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ANALYTICAL BEHAVIORAL CONSULTANTS

NONPUBLIC, NONSECTARIAN  
SCHOOL/AGENCY SERVICES

MASTER CONTRACT

*2016-2017*

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LEA: \_\_\_\_\_

**NONPUBLIC SCHOOL/AGENCY/RELATED SERVICES PROVIDER:**

**Analytical Behavioral Consultants**

**NONPUBLIC, NONSECTARIAN SCHOOL/AGENCY SERVICES MASTER CONTRACT**

***I. AUTHORIZATION FOR MASTER CONTRACT AND GENERAL PROVISIONS***

**1. MASTER CONTRACT**

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 Analytical Behavioral Consultants (hereinafter referred to as "CONTRACTOR") for the purpose of providing special education and/or related services to LEA pupils 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 pupil, 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 Plan (hereinafter referred to as "IEP"), Individual Family Service Plan (hereinafter referred to as IFSP) or Rehabilitation Act Section 504 plan.

**SELPA Collaborative:** The LEA is a member of the Bay Area SELPA Collaborative. Nonpublic schools and nonpublic agencies that are geographically located in one of the participating SELPAs agree to participate in this collaborative process to establish a uniform contract for identified services and standards. The established system provides NPA/Ss with an opportunity to have input to the development of the process, contract issues, etc., and a simplified, standard process for rate negotiation with the participating SELPAs. Issues listed on the Rate Schedule portion of this Master Contract may be reviewed on an annual basis upon request of the CONTRACTOR using the established Bay Area SELPA 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.

NPA/Ss 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.

Any CONTRACTOR not participating as a member of the Bay Area SELPA 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.

The Bay Area SELPA Collaborative 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.

Upon CONTRACTOR's acceptance of a pupil 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 pupil'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 pupil'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 pupils by CONTRACTOR. The ISA shall be executed within ninety (90) days of an LEA pupil's enrollment. (Education Code Section 56366(c)(1)) LEA and CONTRACTOR shall enter into an ISA for each LEA pupil 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.

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. 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 pupil 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 program 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.*).

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.

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.

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 pupils notify the LEA of the change.

**3. COMPLIANCE WITH LAWS, STATUTES, REGULATIONS**

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. 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. 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 17 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. 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 pupil inactive status, corporal punishment, pupil discipline, and positive behavior interventions.

**4. 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.

**5. TERM OF MASTER CONTRACT**

The term of this Master Contract shall be from July 1, 2016 to June 30, 2017 (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, 2016. If the subsequent Master Contract has not been executed prior to June 30, 2016, this Contract shall remain in force and effect until terminated as provided herein or a new Master Contract is executed.

**6. INTEGRATION/CONTINUANCE OF CONTRACT FOLLOWING EXPIRATION OR TERMINATION**

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.

CONTRACTOR shall provide the LEA with information as requested in writing to secure a Master Contract or a renewal.

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.

**7. INDIVIDUAL SERVICES AGREEMENT**

This contract shall include an Individual Services Agreement (ISA) developed for each LEA pupil to whom CONTRACTOR is to provide special education and/or related services. An ISA shall only be issued for LEA pupils enrolled with the approval of the LEA pursuant to Education Code section 56366 (a)(2)(A).

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 pupils, until such time as a new Master Contract is executed.

Any and all changes to a LEA pupil'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 pupil's IEP/IFSP. At any time during the term of this Master Contract, a LEA pupil's parent, CONTRACTOR, or LEA may request a review of a LEA pupil's IEP/IFSP subject to all procedural safeguards required by law, including notice to and participation by the CONTRACTOR in the IEP Team meeting.

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.

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.

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).

## 8. 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, 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.

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. (Title 5 of the California Code of Regulations Section 3001 (y)).

- 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.
- i. 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.
- j. It is understood that the term "Master Contract" also means "Agreement" and is referred to as such in this document.

## II. ADMINISTRATION OF CONTRACT

### 9. NOTICES

All notices provided for by this contract shall be in writing. Notices shall be 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:

Name: Wendi s. Ahily  
District: Mt. Diablo Unified School District  
Address: 1936 Carlotta Drive  
City, State Zip: Walnut Creek, Ca 94520  
Phone: 925 682-8000 ext. 4047



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

#### **10. MAINTENANCE OF RECORDS**

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: pupil 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, however, such records are not required if positive attendance is required; 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.

CONTRACTOR shall maintain LEA pupil 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 pupil'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 pupil's record. Such logs need to record access to the LEA pupil's records by: (a) the LEA pupil's parent; (b) an individual to whom written consent has been executed by the LEA pupil'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 pupil records, and comply with parents' requests for copies of pupil records, as required by state and federal laws and regulations. CONTRACTOR agrees, in the event of school or agency closure, to forward LEA pupil records to LEA within five (5) business days. These records shall include, but not be limited to, the LEA pupil'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.

#### **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).

#### 16. INSURANCE

CONTRACTOR shall procure and maintain for the duration of the Master Contract insurance against claims for injuries to persons or damages to property, which may arise from or in connection with performance under this Master Contract by CONTRACTOR, its agents, representatives, or employees.

Prior to final approval of this Master Contract, CONTRACTOR shall deliver to the LEA a certificate of insurance for each required policy with insurers and additional insured policy endorsements for the comprehensive general liability insurance and comprehensive automobile liability insurance. If at any time said policies of insurance lapse or become canceled, this MASTER CONTRACT shall become void. The acceptance by LEA of the above-required insurance does not serve to limit the liability or responsibility of the insurer or CONTRACTOR.

A. Insurance coverage shall be at least as broad as:

1. Insurance Services Office Commercial General Liability coverage (occurrence form CG 0001).
2. Insurance Services Office form number CA 0001 (Ed. 1/87) covering Automobile Liability, code 1 (any auto).
3. Workers' Compensation insurance as required by the state in which services are performed and Employer's Liability Insurance with limits of \$2,000,000/\$2,000,000/\$2,000,000.

B. CONTRACTOR shall maintain limits of insurance no less than:

1. Commercial General Liability: \$2,000,000 per occurrence for bodily injury and property damage, personal injury and completed operations.
2. Automobile Liability: \$2,000,000 combined single limit.
3. Professional Liability/Errors and Omissions coverage, including Sexual Molestation and Abuse coverage, unless that coverage is afforded elsewhere in the Commercial General Liability Insurance: \$1,000,000 per occurrence/\$3,000,000 aggregate.
  - 3a. For Residential Treatment Centers coverage shall be \$3,000,000 per occurrence/\$6,000,000 aggregate.

For all insurance coverage procured by CONTRACTOR, the following terms apply:

C. Any deductibles or self-insured retentions above \$25,000 must be declared in writing 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 as respects to the LEA, its officials and employees, or (b) procure a bond guaranteeing payment of losses and related investigations, claim administration and defense expenses.

D. The general liability and automobile liability policies are to contain, or be endorsed to contain, the following provisions:

1. The LEA, its subsidiaries, officials and employees are to be covered as additional insured as respects: liability arising out of activities performed by or on behalf of CONTRACTOR; products and completed operations of the

CONTRACTOR; premises owned, occupied or used by the CONTRACTOR; or automobiles owned, leased, hired or borrowed by the CONTRACTOR. The coverage shall contain no special limitations on the scope of protection afforded to the LEA, its subsidiaries, officials and employees.

2. For any claims related to the services, the CONTRACTOR's insurance coverage shall be primary insurance as respects 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.

3. Each insurance policy required by this clause shall be endorsed to state that coverage shall not be suspended, voided, canceled by either party, reduced in coverage or in limits except after thirty (30) days prior written notice by certified mail, return receipt requested, has been given to the LEA.

E. Insurance is to be placed with insurers admitted by the State of California and with a current A.M. Best's rating of no less than A-: VII, unless otherwise acceptable to the LEA.

F. The CONTRACTOR shall furnish the LEA with original or photocopies of endorsements effecting coverage required by this clause. The endorsements are to be signed by a person authorized by that insurer to bind coverage on its behalf. All Certificates of Insurance shall reference the contract number, the name of school or agency submitting the contract number, the name of school or agency submitting the certificate, an indication if the school or agency is an NPS or NPA, and the location of the school or agency submitting the certificate.

If LEA or CONTRACTOR determines that 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).

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).

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. CONTRACTOR shall provide all services under this Master Contract as an independent contractor, and neither shall have the authority to bind or make any commitment on behalf of the other.

## **19. SUBCONTRACTING**

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.

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**

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 pupil's advocate.

Unless CONTRACTOR and LEA otherwise agree in writing, LEA shall neither execute an ISA with CONTRACTOR nor amend an existing ISA for a LEA pupil 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 pupil 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 pupil is enrolled in CONTRACTOR's school/agency) or whether an assessment of the LEA pupil is performed or a report is prepared in the normal course of the services provided to the LEA pupil by CONTRACTOR.

When CONTRACTOR is a Nonpublic Agency, CONTRACTOR acknowledges that its authorized representative has read and understands Education Code section 56366.3 which provides, in relevant part, that no special education and/or related services provided by CONTRACTOR shall be paid for by LEA if provided by an individual who was an employee of LEA within the three hundred and sixty five (365) days prior to executing this Master Contract. This provision does not apply to any person who is able to provide designated instruction and services during the extended school year because he or she is otherwise employed for up to ten months of the school year by LEA.

## **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.

### *III. EDUCATIONAL PROGRAM*

#### **22. FREE AND APPROPRIATE PUBLIC EDUCATION (FAPE)**

LEA shall provide CONTRACTOR with a copy of the IEP/IFSP including the Individualized Transition Plan (hereinafter referred to as "ITP") of each LEA pupil served by CONTRACTOR. Unless otherwise agreed to by the CONTRACTOR and the LEA, CONTRACTOR shall provide to each LEA pupil special education and/or related services (including transition services) within the nonpublic school or nonpublic agency consistent with the LEA pupil's IEP/IFSP and as specified in the ISA. If CONTRACTOR is a NPS, CONTRACTOR shall not accept an LEA pupil if it cannot provide or ensure the provision of the services outlined in the pupil's IEP/IFSP (California Education Code Section 56366.10(a)).

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 pupil'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).

Voluntary services and/or activities not necessary for the LEA pupil 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 pupil's IEP/IFSP and ISA.

#### **23. GENERAL PROGRAM OF INSTRUCTION**

##### **General Program**

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.

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 pupil's IEP/IFSP and ISA. The State Standards and coursework selected for each pupil shall be aligned with the pupil's IEP/IFSP to meet the individual pupil's needs. LEA pupils 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 prior to the effective date of this Master Contract.

When NPS CONTRACTOR serves LEA pupils in grades nine through twelve inclusive, LEA shall provide to CONTRACTOR a specific list of the course requirements to be satisfied by LEA pupils 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 pupil's IEP/IFSP and ISA. The nonpublic agency providing Behavior Intervention services shall develop a written treatment 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 treatment 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.

Except for emergency situations requiring a change of location in order to continue the education of LEA pupils, 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.

#### **Transportation Services.**

In the event that transportation services for a pupil 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 pupil transported.

When CONTRACTOR is a nonpublic agency, CONTRACTOR shall not provide transportation nor subcontract for transportation services for LEA pupil unless the LEA and the CONTRACTOR agree otherwise in writing.

#### **24. INSTRUCTIONAL MINUTES**

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 pupils at like grade level, attending LEA schools, unless otherwise specified in the pupil's IEP/IFSP, and shall be specified in the LEA pupil's ISA developed in accordance with the LEA pupil's IEP/IFSP.

For NPS students in grades pre-kindergarten through 12, unless otherwise specified in the LEA pupil'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 pupils attending LEA schools in like grade level unless otherwise specified in the LEA pupil's IEP/IFSP.

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 pupil's ISA developed in accordance with the LEA pupil's IEP/IFSP.

## **25. CLASS SIZE**

When CONTRACTOR is a nonpublic school, CONTRACTOR shall ensure that class size shall not exceed a ratio of one teacher per fourteen (14) pupils. 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) pupils for five consecutive school days, the CONTRACTOR shall have a 10% decrease in its approved daily rate for those LEA pupils that exceeded sixteen (16), for those days (over five).

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.

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**

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 4<sup>th</sup>). 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 pupil. 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 pupils' IEP/IFSP, educational services shall occur at the school site.

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 pupil'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 pupil 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 pupil's IEP/IFSP and ISA.

## **27. DATA REPORTING**

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 pupils enrolled in CONTRACTOR's nonpublic school or nonpublic agency.

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**

CONTRACTOR and LEA shall follow all LEA policies and procedures that support Least Restrictive Environment (“LRE”) placement options and/or Dual Enrollment options for pupils to have access to the general curriculum and to be educated with their nondisabled peers to the maximum extent appropriate.

CONTRACTOR and LEA shall ensure that LRE placement options are addressed at all IEP/IFSP team meetings regarding pupils 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 pupils to transition to less restrictive settings.

When an IEP/IFSP team has determined that an LEA pupil 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 AND HIGH SCHOOL EXIT EXAMINATION**

When CONTRACTOR is a nonpublic school, per implementation of Senate Bill 484, CONTRACTOR shall administer all Statewide assessments within the California Assessment of Student Performance and Progress (“CAASP”), Desired Results Developmental Profile (“DRDP”), achievement and abilities tests (using LEA-authorized assessment instruments), the Fitness Gram, California English Language Development Test (“CELDT”), and the California High School Exit Examination, as appropriate to the student, and mandated by LEA pursuant to LEA and state and federal guidelines. NPS staff will be trained 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.

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 pupil placed with CONTRACTOR by the LEA shall be tested, as determined by the pupil’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.

LEA shall provide NPS with the SSID for each LEA pupil. 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 pupils 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**

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.

CONTRACTOR shall maintain a written policy pursuant to California Education Code section 56521.1 regarding emergency interventions and Behavioral Emergency Reports.

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.

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.

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.

CONTRACTOR shall not authorize, order, consent to, or pay for any of the following prohibited interventions, or any other intervention similar to or like the following: (a) any intervention that is designed to, or likely to, cause physical pain; (b) releasing noxious, toxic, or otherwise unpleasant sprays, mists, or substances in proximity to the LEA pupil's face; (c) any intervention which denies adequate sleep, food, water, shelter, bedding, physical comfort, or access to bathroom facilities; (d) any intervention which is designed to subject, used to subject, or likely to subject the LEA pupil to verbal abuse, ridicule, or humiliation, or which can be expected to cause excessive emotional trauma; (e) restrictive interventions which 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 as a short term emergency intervention by CONTRACTOR's trained and qualified personnel as allowable by applicable law and regulations; (f) locked seclusion except as allowable by applicable law and regulations; (g) any intervention that precludes adequate supervision of individual; and (h) any intervention which deprives the LEA pupil of one or more of his or her senses, pursuant to California Code of Regulations 3052(l) (1-8).

### **32. PUPIL DISCIPLINE**

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

When NPS CONTRACTOR seeks to remove a LEA pupil 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 pupil'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 pupil'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**

Upon referral of an LEA pupil to CONTRACTOR, the LEA shall provide CONTRACTOR with a copy of that pupil's IEP/IFSP, as well as available assessment information, and facilitate, if requested, an observation of the pupil. CONTRACTOR retains the right to decline enrollment of any pupil, 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 pupil.

An IEP/IFSP team meeting shall be convened at least annually to evaluate: (1) the educational progress of each pupil 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 pupil continue to be best met at the nonpublic school; and (3) whether changes to the LEA pupil's IEP/IFSP are necessary, including whether the pupil 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.

Each LEA pupil 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 pupils 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 pupil'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.

Changes in any LEA pupil'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 pupil's IEP/IFSP. In the event that the CONTRACTOR believes the pupil requires a change of placement, the CONTRACTOR may request a review of the pupil's IEP/IFSP for the purposes of consideration of a change in the pupil's placement. Pupil 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 pupil 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 pupil in foster care is enrolled in a nonpublic school by the LEA any time after the completion of the pupil's second year of high school, the CONTRACTOR shall schedule the pupil 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 pupils 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 (HIPAA). CONTRACTOR shall include verification of these procedures to the LEA.

### **37. LEA PUPIL PROGRESS REPORTS/REPORT CARDS AND ASSESSMENTS**

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 pupils enrolled in CONTRACTOR's educational program. An updated report shall be submitted if there is no current progress report when LEA pupil is scheduled for a review by the LEA's IEP/IFSP team or when an LEA pupil'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 pupil's parent(s).

CONTRACTOR shall complete academic or other assessment of the LEA pupil one month prior to the LEA pupil's annual or triennial review IEP/IFSP team meeting for the purpose of reporting the LEA pupil'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. CONTRACTOR shall not charge the LEA pupil'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 pupils in grades nine through twelve inclusive, and submit them on LEA approved forms to the LEA pupil'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 pupils and their schools of residence for whom transcripts have been submitted as specified by the LEA.

### **39. LEA PUPIL CHANGE OF RESIDENCE**

Within three (3) school days after CONTRACTOR or LEA becomes aware of a LEA pupil's change of residence, CONTRACTOR shall notify LEA and/or the LEA shall notify CONTRACTOR of the LEA pupil'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 pupil's change of residence. CONTRACTOR shall maintain, and provide upon request by LEA, documentation of such notice to parents.

If the LEA pupil'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 pupil's change of residence, if CONTRACTOR had knowledge or should reasonably have had knowledge of the LEA pupil's change of residence.

#### **40. WITHDRAWAL OF LEA PUPIL FROM PROGRAM**

CONTRACTOR shall immediately report, by telephone, to the LEA when a LEA pupil is withdrawn from school and/or services. CONTRACTOR shall confirm such telephone call on LEA approved forms and submit within three (3) days.

#### **41. PARENT ACCESS**

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.

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.

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.

For services provided in a pupil'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**

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 being visited. 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**

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 pupils as stated in Education Code 56366 (a) (2) (C), 56366.9, Health and Safety Code section 1501.1(b), AB 1858, AB490 (Chapter 862, Statutes of 2003) and the procedures set forth in the LEA Procedures. A LCI shall not require that a pupil be placed in its nonpublic school as a condition of being placed in its residential facility.

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 pupils, including those identified as eligible for special education. For those identified special education pupils, the list shall include: 1) special education eligibility at the time of enrollment, and 2) the educational placement and services specified in each pupil'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**

CONTRACTOR shall allow access by LEA to its facilities for periodic monitoring of each LEA pupil's instructional program and shall be invited to participate in the review of each pupil's progress. LEA shall have access to observe each LEA pupil at work, observe the instructional setting, interview CONTRACTOR, and review each LEA pupil'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.

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).

During the term of this Master Contract, CONTRACTOR shall participate in a District Validation 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. CONTRACTOR shall complete and submit a Nonpublic School/Agency Self-Assessment Checklist submitted as specified in the LEA.

CONTRACTOR shall participate in compliance reviews of LEA in accordance with requirements of CDE. CONTRACTOR will use and follow all LEA forms and procedures required for compliance.

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.

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.

### ***IV. PERSONNEL***

#### **46. FINGERPRINT CLEARANCE REQUIREMENTS**

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 pupils, prior to service with any LEA pupil. 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 pupils 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 pupils, or contractors who may come into contact with LEA pupils 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.

The passage of AB 389 amends Education Code sections 44237 and 56366.1 as to the verification that the CONTRACTOR 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 pupils.** 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**

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 3001(y), 3064 and 3065.

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.

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.

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**

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 pupils 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.

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**

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.

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.

### ***V. HEALTH AND SAFETY MANDATES***

#### **50. HEALTH AND SAFETY**

CONTRACTOR shall comply with all applicable federal, state, local, and LEA laws, regulations, ordinances, policies, and procedures regarding pupil 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 pupil. 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.

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 pupil. 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.

b. 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**

CONTRACTOR shall comply with the requirements of California Education Code section 49423 when CONTRACTOR serves an LEA pupil that is required to take prescription and/or over-the-counter medication during the school day. CONTRACTOR may designate personnel to assist the LEA pupil with the administration of such medication after the LEA pupil's parent(s) provides to CONTRACTOR: (a) a written statement from a physician detailing the type, administration method, amount, and time schedules by which such medication shall be taken; and (b) a written statement from the LEA pupil's parent(s) granting CONTRACTOR permission to administer medication(s) as specified in the physician's statement. CONTRACTOR shall maintain, and provide to LEA upon request, copies of such written statements. CONTRACTOR shall maintain a written log for each LEA pupil to whom medication is administered. Such written log shall specify the LEA pupil'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. 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**

CONTRACTOR shall agree to establish and adhere to a "critical incident protocol" in the event there is an unexpected or unusual incident (school or facility site accident, problematic activity, criminal activity, violent activity, etc.) that occurs within the jurisdiction of the CONTRACTOR. Such a protocol shall include parameters for timely notification to parents/LEA administration/SELPA regarding nature of critical incident. Timely notification to parents/LEA administration/SELPA must be made as soon as reasonably possible and no later than 24 hours via electronic means or telephone. CONTRACTOR shall share such protocol/information with LEA upon request.

**54. MANDATED REPORTING REQUIREMENTS**

CONTRACTOR hereby agrees to annually train all staff members, including volunteers, 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. 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.

CONTRACTOR agrees to provide annual training to all employee and volunteer staff 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 or school volunteer.



CONTRACTOR shall notify the LEA of general concerns regarding the health and safety of a pupil that may impact the pupil's educational program, including the need for mental health services, injuries requiring medical attention or injuries resulting from physical restraint.

**55. SEXUAL HARASSMENT**

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**

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. The written statement shall be submitted as specified by the LEA.

*VI. FINANCIAL*

**57. ENROLLMENT, CONTRACTING, SERVICE TRACKING, ATTENDANCE REPORTING, AND BILLING PROCEDURES**

CONTRACTOR shall assure that the school or agency has the necessary financial resources to provide an appropriate education for the children enrolled and will distribute those resources in such a manner to implement the IEP/IFSP for each and every child.

CONTRACTOR shall be paid for the provision of special education and/or related services specified in the LEA pupil's IEP/IFSP and ISA. All payments by LEA shall be made in accordance with the terms and conditions of this Master Contract.

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.

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.

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

LEA may withhold payment to CONTRACTOR when: (a) CONTRACTOR has failed to perform, in whole or in part, under the terms of this contract; (b) CONTRACTOR was overpaid by LEA as determined by inspection, review, and/or audit of its program, work, and/or records; (c) CONTRACTOR has failed to provide supporting documentation with an invoice, as required by Section 57; (d) education and/or related services are provided to LEA pupils by personnel who are not appropriately credentialed, licensed, or otherwise qualified; (e) 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; (f) 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; or (g) CONTRACTOR receives payment from Medi-Cal or from any other agency or funding source for a service provided to a LEA pupil.

The amount which may be withheld by LEA with respect to each of the subparagraphs of the preceding paragraph are as follows: (a): the value of the service CONTRACTOR failed to perform; (b): the amount of overpayment; (c): the entire portion of the invoice for which satisfactory documentation has not been provided by CONTRACTOR (d): the amount invoiced for services provided by the individual not appropriately credentialed, licensed, or otherwise qualified; (e): 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; or (f): the amount paid to CONTRACTOR by Medi-Cal or another agency or funding source for the service provided to the LEA pupil.

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.

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.

- a. 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.
- b. 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.
- c. Persons involved after sixty-one (61) business days: Dispute Resolution, as defined in the SELPA's Local Plan, shall be followed.

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. PAYMENT FOR ABSENCES

Two accounting/billing options are offered at the discretion of the LEA: "Excused Absence" or "Positive Attendance." In neither case will CONTRACTOR bill for any absences during Extended School Year (ESY).

LEA shall not be responsible for payment for more than 8 cumulative days of absences...of which no more than 3 are unexcused.

On the 4<sup>th</sup> consecutive day of a pupil's absence, CONTRACTOR shall notify LEA of such absence. If CONTRACTOR fails to provide such notice by the 8<sup>th</sup> 4th day of consecutive absence, CONTRACTOR shall not be compensated for services delivered during continuing absence after the 8th consecutive day of excused absence.

The LEA shall not be responsible for payment for more than eight (8) cumulative days of absences in one semester unless a written time extension is granted by LEA.

All excused 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.

Only the individuals listed below may verify the reason for absence:

1. School or public health nurse
2. Physician
3. Principal
4. Teacher
5. School employee assigned to make such verification
6. Student eighteen years of age or over
7. Parent

Any reasonable method which established the reason for the absence may be used:

Written note from parent, guardian, representative or adult pupil (over 18 or emancipated)

Telephone conversation with parent, guardian, representative, or adult pupil (over 18 or emancipated)

Standards for excused absences are defined in the education code. Contractor is responsible for verification of excused absence in accordance with current requirements.

### **Positive Attendance:**

A factor of 1.055 shall be applied to all approved rates when a Positive Attendance method is used. Actual days of attendance without exception shall be counted as a unit of service.

## 61. NONPUBLIC AGENCY PUPIL ABSENCE

If CONTRACTOR is a nonpublic agency, it shall notify LEA of the absence of an LEA pupil no later than the fifth consecutive service day of the pupil'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 pupil's absence. A unit of service for payment purposes shall not be credited to CONTRACTOR for CONTRACTOR'S staff development days.

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.

## **62. INSPECTION AND AUDIT**

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.

CONTRACTOR shall provide access to LEA to all records including, but not limited to: pupil 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.

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); registers and roll books of teachers; daily service logs and notes or other documents used to record the provision of related services; 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; absence verification records (parent/doctor notes, telephone logs, and related documents); bus rosters; staff lists specifying credentials held, business licenses held, documents evidencing other qualifications, social security numbers, dates of hire, and dates of termination; staff time sheets; non-paid staff and volunteer sign-in sheets; transportation and other related service subcontracts; school calendars; bell/class schedules; liability and worker's compensation insurance policies; state nonpublic school and/or agency certifications; marketing materials; by-laws; lists of current board of directors/trustees, if incorporated; statements of income and expenses; general journals; cash receipts and disbursement books; general ledgers and supporting documents; federal/state payroll quarterly reports; and bank statements and canceled checks or facsimile thereof. 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.

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.

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.

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**

**Total Contract not to exceed: \$72,960.00**

The attached rate schedule (Exhibit A) limits the number of 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 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 of a 240 -minute instructional day.

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 Exhibit A.

**4.1 RATE SCHEDULE FOR CONTRACT YEAR**

The CONTRACTOR: \_\_\_\_\_

The CONTRACTOR CDS NUMBER: 1a-01-227

PER ED CODE 56366 – TEACHER-TO-PUPIL RATIO:5

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

a. General Program Tuition Rate

1) Inclusive 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: \_\_\_\_\_


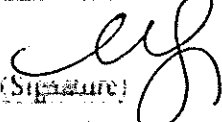
2) Related Services

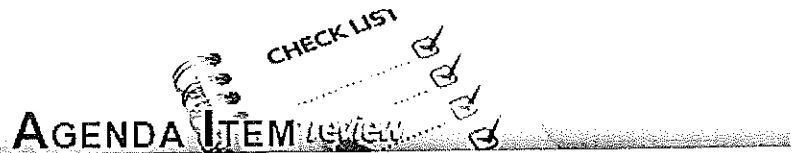
| <u>SERVICE</u>  | <u>RATE</u> | <u>PERIOD</u> |
|---|-------------|---------------|
| <u>Intensive Individual Services (340)</u>                        | _____       | _____         |
| <u>Language and Speech (415) INDIVIDUAL</u>                       | _____       | _____         |
| <u>Language and 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)Tutor</u>        | <u>\$55.00</u>  | <u>per hour</u> |
| <u>Behavior Intervention Services (535)Senior Tutor</u> | <u>\$75.00</u>  | <u>per hour</u> |
| <u>Behavior Intervention –Program Director BCBA</u>     | <u>\$125.00</u> | <u>per hour</u> |
| <u>Interpreter Services (715)</u>                       |                 |                 |
| <u>Audiological Services (720)</u>                      |                 |                 |
| <u>Specialized Vision Services (725)</u>                |                 |                 |
| <u>Orientation and Mobility (730)</u>                   |                 |                 |
| <u>Specialized Orthopedic Services (740)</u>            |                 |                 |
| <u>Reader Services (745)</u>                            |                 |                 |
| <u>Transcription Services (755)</u>                     |                 |                 |
| <u>Recreation Services, Including Therapeutic (760)</u> |                 |                 |
| <u>College Awareness (820)</u>                          |                 |                 |
| <u>Work Experience Education (850)</u>                  |                 |                 |
| <u>Job Coaching (855)</u>                               |                 |                 |
| <u>Mentoring (860)</u>                                  |                 |                 |
| <u>Travel Training (870)</u>                            |                 |                 |
| <u>Other Transition Services (890)</u>                  |                 |                 |
| <u>Other (900)</u>                                      |                 |                 |

MASTER CONTRACT APPROVED BY THE GOVERNING BOARD ON \_\_\_\_\_

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

| -CONTRACTOR-   | -DISTRICT-  |
|--|---|
| Analytical Behavior Consultants<br>(Name of Nonpublic School/Agency)   | MT. DIABLO UNIFIED SCHOOL<br>(Name of School District)  |
|  8/11/16<br>(Signature) (Date) |  8/15/16<br>(Signature) (Date)   |
| Erik Grassi, MA BCBA<br>(Name and Title of Authorized Representative)  | Dr. Wendy S. Aghily, Ed. D. Special Education Director<br>(Name of Superintendent or Authorized Designee)   |
| Erik Grassi, MA BCBA<br>(Notices to Contractor shall be addressed to)  | Dr. Wendy S. Aghily, Ed. D. Special Education Director<br>(Notices to LEA shall be addressed to)  |
| 1340 East 28 <sup>th</sup> Street, Suite C<br>(Contractor Address)   | 1230 Carlotta Drive<br>(LEA Address)  |
| Oakland, CA 94612<br>(Contractor City, State, Zip Code)  | Concord, CA 94521<br>(LEA City, State, Zip Code)  |
| Phone: 510-881-6212<br>Fax:<br>Email: erik@abcbehavior.com<br>Website: http://www.abcbehavior.com/index.html   | Phone: 925-682-8000 ext. 4047<br>Fax: 925-682-3119<br>Email: waghily@mtusd.org<br>Website: www.mtusd.org  |
|  | Bryan Cassin, ADR Administrator<br>(Additional Notice to LEA shall be addressed to)<br><br>Phone: 925-682-8000 ext. 4192<br>Fax: 925-682-3119<br>Email: bcassin@mtusd.org |



**Meeting Date:** 8/22/2016 - 7:00 PM

**Category:** Consent Agenda

**Type:** Action

**Subject:** 13.11 (Item #11) Approval of Non-Public Agency Master Contract with Analytical Behavioral Consultants for the 2016-17 School Year

**Strategic Plan:** Strategic Initiative 1.2 Academic Excellence and Learning  
Implement programs that support 21st century skills, leading to college and career readiness, including collaboration, innovation, critical thinking, problem solving, communications, social and civic responsibility, cultural confidence, and career decision making skills.

**Policy:**

**Enclosure:**

**File Attachment:** ANALYTICAL BEHAVIOR CONSULTANTS CONTRACT.pdf  
 ANALYTICAL BEHAVOIR CONSULTANT INS..pdf

**Summary:** Analytical Behavior Consultants is a California certified non-public agency that provides intensive behavioral services at the request of Mt. Diablo Unified. The request for funds is to continue providing a highly specialized in home program for one home-bound student.

**Funding:** General Purpose/Special Education  
Program Code 1661 Non-Public Agencies

**Fiscal Impact:** The requested amount of \$72,960 is a budgeted expense in the 2016-17 budget. No additional funds are requested.

**Recommendation** Approve the master contract with Analytical Behavior Consultants for the 2016-2017 school year.

**Recommended By:**

**Signed By:** *Signature*  
Bryan Cassin - None

**Signed By:** *Signature*  
Wendi Aguily - Director Special Education

**Approvals:** **Signed By:** *Signature*  
Nance Juner - Director of Fiscal Services

**Signed By:** *Signature*  
Deborah Cooksey - Associate General Counsel

**Signed By:** *Signature*  
Dr. Nellie Meyer - Superintendent

**Original Motion**

Member **Linda Mayo** Moved, Member **Debra Mason** seconded to approve the **Original** motion 'Approve the master contract with Analytical Behavior Consultants for the 2016-2017 school year.'. Upon a Roll-Call Vote being taken, the vote was: Aye: **5** Nay: **0**.  
The motion **CARRIED 5 - 0**

**Vote Results:**

Linda Mayo Yes  
Cheryl Hansen Yes



|                |     |
|----------------|-----|
| Brian Lawrence | Yes |
| Barbara Oaks   | Yes |
| Debra Mason    | Yes |

## Certificate of Insurance (Proof of Coverage) Date Issued: 2/4/2016

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.

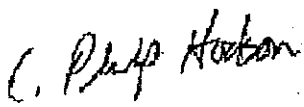
| Insured Name and Mailing Address*  | Program Administrator   |
|--|---|
| Analytical Behavior Consultants<br>Erik Grasso<br>1340 28th Street, Suite C<br>Oakland, CA 94606   | Administered By:<br>CPH and Associates<br>711 S. Dearborn, Suite 205<br>Chicago, IL 60605<br>P. 312-987-9823 F. 312-987-0902<br>info@ephins.com<br>Underwritten By:<br>Philadelphia Indemnity Insurance Company |
| *Additional insured locations are often requested by individual business owners who have more than one office. Your coverage is portable, meaning that you are covered at any location for practice under the occupation(s) listed on your policy. |   |

| Coverage         |                            |                             |
|------------------|----------------------------|-----------------------------|
| Policy #: 076351 | Effective Date: 01/17/2016 | Expiration Date: 01/17/2017 |

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. AGGREGATE LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

| Limits of Liability                              |  | Coverage Part  |
|--|--|--|
| EACH OCCURRENCE<br><i>(Per individual claim)</i> | AGGREGATE<br><i>(Total amount per policy year)</i> |  |
| \$1 Million                                      | \$3 Million  | Professional Liability   |
| \$2,000,000                                      | \$4,000,000  | Commercial General Liability<br>Includes: General Liability, Fire & Water<br>Legal Liability, and Personal Liability |
| \$15,000   | \$15,000   | Property Coverage  |
| \$1 Million                                      | \$3 Million  | Supplemental Liability   |
| Unlimited  | Unlimited  | Defense Expense Coverage   |
| \$35,000   | \$35,000   | State Licensing Board Investigation Defense<br>Coverage  |
| \$15,000   | \$15,000   | Assault Coverage   |
| \$10,000   | \$35,000   | Deposition Expense Benefit   |
| \$5,000/person                                   | \$50,000   | Medical Expense Coverage   |
| \$15,000   | \$15,000   | First Aid Coverage   |

Description/Special Provisions:

| Certificate Holder  |   |
|---|---|
| Mt. Diablo Unified School District<br>1936 Carlotta Drive<br>Concord, CA 94519  | SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS.  |
| Holder has also been added to the policy as an additional insured:**<br><input checked="" type="checkbox"/> YES <input type="checkbox"/> NO<br><br>**If the certificate holder is an ADDITIONAL INSURED, the policy(ies) must be endorsed. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s). | Authorized Representative<br><br><div style="text-align: right;"> <br/>                     C. Philip Hodson                 </div> |

DISCLAIMER: The Certificate of Insurance does not constitute a contract between the issuing insurer(s), authorized representative or producer, and the certificate holder, nor does it affirmatively or negatively amend, extend, or alter the coverage afforded by the policies listed thereon

**THIS ENDORSEMENT CHANGED THE POLICY. PLEASE READ IT CAREFULLY**

**Additional Insured Endorsement**

This endorsement modifies insurance provided under the following:

**ALLIED HEALTHCARE PROVIDERS PROFESSIONAL  
AND SUPPLEMENTAL LIABILITY POLICY**

In consideration of the premium paid, this policy is amended as follows:

**Mt. Diablo Unified School District** is hereby added as an Additional Insured, solely for **Damages** arising out of a **Professional Incident** covered under this policy. The **Professional Incident** must arise out of services provided by the **Insured**, under contract with **Mt. Diablo Unified School District**.

Additional Insured Name and Mailing Address:

Mt. Diablo Unified School District

1936 Carlotta Drive  
Concord, CA 94519

**\*\*Added to the policy effective 01/17/2016, at the additional premium of \$83.75.**

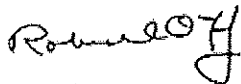
All other terms and conditions of this policy remain unchanged. This endorsement is part of your policy and takes effect on the effective date of your Policy, unless another effective date is shown below.

---

Policy: 076351  
Effective on and after: 01/17/2016  
Issued to: Analytical Behavior Consultants  
Expiration date: 01/17/2017

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PI-PHCP-3(03/01)



By: Robert O'Leary, Authorized Representative



P.O. BOX 8192, PLEASANTON, CA 94588

CERTIFICATE OF WORKERS' COMPENSATION INSURANCE

ISSUE DATE: 01-04-2016

GROUP:  
POLICY NUMBER: 9150014-2015  
CERTIFICATE ID: 1  
CERTIFICATE EXPIRES: 12-31-2016  
12-31-2015/12-31-2016

MT. DIABLO SCHOOL DISTRICT  
1938 CARLOTTA DR  
CONCORD CA 94519-1358

NA

This is to certify that we have issued a valid Workers' Compensation insurance policy in a form approved by the California Insurance Commissioner to the employer named below for the policy period indicated.

This policy is not subject to cancellation by the Fund except upon 10 days advance written notice to the employer.

We will also give you 10 days advance notice should this policy be cancelled prior to its normal expiration.

This certificate of insurance is not an insurance policy and does not amend, extend or alter the coverage afforded by the policy listed herein. Notwithstanding any requirement, term or condition of any contract or other document with respect to which this certificate of insurance may be issued or to which it may pertain, the insurance afforded by the policy described herein is subject to all the terms, exclusions, and conditions, of such policy.

Authorized Representative

President and CEO

EMPLOYER'S LIABILITY LIMIT INCLUDING DEFENSE COSTS: \$1,000,000 PER OCCURRENCE.

ENDORSEMENT #1700 - KENT, WILLIAM - EXCLUDED.

ENDORSEMENT #1700 - GRASSO, ERIK - EXCLUDED.

EMPLOYER

ABC ANALYTICAL BEHAVIOR CONSULTANTS AND  
(PARTNER)  
1340 28TH ST  
OAKLAND CA 94606

NA

(P10,HO)

PRINTED : 01-04-2016



• GOVERNMENT EMPLOYEES INSURANCE COMPANY

ONE GEICO PLAZA  
WASHINGTON, D.C. 20076-0001

Telephone: 1-866-272-5192  
Fax: 1-855-238-8055

Policy Number: P 7274613

11/19/15

WILLIAM J KENT  
JULIA KAY JENNETTE  
6226 ANTIOCH ST  
OAKLAND CA 94611

Dear GEICO Policyholder,

Your GEICO's PERSONAL UMBRELLA Policy is enclosed.

You've made a wise decision to provide yourself and your loved ones with this level of extra liability coverage.

Your GEICO PERSONAL UMBRELLA policy is specifically designed to protect you against possible liabilities that might exceed the limits of your primary GEICO policy, or another policy. Also, the GEICO PERSONAL UMBRELLA policy covers you for some things that may not be covered by any other insurance you have.

So, please take a few minutes now to review the coverage descriptions in your policy. It's important to make sure you fully understand the provisions of your policy -- what's covered and what's not -- and to be sure the coverage meets your needs.

A policy application is included in your package. Please complete, sign the application, and return it to us as soon as possible, if you have not previously done so. A postage-paid return envelope has been provided for your convenience.

Certainly, we hope the time never comes when you'll have to file a claim. But, if you do have a claim to report that may involve your GEICO PERSONAL UMBRELLA policy, simply call toll-free -- 1-800-841-3000 any time of the day or night. Here's what to do:

1. Tell the GEICO representative that you are a GEICO PERSONAL UMBRELLA policyholder. (Have your policy number ready for your auto, homeowner, watercraft and boat policies as appropriate.)
2. Tell the representative the details of the accident or occurrence. The representative will refer your loss report to our Umbrella expert for handling.

It's a pleasure to welcome you as a new GEICO PERSONAL UMBRELLA policyholder. We hope to continue serving your insurance needs for many years to come.

Sincerely,

O. M. Nicely  
President

000101727461300004013001080

PXLNB (9-00)

**PERSONAL UMBRELLA INSURANCE POLICY APPLICATION**  
**To Government Employees Insurance Company**

WILLIAM J KENT  
 JULIA KAY JENNETTE  
 6228 ANTIOCH ST  
 OAKLAND CA 94611



Thank you for providing us with the information that allowed us to issue the enclosed policy. This policy was issued subject to your submitting the documents requested below, and our favorable underwriting review of those documents.

You must maintain certain minimum liability coverages on your current policy/policies in order to qualify for a Pacesetter-Plus policy. These limits are Bodily Injury limits for automobile/motorcycle insurance of \$300,000/\$300,000 and Property Damage limits of \$100,000; Homeowner/Renter/Condominium policy Personal Liability (CPL), of \$300,000; Watercraft Liability for Boatowners: boats under 26 feet in length and 50 horsepower and under -- \$100,000, boats 26 feet or more in length or over 50 horsepower -- \$300,000. GEICO can adjust your current GEICO Auto policy limits to the required limits for you. If your policy(ies) is/are not with GEICO you must check your current limits, adjust if necessary and provide us with a copy of the declaration sheet.

**Important Please Read and Comply**

The enclosed umbrella policy has been issued in reliance on the information you provided to us over the telephone. You must obtain a copy of the declaration pages for all non-GEICO policies, complete this application within 10 days and mail everything to us within the next 10 days. If we do not receive the acceptable documents as required, we will advise you that this policy will be cancelled.

Be sure to answer all questions, and please call us at 866-272-5192 if you need help completing this application or obtaining your declaration pages.

**APPLICATION MUST BE COMPLETED, SIGNED AND RETURNED**

**VEHICLE POLICY INFORMATION**

(Please complete all information below)

Does GEICO insure all vehicles owned or leased by you and/or any children/relatives who reside in your household?

Yes  No If yes, Policy Number: \_\_\_\_\_

Be advised if your GEICO automobile policy liability limits do not meet the minimum liability limits required, your GEICO automobile liability policy limits will be increased to \$300,000/\$300,000/\$100,000.

Do you use a Company car?  Yes  No Year and Make: \_\_\_\_\_

If you want coverage for the personal use of this vehicle, please contact us for a premium quote.

Do you own a motorcycle?  Yes  No antique vehicle?  Yes  No classic vehicle?  Yes  No

Please check all that apply.

Describe any recreational vehicles (such as dirt bikes, ATV's, etc.): \_\_\_\_\_

**INFORMATION ON RESIDENCES/PROPERTIES**

Do you own a pool?  Yes  No If yes, does your Homeowner's policy provide coverage?  Yes  No

Is your pool equipped with a slide or diving board?  Slide  Diving Board  Neither

Is your pool fenced in?  Yes  No

Do you own a trampoline?  Yes  No If yes, does your Homeowner's policy provide coverage?  Yes  No

Do you own Farm Property?  Yes  No If yes, is the property leased or used for commercial use?  Yes  No

If yes, please explain how property is used: \_\_\_\_\_  Yes  No

Do you conduct business activities on any properties? \_\_\_\_\_

If yes, explain the activity: \_\_\_\_\_

Does the activity involve anyone coming onto the premises?  Yes  No If yes, how many per day? \_\_\_\_\_

Do you operate a daycare business on any properties?  Yes  No If yes, number of children per day: \_\_\_\_\_

(Residences/Properties Continued on Reverse Side)

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**PERSONAL UMBRELLA INSURANCE POLICY APPLICATION (CONT'D)**

**INFORMATION ON RESIDENCES/PROPERTIES (CONT'D)**

Please advise whether any of the activities above are covered by your:  Homeowners policy  or another policy  
 or not at all

Homeowner Association policies, Co-Ops or Condominium Association fees do not provide personal liability coverage and are not acceptable underlying coverage.

**EMPLOYMENT INFORMATION**

Name: \_\_\_\_\_ Current Job Title: \_\_\_\_\_

Employer: \_\_\_\_\_

If retired, give former occupation: \_\_\_\_\_

Name of Co-Insured: \_\_\_\_\_ Current Job Title: \_\_\_\_\_

Employer: \_\_\_\_\_

If retired, give former occupation: \_\_\_\_\_

Have you or your spouse/registered domestic partner been employed at any time during the past 10 years as:

A professional entertainer or athlete?  Yes  No

A reporter or journalist?  Yes  No

An elected or appointed public official?  Yes  No

Do you or your spouse hold any positions as an officer or director of any organizations?  Yes  No

If Yes, please provide complete details including other policies such as Errors & Omissions and Directors & Officers: \_\_\_\_\_

**PRIOR EXPERIENCE**

Have any liability claims been brought against you or any member of your household in the past 10 years?  Yes  No

Have you or any member of your household had any convictions for traffic violations or been involved in any accidents in the past 5 years?  Yes  No

Have any civil lawsuits or criminal charges been brought against you or any member of your household in the past 10 years?  Yes  No

If you answered YES to any of the above questions, please provide complete details (such as date and type of loss, amount(s) paid, previous insurance co., civil or criminal charge, etc.): \_\_\_\_\_

**OTHER INFORMATION**

Do you or any member of your household own or are responsible for any animals?  Yes  No

If yes, indicate the type, breed, and number: \_\_\_\_\_

Provide details of all injuries, accidents, losses, claims or suits caused by or pertaining to your animal(s): \_\_\_\_\_

Does your homeowner's policy limit or exclude the animal?  Yes  No

Was any insurance coverage declined, canceled, or not renewed in the last 3 years?  Yes  No

If Yes, please specify which coverage and provide all details concerning declination, cancellation or non-renewal: \_\_\_\_\_

To the best of your knowledge, are you aware of any incidents that may result in a liability claim or suit against you?  Yes  No

If Yes, please give details: \_\_\_\_\_

**PERSONAL UMBRELLA INSURANCE POLICY APPLICATION (CONT'D)**

Please review all information below. If the information provided is incorrect, make changes as appropriate. Provide information in all blank areas.

**AUTOMOBILE**

Year: 2016 Make: SUBARU  
Name of Insurance Company: GEICO  
Liability Limits- Bodily Injury: 300,000/300,000

Last 4 digits of VIN: 5965

Policy Number: \_\_\_\_\_  
Property Damage: 100,000

**AUTOMOBILE**

Year: 2012 Make: HONDA  
Name of Insurance Company: GEICO  
Liability Limits- Bodily Injury: 300,000/300,000

Last 4 digits of VIN: 3098

Policy Number: \_\_\_\_\_  
Property Damage: 100,000

**PRIMARY RESIDENCE**

Address: 6226 ANTIOCH ST OAKLAND CA 94611  
Name of Insurance Company: HOMESITE  
Liability Limits: 100,000

Policy Number: \_\_\_\_\_

Check one:  Occupied by Me  Rented to Others  Vacant  
Is property occupied by two or more families?  Yes  No



PERSONAL UMBRELLA INSURANCE POLICY APPLICATION (CONT'D)

ADDITIONAL INFORMATION

If you own any additional automobiles, motorcycles, residential properties or boats not listed on the prior page(s), please provide information for each as requested below.

For automobiles and motorcycles, please provide Year, Make, Last Four Digits of Vehicle Identification Number (VIN) Name of Insurance Company, Policy Number and Liability Limits. List all operators and years of experience.

For properties, please provide complete Address, Name of Insurance Company and Policy Number, Name of Co-owner (if any) and Relationship of Co-owner to Owner. Please indicate whether the property is occupied by you, rented to others or vacant. Also indicate whether or not the property is occupied by two or more families.

For watercrafts, please provide Year, Make, Model, Horsepower (Engine 1 and/or Engine 2), Maximum Speed, Length, Name of Insurance Company, Policy Number, Liability Limits, Name of Co-owner (if any) and Relationship of Co-owner to Owner. Also indicate whether or not the vessel is operated in foreign waters. Specify where the vessel will be operated and where the vessel will be docked or moored. List all operators and years of experience.

Multiple horizontal lines for providing additional information.

I certify that all information provided by me is true and that I have reviewed all pre-printed information and that it is correct. I request that GEICO, in reliance thereon, issue this insurance, to become effective at 12:01 a.m. standard time on 11/19/15

Telephone Numbers: Home: \_\_\_\_\_ Work: \_\_\_\_\_

Your e-mail address: \_\_\_\_\_

Signature of Applicant: \_\_\_\_\_

X \_\_\_\_\_ Date: \_\_\_\_\_

APPLICATION MUST BE COMPLETED, SIGNED AND RETURNED

Important Notice: Any person who knowingly makes an application for motor vehicle insurance coverage containing any statement that the applicant resides or is domiciled in this state, when, in fact, that applicant resides or is domiciled in a state other than this state, is subject to criminal and civil penalties.

Office Use Only: POLICY NO. 7274613



P279CA (08-06)

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GOVERNMENT EMPLOYEES INSURANCE COMPANY  
 ONE GEICO PLAZA, WASHINGTON, D.C. 20076

**GEICO'S PERSONAL  
 UMBRELLA POLICY  
 NEW BUSINESS DECLARATIONS**

POLICY NUMBER P 7274613

Policy Period From 11/19/15 To 11/19/16

PHC NB-CA- 11/19/15

INSURED NAME AND ADDRESS

WILLIAM J KENT  
 JULIA KAY JENNETTE  
 6226 ANTIOCH ST  
 OAKLAND CA 94611

THIS POLICY IS EFFECTIVE AT 12:01 A.M. STANDARD TIME AT THE RESIDENCE OF THE INSURED. INSURANCE IS PROVIDED WITH RESPECT TO THE FOLLOWING COVERAGES AND LIMITS SPECIFIED WHERE A PREMIUM IS STATED, SUBJECT TO ALL CONDITIONS OF THIS POLICY.

| I. LIMIT OF LIABILITY | \$2,000,000 | II. RETAINED LIMIT | \$500 | III. RATING INFORMATION                               | IV. PREMIUM | V. MINIMUM REQUIRED LIMITS OF PRIMARY INSURANCE |
|-----------------------|-------------|--------------------|-------|---|-------------|---|
|                       |             |                    |       | AUTOMOBILE<br>2016 SUBARU                             | \$ 66.00    | \$ 300,000/300,000/100,000                      |
|                       |             |                    |       | AUTOMOBILE<br>2012 HONDA                              | \$ 66.00    | \$ 300,000/300,000/100,000                      |
|                       |             |                    |       | PRIMARY RESIDENCE<br>6226 ANTIOCH ST OAKLAND CA 94611 | \$ 75.00    | \$ 300,000                                      |
|                       |             |                    |       | PREMIUM FOR ADDITIONAL COVERAGE TO<br>SECOND MILLION  | \$ 135.00   |   |
|                       |             |                    |       | TOTAL PREMIUM   | \$ 342.00   |   |

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GOVERNMENT EMPLOYEES INSURANCE COMPANY  
ONE GEICO PLAZA, WASHINGTON, D.C. 20076

POLICY NUMBER P 7274613

PHC NB-CA- 11/19/15

FORMS AND ENDORSEMENTS

PPA1CA (07-00) PPA1CA Personal Umbrella Liability  
PPE1CA (07-11) PPE1CA Policy Amendment (California)

IMPORTANT MESSAGES

OFFICE USE ONLY

**GEICO'S PERSONAL UMBRELLA POLICY**  
**PERSONAL UMBRELLA LIABILITY INSURANCE**  
**AGREEMENT (CALIFORNIA)**

We provide the insurance in this policy in return for payment of the premium when due and compliance with the policy provisions.

**PART I - DEFINITIONS**

In this policy, "you" and "your" mean the *insured* named in the declarations and spouse if a resident of *your* household. "We", "us" and "our" mean the Government Employees Insurance Company. Other words are defined as follows:

1. "Auto" means:

- (a) an owned or non-owned auto as defined in *your* primary automobile liability insurance policy; or
- (b) any other vehicle described in the policy *declarations*.

2. "Business" includes full-time or part-time trades, professions or occupations.

3. "Business property" means:

- (a) any property on which business is conducted; and
- (b) any property containing more than two residential units.

4. "Damages" means the total of:

(a) damages an *insured* must pay:

- (1) legally; or
- (2) by agreement with *our* written consent;

because of *personal injury* or *property damage* covered by this policy.

(b) reasonable expenses an *insured* incurs at *our* request in the:

- (1) investigation;
- (2) defense; and
- (3) settlement

of a claim or suit because of *personal injury* or *property damage* covered by this policy.

(c) "Damages" does not include:

- (i) salaries of an *insured's* regular employees; or
- (ii) expenses payable under Part V. of this policy; or
- (iii) punitive or exemplary damages.

5. "Day care" means the care of persons other than an *insured* or relative, performed by an *insured* or an employee of an *insured* for monetary or other compensation. Mutual exchange of *day care* services is not considered as compensation.

6. "Declarations" wherever used in this policy, means the declarations page or pages for this policy.

7. "Insured" means:

(a) *You* and *your* spouse if a resident of *your* household; but with respect to an *auto* *you* do not own or lease which is furnished for regular use by *you* or *your* spouse, coverage applies only if the *auto* is insured by a primary auto policy.

(b) Relatives residing in *your* household as well as a household resident under age 21 in the care and custody of *you* or *your* spouse. With respect to an *auto*, such person is an *insured* only if the *auto* is insured by a primary policy issued by *us*.

(c) Persons not defined in 7.(a). or 7.(b). above, if using an *auto* or *watercraft* owned or furnished for the regular use of a person defined in 7.(a). or 7.(b). above, provided the use is with permission. With respect to an *auto*; such person is an *insured* only if the *auto* is insured by a primary policy issued by *us*.

(d) Any person or organization legally responsible for the acts or omissions of a person for whom coverage is afforded under the policy; while that person is using an *auto* or *watercraft* insured by a primary policy.

(e) Any person or organization legally responsible for damages caused by animals owned by *you*, *your* spouse, and residents of *your* household who are relatives or persons under *your* care and custody.

(f) The following are not "Insureds":

(1) the owner or lessor (or their agents or employees) of:

- (i) an *auto*;
- (ii) recreational vehicle; or
- (iii) *watercraft*

loaned to or hired for use by *you* or on *your* behalf.

(2) a person other than an *insured* shown in 7.(a) or 7.(b) above using an *auto* or *watercraft* while employed in the business of:

- (i) selling;
- (ii) servicing;
- (iii) repairing;
- (iv) maintaining;
- (v) parking;
- (vi) docking;
- (vii) mooring; or
- (viii) storing

*autos* or *watercraft*. This includes a person other than an *insured* or organization employing or engaging a person using the *autos* or *watercraft* in the above activities.

(3) a person or organization with custody of animals owned by an *insured* in 7.(a) or 7.(b) above, in the course of any business or without the consent of an *insured* in 7.(a) or 7.(b) above.

As regards 7.(b), 7.(c) and 7.(d) above, if the *auto* is not an owned auto or non-owned auto as defined in your primary automobile liability insurance policy, but is described on this policy's *declarations*, the required *primary insurance* need not be issued by us.

8. "*Occurrence*" means an accident or event, including a continuous or repeated exposure to conditions which results in *personal injury* or *property damage* neither expected or intended by you.

9. "*Personal Injury*" means:

- (a) mental or bodily injury, shock, sickness, disease or death including care and loss of services; or
- (b) injury arising out of:
  - (i) false arrest, detention or imprisonment, or malicious prosecution; or
  - (ii) libel, slander, defamation, humiliation, or a publication or utterance in violation of a person's right of privacy not arising out of any business pursuit of any *insured*; or
  - (iii) wrongful entry or eviction, or other invasion of the right of private occupancy.

10. "*Personal watercraft*" means *watercraft* specifically designed to hold four or fewer persons and propelled by a jetpump and/or impeller.

11. "*Primary insurance*" means insurance:

- (a) for which a minimum required liability limit is shown on the *declarations*; and
- (b) which is payable on behalf of an *insured* for liability for *personal injury* or *property damage*; and
- (c) which must be maintained as a condition of this policy.

12. "*Property damage*" means damage to or loss of use of tangible property.

13. "*Retained limit*" is the amount of any *damages* an *insured* must pay for any *occurrence* resulting in *personal injury* or *property damage* which is not covered by your *primary insurance*. The *retained limit* is as shown in Item II of the *declarations*.

14. "*Watercraft*" means a vessel intended for navigation on water. "*Watercraft*" as used in this policy does not include *personal watercraft* as defined in this policy.

Any terms that are not specifically defined in this policy will follow the definitions of your primary insurance policy.

## PART II - COVERAGE

We pay *damages* on behalf of an *insured* arising out of an *occurrence*, subject to the terms and conditions of this policy.

## PART III - EXCLUSIONS

We do not cover *damages* resulting from:

1. *Personal injury* to a person eligible for payments voluntarily provided by an *insured* or required to be provided under:
  - (a) workers' compensation laws;
  - (b) non-occupational disability laws; or
  - (c) occupational disease laws.
2. The ownership, maintenance, use, loading or unloading of any aircraft. Model or hobby aircraft are not excluded if not designed to carry people or cargo.
3. The rendering of or failure to render professional services.
4. Acts committed by or at an *insured's* direction with intent to cause *personal injury* or *property damage*. This exclusion does not apply to *personal injury* or *property damage* resulting from an act committed by an *insured* with reasonable and legally permissible force to protect persons and property from injury or damage. This exclusion also does not apply to Part I., Item 9(b).
5. *Business* pursuits or *business property* of an *insured* unless covered by *primary insurance* described in the *declarations*. Our coverage is no broader than the *primary insurance* except for our liability limit.
6. The ownership, maintenance, use, loading or unloading of any *watercraft* owned by an *insured*. This exclusion does not apply:
  - (a) if on the policy's effective date, the *watercraft* is covered by *primary insurance* and a premium is shown in the *declarations*; or
  - (b) if we are informed within 30 days after the *watercraft* is obtained and is covered by *primary insurance* and an additional premium is paid to us; or
  - (c) while the *watercraft* is stored.

A premium need not be shown in the *declarations* if the required *primary insurance* is a Homeowners policy.

7. *Property damage* to:

- (a) property owned by an *insured*; or
- (b) aircraft or *watercraft* rented to, used by, or in the care of an *insured*; or
- (c) property rented to, used by, or in the care of an *insured*.

8. *Personal injury* or *property damage* for which an *insured* under this policy is also insured under a nuclear energy liability policy. This includes a policy which would cover *damages* but for its termination because the limits of liability were exhausted. A nuclear energy liability policy is a policy issued by:

- (a) Nuclear Energy Liability Insurance Association;
- (b) Mutual Atomic Energy Liability Underwriters;
- (c) Nuclear Insurance Association of Canada

or any of their successors.

9. Liability arising from serving on a board of directors, or as an officer of an organization. This exclusion does not apply if the service is performed for a charitable, religious or civic non-profit organization and for which the *insured* receives no compensation.

10. *Personal injury* to any *insured*.

11. The transmission of a communicable disease by an *insured*

12. *Personal injury* or *property damage* resulting from an uninsured or underinsured motorist claim unless a premium is shown for the uninsured or underinsured motorist coverage in the *declarations*.

13. *Day care* services unless covered by *primary insurance*.

14. Sexual molestation, corporal punishment or physical or mental abuse inflicted upon any person by or at the direction of an *insured*, an *insured's* employee or any other person at an *insured's* direction.

15. The use of any motor vehicle or *watercraft*, other than a sailboat, in preparing for or participating in any official or prearranged speed contest.

16. An award of punitive or exemplary damages.

17. War as defined in the underlying auto policy.

18. The possession, use, sale or manufacture by any person of a controlled substance as defined by the Federal Food and Drug Law at 21 U.S.C.A., sections 811 and 812. This exclusion does not apply to the legitimate use of prescription drugs as prescribed by a properly licensed medical practitioner.

19. The escape of fuel from a fuel system including storage tanks located under or above the ground.

20. The ownership, maintenance, use, loading or unloading of *personal watercraft*.

21. The ownership, maintenance, use, loading or unloading of a snowmobile.

PART IV - LIMITS OF LIABILITY

Regardless of the number of *insureds*, claims or injured persons, the most we pay as *damages* resulting from one *occurrence*, including *damages* for care and loss of services, shall not exceed the amount in Item 1. of the *declarations*, subject to the following:

1. If both *primary insurance* and this policy cover an *occurrence*, we pay only those *damages* which exceed the liability limits in Item V. of the *declarations*, or any applicable primary policy, whichever is greater.

2. If *primary insurance* is not in force at the time of loss, or its liability limits are less than shown in Item V. of the *declarations*, we pay only those *damages* which exceed the liability limits in Item V. of the *declarations*.

3. If a primary insurer does not pay because of:

- (a) bankruptcy; or
- (b) insolvency; or
- (c) an *insured's* failure to comply with a provision of *primary insurance*;

we pay only those *damages* which exceed the liability limits in Item V. of the *declarations*, or any applicable primary policy, whichever is greater.

4. If an *occurrence* results in *personal injury* or *property damage*, and:

- (a) is not covered under the terms and conditions of *your primary insurance*, but
- (b) is covered by this policy,

we pay only those *damages* which exceed *your retained limit*.

This insurance applies separately to each *insured*. This provision shall not increase our liability limit for one *occurrence*.

PART V - DEFENSE OF SUITS NOT COVERED BY OTHER INSURANCE

1. If the required *primary insurance*:

- (a) is in force but does not cover *personal injury* or *property damage* due to the nature of the claim against you, and this policy does provide coverage, we will provide defense of suits in excess of the *retained limit*.
- (b) is in force but does not cover *personal injury* or *property damage* for any other reason, and this policy does provide coverage, we have the right to provide defense. But we are not obligated to defend unless the *personal injury* or *property damage* alleged in the suit exceeds the required limit of *primary insurance* shown in Item 5. of the *declarations*.

2. When we provide defense, we will:

- (a) defend an *insured* against a claim or suit for damages arising out of an *occurrence*. We may investigate and settle a claim or suit we feel is appropriate;
- (b) pay costs taxed against an *insured* in a suit we defend;
- (c) pay interest accruing after a judgment is entered in a suit we defend; *our* duty to pay interest ends when we offer to pay that part of the judgment which does not exceed *our* liability limit;
- (d) pay premiums on bonds required in a suit we defend; however, we will pay premiums for appeal bonds only from judgments from which we authorize an appeal. The bond amounts shall not exceed *our* liability limit. We pay the cost of bail bonds required of an *insured* because of an accident or a traffic law violation. We are not required to apply for or furnish bonds;
- (e) pay reasonable expenses an *insured* incurs at *our* request in assisting *us* in the investigation or defense of a claim or suit. Expenses include actual loss of earnings (not other income) up to \$100 per day or \$5,000 total.

We pay amounts incurred, except settlement of claims or suits for *damages*, in addition to *our* liability limit.

An *insured* shall promptly repay *us* for *damages* we paid within the *retained limit*.

#### PART VI - CONDITIONS

##### 1. Duties after Occurrence, Claim or Suit

- (a) If an *occurrence* is likely to involve *us* under this policy an *insured* shall promptly advise *us* of;
  - (1) how, when and where the *occurrence* took place; and
  - (2) names and addresses of the injured and all witnesses.
- (b) If information regarding a claim is received or if legal action is begun, an *insured* must immediately send *us* a copy of every:
  - (1) notice;
  - (2) demand;
  - (3) report;
  - (4) summons; or
  - (5) other legal papers.
- (c) An *insured* must cooperate with *us* in the investigation, defense and settlement of a claim or suit.
- (d) An *insured* must comply with the policy provisions of the *primary insurance*.

2. **Defense and Settlement.** Except as provided in Part V., we are not required to take charge of the investigation, defense or settlement of a claim or suit. We have the right at any time to join an *insured* or the primary insurers in the investigation, defense and

settlement of a claim or suit. If the *primary insurance* limit is paid, we have the option to defend a claim or suit. We may investigate and settle a claim or suit which we feel is appropriate.

3. **Appeals.** We may appeal a judgment in excess of the applicable *primary insurance* limit or the *retained limit*. We pay all:

- (a) costs;
- (b) taxes;
- (c) expenses; and
- (d) interest

for which an *insured* is legally liable and which are not covered by a *primary insurance* policy. *Our* liability for damages does not exceed *our* liability limit for one *occurrence* plus the cost and expense of the appeal.

4. **Suit Against Us.** No action shall be brought against *us*:

- (a) unless an *insured* has complied with the policy provisions; and
- (b) until the obligation of an *insured* has been determined by trial and judgment or by agreement signed by *us*.

No one shall have a right to join *us* as a party to an action against an *insured*.

5. **Other Insurance.** This insurance is excess over any insurance which covers a loss under:

- (a) *your primary insurance*; or
- (b) any other insurance policies.

6. **Our Right To Recover Payment.** If payment is made by *us*, we will join an *insured* and any primary insurer in exercising an *insured's* rights of recovery against any party. An *insured* shall not prejudice such rights after loss. Recoveries shall be made in the following order:

- (a) repay the parties (including an *insured*) who paid in excess of *our* liability limit;
- (b) repay *us* the amount we paid; and
- (c) repay the parties (including an *insured*) to whom this insurance is excess, if they are entitled to any remainder.

A different distribution may be made to settle a claim or suit if all parties agree.

Reasonable expenses of obtaining recovery shall be divided among all parties in the ratio of their losses for which recovery is sought.

7. **Assignment.** *Your* rights and duties under this policy shall not be assigned without *our* written consent.

8. **Policy Period and Territory.** We cover *personal injury* and *property damage* which takes place anywhere during the time this policy is in force. If *you* travel outside the United States, *you* must maintain the equivalent of *your* primary insurance. We pay only those *damages* which exceed the liability limits in Item V of the *declarations*, or any applicable primary policy, whichever is greater.

8. Termination.

(a) Cancellation

You may cancel this policy by returning it to us or by notifying us in writing of the cancellation date. Any return premium will be calculated on a short-rate basis.

We may cancel this policy for non-payment of premium by notifying you in writing at least 10 days in advance.

If this policy is not a renewal, and has been in effect less than 60 days, we may cancel for any reason by notifying you in writing at least 30 days in advance.

If this policy is a renewal, or has been in effect 60 days or more, we may cancel:

- (1) if there has been a material misrepresentation of fact, made by you or with your knowledge, which if known to us would have caused us not to issue the policy; or
- (2) if the risk has changed substantially since the policy was issued. Substantial change in risk includes failure to maintain the required *primary insurance*.
- (3) if you fail to provide us with renewal, underwriting and rating data as we may require.

If this policy is cancelled, any return premium will be refunded within a reasonable time after the cancellation date. Payment or tender of unearned premium is not a condition of cancellation. When we cancel, the return premium will be pro-rate.

(b) Non-Renewal

If we choose not to renew this policy, we will notify you in writing at least 45 days before the end of the policy period.

(c) Our notice may be delivered or mailed to you at the address in the *declarations*.

(d) Proof of mailing is sufficient proof of notice.

(e) If any provision of 8.(a),(b), (c) or (d) above are in conflict with the law in your state, we will comply with that law.

10. Changes. The terms of this policy may not be changed or waived except by endorsement by us.

11. Concealment or Fraud. We do not provide coverage for an *insured* who purposely conceals or misrepresents any material fact or circumstance relating to this insurance.

12. Death. If you or a resident of your household dies, we cover:

- (a) with respect to your property, the person in temporary custody of the property until a legal representative is appointed.
- (b) the legal representative of the deceased but only with respect to the property of the deceased covered under the policy at the time of death.

13. Any terms of this policy in conflict with the statutes of your state are amended to conform to those statutes.

14. You will maintain your *primary insurance* and notify us of any changes in your *primary insurance* within 30 days.

15. In the event of a loss covered by this policy, we pay only those *damages* which exceed the limits of liability shown in Item V. of the *declarations* or the limits of liability shown in any applicable primary policy, whichever is greater.

16. Newly Acquired Property

You agree with us, as a condition of coverage under this policy, to:

- (a) notify us within 30 days of the date you acquire:
  - (1) property;
  - (2) autos; or
  - (3) *watercraft* or other recreational vehicles.

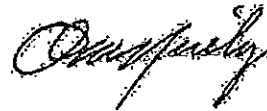
Further, coverage shall not be afforded under this policy unless:

- (a) the newly acquired or additional :
  - (1) property;
  - (2) autos; or
  - (3) *watercraft* or other recreational vehicles

are indicated on the *declarations* and *primary insurance* is maintained with a minimum limit of liability equal to the limits under Section V. of the *declarations*.



W. C. E. Robinson  
Secretary



O. M. Nicely  
President

GOVERNMENT EMPLOYEES INSURANCE COMPANY  
HOME OFFICE - 5260 Western Avenue  
Chevy Chase, Maryland 20815-3799





GOVERNMENT EMPLOYEES INSURANCE COMPANY

Policy Number: P 7274613

GEICO'S PERSONAL UMBRELLA  
POLICY AMENDMENT

CALIFORNIA

Your policy is amended as follows:

PART I - DEFINITIONS

Definition 7. *Insured* is revised as follows:

*Insured* means:

- (a) *You* and *your* spouse if a resident of *your* household. With respect to a motor vehicle, such person is an *Insured* only if the motor vehicle meets the definition of *auto* in this policy and is insured by a primary auto policy.
- (b) *Relatives* residing in *your* household as well as a household resident under age 21 in the care and custody of *you* or *your* spouse. With respect to a motor vehicle, such person is an *Insured* only if the motor vehicle is insured by a primary policy and shown on the *declarations* of this Personal Umbrella Policy.
- (c) Persons not identified in 7.(a). or 7.(b). above, if using an *auto* or *watercraft* owned or furnished for the regular use of a person defined in 7.(a). or 7.(b). above, provided the use is with permission. With respect to an *auto*, such person is an *Insured* only if the *auto* is insured by a primary policy and shown on the *declarations* of this Personal Umbrella Policy.
- (d) Any person or organization legally responsible for the acts or omissions of a person for whom coverage is afforded under the policy while that person is using an *auto* or *watercraft* insured by a primary policy and shown on the *declarations* of this Personal Umbrella Policy.
- (e) Any person or organization legally responsible for damages caused by animals owned by *you*, *your* spouse, and residents of *your* household who are *relatives* or persons under *your* care and custody.
- (f) The following are not *Insureds*:
  - (1) The owner or lessor (or their agents or employees) of:
    - (i) An *auto*;
    - (ii) Recreational vehicle; or
    - (iii) *Watercraft* loaned to or hired for use by *you* or on *your* behalf.
  - (2) A person other than an *Insured* shown in 7.(a) or 7.(b) above using an *auto* or *watercraft* while employed in the business of:
    - (i) Selling;
    - (ii) Servicing;
    - (iii) Repairing;
    - (iv) Maintaining;
    - (v) Parking;
    - (vi) Docking;
    - (vii) Mooring; or
    - (viii) Storing*autos* or *watercraft*. This includes a person other than an *Insured* or organization employing or engaging a person using the *autos* or *watercraft* in the above activities.
  - (3) A person or organization with custody of animals owned by an *Insured* in 7.(a) or 7.(b) above, in the course of any business or without the consent of an *Insured* in 7.(a) or 7.(b) above.

The following definitions are added:

*Relative* means a person related to *you* who resides in *your* household.

*Personal vehicle sharing program* means a business, organization, network or group facilitating the sharing of private passenger vehicles for use by individuals or businesses.

PART III - EXCLUSIONS

The following exclusions are revised as follows:

4. Acts committed by or at any *Insured's* direction with intent to cause *personal injury* or *property damage*. This exclusion does not apply to *personal injury* or *property damage* resulting from an act committed by an *Insured* with reasonable and legally permissible force to protect persons and property from injury or damage.

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9. Liability arising from serving on a board of directors, or as an officer of an organization. This exclusion does not apply:

- (a) If the service is performed for a charitable, religious or civic non-profit organization; and
- (b) Coverage for the *insured's* service is provided by primary insurance; and
- (c) The *insured* receives no compensation for such service.

The following exclusions are added:

- 22. The renting, leasing or sale of any property that has been contaminated by mold or mold spores.
- 23. The maintenance, use or ownership of any motorized vehicle that is designed for use principally off public roads, that is not registered for use on public roads.
- 24. **Bodily injury or property damage** that results from nuclear exposure or explosion including resulting fire, radiation, or contamination.
- 25. **Bodily injury or property damage** that results from bio-chemical attack or exposure to bio-chemical agents.
- 26. **Personal injury** that results from attack by a dog, or resulting from the ownership, maintenance, or use of a swimming pool, diving board, or trampoline unless covered by *primary insurance*.
- 27. **Personal injury or property damage** that results from slander of title.
- 28. There is no coverage for any person or organization while any motor vehicle is operated, maintained or used as part of personal vehicle sharing facilitated by a *personal vehicle sharing program*.

#### PART IV - LIMITS OF LIABILITY

The following paragraph is deleted from Part IV - Limits of Liability

This insurance applies separately to each *insured*. This provision shall not increase our liability limit for one occurrence.

#### PART VI - CONDITIONS

##### Condition 8. Policy Period and Territory

The first sentence is replaced with the following:

We cover *personal injury* and *property damage* which takes place anywhere during the time this policy is in force, however, we do not cover *damages* resulting from *your* ownership of real property located outside of the United States of America, its territories or possessions, or Canada.

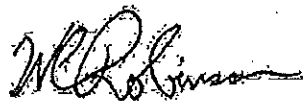
##### Condition 9. Termination

###### (a) Cancellation

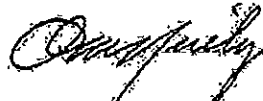
The third paragraph is replaced with the following:

If this policy is not a renewal, and has been in effect less than 60 days, we may cancel for any reason by notifying you in writing at least 20 days in advance.

We affirm this amendment.



W. C. E. Robinson  
Secretary



O. M. Nicely  
President



GEICO'S PERSONAL UMBRELLA  
POLICY AMENDMENT

Policy Number: P 7274613

Your policy is amended as follows:

**PART I - DEFINITIONS**

The following definitions are added:

**"Ride-sharing"** means the use of any vehicle by any *insured* in connection with a *transportation network company* from the time an *insured* logs on to or signs in to any computer or digital application or platform that connects or matches driver(s) with passenger(s) until the time an *insured* logs out of or signs off of any such application or platform, including while en route to pick up passenger(s) and while transporting passenger(s).

**"Transportation network company"** means a company or organization facilitating and/or providing transportation services using a computer or digital application or platform to connect or match passengers with drivers for compensation or a fee.

**PART III - EXCLUSIONS**

The following exclusion is added:

We do not cover *damages* resulting from any vehicle:

- (a) used to carry persons or property for compensation or a fee, including but not limited to the delivery of food or any other products; or
- (b) while being used for *ride-sharing*.

However, a vehicle used in an ordinary car pool is covered.

We affirm this amendment.

W. C. E. Robinson  
Secretary

William E. Roberts  
President

GOVERNMENT EMPLOYEES INSURANCE COMPANY

**CONSUMER INFORMATION**

If you have any problems concerning this policy, please contact us at:

**Auto and Umbrella Policies:**

Government Employees Insurance Company  
GEICO General Insurance Company  
GEICO Indemnity Company  
GEICO Casualty Company

14111 Danielson Street  
Poway, CA 92064-6886  
Telephone: 1-800-841-3000  
Internet: [geico.com](http://geico.com)

**Cycle-Gard Policies:**

GEICO Indemnity Company  
One GEICO Landing  
Virginia Beach, VA 23454  
Telephone: 1-888-434-2600

If we fail to provide a satisfactory solution to the problem, you may contact the California Department of Insurance at:

State of California  
Department of Insurance  
300 South Spring Street, South Tower  
Los Angeles, CA 90013  
Telephone: 1-800-927-4357  
1-213-897-8921 (for out of state calls)

Government Employees Insurance Company  
GEICO General Insurance Company  
GEICO Indemnity Company  
GEICO Casualty Company  
GEICO Insurance Agency, Inc.

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## GEICO PRIVACY NOTICE

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### GEICO Respects Your Privacy

Protecting your privacy is very important to us. Policyholders like you have trusted us with their insurance needs since 1936, and we take our obligation to safeguard and secure your personal information very seriously. We want you to understand how we protect your privacy and when we collect and use your information.

#### The Information We Collect

Non-public personally identifiable information ("information") is information that identifies you and is not available to the general public. The following sections tell you more about how and when we collect your information.

#### Information We Obtain From You

During the quoting, application, or claims handling processes you may give us information such as your:

- name
- address
- phone number
- email address
- Social Security number
- driver's license number
- date of birth

If you gave us your email address, GEICO may use it from time to time to notify you of such things as new services, special offers, or to confirm transactions. You can log in to your account at [geico.com](http://geico.com), click on "Update Email Preferences" on the right side of the screen and choose the level of communication you'd like to receive from us. If you have not yet enrolled online, you will need to enroll with [geico.com](http://geico.com) to update your email preferences.

#### Information About Your Transactions

We may collect information about your transactions and experiences with us and others, such as your payment history, claims, coverage, and vehicles changes.

#### Information From Third Parties

We may receive information about you from consumer reporting agencies, which provide us with motor vehicle reports, claim reports, and/or credit information where permitted by law. When you ask for a rate quotation, we may obtain credit information if permitted by applicable state law.

Our sales and service representatives do not have access to the details of your credit information. Other companies who view your credit report will not see the GEICO inquiry. It will be visible only to you. Our inquiry will not affect your credit score or credit rating. If you commit to purchase a policy with GEICO, we will also confirm your motor vehicle record and claims history.

As permitted by law, we may also review your motor vehicle record and credit information in connection with any renewal.

#### The Information We Disclose

Information about our customers or former customers will only be disclosed as permitted or required by law. Information about you that has been collected is maintained in your policy and/or claims records.

We use this information to process and service your policy; to settle claims; with your consent; or as directed by you. We may also disclose it to persons or organizations as necessary to perform transactions you request or authorize. Information about our former customers and about individuals who have obtained quotes from us is safeguarded to the same extent as information about our current policyholders.

Following are some examples of how we may disclose information:

We must exchange information about you with our agents, investigators, appraisers, attorneys, and other persons who are or will become involved in processing your application and servicing your policy or any claims you may make.

When you are involved in a claim, policy information is provided to adjusters and the businesses that will repair your vehicle.

We may share information with persons or organizations that we have determined need the information to perform a business, professional, or insurance function for us. These include businesses that help us with administrative functions. If the law in your state permits, we may share information with financial institutions with which we have a joint-marketing agreement. All of these entities are obligated to keep the information that we provided to them confidential and to use the information only for the purpose for which the information was provided.

Information may be provided to organizations conducting actuarial research or audits. In this case, you will not be individually identified in any research report. The organization must agree not to redisclose the information and the information will be returned to us or destroyed when it is no longer needed.

We may also share your information for other permitted purposes, including:

- with another insurance company if you are involved in an accident with their insured
- with our reinsurers
- with insurance-support organizations that detect and prevent fraud
- among the GEICO companies listed above in order to offer you additional products and services
- with medical professionals or institutions in order to verify coverage or conduct operations or services audits
- with state insurance departments or other governmental or law enforcement authorities if required by law or to protect our legal interests or in cases of suspected fraud or illegal activities
- if ordered by a subpoena, search warrant or other court order

#### Confidentiality and Security

We restrict access to your information to employees who we have determined need it in order to provide products or services to you. We train our employees to safeguard

customer information, and we require them to sign confidentiality and non-disclosure agreements. We maintain strict physical, electronic and procedural safeguards to protect your information from unauthorized access by third parties.

#### Changes to This Privacy Policy

Each of our policyholders receives a copy of our privacy policy at least once per year. In addition, in the event that we make a significant change to our privacy practices, we will send a revised copy of our privacy policy to each of our current policyholders.

#### What to Do if You Have Privacy or Security Concerns

If you have a concern about privacy or security at GEICO, we want to hear about it by mail or email.

Please write to us at:  
Privacy Administration

GEICO  
One GEICO Plaza  
Washington, DC 20076

or email us at [privacypolicy@geico.com](mailto:privacypolicy@geico.com).

This Privacy Policy applies to all of the companies listed at the top of this notice.

### ADDITIONAL LEGAL RIGHTS

#### HOW YOU CAN REVIEW RECORDED INFORMATION ABOUT YOU

You have the right to review recorded information about you contained in our files. If you have any questions about what information we may have on file, please write us at the address at the end of this notice. We will need your complete name, address and all policy numbers under which you are insured. Tell us what information you would like to receive. We will also need your home and office telephone numbers so that we can get in touch with you should it be necessary. Within 30 business days of receipt of your request, we will inform you of the nature of that recorded information and identify the persons or organizations to whom we have disclosed this information in the preceding two years. We will also give you the name and address of any consumer reporting agency who prepared a report about you so that you can contact them to get a copy of that report. You may either see and copy your information in person or we will mail you a copy of your information.

We are not required to give you access to information collected in evaluating a claim under an insurance policy or when the possibility of a lawsuit exists. Any information you request that is in coded form will be translated into plain language and provided in written form. We may charge a reasonable fee to cover our costs incurred in providing a copy of our recorded personal information to you.

#### IF YOU DISAGREE WITH OUR RECORDS

If, after reading the information in your file, you believe it is incorrect, please notify us in writing. Tell us what is inaccurate and why. You have the right to request that we correct, amend or delete information that you believe is incorrect.

Upon receiving your request, we will, within thirty business days, reinvestigate the information you think is incorrect. If we agree with you, we will notify you and make the necessary corrections, amendments or deletions and also notify anyone you specify who may have received such information within the past two years. We will also notify any organization that supplied the information to us. Insurance-support organizations to whom we systematically reveal information will also be informed of the change.

If we do not agree to make the correction, amendment or deletion, we will notify you and tell you our reason. You may then file with us a brief statement setting forth what you believe to be the correct, relevant or fair information and why you disagree with our decision not to correct, amend or delete the original information. Your statement will become a permanent part of our file and will be made part of any future disclosure of the original information. In addition, copies of your statement will be sent to any person or insurance support organization to whom the original information was disclosed or from whom it was received.

#### Auto and Umbrella Policy Inquiries

GEICO  
Underwriting Department  
One GEICO WEST  
PO Box 509090  
San Diego, CA 92150-9090

#### GEICO Motorcycle Policy Inquiries

GEICO  
Underwriting Department  
One GEICO Landing  
Virginia Beach, VA 23454