



San Mateo
County
SELPA

Special Education Local Plan Area

San Mateo County Office of Education • 101 Twin Dolphin Drive • Redwood City, CA 94065-1064 • (650) 802-5464 • Fax (650) 802-5474

NONPUBLIC, NONSECTARIAN SCHOOL/AGENCY SERVICES

MASTER CONTRACT

2020-2021



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MASTER CONTRACT GENERAL AGREEMENT FOR NONSECTARIAN, NONPUBLIC SCHOOL AND AGENCY SERVICES

LEA _____

Contract Year 2020-2021

_____ Nonpublic School

_____ Nonpublic Agency

When this section is included as part of any Master Contract, the changes specified above shall amend Section 4 – Term of Master Contract.

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2020-2021

LOCAL EDUCATION AGENCY:

NONPUBLIC SCHOOL/AGENCY/RELATED SERVICES PROVIDER:

NONPUBLIC, NONSECTARIAN SCHOOL/AGENCY SERVICES
MASTER CONTRACT

AUTHORIZATION FOR MASTER CONTRACT AND GENERAL PROVISIONS

1. MASTER CONTRACT

This Master Contract (or Agreement) is entered into on July 1, 2020, between San Mateo County Special Education Local Plan Area, hereinafter referred to as the SELPA) on behalf of member LEAs and **Maxim Healthcare Services** (nonpublic, nonsectarian school or agency), hereinafter referred to as the NPS or NPA, as the case may be, or CONTRACTOR for the purpose of providing special education and/or related services to students with exceptional needs under the authorization of California Education Code sections 56157, 56361 and 56365 *et seq.* and Title 5 of the California Code of Regulations section 3000 *et seq.*, AB490 (Chapter 862, Statutes of 2003) and AB1858 (Chapter 914, Statutes of 2004). It is understood that this agreement does not commit any Local Education Agency (LEA) member of the SELPA to pay for special education and/or related services provided to any student, or CONTRACTOR to provide 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 as documented on an Individual Services Agreement.

Upon acceptance of a student, LEA shall submit to CONTRACTOR an Individual Services Agreement (hereinafter referred to as ISA) as specified in the SELPA and/or LEA Procedures. Unless otherwise agreed in writing, these forms shall acknowledge CONTRACTOR's obligation to provide all services specified in the student's Individualized Education Plan (hereinafter referred to as IEP). The ISA shall be executed within ninety (90) days of a student's enrollment. LEA and CONTRACTOR shall enter into an ISA for each student served by CONTRACTOR. As available and appropriate, the LEA shall make available access to any electronic IEP system and/or electronic database for ISA developing including invoicing. Unless placement is made pursuant to an Office of Administrative Hearings (hereinafter referred to as OAH) or judicial 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 NPS placement until the date on which an IEP team meeting is convened, the IEP team determines that a NPS 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 NPS and NPA services shall be provided consistent with the area of certification and licensure specified by CDE Certification and as defined in Education Code, section 56366 *et seq* and within the professional scope of practice of provider's license, certification and/or credential. A current copy of NPS/NPA 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 Agreement is executed by CONTRACTOR. and in Section 24 of the Master Contract.

In addition to meeting the certification requirements of the State of California, a CONTRACTOR that operates a CDE Certified nonpublic, nonsectarian school/agency program outside of this State shall be certified and all staff persons providing services to pupils shall be certified and/or licensed by that state to provide, respectively, special education 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 CDE Certified nonpublic, nonsectarian school/agency 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 NPS/NPA certifications, or a valid waiver of such certification issued by the CDE pursuant to Education Code section 56366.2, must be submitted to the SELPA on or before the date the Master Contract is executed by CONTRACTOR. This Master Contract shall be null and void if such certification or waiver is expired, revoked, rescinded, or otherwise nullified during the effective period of this Master Contract. Total student enrollment shall be limited to capacity as stated on CDE certification and as stated in Section 24 of the Master Contract.

With respect to CONTRACTOR's certification, failure to notify the LEA and CDE, in writing, of any changes in: (1) credentialed/licensed staff; (2) ownership; (3) management and/or control of the agency; (4) major modification or relocation of facilities; or (5) significant modification of the program, may result in the suspension or revocation of CDE certification and/or suspension or termination of this Master Contract by the LEA.

CONTRACTOR must immediately (and under no circumstances longer than three (3) calendar days) notify the SELPA if any such licenses, certifications or waivers are expired, suspended, revoked, rescinded, pursuant to an administrative or legal complaint or lawsuit, or otherwise nullified during the 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 shall be null and void.

3. COMPLIANCE WITH LAWS, STATUTES, REGULATIONS

During the term of this Master Contract, unless otherwise agreed, CONTRACTOR shall comply with all applicable federal, state, and local statutes, laws, ordinances, rules, policies and regulations. CONTRACTOR shall also comply with all applicable LEA policies and procedures 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 16 of this Agreement for all liability, loss, damage and expense (including reasonable attorneys' fees) resulting from or arising out of CONTRACTOR's failure to comply with applicable LEA policies (e.g., those policies relating to; the provision of special education and/or related services, facilities for individuals with exceptional needs, student enrollment and transfer, student inactive status, corporal punishment, student discipline, and positive behavior interventions).

CONTRACTOR acknowledges and understands that LEA 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 NPS/NPA certification pursuant to California Education Code section 56366.4(a).

4. TERM OF MASTER CONTRACT

The term of this Master Contract shall be from July 1, 2020 to June 30, 2021 (Title 5 California Code of Regulations section 3062(a)) unless otherwise stated. No party to this contract, including the CONTRACTOR, the SELPA, 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, 2020. (Title 5 California Code of Regulations section 3062(d)) No Master Contract will be offered unless and until all of the contracting requirements have been satisfied. The offer of a Master Contract to a CONTRACTOR is at the sole discretion of the SELPA.

The provisions of this Master Contract apply to CONTRACTOR and any of its employees or independent contractors. Notice of any change in CONTRACTOR's ownership or authorized representative shall be provided in writing to LEA within thirty (30) calendar days of change of ownership or change of authorized representative.

5. CONTINUANCE OF CONTRACT FOLLOWING EXPIRATION OR TERMINATION

This Master Contract includes the LEA Procedures, which are incorporated herein by this reference, and each Individual Service Agreement, which are incorporated herein by reference. This Master Contract supersedes any prior or contemporaneous written or oral understanding or agreement. This Master Contract may be amended only by written amendment executed by both parties. Notwithstanding the foregoing, the LEA may modify internal LEA Procedures from time to time without the consent of CONTRACTOR. LEA must notify CONTRACTOR in writing of any modifications to the LEA Procedures that may be relevant to the services provided by the CONTRACTOR. CONTRACTOR is not obligated to agree to terms it does not know, contemplate or understand at the time of execution of this contract but will agree to consider any reasonable modifications.

CONTRACTOR shall provide the SELPA with information as requested in writing to secure a Master Contract or a renewal. At a minimum, such information shall include copies of relevant employees current credentials, licensure and/or clearance, insurance documentation and CDE certification, which may be submitted electronically. The LEA may require additional information as applicable upon completion of an Individual Service Agreement. If the application is not completed and returned to SELPA, no Master Contract will be issued. If CONTRACTOR does not return the Master Contract to SELPA duly signed by an authorized representative within ninety (90) calendar days of issuance by SELPA, the new contract rates will not take effect until the newly executed Master Contract is received by SELPA and will not be retroactive to the first day of the new Master Contract's effective date. If CONTRACTOR fails to execute the new Master Contract within such ninety (90) day period, all payments shall cease until such time as the new Master Contract for the current school year is signed and returned to SELPA by CONTRACTOR. (California Education Code section 56366(c)(1) and (2)). In the event that this Master Contract expires or terminates, all parties shall continue to be bound to all of the terms and conditions of the most recently executed Master Contract between CONTRACTOR, SELPA and LEA for so long as CONTRACTOR is servicing authorized students at the discretion of the LEA

6. INDIVIDUAL SERVICES AGREEMENT

This Master Contract shall include an ISA developed for each student to whom CONTRACTOR is to provide special education and/or related services during the term of this Master Contract. An ISA shall only be issued for students enrolled with the approval of the LEA pursuant to Education Code section 56366 (a)(2)(A). An ISA may be effective for more than one contract year provided that there is a concurrent Master Contract in effect. 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 ISAs between CONTRACTOR and LEA for so long as CONTRACTOR is servicing authorized students.

Any and all changes to a student's educational placement/program provided under this Master Contract and/or an ISA shall be made solely on the basis of a revision to the student's IEP. At any time during the term of this Master Contract, a student's parent, CONTRACTOR, or LEA may request a review of a student's IEP subject to all procedural safeguards required by law.

Unless otherwise specified in Section 60 related to Emergency Closures in this Master Contract, the CONTRACTOR shall provide all services specified in the IEP/ISA, unless the CONTRACTOR and the LEA agree otherwise in the ISA. (California Education Code sections 56366(a) (5) and Title 5 of the California Code of Regulations, section 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. CONTRACTOR shall provide any and all subsequent compensatory service hours awarded to students as a result of lack of provision of services while the student was served by the NPS or NPA and for which the CONTRACTOR was paid under the ISA. The LEA is responsible for ensuring that compensatory service hours awarded to the student are provided, whether by CONTRACTOR or by LEA providers. For services not included prior paid invoices, payment for compensatory service hours will be agreed upon by CONTRACTOR and LEA and will be based upon the attached Rate Schedule.

If a parent or LEA contests the termination of an ISA by initiating a due process proceeding with the OAH, CONTRACTOR shall abide by the "stay-put" requirement of state and federal law unless the parent agrees otherwise or an Interim Alternative Educational Setting is deemed lawful and appropriate by LEA or OAH consistent with Section 1415 (k)(1)(7) of Title 20 of the United States Code. CONTRACTOR shall adhere to all LEA requirements concerning changes in placement.

Disagreements between LEA and CONTRACTOR concerning the formulation of an ISA or the Master Contract may be directed to the Senior SELPA Administrator and may be appealed to the County Superintendent of Schools of the County where the LEA is located, or the State Superintendent of Public Instruction pursuant to the provisions of California Education Code section 56366(c) (2).

7. 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, subcontractors, agents and employees.
- b. The term "authorized LEA representative" means an LEA administrator designated to be responsible for coordination with NPS/NPA. It is understood that a representative of the 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, a temporary certificate issued from the County Office of Education in which the school is located, 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(g).

- d. The term “qualified” means 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 related 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, as applicable.

Nothing in this definition shall be construed as restricting the activities or 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 (r)).

- e. The term “license” means a valid non-expired document issued by a licensing agency within the California 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 or refer to themselves using a specified professional title 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(1).

- f. “Parent” means:

- i. a biological or adoptive parent; unless the biological or adoptive parent does not have legal authority to make educational decisions for the child,
- ii. a guardian generally authorized to act as the child’s parent or authorized to make educational decisions for the child,
- iii. 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,
- iv. an individual who is legally responsible for the child’s welfare
- v. a surrogate parent,
- vi. 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 Title 34 of the Code of Federal Regulations, section 300.30(b)(1) or (2).

Parent does not include the state or any political subdivision of government or the NPS or NPA under contract with the LEA for the provision of special education or related 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.
- k. The term “LEA” means every LEA receiving services from CONTRACTOR pursuant to the terms of this Master Contract.

ADMINISTRATION OF CONTRACT

8. NOTICES

All notices provided for by this Master Contract shall be in writing. Notices shall be mailed or delivered by hand and shall be effective as of the date of receipt by addressee. With prior agreement, an LEA may accept electronic notices from CONTRACTOR with Read Receipt proof. All notices mailed to LEA shall be addressed to the person designated by the LEA and at the address as indicated on the signature page of the ISA. Notices to CONTRACTOR shall be addressed as indicated on **Exhibit B** of this Master Contract.

9. MAINTENANCE OF AND LEA ACCESS TO CONTRACTOR 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 student records as defined by Education Code section 49061(b) including electronically stored information; 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 NPS and/or NPA certifications by-laws; lists 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 canceled checks or facsimile thereof. Positive attendance is required. CONTRACTOR shall provide SELPA/LEA with access to all records required to be maintained pursuant to this Agreement, and such access shall include unannounced inspections by the SELPA/LEA.

CONTRACTOR shall maintain student records in a secure location to ensure confidentiality and prevent unauthorized access. CONTRACTOR shall maintain a current list of the names and positions of CONTRACTOR’s employees who have access to confidential records. CONTRACTOR shall maintain an access log for each student’s record which lists all persons, agencies, or organizations requesting or receiving information from the record. Such log shall be maintained as required by California Education Code section 49064 and include the name, title, agency/organization affiliation, and date/time of access for each individual requesting or receiving information from the student’s record. Such log need not record access to the LEA’s pupil records by: (a) the LEA pupil’s parent(s) or legal guardian(s), or by CONTRACTOR employees listed at the secure location. However, all other individuals, properly granted access to the LEA pupil’s records, such as (a) an individual to whom written consent has been executed by the LEA pupil’s parent(s) or legal guardian(s); and (b)

employees of the LEA or CONTRACTOR having a legitimate educational interest in requesting or receiving information from the records, must have such access recorded in the log.

CONTRACTOR/LEA shall maintain copies of any written parental concerns, requests for access to records or written permission granting access to student records. For purposes of this paragraph, "employees of LEA or CONTRACTOR" do not include subcontractors. CONTRACTOR shall grant parents access to student records, and comply with parents' requests for copies of student records, to the full extent required by state and federal laws and regulations. CONTRACTOR agrees, in the event of school or agency closure, to forward student records within ten (10) business days to LEA. These shall include, but not limited to, 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.

10. SEVERABILITY CLAUSE

If any provision of this Agreement is held, in whole or in part, to be unenforceable for any reason, only the portion held unenforceable shall be severed from the Agreement and cease to be effective and the rest of the Agreement shall remain in effect.

11. SUCCESSORS IN INTEREST

This Agreement binds CONTRACTOR's successors and assignees. CONTRACTOR shall notify the LEA of any change of ownership or corporate control.

12. VENUE AND GOVERNING LAW

The laws of the State of California shall govern the terms and conditions of this Agreement and all legal actions regarding the Agreement shall be within the venue of the San Mateo County Superior Court, in San Mateo County, California.

13. MODIFICATIONS AND AMENDMENTS REQUIRED TO CONFORM TO LEGAL AND ADMINISTRATIVE GUIDELINES

This Master Contract may be modified or amended by the SELPA or LEA to conform to administrative and statutory guidelines issued by any state, federal or local governmental agency subsequent to the effective date of the Master Contract. The SELPA, LEA and/or the party seeking such modification shall provide the LEA and/or 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.

14. TERMINATION

This Master Contract or any ISA may be terminated with or without cause. The cause shall not be the availability of a public class initiated during the period of the Master Contract unless the parent agrees to the transfer of the student to the public school program at an IEP team meeting or a final OAH or judicial decision authorizes the transfer. To terminate the contract or ISA either party shall give twenty (20) 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 upon request. ISAs are void upon termination of this Master Contract, as provided in Section 5 and/or 6. CONTRACTOR or LEA may terminate an ISA for cause. To terminate the ISA, either party shall give twenty (20) days prior written notice.

15. INSURANCE

CONTRACTOR shall, at CONTRACTOR's sole cost and expense, maintain in full force and effect, during the term of this Agreement, the following insurance coverage from a California

licensed and/or admitted insurer with an A minus (A-), VII, or better rating from A.M. Best, sufficient to cover any claims, damages, liabilities, costs and expenses (including counsel fees) arising out of or in connection with CONTRACTOR's fulfillment of any of its obligations under this Agreement or either party's use of the work or any component or part thereof:

PART I - INSURANCE REQUIREMENTS FOR NONPUBLIC SCHOOLS AND AGENCIES

- A. **Commercial General Liability Insurance**, including bodily injury and property damage, with limits as least as broad as follows (Sexual Molestation and Abuse coverage cannot be excluded):

\$2,000,000 per occurrence
\$ 500,000 fire damage
\$ 5,000 medical expenses
\$1,000,000 personal & adv. Injury
\$3,000,000 general aggregate
\$2,000,000 products/completed operations aggregate

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

- B. **Workers' Compensation Insurance** in accordance with provisions of the California Labor Code adequate to protect the RTC from claims that may arise from its operations pursuant to the Workers' Compensation Act (Statutory Coverage). The Workers' Compensation Insurance coverage must also include Employers Liability coverage with limits of \$1,000,000/\$1,000,000/\$1,000,000.
- C. **Commercial Auto Liability Insurance** for all owned scheduled, non-owned or hired automobiles with a \$1 million combined single limit. If no owned vehicles, then coverage only for hired and non-owned vehicles is required.

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

Workers' Compensation and Employers Liability Insurance in accordance with provisions of the California Labor Code adequate to protect in a form and amount covering CONTRACTOR's full liability under the California Workers' Compensation Insurance and Safety Act and in accordance with applicable state and federal laws.

Part A – Statutory Limits

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

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

\$1,000,000 per occurrence
\$2,000,000 general aggregate

- E. CONTRACTOR, upon execution of this Agreement and periodically thereafter upon request, shall furnish the SELPA and LEA with certificates of insurance evidencing such coverage. CONTRACTOR shall provide notice of non-renewal of or changes to

insurance policy within ten (10) days of such occurrence to SELPA. The Commercial General Liability and, where appropriate, Automobile Liability policy shall include the SELPA, all LEAs for whom services are provided pursuant to this Agreement, and their respective governing boards as additional insureds with respect to the Services provided under this Agreement, including defense costs but excluding the proportionate share of negligence of such additional insureds. Premiums on all insurance policies and shall be paid by CONTRACTOR and shall be deemed included in CONTRACTOR's obligations under this Agreement at no additional charge.

- F. Any deductibles or self-insured retentions above \$100,000 must be declared to and approved by the SELPA and all affected LEAs. At its option, the SELPA or an affected LEA may require the CONTRACTOR, at the CONTRACTOR's sole cost, to: (a) cause its insurer to reduce to levels specified by the SELPA or LEA or eliminate such deductibles or self-insured retentions with respect to the SELPA or LEA, its officials and employees, or (b) procure a bond guaranteeing payment of losses and related investigation.
- G. For any claims related to the services performed in connection with this Master Contract, the CONTRACTOR's insurance coverage shall be the primary insurance with respect to the LEA for whom services are provided pursuant to this Agreement, its subsidiaries, officials and employees. Any insurance or self-insurance maintained by the LEA for whom services are provided pursuant to this Agreement, its subsidiaries, officials and employees shall be excess of the CONTRACTOR's insurance and shall not contribute with it.
- H. All Certificates of Insurance shall reference this Agreement, name and location of the school or agency submitting the certificate on the certificate.

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

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

A. Commercial General Liability coverage including bodily injury and property damage, with limits of **\$3,000,000** per Occurrence and **\$6,000,000** in General Aggregate. The policy shall be endorsed to include the LEA and the Board of Education as additional insureds and shall provide specifically that any insurance or self-insurance maintained by the LEA for whom services are provided pursuant to this Agreement, its subsidiaries, officials and employees shall be in excess of the CONTRACTOR's insurance and shall not contribute with it. Coverage shall be maintained with no Self-Insured Retention above \$100,000 without written approval of the LEA.

B. Workers' Compensation Insurance in accordance with provisions of the California Labor Code adequate to protect the RTC from claims that may arise from its operations pursuant to the Workers' Compensation Act (Statutory Coverage). The Workers' Compensation Insurance coverage must also include Employers Liability coverage with limits of \$1,000,000/\$1,000,000/**\$1,000,000**.

C. Commercial Auto Liability (where appropriate) coverage with limits of \$1,000,000 Combined Single Limit per Occurrence if the RTC does not operate a bus service. If the RTC provides bus services, the required coverage limit is \$5,000,000 Combined Single Limit per Occurrence.

D. Fidelity Bond or Crime Coverage shall be maintained by the RTC to cover all employees who process or otherwise have responsibility for RTC funds, supplies,

equipment or other assets. Minimum amount of coverage shall be **\$250,000** per occurrence, with no Self-Insured Retention.

E. Professional Liability/Errors & Omissions/Malpractice coverage with minimum limits of \$3,000,000 per occurrence and \$6,000,000 general aggregate.

F. Sexual Molestation and Abuse Coverage, unless that coverage is afforded elsewhere in the Commercial General Liability or Professional Liability policy by endorsement, with minimum limits of \$3,000,000 per occurrence and \$6,000,000 general aggregate.

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

16. INDEMNIFICATION AND HOLD HARMLESS

To the fullest extent allowed by law, CONTRACTOR shall indemnify and hold the SELPA, each LEA for whom services are provided pursuant to this Agreement, and their respective Board Members, administrators, employees, agents, attorneys, volunteers, and subcontractors (SELPA/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 proximately caused by negligence, intentional act, or willful act or omission of CONTRACTOR, including, without limitation, its agents, employees, subcontractors or anyone employed directly or indirectly by it (excluding SELPA/LEA and SELPA/LEA Indemnities). The duty and obligation to defend shall arise immediately upon tender of a claim or lawsuit to the CONTRACTOR. The LEA and the Member District(s) shall have the right in their sole discretion to select counsel of its choice to provide the defense at the sole cost of the CONTRACTOR or the applicable insurance carrier.

To the fullest extent allowed by law, SELPA and 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 negligence, intentional act or willful act or omission of LEA, including, without limitation, its agents, employees, subcontractors 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 LEA employees acting within the course and scope of their respective duties and that its self-insurance covers the LEA's indemnification obligations under this Master Contract.

17. INDEPENDENT CONTRACTOR

Nothing herein contained will be construed to imply a joint venture, partnership or principal-agent relationship between or among the SELPA, the LEA and CONTRACTOR. 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 Agreement 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 parties or any affiliates of the parties, or between the LEA and any individual assigned by CONTRACTOR to perform any services for the LEA.

If the LEA is determined to be a partner, joint venture, co-principle, employer or co-employer of CONTRACTOR, CONTRACTOR shall indemnify and hold harmless the LEA from and against any and all claims for loss, liability, or damages arising from that determination, as well as any

expenses, costs, taxes, penalties and interest charges incurred by the LEA as a result of that holding, provided that LEA abided by all federal, state and local laws.

18. SUBCONTRACTING

CONTRACTOR shall provide written notification to SELPA and LEA before subcontracting for special education and/or related services provided pursuant to this Master Contract. The CONTRACTOR shall identify the name and contact information for each subcontractor on the attached List of Subcontractors (Exhibit B). Any changes during the term of this Master Contract to subcontracts for the provision of special education and/or related services (including, without limitation, transportation) shall be communicated to the SELPA and the LEA via written notification provided 10 days prior (or as soon as anticipated alteration is known to the CONTRACTOR) to the change in subcontracting services. In the event of mid-year subcontractor agency changes, the LEA will be provided the opportunity to consider whether it can provide the subcontracted service(s) at a lower rate, and may elect to provide such service(s). If the LEA elects to provide such service(s), the LEA shall provide written notification to CONTRACTOR within five (5) days of receipt of CONTRACTOR's original notice and CONTRACTOR shall not subcontract for said service(s). In the event of an unanticipated need to alter the subcontract or subcontractor, the CONTRACTOR shall inform the SELPA and the LEA of changes no later than three (3) business days after the alteration to the subcontractor list.

CONTRACTOR shall incorporate all of the provisions of this Master Contract in all subcontracts, to the fullest extent reasonably possible. When CONTRACTOR enters into subcontracts for the provision of special education and/or related services (including, but not limited to, transportation) for any student, CONTRACTOR shall cause each subcontractor to procure and maintain insurance during the term of each subcontract. Subcontractor's insurance shall comply with the provisions of Section 15. Each subcontractor shall maintain and make available to the LEA with original endorsements and certificates of insurance effecting coverage required by Section 15. 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 forms as required by the LEA. All endorsements are to be maintained and made available to the LEA before the subcontractor's work commences. The Commercial General Liability and, where appropriate, Automobile Liability policies shall include the LEA, the LEA/SELPA and their respective governing boards, administrators, employees and agents as additional insureds with respect to the Services provided under this Agreement, including defense costs but excluding the proportionate share of negligence of such additional insureds.

As an alternative to the LEA's forms, a subcontractor's insurer may provide complete, certified copies of all required insurance policies, including endorsements affecting the coverage required by this Master Contract. All Certificates of Insurance shall reference the LEA contract number if any, name of the school or agency submitting the certificate, indication if NPS or NPA, and the location of the school or agency submitting the certificate. In addition, all subcontractors must meet the requirements as contained in Section 45 Clearance Requirements and Section 46 Staff Qualifications of this Master Contract. Automobile Liability policies shall name the LEA, SELPA, and their respective governing boards, administrators, employees and agents as additional insureds.

19. CONFLICTS OF INTEREST

CONTRACTOR shall provide to SELPA a copy of its current bylaws and a current list of its Board of Directors (or Trustees), if it is incorporated. CONTRACTOR and any member of its Board of Directors (or Trustees) shall disclose any relationship with LEA that constitutes or may constitute a conflict of interest pursuant to California Education Code section 56042 and Government Code Section 1090 including, but not limited to, employment with LEA, provision of private party assessments and/or reports, and attendance at IEP team meetings acting as a student's advocate. Pursuant to California Education code section 56042, an attorney or advocate for a parent of an individual with exceptional needs shall not request or recommend placement at CONTRACTOR's facility if the attorney or advocate is employed or contracted by the CONTRACTOR, or will receive

a benefit from the CONTRACTOR, or otherwise has a conflict of interest. The CONTRACTOR shall have in place a policy to ensure that employees inform CONTRACTOR of any dual relationship with parents of students who are clients of LEA and/or CONTRACTOR. CONTRACTOR shall inform LEA of parents who hire employees of CONTRACTOR to provide independent services for parents on behalf of their students outside business hours. The LEA may find that this type of dual relationship is a conflict of interest and may request that any employee of the CONTRACTOR who engages in a dual relationship be reassigned from providing support services to the student during school hours.

Unless CONTRACTOR and LEA otherwise agree in writing, LEA shall neither execute an ISA with CONTRACTOR nor amend an existing ISA for a student when a recommendation for special education and/or related services is based in whole or in part on assessment(s) or reports provided by CONTRACTOR to the student. This paragraph shall apply to CONTRACTOR regardless of when an assessment is performed or a report is prepared (i.e., before or after the student is enrolled in CONTRACTOR's school/agency) or whether an assessment of the student is performed or a report is prepared in the normal course of the services provided to the student by CONTRACTOR. To avoid conflict of interest, and in order to ensure the appropriateness of an Independent Educational Evaluation (hereinafter referred to as "IEE") and its recommendations, the LEA may, in its discretion, not fund an IEE by an evaluator who provides ongoing service(s) or is sought to provide service(s) to the student for whom the IEE is requested. Likewise, the LEA may, in its discretion, not fund services through the evaluator whose IEE the LEA agrees to fund. When no other appropriate assessor is available, LEA may request and if CONTRACTOR agrees, the CONTRACTOR may provide an IEE.

When CONTRACTOR is a NPAcy, 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 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.

CONTRACTOR shall not admit a student living within the jurisdictional boundaries of the LEA on a private pay or tuition free "scholarship" basis and concurrently or subsequently advise/request parent(s) to pursue funding for the admitted school year from the LEA through due process proceedings.

20. NON-DISCRIMINATION

Neither party shall not, in employment or operation of its programs, unlawfully discriminate on the basis of gender, nationality, national origin, ancestry, race, color, ethnicity, ethnic group affiliation, religion, age, gender, gender identity or expression, sex, sexual orientation, marital status, pregnancy or parental status, ethnic group affiliation, ethnicity, race, color, ancestry, nationality, national origin, religion, or mental or physical disability, genetic information or any other classification protected by federal or state law or the perception of one or more of such characteristics or association with a person or group with one or more of these actual or perceived characteristics, in employment or operation of its program.

EDUCATIONAL PROGRAM

21. FREE AND APPROPRIATE PUBLIC EDUCATION (FAPE)

LEA shall provide CONTRACTOR with a copy of the IEP including the Individual Transition Plan, as required, of each student served by CONTRACTOR. CONTRACTOR shall provide to each student for whom an ISA has been executed, special education and/or related services (including transition services) within the NPA or NPS consistent with the student's IEP and as

specified in the ISA. If CONTRACTOR is a NPS, CONTRACTOR shall not accept a student if it cannot provide or ensure the provision of the services outlined in the student's IEP. If student services are provided by a third party (i.e. Related Services Provider), CONTRACTOR shall notify LEA if provision of services cease. Pursuant to California Education Code section 56366(b), transportation shall not be provided through the use of services or equipment owned, leased, or contracted by the LEA for students served by CONTRACTOR unless those services and equipment are provided directly or subcontracted by the CONTRACTOR.

Unless otherwise agreed in writing, CONTRACTOR shall be responsible for the provision of all appropriate supplies, equipment, and/or facilities for students, as specified in the student's IEP and ISA. If an individual's IEP/IFSP requires specialized low incidence equipment based on their qualifying disability, the specialized equipment and/or supplies shall be provided by the LEA unless otherwise specified in the ISA. The LEA shall provide the low incidence equipment and/or supplies identified in the pupil's IEP/IFSP, unless the CONTRACTOR specifically agrees in the ISA to provide them. Supplies and/or equipment purchased and/or provided by the SELPA/LEA remain the property of the SELPA/LEA, and supplies and/or equipment purchased by the CONTRACTOR remain the property of the CONTRACTOR.

In the event that a foster youth may be placed in a NPS, the Contractor and LEA will work collaboratively with the LEA Foster Youth Liaison to ensure and facilitate proper school placement enrollment, transfer of credits, records, grades and checkout from school. (EC 48853.5 (e) (1) and AB490) Whenever a change in foster child's residence occurs, the foster child has a right to remain in the school of origin for the duration of the school year. Decisions regarding placement are IEP decisions which should include participation of LEA Foster Youth Liaison as appropriate.

CONTRACTOR shall make no charge of any kind to parents for special education and/or related services as specified in the student's IEP and ISA (including, but not limited to, screenings, assessments, or interviews or meetings that occur prior to or as a condition of the student's enrollment under the terms of this Master Contract). CONTRACTOR may charge a student's parent(s) for services and/or activities not necessary for the student to receive a free appropriate public education after: (a) written notification to the student's parent(s) of the cost and voluntary nature of the services and/or activities; and (b) receipt by the LEA of the written notification and a written acknowledgment signed by the student's parent(s) of the cost and voluntary nature of the services and/or activities. CONTRACTOR shall adhere to LEA requirements concerning parent acknowledgment of financial responsibility as specified in the LEA Procedures.

Voluntary services and/or activities not necessary for the student to receive a free appropriate public education shall not interfere with the student's receipt of special education and/or related services as specified in the student's IEP and ISA unless the LEA and CONTRACTOR, and PARENT agree otherwise in writing. Any CONTRACTOR who is providing any instructional minutes pursuant to an ISA is required to inform the LEA if the CONTRACTOR is providing the student with any additional instructional minutes (outside of the ISA) paid for by any other source.

22. GENERAL PROGRAM OF INSTRUCTION

All NPS and NPA 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 shall ensure that facilities are adequate to provide LEA students with an environment, which meets all pertinent health and safety regulations. No services will be provided by the CONTRACTOR outside the CONTRACTOR's Certification unless otherwise agreed to in writing by the LEA.

When CONTRACTOR is an NPS, CONTRACTOR's general program of instruction shall: (a) utilize evidence-based practices and predictors and be consistent with LEA's and CDE's standards regarding the particular course 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 student's IEP and ISA. Students shall have access to: (a) State Board of Education (SBE) - adopted Common Core State Standards ("CCSS") for curriculum and the same instructional materials for kindergarten and grades 1 to 8, inclusive; and provide standards – aligned core curriculum and instructional materials for grades 9 to 12, inclusive, used by the LEA, that contracts with the NPS: (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 that are in compliance with state and federal law and; (e) supplemental assistance, including individual academic tutoring, psychological counseling, and career and college counseling. CONTRACTOR's general program of instruction shall be described in writing and available to the SELPA/LEA prior to the effective date of this Master Contract.

When CONTRACTOR serves students in grades nine through twelve inclusive, LEA shall provide to CONTRACTOR a specific list of the course requirements to be satisfied by the LEA's students who are served by the CONTRACTOR leading toward graduation or completion of LEA's diploma requirements. CONTRACTOR and LEA shall collaborate to ensure an approved course of study is included on all appropriate IEPs and Individual Transition Plans. The placing LEA shall accept approved course of study for consideration of awarding an LEA Diploma or Certificate of Completion. CONTRACTOR may provide a certificate of attendance or other ceremonial document at the end of a placement, but Certificate of Completion, Diploma or official documentation shall be issued by the LEA as per education code.

When CONTRACTOR is an NPA and/or related services provider, CONTRACTOR's general program of instruction and/or services shall utilize evidence-based practices and predictors and be consistent with LEA and CDE guidelines and certification, and provided as specified in the student's IEP and ISA. The NPA providing Behavior Intervention services shall develop a written behavior plan that specifies the nature of its behavior support services for each student within thirty (30) days of enrollment, or as determined by the IEP team as appropriate, and shall provide the BIP in writing to the LEA.

School-based services may not be unilaterally converted by CONTRACTOR to a substitute program or provided at a location not specifically authorized in writing by the IEP team. Except for services provided by a CONTRACTOR that is a licensed children's institution (LCI), all services not provided in the school setting require the presence of a parent, guardian or adult caregiver during the delivery of services, provided that a guardian or caregiver must have a signed authorization by the parent or legal guardian to authorize emergency services as requested. LCI CONTRACTORS shall ensure that appropriate and qualified residential or clinical staff is present during the provision of services under this Master Contract.

CONTRACTORS providing Behavior Intervention services must have a trained Behavior Intervention specialist or trained equivalent on staff. It is understood that Behavior Intervention services are limited per CDE Certification and do not constitute as an instructional program.

When CONTRACTOR is an NPA, CONTRACTOR shall not provide transportation nor subcontract for transportation services for students unless the LEA and CONTRACTOR agree otherwise in writing.

23. INSTRUCTIONAL MINUTES

When the CONTRACTOR is an NPS, the total number of instructional minutes per school day provided by CONTRACTOR shall be consistent with the total number of instructional minutes established for LEA schools at like grade levels, unless otherwise specified within the student's IEP/IFSP or ISA, provided the ISA meets the minimum standards for instructional minutes as specified in Education Code. The number of instructional minutes shall be exclusive of breakfast, recess, lunch and passing time. For Pre-K through grade twelve (12), unless otherwise specified on the student's IEP/IFSP or ISA, the minimum instructional minutes shall be consistent with minimum standards as specified in Education Code, and in no case will be less than the amount as specified in the IEP/IFSP.

The total number of annual instructional minutes shall be at least equivalent to the total number of annual instructional minutes provided to students attending LEA schools in like grade level unless otherwise specified in the student's IEP.

When a CONTRACTOR is an NPA and/or related services provider, the total number of minutes per school day provided by the CONTRACTOR shall be specified in the LEA pupil's ISA developed in accordance with the LEA pupil's IEP/IFSP.

Any CONTRACTOR who is providing any instructional minutes pursuant to an ISA is required to inform the LEA if the CONTRACTOR is providing the student with any additional instructional minutes (outside of the ISA) paid for by any other source.

24. CLASS SIZE

When CONTRACTOR is an NPS, CONTRACTOR shall ensure that class size shall not exceed a ratio of one (1) teacher per twelve (12) students, unless CONTRACTOR and LEA agree otherwise in writing. Upon prior written approval by an authorized LEA representative of each student enrolled in the class, class size may be temporarily increased for no more than thirty (30) days by a ratio of one (1) teacher to fourteen (14) students when necessary during the regular or extended school year to provide services to students with disabilities.

In the event an NPS is unable to fill a vacant teaching position responsible for direct instruction to students, and the vacancy has direct impact on the CDE Certification of that school, the NPS shall develop a plan to assure appropriate coverage of students by first utilizing existing certificated staff. The NPS and the LEA may agree to one 30 school day period of no more than thirty (30) days 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 an NPA.

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.

25. CALENDARS

The CONTRACTOR shall submit to the LEA/SELPA a school calendar for the CONTRACTOR with each student ISA. The calendar shall indicate the total number of billable days not less than 180 regular school year days, plus extended school year (ESY) billable days equivalent to the number of days determined by the IEP/IFSP team. Determination of the number of school days, plus extended school year is made by the IEP team. A student shall only be eligible for extended school year services if such are recommended by the IEP Team and the provision of such is specifically included in the ISA. Extended school year shall consist of not less than twenty (20) instructional days, unless otherwise agreed upon by the IEP Team convened by the LEA. Days of extended school year in excess of twenty (20) billable days must be mutually agreed to as part of the IEP, prior to the start of the extended school year.

Unless otherwise stated in the Student's IEP, billable days shall include only those days that are included in the submitted and approved school calendar, or required by the IEP for each LEA student. CONTRACTOR will adhere to the requirements for providing Extended School Year as outlined in Title 5, Article 4 of the California Code of Regulations. Unless otherwise specified by the students' IEP and/or ISA, educational services shall occur at the school site. Any instructional days provided outside the approved school or service calendar without written agreement shall be at the sole financial responsibility of the CONTRACTOR.

Students must have actually been in attendance during the regular school year and/or during extended school year and actually received services on a billable day of attendance in order for CONTRACTOR to be eligible for payment, unless otherwise outlined in Section 60 Emergency Closures. It is specifically understood that services may not be provided on weekends/holidays and other times when school is not in session, unless agreed to by the LEA, in writing, in advance of the delivery of any NPS service. Any instructional days provided without this written agreement shall be at the sole financial responsibility of the CONTRACTOR.

CONTRACTOR will observe legal holidays on the same days as LEA and will observe the same number of legal holidays as the LEA. Those legal holidays include Labor Day, Veteran's Day, Thanksgiving Day, Christmas Day, New Year's Day, Martin Luther King, Jr. Day, President's Day, Memorial Day and Independence Day. With the approval of LEA, CONTRACTOR may revise the date upon which CONTRACTOR is closed in observance of any of the holidays observed by an LEA may include Martin Luther King, Jr. Day, Cesar Chavez Day, or other days as identified by the LEA adopted calendar. Submission of a calendar by the CONTRACTOR shall serve to inform LEA of any holiday observed by the LEA on which the CONTRACTOR intends to remain open and to provide service to students.

When CONTRACTOR is an NPA, CONTRACTOR shall be provided with a LEA-developed and approved calendar prior to the initiation of services. 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 student's IEP and ISA. Unless otherwise specified in the LEA student's IEP and ISA, CONTRACTOR shall provide related services to LEA students on only those days that the LEA student's school of attendance is in session and the LEA student attends school. CONTRACTOR shall bill only for services provided on billable days of attendance as indicated on the LEA calendar unless otherwise specified in the student's IEP and ISA. It is specifically understood that services may not be provided on weekends/holidays and other times when school is not in session, unless agreed to by the LEA, in writing, in advance of the delivery of any NPA service provided by CONTRACTOR. Any instructional days/services provided without this written agreement shall be at the sole financial responsibility of the CONTRACTOR.

26. DATA REPORTING

CONTRACTOR shall agree to provide to the LEA with all data related to student information and billing information with LEA. CONTRACTOR shall agree to provide data related to all sections of this Agreement, including student discipline as noted below, and requested by and in the format required by the LEA. CONTRACTOR may utilize the Special Education Information System (SEIS) if approved by the LEA for all IEP development, service tracking documentation, and progress reporting, unless otherwise agreed to by the LEA. Additional progress reporting may be required by the LEA. The LEA shall provide the CONTRACTOR with appropriate software, user training and proper internet permissions to allow adequate access to the SEIS IEP database for the purposes of completing LEA requested activities consistent with SELPA Policy.

Using forms developed by the CDE or as otherwise mutually agreed upon by CONTRACTOR and LEA, CONTRACTOR shall provide LEA, on a monthly basis, a written report of all incidents in which a statutory offense is committed by any LEA student, regardless if it results in a disciplinary action of suspension or expulsion. This includes all statutory offenses as described in Education Codes 48900 and 48915. CONTRACTOR shall also include incidents resulting in the use of a behavioral restraint and/or seclusion even if they were not a result of a violation of Education Code Sections 48900 and 48915.

The LEA shall provide the CONTRACTOR 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 CONTRACTOR's provided forms at their discretion.

27. LEAST RESTRICTIVE ENVIRONMENT/DUAL ENROLLMENT

CONTRACTOR and LEA shall follow all SELPA and LEA policies and procedures that support Least Restrictive Environment options and/or Dual Enrollment options if available and appropriate, for students 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 team meetings regarding students for whom ISAs have been or may be executed. This shall include IEP team consideration of supplementary aids and services, goals and objectives necessary for placement in the LRE and necessary to enable students to transition to less restrictive settings.

When an IEP team has determined a student should transition into the public school setting, CONTRACTOR shall assist LEA in implementing the recommended activities to support the transition.

28. STATEWIDE ACHIEVEMENT TESTING

Where CONTRACTOR is an NPS, per implementation of Senate Bill 484, CONTRACTOR shall administer all Statewide assessments within the California Assessment of Student Performance and Progress (CAASPP), California Alternative Assessment (CAA), California Science Test (CAST), Desired Results Developmental Profile (DRDP), achievement and abilities tests (using LEA-authorized assessment instruments), the Fitness Gram, and the English Language Proficiency Assessments for California (ELPAC), and as appropriate to the student, and mandated by LEA pursuant to LEA and state and federal guidelines, unless otherwise determined by the LEA in agreement with the Contractor.

CONTRACTOR is subject to the alternative accountability system developed pursuant to Education Code section 52052, in the same manner as public schools. Each student placed with CONTRACTOR by the LEA shall be tested, as determined by the IEP team, by qualified staff of CONTRACTOR in accordance with that accountability program. LEA shall provide test administration training to CONTRACTOR'S qualified staff. CONTRACTOR shall attend LEA test training and comply with completion of all coding requirements as required by LEA. The LEA shall send test results to the CONTRACTOR and shall ensure that the test results are reported to the CDE as required by Education Code Section 56366 (a)(8)(A). 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)).

29. MANDATED ATTENDANCE AT LEA MEETINGS

Provided said meetings are relevant to CONTRACTOR's services, CONTRACTOR shall attend LEA 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, behavior intervention, cultural and linguistic needs of students with disabilities, dual enrollment responsibilities, LRE responsibilities, transition services, and standardized testing and IEPs. LEA shall provide CONTRACTOR with reasonable notice of mandated meetings. Attendance at such meetings does not constitute a billable service hour(s) and CONTRACTOR shall not bill the LEA or the SELPA for such attendance. Attendance may be in person or by electronic means at the mutual agreement of the parties.

30. POSITIVE BEHAVIOR INTERVENTIONS AND SUPPORTS

CONTRACTOR shall comply with the requirements of Education Code section 49005, *et seq.*, 56521.1 and 56521.2 regarding positive behavior interventions. LEA students who exhibit behaviors that interfere with their learning or the learning of others must receive timely and appropriate assessments and positive support and interventions in accordance with the federal law and its implementing regulations. If the 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 Behavior Intervention Plan (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 Education Code section 56521.1 regarding emergency interventions and behavioral emergency reports. CONTRACTOR shall ensure that all staff members are trained annually in crisis intervention, emergency procedures, and evidenced-based practices and interventions specific to the unique behavioral needs of the CONTRACTOR's pupil population. The training shall be provided within 30 days of employment to new staff who have any contact or interaction with pupils during the school day, and annually to all staff who have any contact or interaction with pupils during the school day. The CONTRACTOR shall select and conduct the training in accordance with Education Code section 56366.1. CONTRACTOR shall maintain written records of the training and provide written verification of the training annually and upon request.

Pursuant to Education Code section 56521.1, emergency interventions shall not be used as a substitute for a BIP, and shall not be employed longer than necessary to contain the behavior. Emergency interventions may only be used to control unpredictable, spontaneous behavior that poses clear and present danger of serious physical harm to the individual with exceptional needs, or others, and that cannot be immediately prevented by a response less restrictive than the temporary application of a technique used 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 Behavior Emergency Report (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. CONTRACTOR shall notify the SELPA, LEA and the parent/guardian when any type of physical or mechanical restraint or seclusion has been used. Upon the use of any type of physical or mechanical restraint or seclusions of a student, CONTRACTOR shall complete a BER per the reporting and notification requirements listed above. Emergencies *require* a BER form be completed and submitted to the LEA within twenty-four (24) hours for administrative action. CONTRACTOR shall notify the Parent within twenty-four (24) hours via telephone. If the student does not have a BIP an IEP team shall confer to schedule a meeting within two (2) days, and at such meeting, review the BER, determine if there is a necessity for a functional behavioral assessment, and to determine an interim plan. If the student has a BIP, the IEP team shall review and modify the BIP if a new behavior has been exhibited or the IEP team finds it necessary to review and modify the IEP. A copy of the BER shall be provided to the LEA and the SELPA.

Pursuant to Education Code Section 56521.2, CONTRACTOR is subject to the following:

- (a) A local educational agency or nonpublic, nonsectarian school or agency serving individuals with exceptional needs pursuant to Sections 56365 and 56366, shall not authorize, order, consent to, or pay for the following interventions, or any other interventions similar to or like the following:
 - (1) Any intervention that is designed to, or likely to, cause physical pain, including, but not limited to, electric shock.
 - (2) An intervention that involves the release of noxious, toxic, or otherwise unpleasant sprays, mists, or substances in proximity to the face of the individual.

- (3) An intervention that denies adequate sleep, food, water, shelter, bedding, physical comfort, or access to bathroom facilities.
 - (4) An intervention that is designed to subject, used to subject, or likely to subject, the individual to verbal abuse, ridicule, or humiliation, or that can be expected to cause excessive emotional trauma.
 - (5) Restrictive interventions that employ a device, material, or objects that simultaneously immobilize all four extremities, including the procedure known as prone containment, except that prone containment or similar techniques may be used by trained personnel as a limited emergency intervention.
 - (6) Locked seclusion, unless it is in a facility otherwise licensed or permitted by state law to use a locked room.
 - (7) An intervention that precludes adequate supervision of the individual.
 - (8) An intervention that deprives the individual of one or more of his or her senses.
- (b) In the case of a child whose behavior impedes the child's learning or that of others, the individualized education program team shall consider the use of positive behavioral interventions and supports, and other strategies, to address that behavior, consistent with Section 1414(d)(3)(B)(i) and (d)(4) of Title 20 of the United States Code and associated federal regulations.

All restraint practices must be reviewed and revised when they have an adverse effect on a student and are used repeatedly for an individual child, either on multiple occasions within the same classroom or multiple uses by the same individual. CONTRACTOR shall notify the student's parent/guardian when any type of physical or mechanical restraint or seclusion has been used. Upon the use of any type of physical or mechanical restraint or seclusions of a District student, CONTRACTOR shall complete a BER per the reporting and notification requirements listed above.

31. STUDENT DISCIPLINE

CONTRACTOR shall maintain and abide by a written policy for student discipline that is consistent with state and federal law and regulations. Using forms developed by the California Department of Education or as otherwise mutually agreed upon by CONTRACTOR and LEA, CONTRACTOR shall provide LEA, on a monthly basis, a written report of all incidents in which a statutory offense is committed by any LEA student, regardless if it results in a disciplinary action of suspension or expulsion. This includes all statutory offenses as described in Education Codes 48900 and 48915. CONTRACTOR shall also include incidents resulting in the use of a behavioral restraint and/or seclusion even if they were not a result of a violation of Education Code Sections 48900 and 48915.

Updated information on changes to education code that may occur shall be shared between parties to this contract for implementation when such changes occur. Consistent with this Agreement, made due to changes to education code shall be implemented in a timely manner.

When CONTRACTOR seeks to remove a student from his/her current educational placement for disciplinary reasons, CONTRACTOR shall immediately submit a written discipline report to the LEA and a manifestation determination IEP team meeting shall be scheduled. Written discipline reports shall include, at a minimum, the following information: the student's name; the time, date, and description of the misconduct; the disciplinary action taken by CONTRACTOR; and the rationale for such disciplinary action. The LEA will be responsible for completing the student's behavior plan, if any, shall be submitted with the written discipline report. CONTRACTOR and LEA agree to participate in a manifestation determination analysis and/or assessment as appropriate, with input from the CONTRACTOR. CONTRACTOR shall collaborate with LEA representatives at an IEP team meeting where the manifestation determination will be made.

32. IEP TEAM MEETINGS

An IEP team meeting shall be convened at least annually to evaluate: (1) the educational progress of each student placed with CONTRACTOR, including all state assessment results pursuant to the requirements of Education Code section 52052; (2) whether or not the needs of the student continues to require placement in the NPS to receive an appropriate education and (3) whether changes to the student's IEP are necessary, including whether the student may be appropriately served in, and transitioned to a public school setting consistent with California Education Code Sections 56366 (a) (2) (B) (i) and (ii) and pursuant to California Education Code section 56345 (b) (4).

If a student is to be transferred from an NPS setting into a regular class setting in a public school for any part of the school day, the IEP team shall document, if appropriate, a description of activities provided to integrate the student into the regular education program, including the nature of each activity as well as the time spent on the activity each day or week and a description of the activities provided to support the transition of the student from the special education program into the regular education program. Each student shall be allowed to provide confidential input to any representative of the IEP team. Except as otherwise provided in the Master Contract, CONTRACTOR and LEA shall participate in all IEP team meetings regarding students for whom ISAs have been or may be executed. At any time during the term of this Master Contract, the parent, CONTRACTOR or LEA may request a review of the student's IEP, subject to all procedural safeguards required by law, including reasonable notice given to, and participation of, the CONTRACTOR in the meeting. Reasonable efforts shall be made to schedule IEP team meetings at a time and place that is mutually convenient to the parent, 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. CONTRACTOR and LEA will collaborate to obtain appropriate informed consent from parents using an approved Assessment Plan for any assessments completed for annual or other IEP meetings where assessment data is collected and presented by the CONTRACTOR. In cases where LEA completes assessment activities, It is understood that attendance at IEP meetings is part of CONTRACTOR's professional responsibility and is not a billable service under this Master Contract.

It is understood that the CONTRACTOR may utilize the approved electronic IEP system of the SELPA, Special Education Information System (SEIS), for all IEP planning and progress reporting at the LEA's discretion. The SELPA shall provide training for NPS and NPA to assure access to SEIS. The NPS and/or NPA shall maintain confidentiality of all IEP data in SEIS and shall protect the password requirements of the system. When a student disenrolls, the NPS/NPA shall discontinue use of SEIS for that student.

Changes in any student's educational program, including instruction, services, or instructional setting provided under this Master Contract, may only be made on the basis of revisions to the student's IEP. In the event that the CONTRACTOR believes the student requires a change of placement, the CONTRACTOR may request a review of the student's IEP for the purposes of consideration of a change in the student's placement. Students are entitled to remain in the last agreed upon and implemented placement unless parent agrees otherwise or an Interim Alternative Educational Setting is deemed lawful and appropriate by OAH consistent with Section 1415 (k)(1)(7) of Title 20 of the United States Code.

33. SURROGATE PARENTS AND FOSTER YOUTH

CONTRACTOR shall comply with LEA surrogate parent assignments. Surrogate parents shall serve as the child's parent and have all the rights relative to the student's education that a parent has under the Individuals with Disabilities Education Act pursuant to 20 USC 1414-1482 and 34 CFR 300.1-300.756.

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 NPS 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.

34. DUE PROCESS PROCEEDINGS

CONTRACTOR shall fully participate in special education due process proceedings including mediations and hearings, and preparation for such mediation and hearing, as requested by LEA. Participation further includes the willingness to make staff available for witness preparation and testimony as is necessary to facilitate a due process hearing. CONTRACTOR shall fully participate in the investigation and provision of documentation related to any complaint filed with the State of California, the Office for 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/IFSP.

35. COMPLAINT PROCEDURES

CONTRACTOR shall maintain and adhere to CONTRACTOR's own written procedures for responding to parent complaints. These procedures shall include annually notifying and providing parents of LEA pupils and the LEA with appropriate information (including how to access 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 Procedures, Title IX 106.8 (a) (d) and 106.9 (a); and (5) Notice of Privacy Practices in compliance with Health Insurance Portability and Accountability Act (HIPPA), if applicable. CONTRACTOR shall include verification of these procedures to the LEA. CONTRACTOR shall immediately notify LEA of any complaints filed against it related to LEA students and provide LEA with all documentation related to the complaints and/or its investigation of complaints, including any and all reports generated as a result of an investigation.

36. STUDENT PROGRESS REPORTS/REPORT CARDS AND ASSESSMENTS

Unless LEA requests in writing that progress reports be provided on a monthly basis, CONTRACTOR shall provide to LEA pupil's parent(s) or legal guardian(s), and to the school district of residence, at least four (4) written progress reports during the year, one of which may be presented at the annual IEP. At a minimum, progress reports shall include progress over time towards IEP goals and objectives. A copy of the progress reports/report cards shall be maintained at the CONTRACTOR's place of business and shall be submitted to the LEA and parents.

The CONTRACTOR shall provide an LEA representative access to supporting documentation used to determine progress on any goal or objective, including but not limited to log and data sheets, observation notes, pre/post tests, rubrics and other data collection used to determine progress on approved goals, objectives, transition plans or behavior intervention plans. The LEA may request such data at any time within five (5) years of the date of service. The CONTRACTOR shall provide this data supporting progress within five (5) business days of request. Additional time may be granted as needed by the LEA.

CONTRACTOR shall collaborate with LEA to complete academic or other assessment of the student within a reasonable period of time prior to the student's annual or triennial IEP meeting for the purpose of reporting the student's present levels of performance at the IEP meeting as required by state and federal laws and regulations and pursuant to LEA policies, procedures, and/or practices. When CONTRACTOR is conducting standardized assessments for use at an IEP

meeting, CONTRACTOR and LEA will collaborate to obtain appropriate prior written consent from the parent using an approved Assessment Plan. In cases where LEA completes assessment activities, LEA and CONTRACTOR will collaborate to ensure an appropriate Assessment Plan is obtained. CONTRACTOR shall send reports to LEA prior to the IEP meeting. CONTRACTOR shall maintain supporting documentation such as test protocols and data collection, which shall be made available to LEA within five (5) business days of request.

The CONTRACTOR is responsible for all assessment costs, including provision of materials, supplies and assessment kits, regarding the updating of goals and objectives, progress reporting and development of present levels of performance. All other assessments resulting from an assessment plan shall be provided by the LEA unless the LEA specifies in writing a request for CONTRACTOR assessments including the approved timelines, conditions and costs. Any assessment and/or evaluation costs may be added to the ISA and/or approved separately by the LEA at the LEA's sole discretion.

It is understood that all billable hours must be in direct services to pupils as specified in each student's ISA and IEP. For NPA services, supervision provided by a qualified individual as specified in Title 5 Regulation, subsection 3065, shall be determined as appropriate and included in the ISA. Supervision means the direct observation of services, data review, case conferencing and program design consistent with professional standards for each professional's license, certification, or credential.

CONTRACTOR shall not charge the student's parent(s), the SELPA, or LEA for the provision of progress reports, report cards, and/or any assessments, interviews, and/or meetings. It is understood that all billable hours have limits to those specified on the ISA consistent with the IEP. It is understood that copies of data collection notes, forms, charts and other such data are part of the pupil's record and shall be made available to the LEA upon written request.

37. TRANSCRIPTS

Where appropriate, NPS CONTRACTOR shall prepare transcripts at the close of each semester, or upon student transfer, for students in grades nine (9) through twelve (12) inclusive, and submit them on LEA approved forms to the student's school of residence for evaluation of progress toward completion of diploma requirements as specified in LEA Procedures. CONTRACTOR shall submit to the LEA names of students and their school of residence for whom transcripts have been submitted as specified by the LEA.

38. STUDENT CHANGE OF RESIDENCE

Within five (5) school days from the date CONTRACTOR becomes aware of a student's change of residence, CONTRACTOR shall notify the LEA's representative, in writing, of the student's change of residence as specified in LEA Procedures. Upon enrollment, CONTRACTOR shall notify parents in writing of their obligation to notify CONTRACTOR of any change of residence. CONTRACTOR shall maintain, and provide upon request by LEA, documentation of such notice to parents.

If CONTRACTOR had knowledge or should reasonably have had knowledge of the student's change of residence boundaries and CONTRACTOR fails to follow the procedures specified in this provision, LEA shall not be responsible for the costs of services delivered following the student's change of residence.

39. WITHDRAWAL OF STUDENT FROM PROGRAM

CONTRACTOR shall immediately report, by telephone, electronically and/or in writing to the LEA authorized representative when an LEA student is withdrawn without prior notice from school and/or services, including student's change of residence to a residence outside the LEA service

boundaries, and student's discharge against professional advice from a Nonpublic Schools/Residential Treatment Center. CONTRACTOR shall confirm such telephone contact in writing and submit within five (5) business days.

40. PARENT ACCESS

CONTRACTOR shall provide for reasonable parental access to students and facilities including, but not limited to, the instructional setting, recreational activity areas, meeting rooms and student living quarters. CONTRACTOR shall comply with court orders regarding parental visits and access to LEA students.

CONTRACTOR operating programs associated with residential components shall cooperate with a parent's reasonable request for LEA student therapeutic visits in their home or at the residential location during, but not limited to, holidays and weekends. 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.

41. SERVICES AND SUPERVISION AND PROFESSIONAL CONDUCT

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 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.

For services provided on a public school campus, sign in/out procedures shall be followed by NPA providers working in a public school classroom along with all other procedures for being on campus consistent with school and LEA policy. It is understood that the public school credentialed classroom teacher is responsible for the instructional program.

For services provided in a pupil's home as specified in the IEP, CONTRACTOR shall assure the parent of the child, LEA approved responsible adult, or an adult caregiver with written and signed authorization to make decisions in an emergency, is present during the provision of services. 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, along with written and signed authorization to make decisions in emergency situations. CONTRACTOR shall inform parents of their obligation to inform the LEA of any changes of caregivers and provide written authorization for emergency situations. The adult caregiver cannot be an employee or volunteer associated with the CONTRACTOR. All problems and/or concerns reported to parents, both verbal and written, shall also be provided to the LEA. CONTRACTOR shall immediately notify LEA in writing if no parent, guardian or adult caregiver is present for the delivery of services. CONTRACTOR shall provide to LEA a written description of the services and location provided prior to the effective date of this Master Contract.

It is understood that all employees, subcontractors, and volunteers shall adhere to the applicable customary professional and ethical standards when providing services. All practices shall be within the scope of professional responsibility as defined in the professional code of conduct for each profession applicable to the services provided under this Agreement, as well as any LEA professional standards, as specified in Board policies and/or regulations when made available to the CONTRACTOR. Reports regarding student progress shall be consistent with the provision of this Master Contract.

42. LICENSED CHILDREN'S INSTITUTION AND RESIDENTIAL TREATMENT CENTER CONTRACTORS

If CONTRACTOR is an LCI, CONTRACTOR shall adhere to all legal requirements regarding educational placements for LCI students as stated in Education Code 56366 (a) (2) (C), 56366.9 (c) (1), Health and Safety Code section 1501.1(b), AB 1858 (2004), AB490 (Chapter 862, Statutes of 2003), AB 1261 (2005), AB 1166 Chapter 171 (2015), AB 167 Chapter 224 (2010), AB 216 Chapter 324 (2013), AB 379 Chapter 772 (2015), AB 1012 Chapter 703 (2015), and the procedures set forth in the LEA Procedures. An LCI shall not require that a pupil be placed in its NPS as a condition of being placed in its residential facility.

If CONTRACTOR is an NPS that is owned, operated by, or associated with a residential treatment center (hereinafter referred to as NPS/RTC), NPS/RTC CONTRACTOR shall adhere to all legal requirements under the Individuals with Disabilities ACT (IDEA), 20 U.S.C. Section 1412(a)(1)(A) and Education Code 56000, et. Seq.; amended and reorganized by the Individuals with Disabilities Education Improvement Act of 2004, 20 U.S.C. Section 1410 (29); Education Code Section 56031; Cal. Code Regs., Title 5, Section 3001 et. Seq., Cal. Code Regs., Title 2, Section 60100 et. Seq., regarding the provision of counseling services, including residential care for students to receive a FAPE as set forth in the LEA student's IEPs.

If CONTRACTOR is an NPS that is owned, operated by, or associated with a LCI, CONTRACTOR shall provide to LEA, on a quarterly basis, a list of all students, including those identified as eligible for special education. For those identified as special education students, the list shall include: 1) special education eligibility at the time of enrollment and; 2) the educational placement and services specified in each student's IEP at the time of enrollment. A copy of the current IEP shall be provided to the LEA.

Unless placement is made pursuant to a binding administrative or judicial order or a lawfully executed agreement between LEA and parent, LEA is not responsible for the costs associated with NPS placement until the date on which an IEP team meeting is convened, the IEP team determines that a NPS placement is appropriate, and the IEP is signed by the student's parent or another adult with educational decision-making rights.

In addition to meeting the certification requirements of the State of California, a 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 IDEA and IDEIA (20 U.S.C. Sec. 1400 et seq.).

43. STATE MEAL MANDATE

When CONTRACTOR is an NPS, CONTRACTOR and LEA shall satisfy the State Meal Mandate under California Education Code sections 49530, 49530.5 *et seq.*, and 49550, *et seq.* LEA shall determine student eligibility of qualification under the State Meal Mandate and notify the Contractor of current student eligibility upon placement or subsequent determination of student eligibility qualification upon parent/guardian submission of any required application documentation to the LEA. LEA will collaborate with CONTRACTOR to ensure that any pupil eligible under the State Meal Mandate is provided with access to appropriate meals and will consider reasonable costs for ensuring such participation.

44. MONITORING

When CONTRACTOR is an NPS, the LEA (or SELPA) shall conduct at least one onsite monitoring visit during each school year to the NPS at which the LEA has a pupil attending and with which it maintains a master contract. The monitoring visit shall include, but is not limited to, a review of services provided to the pupil through the ISA between the LEA and the NPS, a review of progress the pupil is making toward the goals set forth in the pupil's individualized education program, a review of progress the pupil is making toward the goals set forth in the pupil's BIP, if applicable, an observation of the pupil during instruction, and a walkthrough of the facility. The

LEA (or SELPA) shall report the findings resulting from the monitoring visit to the CDE within 60 calendar days of the onsite visit.

The LEA (or SELPA) shall conduct an onsite visit to the NPS before placement of a pupil if the LEA does not have any pupils enrolled at the school at the time of placement.

CONTRACTOR shall allow LEA representatives access by LEA to its facilities for additional periodic monitoring of each student's instructional program. LEA shall have access to observe each student at work, observe the instructional setting, interview CONTRACTOR, and review each student's records and progress. Such access shall include unannounced monitoring visits. When making site visits, LEA shall initially report to CONTRACTOR's site administrative office. CONTRACTOR shall be invited to participate in the review of each student's progress.

If CONTRACTOR is also an LCI and/or NPS/RTC, SELPA shall annually evaluate whether CONTRACTOR is in compliance with Education Code section 56366.9 and Health and Safety Code section 1501.1(b) and CONTRACTOR shall provide reasonable assistance with this review.

The State Superintendent of Public Instruction ("Superintendent") shall monitor CONTRACTOR's facilities, the educational environment, and the quality of the educational program, including the teaching staff, the credentials authorizing service, the standards-based core curriculum being employed, and the standard focused instructional materials used on a three-year cycle, as follows: (1) CONTRACTOR shall complete a self-review in year one; (2) the Superintendent shall conduct an onsite review in year two; and (3) the Superintendent shall conduct a follow-up visit in year three.

CONTRACTOR shall participate in the CDE Onsite Review as aligned with the review and monitoring cycle in accordance with Education Code section 56366.1(j). and, if applicable, LEA Compliance Review. This review will address programmatic aspects of the NPS/NPA, compliance with relevant state and federal regulations, and Master Contract compliance. CONTRACTOR shall complete and submit a NPS/NPA Self-Assessment Checklist submitted as specified by the LEA.

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 an NPS, CONTRACTOR shall collect all applicable data and prepare the applicable portion of a School Accountability Report Card as appropriate in accordance with California Education Code Section 56366 (a)(9) and 33126, *et seq.*

PERSONNEL

45. CLEARANCE REQUIREMENTS

CONTRACTOR shall comply with the requirements of California Education Code sections 44237, §35021.1 and §35021.2, and 56366.1 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 and ensures that the volunteers will have or likely may have any direct contact with LEA students. CONTRACTOR hereby agrees that CONTRACTOR's employees and volunteers, unless CONTRACTOR determines that the volunteers will have no direct contact with students, shall not come in contact with students until CDOJ and FBI clearance are received and evaluated. CONTRACTOR shall certify in writing to LEA that, to the best of its knowledge, none of its employees, and volunteers, unless CONTRACTOR determines that the volunteers will have no direct contact with students, or subcontractors who may come into contact with students have been convicted of a violent or serious

felony as those terms are defined in California Education Code §44237(h), or who has been convicted of or entered a plea of nolo contendere to charges of any sex offense as defined in Education Code §44010, 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). Contractor shall certify to the LEA that they have successful background checks and enrolled in subsequent arrest notification service for all employees who may come into contact with students.

Notwithstanding the restrictions on sharing and destroying criminal background check information, CONTRACTOR, upon demand, shall make available to the LEA evidence of a successful criminal background check clearance and enrollment in subsequent arrest notification service, as provided, for each owner, operator, and employee of the nonpublic, nonsectarian school or agency. CONTRACTOR is required to retain the evidence on-site, 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 to the LEA upon request.

46. STAFF QUALIFICATIONS

The CONTRACTOR shall ensure that all individuals employed, contracted, and/or otherwise hired by CONTRACTOR to provide special education and/or individualized instruction or related services must hold a valid 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 34 of the Code of Federal Regulations sections 200.56 and 200.58, and Title 5 of the California Code of Regulations sections 3001(y), 3064 and 3065. Such qualified staff may only provide related services within the scope of their professional license, certification or credential and ethical standards set by each profession, and not assume responsibility or authority for another related services provider or special education teacher's scope of practice.

CONTRACTOR shall ensure that staff are appropriately credentialed to provide instruction and services to students with the conditions placed in their program/school through documentation provided to the CDE (5 CCR 3064 (a)). When CONTRACTOR is an NPS, an appropriately qualified person shall serve as curricular and instructional leader, and provide leadership, oversight and professional development.

CONTRACTOR shall comply with personnel standards and qualifications regarding instructional aides and teacher assistants respectively pursuant to Federal requirements and Education Code sections 45340 *et seq.* and 45350 *et seq.* Specifically, all paraprofessionals, including but not limited to, instructional aides and teacher assistants, employed, contracted, and/or otherwise hired or subcontracted by CONTRACTOR to provide classroom and/or individualized instruction or related services, shall possess a high school diploma (or its recognized equivalent) and at least one of the following qualifications: (a) completed at least two (2) years of study at an institution of higher education; or (b) obtained an associate's (or higher) degree; or (c) met a rigorous standard of quality and can demonstrate, through a formal state or local assessment (i) knowledge of, and the ability to assist in instructing, reading, writing, and mathematics; or (ii) knowledge of, and the ability to assist in instructing, reading readiness, writing readiness, and mathematics readiness, as appropriate. CONTRACTOR shall comply with all laws and regulations governing the licensed professions, including but not limited to, the provisions with respect to supervision.

In addition to meeting the certification requirements of the State of California, a CONTRACTOR that operates a program outside of this state and serving a student shall be certified or licensed by that state to provide special education and related services to pupils under IDEA (20 U.S.C. Sec. 1400 *et seq.*).

47. CALSTRS/PERS REPORTING REQUIREMENTS

CONTRACTOR understands that any employee of the CONTRACTOR who is also a prior participant in the State Teachers Retirement System/Public Employees Retirement System (STRS/PERS), including retiree(s), agent(s), officer(s) or employee(s) have a responsibility to report all monies paid under this agreement to public agencies as required by law. CONTRACTOR acknowledges that the LEA is required to report all monies paid under this agreement to the county office of education or other public agencies as required. CONTRACTOR will inform employees:

- a) CONTRACTOR must notify agent(s), officer(s) or employee(s) of the requirement to report the individual's earnings to CalSTRS/PERS as required by law or regulation.
- b) LEA is not liable for individual penalties if CONTRACTOR's agent(s), officer(s) or employee(s) exceeds a retirement system's earnings limitation and is reinstated to employment or required to repay retirement benefits.

48. VERIFICATION OF LICENSES, CREDENTIALS AND OTHER DOCUMENTS

CONTRACTOR shall submit to SELPA/LEA a staff list, and copies of current licenses, credentials, certifications, permits and/or other documents which entitle the holder to provide special education and/or related services and all individuals employed, contracted, and/or otherwise hired or subcontracted by CONTRACTOR. CONTRACTOR shall ensure that all licenses, certifications, credentials, permits or other documents are on file at the office of the County Superintendent of Schools. CONTRACTOR shall notify SELPA in writing within thirty (30) days when personnel changes occur which may affect the provision of special education and/or related services to students as specified in the LEA Procedures. CONTRACTOR shall maintain and make available upon request to the SELPA the verified dates of fingerprint clearance, Department of Justice clearance and Tuberculosis Test clearance for all employees, approved subcontractors and/or volunteers prior to such individuals starting to work with any student.

CONTRACTOR shall monitor the status of licenses, credentials, certifications, permits and/or other documents for CONTRACTORS and all individuals employed, contracted, and/or otherwise hired by CONTRACTOR. CONTRACTOR shall immediately, and in no circumstances longer than five (5) business days provide to SELPA/LEA updated information after learning of a change in status of licenses, certifications, credentials, permits and/or other documentation changes. CONTRACTOR shall notify SELPA/LEA and CDE in writing within thirty (30) days when personnel changes occur which may affect the provision of special education and/or related services to LEA students. CONTRACTOR shall notify LEA within forty-five (45) days 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. The LEA shall not be obligated to pay for any services provided by a person whose licenses, credentials, certifications or waivers are expired, suspended, revoked, rescinded, or otherwise nullified during the period which such a person is providing services under this Master Contract. Failure to notify the LEA/SELPA and CDE of any changes in credentialing/licensed staff may result in suspension or revocation of CDE certification and/or suspension or termination of this Master Contract by the LEA.

49. STAFF PROFESSIONAL BEHAVIOR WHEN PROVIDING SERVICES AT SCHOOL OR SCHOOL RELATED EVENTS OR AT SCHOOL FACILITY AND/OR IN THE HOME

It is understood that all employees, subcontractors, and volunteers of any certified NPS or NPA shall adhere to the customary professional and ethical standards when providing services. All practices shall only be within the scope of professional responsibility as defined in the professional code of conduct for each profession as well as any LEA professional standards as specified in Board policies and/or regulations when made available to the CONTRACTOR.

For services provided on a public school campus, sign in/out procedures shall be followed by providers working in a public school classroom along with all procedures for being on campus consistent with school and district policy. Such policies and procedures shall be made available to

the CONTRACTOR upon request. CONTRACTOR providing services outside of the student's school as specified in the IEP shall ensure that at least one parent of the child or an adult caregiver with written and signed authority to make decisions in an emergency is present during provision of services. The names of adult caregivers 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 adult caregiver cannot be an employee or volunteer associated with the NPS/NPA service provider. All problems and/or concerns reported by CONTRACTOR to parents or guardians, in either verbal or written form, shall be reported to the LEA.

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 student and employee health and safety. CONTRACTOR shall comply with the requirements of California Education Code sections 35021 *et. seq.*, 49406, and Health and Safety Code Section 3454(a) 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 a student.

CONTRACTOR shall comply with OSHA Blood Borne Pathogens Standards, Title 29, Code of Federal Regulations (CFR) section 1910.1030, when providing medical treatment or assistance to a student. CONTRACTOR further agrees to provide annual training regarding universal health care precautions and to post required notices in areas designated in the California Health and Safety Code.

51. FACILITIES AND FACILITIES MODIFICATIONS

CONTRACTOR shall provide special education and/or related services to students in facilities that comply with all applicable federal, state, and local laws, regulations, and ordinances related, but not limited to: disability access; fire, health, sanitation, and building standards and safety; fire warning systems; zoning permits; and occupancy capacity. When CONTRACTOR is an NPS, CONTRACTOR shall conduct fire drills as required by Title 5 California Code of Regulations, Section 550. 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. Failure to notify the LEA and CDE of any changes in, major modification or relocation of facilities may result in the suspension or revocation of CDE certification and/or suspension or termination of this Master Contract.

52. ADMINISTRATION OF MEDICATION

CONTRACTOR shall comply with the requirements of California Education Code section 49423 when CONTRACTOR serves a student that is required to take prescription and/or over-the-counter medication during the school day. CONTRACTOR may designate personnel to assist the student with the administration of such medication after the student'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 student'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 student to whom medication is administered. Such written log shall specify the student's name; the type of medication; the date, time, and amount of each administration; and the name of the 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. Any change in medication type,

administration method, amount or schedule must be authorized by both a licensed physician and parent.

52. INCIDENT/ACCIDENT REPORTING

CONTRACTOR shall submit within 24 hours, electronically and by U.S. Mail, any accident or incident report to the LEA. CONTRACTOR shall properly submit required accident or incident reports pursuant to the procedures specified in LEA Procedures.

53. CHILD ABUSE REPORTING

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.* and Education Code 44691. To protect the privacy rights of all parties involved (i.e., reporter, child and alleged abuser), reports will remain confidential as required by law and professional ethical mandates. A written statement acknowledging the legal requirements of such reporting and verification of staff adherence to such reporting shall be submitted to the SELPA and the LEA.

54. SEXUAL HARASSMENT

CONTRACTOR shall have a Sexual and Gender Identity Harassment policy that clearly describes the kinds of conduct that constitutes sexual harassment and that are 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 shall ensure an immediate and comprehensive investigation is commenced in the event of a complaint and shall keep the LEA fully informed of the progress and result of such investigation. CONTRACTOR further agrees to provide annual training to all employees regarding the laws concerning sexual harassment and related procedures pursuant to Government Code 12950.1.

55. REPORTING OF MISSING CHILDREN

CONTRACTOR agrees that all staff members, including volunteers, will be familiar with and agree to comply with, 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 available upon request on an annual basis to the SELPA and the LEA. The written statement shall be submitted as specified upon request.

FINANCIAL

56. CONTRACTING, SERVICE TRACKING, ATTENDANCE REPORTING, AND BILLING

CONTRACTOR shall assure the necessary financial resources exist to provide an appropriate education for the students enrolled and will utilize those resources in such a manner to implement the IEP and ISA for each and every child.

CONTRACTOR shall comply with all LEA Procedures concerning enrollment, contracting, attendance reporting, service tracking and billing including requirements of electronic billing as specified by the LEA Procedures. CONTRACTOR shall be paid for the provision of special education and/or related services specified in the student's IEP and ISA. All payments by LEA shall be made in accordance with the terms and conditions of this Master Contract and in compliance with the LEA Procedures and will be governed by all applicable federal and state laws.

CONTRACTOR shall maintain separate registers for the basic education program, each related service, and services provided by instructional assistants, behavior intervention aides and bus aides. Original attendance forms (i.e., roll books for the basic education program, service tracking documents and notes for instructional assistants, behavioral intervention aides, bus aides, and each related service) 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 thereafter. CONTRACTOR shall verify the accuracy of minutes of reported attendance that is the basis of services being billed for payment.

CONTRACTOR shall submit invoices and related documents to LEA for payment, for each calendar month when education or related services were provided. Invoices and related documents shall be properly submitted electronically when feasible and in addition, on an LEA form with signatures in the manner prescribed by LEA in the LEA Procedures. At a minimum, each invoice must contain the following information: month of service; specific days and times of services coordinated by the LEA approved calendar unless otherwise specified in the IEP or agreed to by the LEA; name of staff who provided the service; approved cost of each invoice; total for each service and total for the monthly invoice; date invoice was mailed; signature of NPS/NPA administrator authorizing that the information is accurate and consistent with the ISA, CDE certificates and staff notification; verification that attendance report is attached as appropriate; indication of any made-up session consistent with this contract; verification that progress reports have been provided consistent with the ISA (monthly or quarterly unless specified otherwise on the ISA); and name or initials of each student for whom the service was provided. In the event services were not provided, an explanation for why the services were not provided shall be included.

Such an invoice is subject to all conditions of this contract. In collaboration with the LEA, an electronic invoice may be required provided such notice has been made in writing and training provided to the CONTRACTOR at no additional charge for such training.

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 and the LEA. 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 after the date a completely corrected re-billing invoice is received by LEA.

In no case shall initial payment claim submission for any Master Contract fiscal year (July through June) extend beyond September 30th after the close of the fiscal year. In no case shall any rebilling for the Master Contract fiscal year (July through June) extend beyond six (6) months after the close of the fiscal year unless approved by the LEA to resolve billing issues including re-billing issues directly related to a delay in obtaining information from the Commission on Teacher Credentialing regarding teacher qualification, but no later than twelve (12) months from the close of the fiscal year. If the billing or re-billing error is the responsibility of the LEA, then no limit is set provided that the LEA and CONTRACTOR have communicated such concerns in writing during the 12-month period following the close of the fiscal year. Neither the SELPA nor the LEA will pay mileage for CONTRACTOR employees. Contractor must submit a bill to LEAs/SELPA within sixty (60) days from the date of service. If a bill is submitted after sixty (60) days, the LEA/SELPA will not be responsible for payment of the bill. If the LEA fails to comply, the nonpublic, nonsectarian school/agency may require the LEA to pay an additional amount of 1½ percent (1.5%) of the unpaid balance per month until full payment is made. EC.56366.5

57. RIGHT TO WITHHOLD PAYMENT

LEA may withhold payment to CONTRACTOR when: (a) CONTRACTOR has failed to perform, in whole or in part, satisfactory services under the terms of this Agreement; (b) CONTRACTOR was overpaid by LEA for services under this Agreement, 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 California Education Code Section 56366(c)(2); (d) education and/or related services are provided to students 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 students enrolled in CONTRACTOR's educational program; (f) CONTRACTOR fails to confirm a student's change of residence to another LEA or confirms the change of residence to another LEA, but fails to notify LEA with five (5) days of such confirmation; (g) CONTRACTOR receives payment from Medi-Cal or from any other agency or funding source for a service provided to a student; or (h) CONTRACTOR has billed for services rendered on days other than billable days of attendance or for days when student was not in attendance and/or did not receive services; (c) CONTRACTOR was overpaid by LEA as determined by inspection, review, and/or audit of its program, work, and/or records; (d) CONTRACTOR has failed to provide supporting documentation with an invoice, as required by EC 56366(c)(2); (e) education and/or related services are provided to students by personnel who are not appropriately credentialed, licensed, or otherwise qualified; (f) LEA has not received prior to school closure or contract termination, all documents concerning one or more students enrolled in CONTRACTOR's educational program; (g) CONTRACTOR fails to confirm a student's change of residence to another district or confirms the change of residence to another district, but fails to notify LEA within five (5) days of such confirmation; or (h) CONTRACTOR receives payment from Medi-Cal or from any other agency or funding source for a service provided to a student. It is understood that no payments shall be made for any invoices that are not received by six (6) months following the close of the prior fiscal year, for services provided in that year.

Final payment to CONTRACTOR in connection with the cessation of operations and/or termination of a Master Contract will be subject to the same documentation standards described for all payment claims for regular ongoing operations. In addition, final payment may be withheld by the LEA until completion of a review or audit, if deemed necessary by the LEA. Such review or audit will be completed within ninety (90) days. The final payment may be adjusted to offset any previous payments to the CONTRACTOR determined to have been paid in error or in anticipation of correction of documentation deficiencies by the CONTRACTOR that remain uncorrected.

The amount which may be withheld by LEA with respect to each of the provisions of this section are as follows: (a) the value of the service CONTRACTOR failed to perform; (b) the amount of overpayment; (c) the entire amount 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 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.

If LEA determines that cause exists to withhold payment to CONTRACTOR, LEA shall, within ten (10) business days of this determination, 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 either (a) provide to LEA a statement that CONTRACTOR does not contest the withholding of payment; or (b) 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), if, in the sole discretion of the LEA, good cause for such an extension is shown. 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 may invoke the following payment dispute resolution policy.

After forty-five (45) business days: The CONTRACTOR may notify the LEA's Authorized LEA's Representative of the dispute in writing. The LEA Authorized Representative shall respond to the CONTRACTOR in writing within fifteen (15) business days.

After sixty (60) business days: Disagreements between the LEA and CONTRACTOR concerning payments under this the Master Contract may be appealed to the Senior SELPA Administrator for mediation. If the Senior SELPA Administrator is unable to resolve the payment dispute, the parties may appeal to the County Superintendent of Schools or the State Superintendent of Public Instruction pursuant to the provisions of California Education Code Section 56366(c) (2).

58. 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 to students, or when payments are received by CONTRACTOR from such other agency for such costs. 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 to students.

59. PAYMENT FOR ABSENCES

NONPUBLIC SCHOOL STAFF ABSENCE

Whenever a classroom teacher employed by CONTRACTOR 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 pursuant to the LEA Procedures. Substitute teachers shall remain with their assigned class during all instructional time. LEA will not pay for instruction and/or services unless said instruction or service is provided by an appropriately credentialed substitute teacher.

Whenever a related service provider is absent, CONTRACTOR shall provide a qualified (as defined in Section 7 of this agreement and as determined by LEA) substitute. LEA will not pay for services unless a qualified substitute is provided and/or CONTRACTOR provides documentation 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 unless otherwise agreed in student's IEP.

NONPUBLIC AGENCY STAFF ABSENCE

When CONTRACTOR is an NPA and CONTRACTOR's service provider is absent, CONTRACTOR shall provide a qualified (as defined in Section 7 of this agreement and as determined by LEA), unless LEA provides appropriate coverage in lieu of CONTRACTOR's service providers. LEA shall not pay for services unless a qualified substitute is provided and/or CONTRACTOR provides documentation 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. CONTRACTOR shall not "bank" or "carry over" make up service hours under any circumstances, unless otherwise agreed to in writing by CONTRACTOR and LEA.

In the event services were not provided, reasons for why the services were not provided shall be included.

If CONTRACTOR is an NPA, it shall notify LEA of the absence of a student no later than the fifth (5th) consecutive service day of the student's absence, as specified in the LEA Procedures. LEA shall not be responsible for the payment of services when a student is absent.

STUDENT ABSENCES

If CONTRACTOR is an NPS, no later than the tenth (10th) cumulative day of a student's unexcused absence, CONTRACTOR shall notify the LEA of such absence as specified in the LEA Procedures.

Positive Attendance is required. For days of partial attendance by the student, criteria for a billable day for payment purposes is one (1) day of attendance as defined in Education Code, sections 46010, 46010.3 and 46307. LEA shall not pay for services provided on days that a student's attendance does not qualify for Average Daily Attendance (ADA) reimbursement under state law. *Per Diem* rates for students whose IEPs authorize less than a full instructional day may be adjusted on a pro rata basis in accordance with the actual proportion of the school day the student was served by mutual agreement between the LEA and NPS. LEA shall not be responsible for payment of services or related services for days on which a student's attendance does not qualify for ADA under state law related to minimum instructional minutes, nor shall student be eligible for make-up services.

NONPUBLIC AGENCY STAFF ABSENCE

When CONTRACTOR is an NPA and CONTRACTOR's service provider is absent, CONTRACTOR shall provide a qualified (as defined in Section 7 of this agreement and as determined by LEA) substitute, unless LEA provides appropriate coverage in lieu of CONTRACTOR's service providers. CONTRACTOR shall not bank or carry over make up service hours under any circumstances, unless otherwise agreed to in writing by CONTRACTOR and LEA.

NONPUBLIC AGENCY STUDENT ABSENCE

If CONTRACTOR is an NPA it shall notify LEA of the absence of a student no later than the fifth (5th) consecutive service day of the student's absence, as specified in the LEA Procedures. LEA shall not be responsible for the payment of services when a student is absent.

60. LEA and/or CONTRACTOR CLOSURE DUE TO EMERGENCY

The following shall apply in the event of a LEA or CONTRACTOR closure due to an emergency consistent with guidelines followed by LEAs under Education Code Section 41422, Public Health Order and/or federal, state or local Executive or Emergency Order:

- a. LEA Closure: If CONTRACTOR serves students appropriately as delineated in the ISA during a period where LEAs may be closed or unable to provide service, CONTRACTOR shall receive payment, regardless of whether a sending LEA is closed.
- b. CONTRACTOR Closure – Unless otherwise directed by federal, state or local Executive or Public Health Order, Law or other similar directive, if the LEA is able to obtain alternative placement/service for the student, CONTRACTOR shall not receive payment for days the student is not in attendance due to CONTRACTOR closure. If the LEA is unable to obtain an alternative placement/service, CONTRACTOR shall receive payment for services provided, such as via distance learning or virtual services, upon a submission of a description of those services by the CONTRACTOR and as agreed upon by the CONTRACTOR and LEA, until an alternative placement/service can be found.

- c. LEA and CONTRACTOR Closure- On days the LEA is funded via waiver or federal, state or local Executive Order, Law or other similar directive, CONTRACTOR shall receive payment for services provided, such as via distance learning or virtual services, upon submission of a description of those services by the CONTRACTOR, and as agreed upon by the CONTRACTOR and LEA. CONTRACTOR shall not receive payment for days the student is not in attendance due to CONTRACTOR closure if stated by the guidance, federal, state or local Executive Order Law or other similar directive.

If required, CONTRACTOR and LEA shall work collaboratively to determine the need for make-up days or service changes, including distance learning plans, and shall work together to amend IEP and ISAs as appropriate to reflect mandated changes. When an emergency closure is lifted, CONTRACTOR shall notify the LEA of any lost instructional minutes, if required under Executive Order, Law or other similar directive. To terminate the contract or ISA either party shall give twenty (20) days prior written notice as stated in section 14 of this Master Contract.

61. INSPECTION AND AUDIT

The CONTRACTOR shall maintain and the LEA shall have the right to examine and audit, all records required to be maintained pursuant to Section 9 of this Agreement, including, but not limited to, 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 Agreement.

CONTRACTOR shall make available to SELPA 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 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, , 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 when applicable; liability and worker's compensation insurance policies; state NPS and/or NPA certifications; by-laws; lists of current board of directors/trustees, if incorporated; other documents evidencing financial expenditures; federal/state payroll quarterly reports Form 941/DE3DP; 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 relevant records available at the office of LEA or CONTRACTOR's offices (to be specified by LEA) at all reasonable times and without charge. All records shall be provided to LEA within five (5) 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 shall obtain from its subcontractors and suppliers written agreements to the requirements of this section and shall provide a copy of such agreements to LEA upon request by LEA or SELPA.

If an inspection, review, or audit by SELPA/LEA, a state, federal, and/or an independent agency/firm determines that CONTRACTOR owes LEA monies as a result of CONTRACTOR's over billing or

failure to perform, in whole or in part, any of its obligations under this Master Contract, LEA shall provide to CONTRACTOR written notice demanding payment from CONTRACTOR and specifying the basis, or bases, for such demand. Unless CONTRACTOR and LEA otherwise agree in writing, CONTRACTOR shall pay to LEA the full amount owed as result of CONTRACTOR's over billing and/or failure to perform, in whole or in part, any of its obligations under this Master Contract, as determined by an inspection, review, or audit by LEA, a state, federal, and/or an independent agency/firm. CONTRACTOR shall make such payment to LEA within thirty (30) days of receipt of LEA's written notice demanding payment.

62. RATE SCHEDULE

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 required minimum number of minutes per grade level as noted in Education Code Section 46200-46208.

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

63. DEBARMENT CERTIFICATION

By signing this Agreement, CONTRACTOR certifies that:

- (a) Neither CONTRACTOR nor any of its shareholders, partners, or executive officers are not presently debarred, suspended, proposed for debarment, or declared ineligible for the award of contracts by any Federal agency, and
- (b) Neither CONTRACTOR nor any of its shareholders, partners, or executive officers has, within a three-year period preceding the effective date of this Agreement, been convicted of or had a civil judgment rendered against them for: commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a Federal, state or local government contract or subcontract; violation of Federal or state antitrust statutes relating to the submission of offers; or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, tax evasion, or receiving stolen property; and are not presently indicted for, or otherwise criminally or civilly charged by any Federal, state, or local Government entity with, commission of any of these offenses.

The parties hereto have executed this Master Contract by and through their duly authorized agents or representatives. This Agreement is effective on the 1st day of July, 2020 and terminates at 5:00 P.M. on June 30, 2021, unless sooner terminated as provided herein.

CONTRACTOR

SELPA

Maxim Healthcare Services
Nonpublic School/Agency

San Mateo County SELPA

Signature **Date**
Name/Title:

Anjanette Pelletier **Date**
Associate Superintendent

EXHIBIT A: RATES (Pending)

(NONPUBLIC SCHOOL OR AGENCY):

(CONTRACT YEAR)

CDE Certification, total enrollment may not exceed _____

If blank, the number shall be determined by CDE Certification.

Rate Schedule: This rate schedule limits the number of LEA students that may be enrolled and the maximum dollar amount of the contract. It may also limit the maximum number of students that can be provided specific services. Special education and/or related services offered by CONTRACTOR, and the charges for such educational and/or related services during the term of this contract shall be as follows:

	Rate	Period
A. <u>Basic Education Program/Special Education Instruction</u>		
Basic Education Program/Dual Enrollment	_____	_____
Per diem rates for LEA students whose IEPs authorize less than a full instructional day shall be adjusted proportionally.		
B. <u>Related Services</u>		
(1) a. Transportation – Round Trip	_____	_____
b. Transportation – One Way	_____	_____
c. Parent* or Public Transportation	_____	_____
(2) a. Educational Counseling – Individual	_____	_____
b. Educational Counseling – Group of ____	_____	_____
c. Counseling – Parent	_____	_____
(3) a. Adapted Physical Education – Individual	_____	_____
b. Adapted Physical Education – Group of ____	_____	_____
c. Adapted Physical Education – Group of ____	_____	_____
(4) a. Language and Speech Therapy – Individual	_____	_____
b. Language and Speech Therapy – Group of 2 or more	_____	_____
d. Language and Speech Therapy – Per diem	_____	_____
e. Language and Speech – Consultation Rate	_____	_____
(5) a. Additional Instructional Assistant – Individual <i>(must be authorized on IEP)</i>	_____	_____
b. Additional Instructional Assistant – Group of 2 or more	_____	_____
(6) Intensive Special Education Instruction**	_____	_____
(7) a. Occupational Therapy – Individual	_____	_____
b. Occupational Therapy – Group of 2 or more	_____	_____
e. Occupational Therapy – Consultation Rate	_____	_____
(9) Physical Therapy	_____	_____
(10) a. Behavior Intervention – BII	_____	_____
b. Behavior Intervention – BID	_____	_____
c. Behavior Intervention – BIS	_____	_____
Provided by: _____	_____	_____
(11) Nursing Resources	_____	_____
(12) Residential Board and Care	_____	_____
(13) Residential Mental Health Services	_____	_____
(14) Other (specify): _____	_____	_____
(15) Other (specify): _____	_____	_____
(16) Other (specify): _____	_____	_____

* Parent transportation reimbursement rates are to be determined by the LEA.

** By Credentialed Special Education Teacher.

EXHIBIT B: Notices to Contractor and Notices to LEA

Notices to CONTRACTOR shall be addressed to:

Name

Nonpublic School/Agency/Related Service Provider

Address

City State Zip

Phone Fax

Email

Notices to SELPA shall be addressed to:

Lilian Flores, Administrative Assistant

101 Twin Dolphin Drive

Address
Redwood City, CA 94065

City State Zip
650.802.5465 650.802.5475

Phone Fax
lflores@smcoe.org

Email

LEA Notification (Person to whom all LEA notices will be addressed)

Name and Title

Address

City State Zip

Phone Fax

Email

EXHIBIT C: List of Subcontractors

Name

Nonpublic School/Agency/Related Service Provider

Address

City State Zip

Phone Fax

Email

Name

Nonpublic School/Agency/Related Service Provider

Address

City State Zip

Phone Fax

Email

Name

Nonpublic School/Agency/Related Service Provider

Address

City State Zip

Phone Fax

Email

EXHIBIT 2020-2021 ISA (SAMPLE DOCUMENT)

**INDIVIDUAL SERVICES AGREEMENT (ISA) FOR NONPUBLIC, NONSECTARIAN SCHOOL
OR NONPUBLIC AGENCY SERVICES**
(Education Code Sections 56365 et seq.)

This agreement is effective on _____ or the date student begins attending a nonpublic school or receiving services from a nonpublic agency, if after the date identified, and terminates at 5:00 P.M. on June 30, 201___, unless sooner terminated as provided in the Master Contract and by applicable law.

Local Education Agency _____ Nonpublic School /Agency _____

LEA Case Manager: Name _____ Phone Number _____

Pupil Name _____ Sex: M F Grade: _____

(Last) (First) (M.I.)
Address _____ City _____ State/Zip _____

DOB _____ Residential Setting: Home Foster CI # _____ OTHER _____

Parent/Guardian _____ Phone () _____ () _____

Address _____ (Residence) _____ (Business)
(If different from student) City _____ State/Zip _____

AGREEMENT TERMS:

1. *Nonpublic School:* The average number of minutes in the instructional day will be: _____ during the regular school year
_____ during the extended school year
2. *Nonpublic School:* The number of school days in the calendar of the school year are: _____ during the regular school year
_____ during the extended school year
3. *Educational services as specified in the IEP shall be provided by the CONTRACTOR and paid at the rates specified below.*
 - A. **INCLUSIVE AND/OR BASIC EDUCATION PROGRAM RATE:** (Applies to nonpublic schools only): Daily Rate: _____

Estimated Number of Days _____ **x Daily Rate** _____ = **PROJECTED BASIC EDUCATION COSTS** _____

B. RELATED SERVICES:

SERVICE	Provider			# of Times per wk/mo/yr., Duration; or per IEP; or as needed	Cost per session	Maximum Number of Sessions	Estimated Maximum Total Cost for Contracted Period
	LEA	NPS	OTHER Specify				
Intensive Individual Services (340)							
Language/Speech Therapy (415) a. Individual b. Group							
Adapted Physical Ed. (425)							
Health and Nursing: Specialized Physical Health Care (435)							
Health and Nursing Services: Other (436)							
Assistive Technology Services (445)							

Occupational Therapy (450)							
Physical Therapy (460)							
Individual Counseling (510)							
Counseling and guidance (515)							
Parent Counseling (520)							
Social Work Services (525)							
Psychological Services (530)							
Behavior Intervention Services (535)							
Specialized Services for Low Incidence Disabilities (610)							
Specialized Deaf and Hard of Hearing Services (710)							
Interpreter Services (715)							
Audiological Services (720)							
Specialized Vision Services (725)							
Orientation and Mobility (730)							
Braille Transcription (735)							
Specialized Orthopedic Service (740)							
Reader Services (745)							
Note Taking Services (750)							
Transcription Services (755)							
Recreation Services (760)							
College Awareness Preparation (820)							
Vocational Assessment, Counseling, Guidance and Career Assessment (830)							
Career Awareness (840)							
Work Experience Education (850)							
Mentoring (860)							
Agency Linkages (865)							
Travel Training (870)							
Other Transition Services (890)							
Other (State Meal Mandate costs)							

