

SYRACUSE RTC LLC
DBA ELEVATIONS RTC
AND
MT. DIABLO UNIFIED SCHOOL
DISTRICT

NONPUBLIC, NONSECTARIAN
SCHOOL/AGENCY SERVICES

MASTER CONTRACT

2018-2019

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NONPUBLIC SCHOOL/AGENCY/RELATED SERVICES PROVIDER:

SYRACUSE RTC LLC dba ELEVATIONS RTC

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 SYRACUSE RTC dba Elevations RTC (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/S’s 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: Syracuse RTC LLC dba Elevations RTC
The CONTRACTOR CDS NUMBER: 77-76422-6131130

PER ED CODE 56366 – TEACHER-TO-STUDENT RATIO: _____

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: \$169.00

2) Related Services

<u>SERVICE</u>	<u>RATE</u>	<u>PERIOD</u>
<u>Intensive Individual Services (340)</u>	_____	_____
<u>Language and Speech (415) INDIVIDUAL</u>	_____	_____
<u>Language and Speech (415) GROUP</u>	_____	_____
<u>Adapted Physical Education (425)</u>	_____	_____
<u>Health and Nursing: Specialized Physical Health Care (435)</u>	_____	_____
<u>Health and Nursing: Other Services (436)</u>	_____	_____
<u>Assistive Technology Services (445)</u>	_____	_____
<u>Occupational Therapy (450) INDIVIDUAL</u>	_____	_____
<u>Occupational Therapy (450) GROUP</u>	_____	_____
<u>Physical Therapy (460) INDIVIDUAL</u>	_____	_____
<u>Physical Therapy (460) INDIVIDUAL</u>	_____	_____
<u>Individual Counseling (510)</u>	_____	_____
<u>Counseling and Guidance (515)</u>	_____	_____

<u>Parent Counseling (520)</u>	_____	_____
<u>Social Work Services (525)</u>	_____	_____
<u>Psychological Services (530)</u>	_____	_____
<u>Behavior Intervention Services (535)</u>	_____	_____
<u>Specialized Services for Low Incidence Disabilities (610)</u>	_____	_____
<u>Specialized Deaf and Hard of Hearing (710)</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>Room, Board and Supervision</u>	<u>\$287.00</u>	<u>PER DAY</u>
<u>Mental Health Services</u>	<u>\$121.00</u>	<u>PER DAY</u>
<u>Enrollment Fee</u>	<u>\$1,500.00</u>	<u>One Time</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 \$120,000.00

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>Syracuse RTC LLC dba Elevations RTC</u> (Name of Nonpublic School/Agency)	<u>MT. DIABLO UNIFIED SCHOOL</u> (Name of School District)
 (Signature)	 (Signature)
<u>5/19/18</u> (Date)	<u>MAY 24 2018</u> (Date)
<u>Judith Jacques, 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>Jana Randell</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>2650 West 2700 South</u> (Contractor Address)	<u>1936 Carlotta Drive</u> (LEA Address)
<u>Syracuse, UT 84075</u> (Contractor City, State, Zip Code)	<u>Concord, Ca 94520</u> (LEA City, State, Zip Code)
Phone: 801-773-0200 Fax: Email: jjacques@elevationsrtc.com jrandall@elevationsrtc.com Website:	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

ACORD CERTIFICATE OF LIABILITY INSURANCE

APR 24 18

PRODUCER
COLE P. SCHLACK
CBI INSURANCE AGENCY, INC.
PO BOX 1120
EDEN UT 84310

Agency Lic#: 102586

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW.

INSURED
SYRACUSE RTC, LLC WTC, LLC SEVEN STARS ACADEMY
DBA ELEVATIONS RTC, FAMILY HELP & WELLNESS
THE APPROACH
2650 WEST 2700 SOUTH
SYRACUSE UT 84075

COMPANIES AFFORDING COVERAGE

COMPANY A: **MARKEL INSURANCE COMPANY**

COMPANY B: **WORKERS COMPENSATION FUND**

COMPANY C:

COMPANY D:

COMPANY E:

COVERAGES

THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED, NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS

INSR LTG	TYPE OF INSURANCE	POLICY NUMBER	POLICY EFFECTIVE DATE (MM/DD/YY)	POLICY EXPIRATION DATE (MM/DD/YY)	LIMITS
A	GENERAL LIABILITY <input checked="" type="checkbox"/> COMMERCIAL GENERAL LIABILITY <input type="checkbox"/> CLAIMS MADE <input checked="" type="checkbox"/> OCCUR <input checked="" type="checkbox"/> ABUSE 1000000 <input checked="" type="checkbox"/> PROFESSIONAL LIAB 1,000,000/\$3,000,000 GEN'L AGGREGATE LIMIT APPLIES PER <input type="checkbox"/> POLICY <input type="checkbox"/> PROJECT <input type="checkbox"/> LOC	HUP1668-02	APR 25 18	APR 25 19	EACH OCCURRENCE \$ 1,000,000 FIRE DAMAGE (Any One Fire) \$ 1,000,000 MED EXP (Any One Person) \$ 10,000 PERSONAL & ADV INJURY \$ 1,000,000 GENERAL AGGREGATE \$ 3,000,000 PRODUCTS-COMP/OP AGG \$ 3,000,000
	AUTOMOBILE LIABILITY <input checked="" type="checkbox"/> ANY AUTO <input type="checkbox"/> ALL OWNED AUTOS <input type="checkbox"/> SCHEDULED AUTOS <input type="checkbox"/> HIRED AUTOS <input type="checkbox"/> NON-OWNED AUTOS	HUA1669-02	APR 25 18	APR 25 19	COMBINED SINGLE LIMIT (Ea accident) \$ 1,000,000 BODILY INJURY (Per person) \$ BODILY INJURY (Per accident) \$ PROPERTY DAMAGE \$
	GARAGE LIABILITY <input type="checkbox"/> ANY AUTO				AUTO ONLY - EA ACCIDENT \$ OTHER THAN AUTO ONLY EA ACC \$ AGG \$
	EXCESS LIABILITY <input checked="" type="checkbox"/> OCCUR <input checked="" type="checkbox"/> CLAIMS MADE DEDUCTIBLE RETENTION \$	HUU1670-02	APR 25 18	APR 25 19	EACH OCCURRENCE \$ 4,000,000 AGGREGATE \$ 4,000,000 \$ \$ \$
	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY	3375123	APR 18 18	APR 18 19	<input checked="" type="checkbox"/> WC STATU- TORY LIMITS <input type="checkbox"/> OTHER E L EACH ACCIDENT \$ 1,000,000 E L DISEASE-EA EMPLOYEE \$ 1,000,000 E L DISEASE-POLICY LIMIT \$ 1,000,000
	OTHER: CRIME COVERAGE	HUP1668-02	APR 25 18	APR 25 19	\$50,000

DESCRIPTION OF OPERATIONS/LOCATIONS/VEHICLES/SPECIAL ITEMS **MT. DIABLO UNIFIED SCHOOL DISTRICT, ITS BOARD, OFFICERS, EMPLOYEES, AND AGENTS ARE COVERED AS ADDITIONAL INSURED WITH RESPECTS TO LIABILITY ARISING OUT OF ACTIVITIES PERFORMED BY OR ON BEHALF OF CONTRACTOR WHEN REQUIRED BY WRITTEN CONTRACT. CONTRACTOR'S INSURANCE COVERAGE SHALL BE PRIMARY.**

CERTIFICATE HOLDER **ADDITIONAL INSURED; INSURER LETTER:** **CANCELLATION**

MT. DIABLO UNIFIED SCHOOL DISTRICT
1936 CARLOTTA DRIVE
CONCORD, CA 94519-1397

Attention:

SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, THE ISSUING COMPANY WILL ENDEAVOR TO MAIL 10 DAYS WRITTEN NOTICE TO THE CERTIFICATE HOLDER NAMED TO THE LEFT, BUT FAILURE TO DO SO SHALL IMPOSE NO OBLIGATION OR LIABILITY OF ANY KIND UPON THE INSURER, IT'S AGENTS OR REPRESENTATIVES

AUTHORIZED REPRESENTATIVE
 (866) 977-4555 Ph
 (866)211-7419 Fax

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ THIS CAREFULLY

ADDITIONAL INSURED PRIMARY COVERAGE

This endorsement modifies insurance provided under the following:

COMMERCIAL GENERAL LIABILITY COVERAGE PART

This insurance is primary for the person or organization shown in the schedule, but only with respect to liability arising out of your work or that insured by or for you. Other insurance afforded to that insured will apply as excess and not contribute as primary to the insurance afforded by this endorsement.

All other endorsement provisions, conditions and exclusions of this insurance shall remain unchanged and apply to the additional insured and described below.

SCHEDULE

ADDITIONAL INSURED

CONTRACT/PROJECT

MT. DIABLO UNIFIED SCHOOL DISTRICT 1936 CARLOTTA DRIVE CONCORD, CA 94519-1397

NAMED INSURED SYRACUSE RTC, LLC WTC, LLC SEVEN
STARS ACADEMY
DBA ELEVATIONS RTC, FAMILY HELP &
WELLNESS
THE APPROA



Markel Insurance Company

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

COMMERCIAL GENERAL LIABILITY PLUS ENHANCEMENT

This endorsement modifies insurance provided under the following:

COMMERCIAL GENERAL LIABILITY COVERAGE FORM

The following coverages and extensions are added to this policy as detailed below. As respects any coverage provided by this endorsement, if higher limits are provided on any other schedule, declarations or endorsement attached to this policy, then the limits and coverage provided by this endorsement would not apply for that coverage.

SCHEDULE

Limited Product Withdrawal Expense	\$10,000 All Product Withdrawal Expenses
Extended Property Damage – Expected Or Intended Injury	Included
Non-Owned Watercraft	Increased To 51 Feet Long
Non-Owned Aircraft	If Rented Or Loaned With A Paid Crew
Property Damage To Borrowed Equipment	\$10,000 Each Occurrence
Property Damage To Customers' Goods	\$10,000 Each Occurrence
Damage To Premises Rented To You	Equal To The General Liability Each Occurrence Limit
Property Damage From Elevator Use	Included
Personal And Advertising Injury From Televised Or Videotaped Material	Included
Supplementary Payments	
Bail Bonds	Up To \$5,000
Loss Of Earnings	Up To \$500 A Day
Medical Personnel	\$100,000 Any One Person
Broadened Definition Of Insured	Included
Automatic Additional Insureds	
When Required By Contract Or Agreement	Included
Managers Or Lessors Of Premises	Included
Mortgagees, Assignees Or Receivers	Included
Vendors	Included
Medical Payments	\$10,000 Any One Person (Unless Excluded)
Each Location And Each Project Aggregates	Equal To The General Aggregate Limit
Duties In The Event Of Occurrence, Offense, Claim Or Suit	Included
Unintentional Failure To Disclose All Hazards	Included
Waiver Of Transfer Of Rights Of Recovery Against Others To Us	Included
Liberalization	Included
Mental Anguish Resulting From Bodily Injury	Included
Broadened Definition Of Mobile Equipment	Included

A. LIMITED PRODUCT WITHDRAWAL EXPENSE

THIS COVERAGE ONLY PROVIDES REIMBURSEMENT TO YOU FOR EXPENSES INCURRED BECAUSE OF A COVERED "PRODUCT WITHDRAWAL". THIS COVERAGE DOES NOT PROVIDE ANY LIABILITY COVERAGE OR COVERAGE FOR THE COST OR EXPENSE OF DEFENDING ANY CLAIM OR "SUIT".

1. The following is added to Section I – Coverages:

LIMITED PRODUCT WITHDRAWAL EXPENSE COVERAGE

Insuring Agreement

a. We will reimburse you for "product withdrawal expenses" incurred by you because of a "product withdrawal" to which this insurance applies.

The amount of such reimbursement is limited as described in Section III – Limits Of Insurance, as amended by this endorsement. No other obligation or liability to pay sums or perform acts or services is covered.

b. This insurance applies to a "product withdrawal" only if the "product withdrawal" is initiated in the "coverage territory" during the policy period because:

(1) You determine that the "product withdrawal" is necessary; or

(2) An authorized government entity has ordered you to conduct a "product withdrawal".

c. We will reimburse "product withdrawal expenses" only if:

(1) The expenses are incurred within one year of the date the "product withdrawal" was initiated;

(2) The expenses are reported to us within one year of the date the expenses were incurred; and

(3) The product that is the subject of the "product withdrawal" was produced during the policy period.

d. The initiation of a "product withdrawal" will be deemed to have been made only at the earliest of the following times:

(1) When you first announced, in any manner, to the general public, your vendors or to your "employees" (other than those "employees" directly involved in making the determination) your decision to conduct or participate in a "product withdrawal". This applies regardless of whether the determination to conduct a "product withdrawal" is made by you or is requested by a third party; or

(2) When you first received, either orally or in writing, notification of an order from an authorized government entity to conduct a "product withdrawal".

e. "Product withdrawal expenses" incurred to withdraw "your products" which contain the same or substantially similar "defects" will be deemed to have arisen out of the same "product withdrawal".

Exclusions

This insurance does not apply to "product withdrawal expenses" arising out of:

a. Breach Of Warranty And Failure To Conform To Intended Purpose

Any "product withdrawal" initiated due to the failure of "your product" to accomplish its intended purpose, including any breach of warranty of fitness, whether written or implied. This exclusion does not apply if such failure has caused or is reasonably expected to cause "bodily injury" or physical damage to tangible property other than "your product".

b. Infringement Of Copyright, Patent, Trade Secret, Trade Dress Or Trademark

Any "product withdrawal" initiated due to copyright, patent, trade secret, trade dress or trademark infringements.

c. Chemical Transformation, Deterioration Or Decomposition

Any "product withdrawal" initiated due to transformation of a chemical nature, deterioration or decomposition of "your product". This exclusion does not apply if transformation of a chemical nature, deterioration or decomposition is caused by:

- (1) An error in manufacturing, design or processing;
- (2) Transportation of “your product”; or
- (3) “Product tampering”.

d. Goodwill, Market Share, Revenue, Profit Or Redesign

The costs of goodwill, market share, revenue or “profit” or the costs of redesigning “your product”.

e. Expiration Of Shelf Life

Any “product withdrawal” initiated due to expiration of the designated shelf life of “your product”.

f. Known Defect

A “product withdrawal” initiated because of a “defect” in “your product” known to exist by the Named Insured or the Named Insured’s “executive officers” prior to the policy period or the time “your product” leaves your control or possession.

g. Otherwise Excluded Products

A recall of any specific products for which “bodily injury” or “property damage” is excluded under Coverage A–Bodily Injury And Property Damage Liability.

h. Governmental Ban

A recall when “your product” or a component contained within “your product” has been:

- (1) Banned from the market by an authorized government entity prior to the policy period; or
- (2) Distributed or sold by you subsequent to any governmental ban.

i. Defense Of Claim

The defense of a claim or “suit” against you for liability arising out of a “product withdrawal”.

j. Third Party Damages, Fines And Penalties

Any compensatory damages, fines, penalties, punitive or exemplary or other non-compensatory damages imposed upon the insured.

k. Pollution-Related Expenses

Any loss, cost or expense due to any:

- (1) Request, demand, order, statutory or regulatory requirement that any insured or others test for, monitor, clean up, remove, contain, treat, detoxify or neutralize, or in any way respond to or assess the effects of, “pollutants”; or
- (2) Claim or “suit” by or on behalf of a governmental authority for damages because of testing for, monitoring, cleaning up, removing, containing, treating, detoxifying or neutralizing, or in any way responding to or assessing the effects of, “pollutants”.

2. The following is added to Section III – Limits Of Insurance:

The most that we will reimburse you for the sum of all “product withdrawal expenses” incurred for all “product withdrawals” initiated during the policy period is the amount shown in the Schedule of this endorsement, regardless of the number of:

- a. Insureds;
- b. “Product withdrawals” initiated; or
- c. “Your products” withdrawn.

3. Section IV – Commercial General Liability Conditions is amended as follows:

- a. Paragraph 2. Duties In The Event Of Occurrence, Offense, Claim Or Suit is replaced by the following:

2. Duties In The Event Of A Defect Or A Product Withdrawal

- a. You must see to it that we are notified as soon as practicable of any actual, suspected or threatened "defect" in "your product", or any governmental investigation, that may result in a "product withdrawal". To the extent possible, notice should include:

- (1) How, when and where the "defect" was discovered;
- (2) The names and addresses of any injured persons and witnesses; and
- (3) The nature, location and circumstances of any injury or damage arising out of use or consumption of "your product".

Your obligation to notify us as soon as practicable is satisfied if you send us written notice as soon as practicable after any of your "executive officers", directors, partners, insurance managers or legal representatives become aware of or should have become aware of such actual, suspected or threatened "defect" in "your product", or any governmental investigation, that may result in a "product withdrawal".

- b. If a "product withdrawal" is initiated, you must:

- (1) Immediately record the specifics of the "product withdrawal" and the date where it was initiated; and
- (2) Notify us as soon as practicable.

You must see to it that we receive written notice of the "product withdrawal" as soon as practicable.

- c. You must promptly take all reasonable steps to mitigate the expenses associated with a "product withdrawal". Any "profit" that you receive from mitigating the expenses will be deducted from the amount of reimbursement that you will receive for "product withdrawal expenses".
- d. You and any other involved insured must:
- (1) Immediately send us copies of pertinent correspondence received in connection with the "product withdrawal";
 - (2) Authorize us to obtain records and other information; and
 - (3) Cooperate with us in our investigation of the "product withdrawal".

- b. The following Conditions are added:

Concealment Or Fraud

We will not provide "product withdrawal expense" coverage to you or any other insured who, at any time:

- a. Engaged in fraudulent conduct; or
- b. Intentionally concealed or misrepresented a material fact concerning a "product withdrawal" or "product withdrawal expenses" incurred by you.

Product Tampering Limitation

When "product tampering" is known, suspected or threatened, a "product withdrawal" will be limited to those batches of "your product" which are known or suspected to have been tampered with.

4. The following definitions are added:

- a. "Defect" means a flaw, deficiency or inadequacy that creates a dangerous condition.
- b. "Product tampering" means an act of intentional alteration of "your product" which has caused or is reasonably expected to cause "bodily injury" or physical injury to tangible property other than "your product".

For purposes of this insurance, electronic data is not tangible property.

As used in this definition, electronic data means information, facts or programs stored as or on, created or used on, or transmitted to or from computer software, including systems and application software, hard or floppy disks, CD-ROMs, tapes, drives, cells, data processing devices or any other media which are used with electronically controlled equipment.

c. "Product withdrawal" means the recall or withdrawal:

- (1) From the market; or
- (2) From use by any other person or organization;

of "your products" or products which contain "your products", because of known or suspected "defects" in "your product" or known or suspected "product tampering" which has caused or is reasonably expected to cause "bodily injury" or physical injury to tangible property other than "your product".

For purposes of this insurance, electronic data is not tangible property.

As used in this definition, electronic data means information, facts or programs stored as or on, created or used on, or transmitted to or from computer software, including systems and applications software, hard or floppy disks, CD-ROMs, tapes, drives, cells, data processing devices or any other media which are used with electronically controlled equipment.

d. "Product withdrawal expenses" means those reasonable and necessary extra expenses, listed below, paid and directly related to a "product withdrawal":

- (1) Costs of notification;
- (2) Costs of stationery, envelopes, production of announcements and postage or facsimiles;
- (3) Costs of overtime paid to your regular non-salary "employees" and costs incurred by your "employees", including costs of transportation and accommodations;
- (4) Costs of computer time;
- (5) Costs of hiring independent contractors and other temporary employees;
- (6) Costs of transportation, shipping or packaging;
- (7) Costs of warehouse or storage space; or
- (8) Costs of proper disposal of "your products" or products that contain "your products" that cannot be reused, not exceeding your purchase price or your costs to produce the products.

e. "Profit" means the positive gain from business operation after subtracting all expenses.

B. EXTENDED PROPERTY DAMAGE – EXPECTED OR INTENDED INJURY

Exclusion 2.a. Expected Or Intended Injury under Section I – Coverages, Coverage A – Bodily Injury And Property Damage Liability is replaced by the following:

a. Expected Or Intended Injury

"Bodily injury" or "property damage" expected or intended from the standpoint of the insured. This exclusion does not apply to "bodily injury" or "property damage" resulting from the use of reasonable force to protect persons or property.

C. NON-OWNED WATERCRAFT AND NON-OWNED AIRCRAFT

Exclusion 2.g. Aircraft, Auto Or Watercraft under Section I – Coverages, Coverage A – Bodily Injury And Property Damage Liability is amended as follows:

1. Paragraph (2) is replaced by the following:

- (2) A watercraft you do not own that is:
 - (a) Less than 51 feet long; and
 - (b) Not being used to carry persons or property for a charge;

2. The following is added:

- (6) "Bodily injury" or "property damage" arising out of any aircraft not owned by any insured that is rented or loaned to you with a paid crew.

If other insurance applies to a loss because of "property damage" to non-owned watercraft or aircraft as described in Paragraphs (2) or (6) above, the insurance provided by this Coverage Form does not apply, whether the other insurance is primary, excess, contingent or issued on any other basis.

D. PROPERTY DAMAGE TO BORROWED EQUIPMENT

1. The following is added to Exclusion 2.j. Damage To Property under Section I – Coverages, Coverage A – Bodily Injury And Property Damage Liability:

Paragraph (4) of this exclusion does not apply to "property damage" to borrowed equipment while that equipment is:

- a. Not being used to perform operations; and
 - b. Away from an insured's premises.
2. The following is added to Section III – Limits Of Insurance:
Subject to the General Aggregate limit, the most we will pay for "property damage" to borrowed equipment is the amount shown in the Schedule of this endorsement for each "occurrence".
 3. The insurance afforded by Paragraph 1. above is excess over any valid and collectible property insurance (including any deductible) available to the insured, whether primary, excess, contingent or issued on any other basis.

E. PROPERTY DAMAGE TO CUSTOMERS' GOODS

1. The following is added to Exclusion 2.j. Damage To Property under Section I – Coverages, Coverage A – Bodily Injury And Property Damage Liability:

Paragraphs (3), (4) and (6) of this exclusion do not apply to "property damage" to "customers' goods" while on your premises.

2. The following is added to Section III – Limits Of Insurance:
Subject to the General Aggregate limit, the most we will pay for "property damage" to "customers' goods" is the amount shown in the Schedule of this endorsement for each "occurrence".
3. The insurance afforded by Paragraph 1. above is excess over any valid and collectible property insurance (including any deductible) available to the insured, whether primary, excess, contingent or issued on any other basis.

4. The following definition is added:

"Customers' goods" means tangible personal property belonging to your customers and left with you for storage, service or repair. "Customers' goods" does not include:

- a. Accounts, bills, currency, deeds, food stamps or other evidences of debt, money, notes or securities. Lottery tickets held for sale are not securities;
- b. Animals;
- c. Contraband, or property in the course of illegal transportation or trade;
- d. Personal property while airborne or waterborne;
- e. Property that is covered under another coverage form of this or any other policy in which it is more specifically described, except for the excess of the amount due (whether you can collect on it or not) from that other insurance;
- f. Vehicles or self-propelled machines that are licensed for use on public roads; aircraft; or watercraft;

This paragraph does not apply to:

- (1) Vehicles or self-propelled machines, other than "autos", you hold for sale; or
- (2) Rowboats or canoes out of water at your premises; or

g. The following property while outside of buildings:

(1) Grain, hay, straw or other crops; and

(2) Fences, radio or television antennas (including satellite dishes) and their lead-in wiring, masts or towers, trees, shrubs or plants (other than trees, shrubs or plants held for sale).

F. DAMAGE TO PREMISES RENTED TO YOU

The following applies only if Damage To Premises Rented To You is not excluded from the policy to which this endorsement is attached:

1. The first paragraph following Paragraph (6) of Exclusion 2.j. Damage To Property under Section I – Coverages, Coverage A – Bodily Injury And Property Damage Liability is replaced by the following:

Paragraphs (1), (3) and (4) of this exclusion do not apply to “property damage” (other than damage by fire) to premises, including the contents of such premises, rented to you. A separate limit of insurance applies to Damage To Premises Rented To You as described in Section III – Limits Of Insurance.

2. The final paragraph of Paragraph 2. Exclusions under Section I – Coverages, Coverage A – Bodily Injury And Property Damage Liability is replaced by the following:

Exclusions c. through n. do not apply to damage by fire, lightning, explosion, smoke or sprinkler leakage to premises while rented to you or temporarily occupied by you with permission of the owner. A separate limit of insurance applies to this coverage as described in Section III – Limits Of Insurance.

3. Paragraph 6. under Section III – Limits Of Insurance is replaced by the following:

6. Subject to Paragraph 5. above, the most we will pay under Coverage A for damages because of “property damage” to any one premises while rented to you, or in the case of damage by fire, lightning, explosion, smoke or sprinkler leakage, while rented to you or temporarily occupied by you with permission of the owner, is equal to the Each Occurrence limit shown in the Declarations.

4. Paragraph 4.b.(1)(a)(ii) of the Commercial General Liability Coverage Form, and Paragraph 4.b.(1)(a)(iii) of the Commercial General Liability Coverage Form (Claims-Made Version) under Section IV – Commercial General Liability Conditions are replaced by the following:

That is fire, lightning, explosion, smoke or sprinkler leakage insurance for premises rented to you or temporarily occupied by you with permission of the owner;

5. Paragraph a. of Definition 9. “insured contract” is replaced by the following:

a. A contract for a lease of premises. However, that portion of the contract for a lease of premises that indemnifies any person or organization for damage by fire, lightning, explosion, smoke or sprinkler leakage to premises while rented to you or temporarily occupied by you with permission of the owner is not an “insured contract”;

G. PROPERTY DAMAGE FROM ELEVATOR USE

1. The following is added to Exclusion 2.j. Damage To Property under Section I – Coverages, Coverage A – Bodily Injury And Property Damage Liability:

Paragraphs (3), (4) and (6) of this exclusion do not apply if such “property damage” arises out of the use of elevators at premises you own, rent, lease or occupy.

2. The insurance afforded by Paragraph 1. above is excess over any other valid and collectible insurance which applies to a loss because of “property damage” arising out of the use of elevators, whether such other insurance is primary, excess, contingent or issued on any other basis.

H. PERSONAL AND ADVERTISING INJURY FROM TELEVISED OR VIDEOTAPED MATERIAL

1. Exclusions 2.b. and 2.c. under Section I – Coverages, Coverage B – Personal And Advertising Injury Liability are replaced by the following:

b. **Material Published With Knowledge Of Falsity**

“Personal and advertising injury” arising out of oral, written or professionally produced televised or videotaped publication, in any manner, of material, if done by or at the direction of the insured with knowledge of its falsity.

c. Material Published Prior To Policy Period

“Personal and advertising injury” arising out of oral, written or professionally produced televised or videotaped publication, in any manner, of material whose first publication took place before the beginning of the policy period.

2. Paragraphs d. and e. of the definition of “personal and advertising injury” are replaced by the following:

- d. Oral, written or professionally produced televised or videotaped publication, in any manner, of material that slanders or libels a person or organization, or disparages a person’s or organization’s goods, products or services;
- e. Oral, written or professionally produced televised or videotaped publication, in any manner, of material that violates a person’s right to privacy;

I. SUPPLEMENTARY PAYMENTS – BAIL BONDS AND LOSS OF EARNINGS

Paragraphs 1.b. and 1.d. under Section I – Coverages, Supplementary Payments – Coverages A And B are replaced by the following:

- b. Up to the amount shown in the Schedule of this endorsement for cost of bail bonds required because of accidents or traffic law violations arising out of the use of any vehicle to which Bodily Injury Liability Coverage applies. We do not have to furnish these bonds;
- d. All reasonable expenses incurred by the insured at our request to assist us in the investigation or defense of the claim or “suit”, including actual loss of earnings up to the amount shown in the Schedule of this endorsement because of time off from work;

J. MEDICAL PERSONNEL

The following applies only if no other similar coverage is included on or added to the policy to which this endorsement is attached:

- 1. Paragraph 2.a.(1)(d) under Section II – Who Is An Insured does not apply to any registered nurse, licensed practical nurse, certified emergency medical technician or certified paramedic who is employed by you to provide professional health care services, but only while acting within the scope and course of their duties as such.
- 2. The following is added to Section III – Limits Of Insurance:

Subject to the General Aggregate limit, the most we will pay under Medical Personnel Coverage is the amount shown in the Schedule of this endorsement for all loss sustained by any one person from professional health services.

K. BROADENED DEFINITION OF INSURED

Section II – Who Is An Insured is amended as follows:

- 1. The following is added to Paragraph 2.a.:

Paragraph (1) does not apply to managers at the supervisory level or above.

- 2. Paragraph 2. is amended to include the following as insureds:

Any legally incorporated entity of which you own at least 51% of the voting stock on the inception date of this Coverage Form and on the date of any covered “occurrence”, claim or “suit”.

This insurance shall not apply to any entity that is already insured under any other insurance provided by any company or that would be an insured but for the exhaustion of its limits of insurance.

- 3. Paragraph 3.a. is replaced by the following:

a. Coverage for your newly acquired or formed organization shall be:

(1) Effective on the date of acquisition or formation; and

(2) Afforded until the end of the policy period of this Coverage Form.

L. AUTOMATIC ADDITIONAL INSUREDS

The following paragraphs are added to Section II – Who Is An Insured:

1. The following are also insureds under this policy, subject to the following provisions:

a. When Required By Contract Or Agreement

Any person or organization to whom you are required by written contract, agreement, permit or authorization to provide insurance, but only if the contract, agreement, permit or authorization is in effect during the policy period shown in the Declarations and was executed prior to the “bodily injury”, “property damage” or “personal and advertising injury”. However:

- (1) The person or organization is an insured only to the extent you are held liable due to:
 - (a) The ownership, maintenance or use of that part of premises you own, rent, lease or occupy, subject to the following additional provisions:
 - (i) This insurance does not apply to any “occurrence” which takes place after you cease to be a tenant in any premises leased to or rented to you; and
 - (ii) This insurance does not apply to any structural alterations, new construction or demolition operations performed by or on behalf of the person or organization;
 - (b) Your ongoing operations for that insured, whether the work is performed by you or for you;
 - (c) The maintenance, operation or use by you of equipment leased to you by such person or organization, subject to the following additional provisions:
 - (i) This insurance does not apply to any “occurrence” which takes place after the equipment lease expires or you cease to lease that equipment; and
 - (ii) This insurance does not apply to “bodily injury” or “property damage” arising out of the sole negligence of such person or organization;
 - (d) Permits or authorizations issued by any state or political subdivision with respect to operations performed by you or on your behalf, subject to the following additional provision:

This insurance does not apply to “bodily injury”, “property damage” or “personal and advertising injury” arising out of operations performed for that state or municipality.
- (2) The insurance with respect to any architect, engineer or surveyor does not apply to “bodily injury”, “property damage” or “personal and advertising injury” arising out of the rendering of or failure to render any professional services by or for you, including:
 - (a) The preparing, approving or failure to prepare or approve maps, drawings, opinions, reports, surveys, change orders, designs or specifications; and
 - (b) Supervisory, inspection or engineering services.
- (3) This insurance does not apply to “bodily injury” or “property damage” included within the “products-completed operations hazard”.
- (4) This insurance does not apply to “bodily injury”, “property damage” or “personal and advertising injury” arising out of the rendering of or failure to render any professional services.
- (5) This insurance does not apply to any insured person or organization if the loss, cost, injury or damage is otherwise excluded from coverage under this insurance, including any endorsements made a part of this policy.
- (6) A person’s or organization’s status as an insured under this endorsement ends when your operations for that insured are completed.
- (7) This insurance does not apply to any person or organization included as an insured by an endorsement issued by us or otherwise made part of this insurance.

(8) No coverage will be provided if, in the absence of this endorsement, no liability will be imposed by law on you. Coverage will be limited to the extent of your negligence or fault according to the applicable principles of comparative fault.

This Additional Insured provision does not apply to managers or lessors of premises; mortgagees, assignees or receivers; or vendors.

b. Managers Or Lessors Of Premises

Any person or organization who leases to you or manages property you rent or lease, 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 in connection with that part of the premises leased or rented to you and shown on the Declarations.

The following additional exclusions apply to such managers or lessors of premises:

This insurance does not apply to:

- (1) Any "occurrence" which takes place after you cease to be a tenant in that premises.
- (2) Structural alterations, new construction or demolition operations performed by or on behalf of the person(s) or organization(s) who leases to you or manages property you rent or lease.

c. Mortgagees, Assignees Or Receivers

Any person or organization with respect to their liability as mortgagee, assignee or receiver and arising out of the ownership, maintenance or use of premises by you. However, this insurance does not apply to structural alterations, new construction or demolition operations performed by or for that person or organization.

d. Vendors

Any vendor with whom you have agreed in a written contract or agreement to provide insurance, but only if the contract or agreement is in effect during the policy period shown in the Declarations and was executed prior to the "bodily injury" or "property damage", and only with respect to "bodily injury" or "property damage" arising out of "your products" which are distributed or sold in the regular course of the vendor's business.

(1) The following additional exclusions apply to such vendors:

This insurance does not apply to:

- (a) "Bodily injury" or "property damage" for which the vendor is obligated to pay damages by reason of the assumption of liability in a contract or agreement. This exclusion does not apply to liability for damages that the vendor would have in the absence of the contract or agreement;
- (b) Any express warranty unauthorized by you;
- (c) Any physical or chemical change in the product made intentionally by the vendor;
- (d) Repackaging, except when unpacked solely for the purpose of inspection, demonstration, testing or the substitution of parts under instructions from the manufacturer, and then repackaged in the original container;
- (e) Any failure to make such inspections, adjustments, tests or servicing as the vendor has agreed to make or normally undertakes to make in the usual course of business, in connection with the distribution or sale of the products;
- (f) Demonstration, installation, servicing or repair operations, except such operations performed at the vendor's premises in connection with the sale of the product;
- (g) Products which, after distribution or sale by you, have been labeled or relabeled or used as a container, part or ingredient of any other thing or substance by or for the vendor;
- (h) Any failure to maintain the product in a merchantable condition; or
- (i) "Bodily injury" or "property damage" arising out of the sole negligence of the vendor for its own acts or omissions or those of its employees or anyone else acting on its behalf. However, this exclusion does not apply to:

- (i) The exceptions contained in subparagraphs (d) or (f); or
 - (ii) Such inspections, adjustments, tests or servicing as the vendor has agreed to make or normally undertakes to make in the usual course of business, in connection with the distribution or sale of the products.
- (2) This insurance does not apply to any insured person or organization from whom you have acquired such products, or any ingredient, part or container entering into, accompanying or containing such products.
 - (3) This insurance does not apply to any vendor included as an insured by an endorsement issued by us or otherwise made a part of this insurance.
 - (4) This insurance does not apply if "bodily injury" or "property damage" included in the "products-completed operations hazard" is excluded either by the provisions of this insurance or by endorsement.
2. The insurance provided to such automatic additional insureds:
 - a. Only applies to the extent permitted by law; and
 - b. Will not be broader than that which you are required by the contract or agreement to provide for such additional insureds.
 3. With respect to the insurance afforded to such automatic 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:

 - a. Required by the contract or agreement; or
 - b. Available under the applicable limits of insurance shown in the Declarations,

whichever is less.

The insurance afforded to the additional insured does not increase the applicable limits of insurance shown in the Declarations.

M. MEDICAL PAYMENTS

The following applies only if Medical Payments Coverage is not excluded from the policy to which this endorsement is attached:

Paragraph 7. under Section III – Limits Of Insurance is replaced by the following:

7. Subject to Paragraph 5. above, the Medical Expense limit is equal to the Medical Expense limit stated in the Declarations or the amount shown in the Schedule of this endorsement, whichever is greater, and is the most we will pay under Coverage C for all medical expenses because of "bodily injury" sustained by any one person.

N. EACH LOCATION AND EACH PROJECT AGGREGATES

The following is added to Section III – Limits Of Insurance:

1. For all sums which the insured becomes legally obligated to pay as damages caused by "occurrences" under Coverage A, and for all medical expenses caused by accidents under Coverage C, which can be attributed only to operations at a single designated covered "location" or covered construction project:
 - a. A separate Each Location or Each Project Aggregate limit applies to each covered "location" or covered construction project, and that limit is equal to the General Aggregate limit shown in the Declarations.
 - b. The Each Location or Each Project Aggregate limit is the most we will pay for the sum of all damages under Coverage A, except damages because of "bodily injury" or "property damage" included in the "products-completed operations hazard", and for medical expenses under Coverage C, regardless of the number of:
 - (1) Insureds;
 - (2) Claims made or "suits" brought; or
 - (3) Persons or organizations making claims or bringing "suits".

- c. Any payments made under Coverage A for damages or under Coverage C for medical expenses shall reduce the Each Location or Each Project Aggregate limit for each covered "location" or covered project for which payment is made. Such payments shall not reduce the General Aggregate limit shown in the Declarations nor shall they reduce any other covered "location" or covered project's general aggregate.
 - d. The limits shown in the Declarations for Each Occurrence, Damage To Premises Rented To You and Medical Expense continue to apply. However, instead of being subject to the General Aggregate limit shown in the Declarations, such limits will be subject to the applicable Each Location or Each Project Aggregate limit.
2. For all sums which the insured becomes legally obligated to pay as damages caused by "occurrences" under Coverage A, and for all medical expenses caused by accidents under Coverage C, which cannot be attributed only to ongoing operations at a covered "location" or covered project:
 - a. Any payments made under Coverage A for damages or under Coverage C for medical expenses shall reduce the amount available under the General Aggregate limit or the Products-Completed Operations Aggregate limit, whichever is applicable; and
 - b. Such payments shall not reduce any Each Location or Each Project Aggregate limit.
 3. When coverage for liability arising out of the "products-completed operations hazard" is provided, any payments for damages because of "bodily injury" or "property damage" included in the "products-completed operations hazard" will reduce the Products-Completed Operations Aggregate limit, and not reduce the General Aggregate limit nor the Each Location or Each Project Aggregate limit.
 4. If the applicable covered construction project has been abandoned, delayed, or abandoned and then restarted, or if the authorized contracting parties deviate from plans, blueprints, designs, specifications or timetables, the project will still be deemed to be the same construction project.
 5. For the purposes of this section of this endorsement, "location" means premises involving the same or connecting lots, or premises whose connection is interrupted only by a street, roadway, waterway or right-of-way of a railroad.
 6. The provisions of Section III – Limits Of Insurance not otherwise modified by this endorsement shall continue to apply as stipulated.

O. DUTIES IN THE EVENT OF OCCURRENCE, OFFENSE, CLAIM OR SUIT

The following is added to Condition 2. Duties In The Event Of Occurrence, Offense, Claim Or Suit under Section IV – Commercial General Liability Conditions:

Your obligation to notify us as soon as practicable of an "occurrence", offense, claim or "suit" is satisfied if you send us written notice as soon as practicable after any of your "executive officers", directors, partners, insurance managers or legal representatives become aware of or should have become aware of such "occurrence", offense, claim or "suit".

P. UNINTENTIONAL FAILURE TO DISCLOSE ALL HAZARDS

The following is added to Condition 6. Representations under Section IV – Commercial General Liability Conditions:

If you unintentionally fail to disclose all hazards prior to the beginning of the policy period of the Coverage Form, we shall not deny coverage under this Coverage Form because of such failure.

Q. WAIVER OF TRANSFER OF RIGHTS OF RECOVERY AGAINST OTHERS TO US

The following is added to Condition 8. Transfer Of Rights Of Recovery Against Others To Us under Section IV – Commercial General Liability Conditions:

We waive any right of recovery we may have against any person or organization because of payments we make for injury or damage arising out of your ongoing operations or "your work" done under a contract with that person or organization and included in the "products-completed operations hazard". This waiver applies only to the person or organization with whom you have agreed in a written contract prior to an "occurrence" to waive such rights.

R. LIBERALIZATION

The following is added to Section IV – Commercial General Liability Conditions:

Liberalization Clause

If we adopt any revision that would broaden coverage under this Coverage Form without additional premium, the broadened coverage will immediately apply to this Coverage Form as of the day the revision is effective in your state.

S. MENTAL ANGUISH RESULTING FROM BODILY INJURY

Definition 3. "bodily injury" is replaced by the following:

3. "Bodily injury" means:

- a. Bodily injury, sickness or disease sustained by a person, including mental anguish or emotional distress resulting from any of these; and
- b. Death resulting from bodily injury, sickness or disease.

T. BROADENED DEFINITION OF MOBILE EQUIPMENT

The following is added to Paragraph f.(1) of Definition 12. "mobile equipment":

This shall not apply to self-propelled vehicles of less than 1,000 pounds gross vehicle weight.

All other terms and conditions remain unchanged.