underlying Policy includes payments of defense expenses as part of its Limits of Liability, then when excess of such Scheduled Underlying Policy, our payment of any defense expense is within the applicable Limits of Liability of this policy and each payment we make for such defense expense reduces the available Limits of Liability by the amount of the payment.
 2. If a Scheduled Underlying Policy does not include payments of defense expense as part of its Limits of Liability, but instead indicates that the payment of defense expense will not reduce its Limits of Liability, then when excess of such Scheduled Underlying Policy, our payment of any defense expense will not reduce the available Limits of Liability.
 3. The definition of defense expenses will be subject to the same provisions as the applicable Underlying Insurance.
- C. We will not defend any **suit** or claim after we have exhausted the applicable aggregate Limit of Liability as stated in Items 4.c., 4.d. and 4.e. of the Declaration.
If we are prevented by law from carrying out this paragraph, we will NOT pay any expense incurred without our written consent.
- D. In all circumstances for which paragraph A above is not applicable with respect to Coverage A and B, we will NOT be obligated to assume charge or pay the expenses for the investigation, settlement or defense of any claim made, or **suit** brought, or

proceedings instituted against any **insured**. We will, however, have the right in our sole discretion to participate in the defense and trial of any claims, **suits** or proceedings which relate to any **occurrence** that may involve this policy. If we avail ourselves of this right, we will do so at our expense.

IV. EXCLUSIONS

Each and every exclusion applicable to the Underlying Insurance also applies to this insurance. Additionally, the following exclusions apply under:

A. UNDER COVERAGE A (EXCESS LIABILITY INSURANCE) AND COVERAGE B (UMBRELLA LIABILITY INSURANCE)

With respect to Coverage A (Excess Liability Insurance) and Coverage B (Umbrella Liability Insurance), this policy does not apply to:

1. Statutory Obligations To Employees to any obligation for which the **insured** or any company as its insurer may be held liable under:
 - a. workers' compensation law,
 - b. unemployment compensation law,
 - c. disability benefits law, or
 - d. under any similar state or federal laws.

B. UNDER COVERAGE A (EXCESS LIABILITY INSURANCE)

In addition to the exclusions in Section A. above, this policy does not apply under Coverage A to: Any loss not covered by the underlying insurance, and all exclusions now or hereafter contained in the underlying insurance, apply to Coverage A with the same force and effect.

C. UNDER COVERAGE B (UMBRELLA LIABILITY INSURANCE)

In addition to the exclusions in Sections A and B above, this insurance does not apply under Coverage B to:

1. Any injury or damage:
 - a. Covered under Coverage A; or
 - b. Which would have been covered under Coverage A but for the actual or alleged bankruptcy or insolvency of an underlying insurer or an **insured** or the termination of the underlying policy.
2. **Advertising injury** arising out of:
 - a. breach of contract, other than misappropriation of advertising ideas under an implied contract;
 - b. the failure of goods, products or services to conform with advertised quality or performance;
 - c. the wrong description of the price of goods, products, or services; or
 - d. an offense committed by an **insured** whose business is advertising, broadcasting, publishing or telecasting.

3. Owned or Leased Aircraft and Aircraft Chartered Without Crew

to the ownership, entrustment, maintenance, operation, use, loading or unloading of aircraft owned or leased by any **insured** or chartered by or on behalf of any **insured** without crew.

4. Watercraft

to any liability arising out of the ownership, maintenance, operation, use, loading or unloading or entrustment to others of any watercraft owned by any **insured** or rented, loaned, or chartered by or on behalf of any **insured**; however, this exclusion does not apply to:

- a. watercraft while ashore on premises you own or rent; or
- b. watercraft you do not own that is:
 - i) less than 26 feet long and not being used to carry persons or property for a charge; or
 - ii) less than 26 feet long and chartered by you without crew.

5. Fellow Employees

Bodily Injury to:

- a. an employee of the **insured** arising out of and in the course of employment by the **insured**; or
- b. the spouse, child, parent, brother or sister of that employee as a consequence of 1. above.

This exclusion applies:

- a. whether the **insured** may be liable as an employer or in any other capacity; and
- b. to any obligation to share damages with or repay someone else who must pay damages because of the injury.

This exclusion does not apply to liability assumed by the **insured** under an **insured** contract.

6. Owned Property And Damage To Your Products Or Work

to **property damage** to or loss of use of:

- a. property owned or leased by any **insured** or purchased by any **insured** under installment sales contract or property on consignment to any **insured**;
- b. **your product** caused by such product or any of their parts; or
- c. **your work** arising out of the work or out of materials, parts or equipment furnished with such work.

7. Product Recall

to damages claimed for any loss, cost, or expense incurred by you or others for the loss of use, withdrawal, recall, inspection, repair, replacement, adjustment, removal or disposal of:

- a. **your product**,
- b. **your work**, or
- c. **impaired property**,

if such product, work, or property is withdrawn or recalled from the market or from use by any person or organization because of a known or suspected defect, deficiency, inadequacy, or dangerous condition in it.

8. **Damage To Impaired Property** to **property damage to impaired property** or property that has NOT been physically injured arising out of:

- a. a defect, deficiency, inadequacy, or dangerous condition in **your product or your work**; or
- b. a delay or failure by you or anyone acting on your behalf to perform a contract or agreement in accordance with its terms,

This exclusion does NOT apply to the loss of use of other property arising out of sudden and accidental physical injury to **your product or your work** after it has been put to its intended use.

9. **Alcoholic Beverages** to liability arising out of your manufacturing, distributing, selling or serving of alcoholic beverages or to your liability as an owner or lessor of premises used for selling or serving alcoholic beverages.
10. **Pollution Liability**
- a. to any liability including defense costs and expenses, arising out of the actual, alleged or threatened discharge, dispersal, seepage, migration, release or escape of pollutants;
 - b. to any loss, cost or expense arising out of any governmental direction or request that any **insured** or others test for, monitor, clean up, remove, contain, treat, detoxify or neutralize pollutants.

Pollutants means any solid, liquid, gaseous or thermal irritant or contaminant including smoke, vapor, soot, fumes, acids, alkalis, chemicals and waste. Waste includes materials to be recycled, reconditioned or reclaimed.

11. **Employers' Liability**
- a. to any liability of any **insured** arising out of injury of an employee in the course of employment by any **insured**; and
 - b. to any liability of any **insured** arising out of injury of the spouse, child, parent, brother, or sister of the employee as a consequence of subdivision a above, whether the **insured** may be liable as an employer or in any other capacity. ALSO this exclusion applies to any obligation to share damages with or repay someone else who must pay damages because of the injury.

12. **Services: Fiduciary or Professional** to liability arising out of:
- a. the performance of or failure to perform any fiduciary duty or service; or

- b. the rendering of or failure to render any professional service, in whatever form, by or on behalf of any **insured**.

13. **ERISA** to liability imposed on the **insured** under the Employees' Retirement Income Security Act (ERISA) of 1974 or any amendments thereto or similar subsequent federal acts or any similar provisions of state statutory or common law.

14. **Nuclear Liability** to Nuclear Energy Liability (see attached Nuclear Liability Exclusion).

15. **War Exclusion** to any liability any **insured** may have, directly or indirectly, occasioned by, happening through, or in consequence of war, invasion, acts of foreign enemies, hostilities (whether war be declared or not), civil war, rebellion, revolution, insurrection, terrorism, military terrorism, military or usurped power or confiscation or nationalization or requisition or destruction of or damage to property by or under the order of any government or public or local authority.

16. **Autos** to the ownership, entrustment, maintenance, operation, use, loading or unloading of **autos**.

17. **Coverage A Exclusion** any liability arising out of any **occurrence** with respect to which any coverage for any other liability, injury or damage is provided by any Underlying Insurance shown in the Schedule of Underlying Insurance.

V. CONDITIONS

- A. **Appeals**
We can appeal a judgment against any **insured** under this agreement if:

1. the judgment is for more than the amount of the Retained Limit or the remaining Limits of Liability under the Underlying Insurance, whichever applies; and
2. the **insured** or the Underlying Insurers do NOT appeal it.

If we appeal the judgment, we will pay the costs of the appeal and any interest on those costs. Those payments will be in addition to the Limits of Liability of this policy.

- B. **Audit Of Books And Records**
We may audit your books and records at any time during the term of this insurance or within three years after its expiration or termination.
- C. **Financial Impairment**
Bankruptcy, insolvency, rehabilitation, receivership, liquidation or other financial impairment of any **Insured** or any insurer providing Underlying Insurance as stated in the Schedule of Underlying

Insurance, shall neither relieve nor increase any of our obligations under this policy.

In the event there is a diminished recovery or no recovery available to any **insured** as a result of such financial impairment of any insurer providing Underlying Insurance, the coverage under this policy shall apply only in excess of the Limits of Liability stated in the Schedule of Underlying Insurance. Under no circumstances shall we be required to drop down and replace the underlying Limits of Liability, or assume any other obligations of a financially impaired insurer or the **insured**.

D. Cancellation

The first named **insured** in Item 1 of the Declarations may cancel this policy at any time by sending us a written request or by returning the policy stating the date of cancellation.

We may cancel this policy at any time by sending to the first named **insured** in Item 1 of the Declarations a notice of cancellation 30 days (10 days in the event of non-payment of premium) in advance of the cancellation date. Our notice of cancellation will be mailed to the first named **insured's** last known address, and will indicate the date on which coverage is terminated.

If cancellation is at the request of the first named **insured**, return premium will be computed at 90% of pro rata. If we cancel, return premium will be computed pro rata. If this policy insures more than one named **insured**, cancellation may be effected by the first named **insured** listed in Item 1 of the Declarations for the account of all the named **insureds**. Notice of cancellation by us to such first named **insured** will be deemed notice to all **insureds** and payment of any return premium to such first named **insured** will be for the account of all interests.

In the event that provisions of this condition conflict with any state law or regulation governing the cancellation/nonrenewal of this policy, then such law or regulation shall prevail and this policy is amended to conform with such law or regulation.

E. Changes

Notice to any agent or knowledge possessed by any agent or by any other person will not effect a waiver or a change in any part of this policy. This policy can only be changed by a written endorsement that becomes part of this policy. The endorsement must be signed by one of our authorized representatives.

F. Duties In The Event Of Occurrence, Claim Or Suit

1. You **MUST** see to it that we are notified as soon as practicable of an **occurrence** which may result in a claim. To the extent possible, notice should include:

- a. how, when and where the **occurrence** or offense took place;

- b. the names and addresses of any injured persons and witnesses; and
- c. the nature and location of any injury or damage arising out of the **occurrence** or offense.

2. If a claim is made or **suit** is brought against any **insured**, you must:

- a. immediately record the specifics of the claim or **suit** and the date received; and
- b. notify us as soon as practicable.

You must see to it that we receive written notice of the claim or **suit** as soon as practicable.

3. You and any other involved **insured** must:

- a. immediately send us copies of any demands, notices, summonses or legal papers received in connection with the claim or **suit**;
- b. authorize us to obtain records and other information;
- c. cooperate with us in the investigation, settlement or defense of the claim or **suit**; and
- d. assist us, upon our request, in the enforcement of any right against any person or organization, which may be liable to the **insured** because of injury or damage to which this insurance may also apply.

4. No **insureds** will, except at their own cost, voluntarily make a payment, assume any obligation, or incur any expense, other than for first aid, without our consent.

5. Except with respect to Directors and Officers Liability, notice of an **occurrence** is not notice of a claim.

G. First Named Insured

The person or organization first named in Item 1 of the Declarations shall be known as the first named **insured** and is primarily responsible for the payment of all premiums. The first named **insured** will act on behalf of all other **insureds** for the giving and receiving of notice of cancellation and the receiving of any return premiums that become payable under this policy. The first named **insured** is authorized to request the Supplemental Extended Reporting Period Endorsement and request changes in the terms of this policy.

H. Inspection

We have the right, but are **NOT** obligated to inspect your premises and operations at any time. Our inspections are **NOT** safety inspections. They relate only to the insurability of the premises and operations and the premium to be charged. We do **NOT** undertake to perform the duty of any person or organization to provide for the health or safety of workers or the public. We do **NOT** warrant that the premises or operations are safe or healthful, or that they comply with laws, regulations, codes or standards.

I. Maintenance Of Scheduled Underlying Insurance
While this policy is in effect you agree to maintain the Underlying Insurance listed in the Schedule of Underlying Insurance in full force. THIS MEANS THAT:

1. the Scheduled Underlying Policy(ies) may NOT be cancelled or NOT renewed by either you or the Underlying Insurer without notifying us;
2. renewals or replacements will NOT be more restrictive in coverage;
3. terms, conditions and endorsements of the Scheduled Underlying Policy(ies) will NOT materially change;
4. the risk of uncollectibility (in whole or in part) of the Scheduled Underlying Policy(ies) limits as listed in the Schedule of Underlying Insurance, or replacements thereof, whether because of financial impairment or insolvency of an Underlying Insurer or for any other reason, is expressly retained by you and is not in any way or under any circumstances insured or assumed by us; and
5. Limits of Insurance will NOT change except for any reduction in the aggregate limit or Limits of Insurance by payment of claims hereunder.

Your failure and/or your Underlying Insurer's failure to comply with this condition will NOT invalidate this policy but in the event of such failure, we will only be liable to the same extent as if there had been compliance with this condition.

J. Other Insurance

If **other insurance** applies to claims covered by this policy, the insurance under this policy is excess of such **other insurance** and we will NOT make any payments until the **other insurance** has been used up. This condition shall not apply, however, if the other insurance is specifically written to be excess over this policy.

Except to the extent stated in this policy, this insurance is NOT subject to the terms, conditions, or limitations of any **other insurance**.

K. Transfer of Rights of Recovery Against Others to Us.

If any **insured** has rights to recover all or part of any payment we have made under this policy, those rights are transferred to us. The **insured** must do nothing to impair these rights or the transfer thereof to us. The **insured** will cooperate with us and, at our request, will assist in the pursuit and enforcement of those rights. If there is any money recovered, we will disburse that money, as follows:

1. first, we will repay any actual payment made by the **insured** that is in excess of the Retained Limit.
2. second, we will be repaid to the extent of our actual payment; and

3. third, if any money remains, the **insured** or any underlying insurer will be repaid to the extent of their actual payment.

If any expenses are incurred to recover money, we will share the expenses with the **insured** or any underlying insurer in proportion to the amount that each is repaid. If our recovery attempt is not successful, we will bear all of the recovery expenses.

L. Premium

The premium for this policy as stated in Item 3 of the Declarations is a flat premium and is subject to a minimum and deposit premium, if applicable. It is NOT subject to adjustment UNLESS:

1. a rate is shown in Item 3 of the Declarations; or
2. an endorsement or endorsements are attached to this policy changing the Limit of Liability, adding or changing an Underlying Policy, changing the **Policy Period** or extending the policy reporting period.

If a flat premium is charged, and a minimum premium is shown in Item 3 of the Declarations, then that minimum premium is fully earned as of the inception of this policy.

M. Representations

By accepting this policy, you agree that:

1. the statements in the Declarations are accurate and complete;
2. those statements are based upon representations you made to us; and
3. we have issued this policy in reliance upon your representations.

N. Titles Of Paragraphs

The titles of the varied Sections, Paragraphs, and Subparagraphs of this policy and endorsements attached to this policy, if any, are inserted solely for convenience or reference and are NOT to be deemed in any way to limit or affect the provisions to which they relate.

O. Transfer Of Rights And Duties

Your rights and duties under this insurance may NOT be transferred without our written consent, except if you die.

P. When Loss Is Payable

This policy will NOT apply until the **insured**, or the **insured's** Underlying Insurer is obligated to pay the amount of the underlying limit or Retained Limit for an **occurrence** which is also covered by this policy. When the amount of loss has finally been determined we will promptly pay on behalf of the **insured** the amount of loss which falls within the terms of this policy.

If we are required, or at our sole discretion elect, to pay any amounts on behalf of the **insured** within the Retained Limits, the first named **insured** listed in Item 1 of the Declarations will promptly reimburse us for any such amounts.

VI. DEFINITIONS

A. Applicable to Coverage A only

The bold face terms appearing in this policy have the meanings as set forth in the Underlying Policy(ies); but, if no definition appears in such Underlying Policy(ies) or if Coverage B applies the definitions in paragraph B immediately below will apply.

B. Applicable to Coverage B

The bold face terms appearing in this policy have the meanings as set forth below.

1. Advertising Injury

Means:

Injury arising out of one or more of the following offenses:

- a. oral or written publication of material that slanders or libels a person or organization or disparages a person's or organization's goods, products or services;
- b. oral or written publication of material that violates a person's right of privacy;
- c. misappropriation of advertising ideas or style of doing business; or
- d. infringement of copyright, title or slogan; committed or alleged to have been committed during the **Policy Period** in any advertisement, publicity article, broadcast or telecast and arising out of the **insured's** advertising activities.

2. Auto

Means:

A land motor vehicle, trailer or semi-trailer designed for travel on public roads, including any attached machinery or equipment; but, does NOT include **mobile equipment**.

3. Bodily Injury

Means:

bodily injury, sickness, disease, disability, shock, mental anguish, mental injury and humiliation, including resulting death.

4. Claims Made

Means:

Coverage provided under an Underlying Policy that applies to injury or damage caused by an **occurrence** where (1) the injury or damage takes place on or after the Retroactive Date shown in the Declarations and before the termination of the policy; and (2) the claim for such injury or damage is first made against any **insured** during the **Policy Period** or any Extended Reporting Period purchased under this policy.

5. Impaired Property

Means:

Tangible property, other than **your product or your work**, that cannot be used or is less **useful because:**

- a. it incorporates **your product or your work** that is known or thought to be defective, deficient, inadequate, or dangerous; or
- b. you have failed to fulfill the terms of a contract or agreement relating to **your product or your work**;

if such property can be restored to use by:

- a. the repair, replacement, adjustment, or removal of **your product or your work**; or
- b. your fulfilling the terms of the contract or agreement.

6. Named Insured and Insured

Each of the following is an **insured** to the extent set forth below:

- a. the term named **insured** as used herein means any individual or organization stated in Item 1. of the Declarations as a named **insured** and:
 - i) if you are an organization other than a partnership or joint venture, any of your subsidiary companies or any company over which you exercise control and actively manage;
 - ii) if you are an individual, your spouse, but only with respect to the conduct of the business of which you are sole owner; or
 - iii) if you are a partnership or a joint venture, your partners or members and their spouses, but only with respect to their conduct of your business.
- b. The term **insured** as used herein means the named **insured** and:
 - i) any person, organization, trustee or estate that has obligated you by written contract to provide the insurance that is afforded by this policy, but only with respect to liability arising out of **your work, your property** and to property owned or used by you;
 - ii) at your option and subject to the terms of this policy, any person, organization, trustee, or estate (other than the named **insured**) included as an additional **insured** in the Underlying Insurance, but only with respect to liability arising out of **your work, your product** or property owned or used by you;
 - iii) your executive officers, directors and stockholders, but only within the scope of their duties as such;
 - iv) at your option and subject to the terms of this policy, any of your employees while within the scope of their employment by you, except for:
 - (a) **Bodily Injury** or **property damage** arising out of the use of

an **auto**, other than one owned by, loaned to, or hired by you;

- (b) **Bodily injury or personal injury** to you or your co-employee while in the course of his or her employment, or the spouse, child, parent, brother or sister of that co-employee as a consequence of such **bodily injury or personal injury** or for any obligation to share damages with or repay someone else who must pay damages because of the injury.
- v) any person who has your permission to use an **auto** owned by, loaned to you, or hired for use by you, and any person or organization legally responsible for the use of that **auto**; or
- vi) any person (other than your employee) or any organization while acting as manager of your real estate.

7. Insured Contract

Means:

- a. a lease of premises;
- b. a sidetrack agreement;
- c. any easement or license agreement, except in connection with construction or demolition operations on or within 50 feet of a railroad;
- d. an obligation, as required by ordinance, to indemnify a municipality, except in connection with work for a municipality;
- e. an elevator maintenance agreement;
- f. that part of any other contract or agreement pertaining to your business (including an indemnification of a municipality in connection with work performed for a municipality) under which you assume the tort liability of another party to pay for **bodily injury or property damage** to a third person or organization. Tort liability means a liability that would be imposed by law in the absence of any contract or agreement.

However, an **insured contract** does not include that part of any contract or agreement:

- a. that indemnifies an architect, engineer or surveyor for injury or damage arising out of:
 - i) preparing, approving or failing to prepare or approve maps, drawings, opinions, reports, surveys, change orders, designs or specifications; or
 - ii) giving directions or instructions, or failing to give them, if that is the primary cause of the injury or damage;
- b. under which the **insured**, if an architect, engineer or surveyor, assumes liability for an injury or damage arising out of the **insured's** rendering or failure to render

professional services, including those listed in subdivision a above and supervisory, inspection or engineering services.

8. Mobile Equipment

Means:

Any of the following types of land vehicles, including any attached machinery or equipment:

- a. bulldozers, farm machinery, forklifts and other vehicles designed for use principally off public roads;
- b. vehicles maintained for use solely on or next to premises you own or rent;
- c. vehicles that travel on crawler treads;
- d. vehicles, whether self-propelled or not, maintained primarily to provide mobility to permanently mounted:
 - i) power cranes, shovels, loaders, diggers or drills; or
 - ii) road construction or resurfacing equipment such as graders, scrapers or rollers;
- e. vehicles not described in subdivisions a, b, c, or d above that are not self-propelled and are maintained primarily to provide mobility to permanently attached equipment of the following types:
 - i) air compressors, pumps and generators, including spraying, welding, building cleaning, geophysical exploration, lighting and well servicing equipment; or
 - ii) cherry pickers and similar devices used to raise or lower workers;
- f. vehicles not described in subdivisions a, b, c, or d above maintained primarily for purposes other than the transportation of persons or cargo.

However, self-propelled vehicles with the following types of permanently attached equipment are not **mobile equipment** and will be considered **autos**:

- a. equipment designed primarily for:
 - i) snow removal;
 - ii) road maintenance, but not construction or resurfacing;
 - iii) street cleaning;
- b. cherry pickers and similar devices mounted on automobile or truck chassis and used to raise or lower workers; and
- c. air compressors, pumps and generators, including spraying, welding, building cleaning, geophysical exploration, lighting and well servicing equipment.

9. Occurrence

Means:

- a. an accident, including continuous and repeated exposure to substantially the same general harmful conditions which

- results in **bodily injury** or **property damage** which is neither expected nor intended from the standpoint of the **Insured**. All such exposure to substantially the same general conditions will be considered as arising out of one **occurrence**;
- b. with respect to **personal injury**, only the offenses specified in DEFINITION 11. All damages arising out of substantially the same offense will be considered as arising out of one **occurrence**;
 - c. with respect to **advertising injury** only the offenses listed in DEFINITION 1. All damages involving the same injurious material or act, regardless of the frequency or repetition thereof, the number or kind of media used, the number of claimants and all such damages will be considered as arising out of one **occurrence**; and
 - d. with respect to **professional liability and directors & officers liability**, a breach of duty, neglect, error, omission, misstatement, misleading statement, or other wrongful act as defined by the Scheduled Underlying Insurance. All damages involving the same wrongful act or a series of continuous or interrelated wrongful acts will be considered as arising out of one **occurrence**; and
10. **Other Insurance**
Means:
Insurance other than Scheduled Underlying Insurance or insurance specifically purchased to be excess of this policy affording coverage that this policy also affords.
11. **Personal Injury**
Means:
One or more of the following offenses:
- a. false arrest, false imprisonment, wrongful detention or malicious prosecution;
 - b. libel, slander, defamation of character, or oral or written publication of material that violates a person's right of privacy, unless arising out of advertising activities;
 - c. discrimination EXCEPT:
 - i) when arising out of the willful violation of a statute; or
 - ii) when committed by or with knowledge or consent of an **insured**.
 - d. wrongful eviction from, wrongful entry into, or invasion of the right of private occupancy of a room, dwelling or premises that a person occupies by or on behalf of the owner, landlord or lessor, or by a person claiming to be acting on behalf of the owner, landlord or lessor.
12. **Policy Period**
Means:
- the period of time stated in Item 2 of the Declarations.
13. **Products - Completed Operations Hazard**
Means:
- a. All **bodily injury and property damage** arising out of **your product** or **your work** but only if the **bodily injury and property damage**:
 - i) arises from products no longer in your physical possession; or
 - ii) occurs after **your work** has been completed or abandoned.
 - b. **Your work** will be considered completed at the earliest of the following times:
 - i) when all of the work called for in your contract has been completed; or
 - ii) when all of the work to be done at the site has been completed if your contract calls for work at more than one site; or
 - iii) when that part of the work done at a job site has been put to its intended use by any person or organization other than another contractor or subcontractor working on the same project.
 - c. Work that may need service, maintenance, correction, repair or replacement but which is otherwise complete, will be treated as completed;
 - d. The **products - completed operations hazard** does NOT include **bodily injury or property damage** arising out of:
 - i) the transportation of property unless the injury or damage arises out of a condition in or on a vehicle created by the loading or unloading of it;
 - ii) the existence of tools, uninstalled equipment or abandoned or unused materials.
14. **Professional Liability**
Means:
any liability of the **insured** for damages covered by any Scheduled Underlying Insurance arising out of our attributable to any breach of duty, neglect, error, omission, misstatement, misleading statement or other wrongful act as defined in the Scheduled Underlying Insurance.
15. **Property Damage**
Means:
- a. physical injury to tangible property which occurs during the **Policy Period**, including all resulting loss of use of such property resulting from it at any time; or
 - b. loss of use of tangible property which has NOT been physically injured or destroyed, provided such loss of use is caused by an **occurrence** during the **Policy Period**.

16. Suit*Means:*

A civil proceeding in which damages because of **bodily injury, property damage, personal injury, advertising injury, or professional liability** to which this insurance applies are alleged, including, without limitation:

- a. An arbitration proceeding in which such damages are claimed and to which you must submit or do submit with our consent; or
- b. Any other alternative dispute resolution proceeding in which such damages are claimed and to which you submit with our consent.

17. Your Product*Means:*

- a. any goods or products (other than real property) manufactured, sold, handled, distributed or disposed of by:
 - i) you;
 - ii) others trading under your name; or
 - iii) a person or organization whose business or assets you have acquired; and
- b. containers (other than vehicles), materials, parts or equipment furnished in connection with such goods or products.

Your product includes warranties or representations made at any time with respect to the fitness, quality, durability or performance of any of the items included above. **Your product** also includes the providing of or failure to provide warnings or instructions.

Your product does NOT include vending machines or other property rented to or located for the use of others but not sold.

18. Your Work*Means:*

- a. work or operations performed by you or on your behalf; and
- b. materials, parts or equipment furnished in connection with such work or operations.

Your work includes warranties or representations made at any time with respect to the fitness, quality, durability or performance of any of the items included above. **Your work** includes the providing of or failure to provide warnings or instructions.

NUCLEAR ENERGY LIABILITY EXCLUSION

This policy does NOT apply to **bodily injury, property damage, advertising injury, personal injury or professional liability** if applicable:

- A. 1. to **bodily injury or property damage**
- a. with respect to which an **insured** under the policy is also an **insured** under a nuclear energy liability policy issued by Nuclear Energy Liability Insurance Association, Mutual Atomic Energy Liability Underwriters or Nuclear Insurance Association of Canada, or any of their successors, or would be an **insured** under any such policy but for its termination upon exhaustion of its limit of liability; or
 - b. resulting from the hazardous properties of nuclear material and with respect to which:
 - i) any person or organization is required to maintain financial protection pursuant to the Atomic Energy Act of 1954, or any law amendatory thereof; or
 - ii) the **insured** is, or had this policy not been issued would be, entitled to indemnity from the United States of America, or any agency thereof, with any person or organization.
2. to expenses incurred with respect to **bodily injury** resulting from the hazardous properties of nuclear material and arising out of the operation of a nuclear facility by any person or organization.
3. to **bodily injury or property damage** resulting from the hazardous properties of nuclear material, if:
- a. the nuclear material:
 - i) is at any nuclear facility owned by, or operated by or on behalf of, an **Insured**; or
 - ii) has been discharged or dispersed therefrom;
 - b. the nuclear material is contained in spent fuel or waste at any time possessed, handled, used, processed, stored, transported or disposed of by or on behalf of an **Insured**; or
 - c. the **bodily injury or property damage** arises out of the furnishing by an **insured** of services, materials, parts or equipment in connection with the planning, construction, maintenance, operation or use of any nuclear facility, but if such facility is located within the United States of America, its territories or possessions or Canada, this exclusion (3) applies only to **property damage** to such nuclear facility and any property thereat.
- B. As used in this exclusion:
1.
 - a. hazardous properties include radioactive, toxic or explosive properties;
 - b. nuclear material means source material, special nuclear material or by-product material;
 - c. source material, special nuclear material, and by-product material have the meanings given them in the Atomic Energy Act of 1954 or in any law amendatory thereof;
 - d. spent fuel means any fuel element or fuel component, solid or liquid, which has been used or exposed to radiation in a nuclear reactor;
 2. **Waste Means:**
 - a. any waste material:
 - i) containing by-product material other than the tailings or wastes produced by the extraction or concentration of uranium or thorium from any ore processed primarily for its source material content; and
 - ii) resulting from the operation by any person or organization of any nuclear facility included under the first two paragraphs of the definition of nuclear facility.
 3. **Nuclear facility Means:**
 - a. any nuclear reactor;
 - b. any equipment or device designed or used for:
 - i) separating the isotopes of uranium or plutonium,
 - ii) processing or utilizing spent fuel, or
 - iii) handling, processing or packaging waste;
 - c. any equipment or device used for the processing, fabricating or alloying of special nuclear material if at any time the total amount of such material in the custody of the **insured** at the premises where such equipment or device is located consists of or contains more than 25 grams of plutonium or uranium 233 or any combination thereof, or more than 250 grams of uranium 235;
 - d. any structure, basin, excavation, premises or place prepared or used for the storage or disposal of waste;