

INDEPENDENT CONTRACTOR AGREEMENT

This Independent Contractor Agreement, hereinafter referred to as the “AGREEMENT”, is made and entered into as of the 13th day of April, 2022, in the county of Riverside, State of California, by and between Desert Sands Unified School District whose primary address is 47-950 Dune Palms Road, La Quinta, CA 92253, a school district organized and existing under the laws of the State of California, hereinafter referred to as “DISTRICT” and Autism Learning Partners, LLC,

a ☐ corporation, ☐ partnership, ☒ limited liability corporation, ☐ sole proprietor, whose primary address is 1333 S. Mayflower Ave., Ste 220, Monrovia, CA, 91016,

hereinafter referred to as “CONTRACTOR”. DISTRICT or CONTRACTOR may sometimes be referred to hereinafter individually as “Party” or be collectively referred to as “Parties”.

RECITALS

WHEREAS, DISTRICT is authorized by Section 53060 of the California Government Code to contract with and employ any persons for the furnishing of special services and advice in financial, economic, accounting, engineering, legal or administrative matters, if such persons are specially trained and experienced and competent to perform the special services required; and

WHEREAS, DISTRICT is in need of such special services and advice; and

WHEREAS, CONTRACTOR has the required background, experience, expertise, and is specially trained to perform the special services required by DISTRICT, and such services are needed on a limited basis; and

WHEREAS, DISTRICT maintains certain confidential information including trade secrets, student records, and all other information not clearly known to the public and/or confidential pursuant to law. The DISTRICT’s trade secrets and other proprietary and confidential information includes the whole or any portion or phase of any of the following: student records, employee records, technical information, processes, procedures, confidential business or financial information, and all other trade secret information not clearly know to the public, hereinafter referred to as “CONFIDENTIAL INFORMATION”.

NOW, THEREFORE, the Parties, for the consideration stated herein, mutually agree to enter into this AGREEMENT subject to the following terms and conditions:

- 1. Services.** DISTRICT hereby engages CONTRACTOR as an Independent Contractor to provide the following services, hereinafter referred collectively to as the “SERVICES”;

1:1 Direct Services (BT), Social Skill Classes (Group), Supervision (Master Level & BCBA)

Functional Behavior Assessment (Master Level and BCBA), Behavior Consultation (BCBA),

and Group Training (BCBA)

2. **Term** . The term of this AGREEMENT is for the 2021 - 2022 school year and the provision of SERVICES under this AGREEMENT shall commence on the 13th day of April, 2022 and terminate on June 30, 2022 . (Title 5 California Code of Regulations section 3062(a)). CONTRACTOR understands and agrees that DISTRICT has no obligation to extend the terms of this AGREEMENT, or contract for the provision of any future services, and makes no warranties or representations otherwise. Neither CONTRACTOR nor DISTRICT is required to renew this AGREEMENT in subsequent contract years. However, the parties acknowledge that any subsequent AGREEMENT is to be renegotiated prior to June 30, 2022 . (Title 5 California Code of Regulations section 3062(d)).

3. **Submittal of Documents.** CONTRACTOR shall not commence the SERVICES under this AGREEMENT until CONTRACTOR has submitted and the DISTRICT has approved the certificate(s) and affidavit(s), and the endorsement(s) of insurance required, which shall be incorporated herein by reference, as indicated below:

- ☒ Signed Agreement
- ☒ W-9 Form
- ☒ Insurance Certificates & Endorsements
- ☒ Worker's Compensation Certification
- ☒ Tuberculosis Clearance
- ☒ Fingerprinting/Criminal Background Investigation Certificate
- ☐ _____

4. **Compensation.** DISTRICT agrees to pay CONTRACTOR for the performance of SERVICES satisfactorily rendered pursuant to this AGREEMENT, according to the following rates, terms and conditions:

Hourly rate for the service providers are as follows: 1:1 Direct Services (BT) - \$57.74 per hour

Social Skills Classes (Group Rate) - \$42.15 per hour

Supervision by Master Level - \$79.03 per hour; Supervision by BCBA - \$105.37 per hour

Functional Behavior Assessment by Master Level - \$79.03 per hour

Functional Behavior Assessment by BCBA -\$105.37 per hour

Behavior Consultation by BCBA by BCBA-\$105.37 per hour, Group Training by BCBA-\$105.37 per hour

4.1. For the purpose of this AGREEMENT and all relevant individual sections thereof (including, but not limited to sections 4 and 17 of this AGREEMENT) and any amendments thereto, the term "SERVICES satisfactorily rendered" shall be deemed to include those services provided under this AGREEMENT by CONTRACTOR that meet with the ordinary standard of quality and care typical of service providers in CONTRACTOR's field. DISTRICT shall not unreasonably withhold payment for services rendered by CONTRACTOR. Notwithstanding any other rights of the Parties under this AGREEMENT, in the event that DISTRICT determines that CONTRACTOR is at any time or on any occasion providing services that DISTRICT believes do not meet the standard of "SERVICES satisfactorily rendered", DISTRICT shall notify CONTRACTOR in writing of same. Notice shall be deemed given when received by CONTRACTOR or no later than five (5) business days after the mailing, whichever is sooner.

4.2. CONTRACTOR understands that the DISTRICT's compensation as pursuant to this AGREEMENT will constitute the full and exclusive monetary consideration and compensation for all SERVICES and obligations performed by CONTRACTOR under this AGREEMENT.

- 4.3. Payment to CONTRACTOR shall be postmarked no later than twenty (20) business days of receipt of an invoice by the DISTRICT's Special Ed. Department. Invoices should contain the dates, the amounts, and a description of SERVICES provided.

CONTRACTOR's invoices shall be mailed or delivered in person to:

Desert Sands Unified School District
Attn: Accounting Specialist – Special Ed. Dept.
47-950 Dune Palms Road
La Quinta, CA 92253

DISTRICT will send all payments to the following address:

Autism Learning Partners, LLC

1333 S. Mayflower Ave., Ste 220

Monrovia, CA 91016

- 4.4. No payment in advance or in anticipation of SERVICES to be provided by this AGREEMENT shall be made by DISTRICT. CONTRACTOR shall be entitled only to payment for SERVICES satisfactorily performed during the term of this AGREEMENT.

5. **Right to Withhold Payment.**

- 5.1. DISTRICT may withhold payment to CONTRACTOR when:

5.1.1. CONTRACTOR has failed to perform, in whole or in part, under the terms of this AGREEMENT; or

5.1.2. CONTRACTOR was overpaid by DISTRICT as determined by inspection, review, and/or audit of its program, work, and/or records; or

5.1.3. SERVICES are provided to DISTRICT students by personnel who are not appropriately credentialed, licensed, or otherwise qualified.

- 5.2. The amounts which may be withheld by DISTRICT with respect to each of the subparagraphs of the preceding paragraph are as follows:

5.2.1. The value of the service CONTRACTOR failed to perform; or

5.2.2. The amount of overpayment; or

5.2.3. The amount invoiced for services provided by the individual not appropriately credentialed, licensed, or otherwise qualified.

5.3. DISTRICT must submit, in writing, within ten (10) business days prior to withholding payment of DISTRICT's intent and allow CONTRACTOR an opportunity to correct or remedy, if possible within a reasonable amount of time, any aspect of SERVICES provided under question by DISTRICT. If DISTRICT determines that circumstances warrant immediate action, DISTRICT may withhold payment immediately, upon DISTRICT's written notice of justification to CONTRACTOR. In regards to subparagraph 5.1.1 listed above, DISTRICT may only withhold payment for the specific SERVICES DISTRICT has determined to have been performed unsatisfactorily.

6. **Expenses.** DISTRICT shall not be liable to CONTRACTOR for any other costs or expenses paid or incurred by CONTRACTOR in performing SERVICES for DISTRICT, except as follows:

N/A

7. **Materials.** CONTRACTOR shall furnish, at his/her own expense, all labor, materials, equipment, supplies and other items necessary to complete the SERVICES to be provided pursuant to this AGREEMENT, except as follows:

N/A

8. **Independent Contractor.** CONTRACTOR, in the performance of this AGREEMENT, is retained only for the purposes and to the extent set forth in this AGREEMENT, shall be and act as an independent contractor for all purposes and under all applicable state and federal laws. CONTRACTOR understands and expressly agrees that, as an independent contractor, CONTRACTOR and all of CONTRACTOR's employees shall not be considered officers, employees, agents, partners or a joint venture of the DISTRICT, and are not entitled to any benefits of any kind or nature normally provided to employees of the DISTRICT, and/or to which DISTRICT's employees are normally entitled, including, but not limited to: any employer withholdings or liability for federal, state and local taxes, FICA, Medicare or Medicaid medical or disability insurance, vacation or leave, pension, state unemployment compensation or worker's compensation (collectively, "EMPLOYEE BENEFITS"). CONTRACTOR shall assume full responsibility for payment of all federal, state and local taxes or contributions, including unemployment insurance, social security and income taxes with respect to CONTRACTOR's employees and CONTRACTOR assumes full responsibility for the acts and/or omissions of CONTRACTOR's employees or agents as they relate to SERVICES provided under this AGREEMENT. In the performance of the SERVICES herein contemplated, CONTRACTOR is an independent contractor or business entity, with the sole authority for controlling and directing the performance of the details of the SERVICES, DISTRICT being interested only in the results obtained. To the maximum extent permitted by law; CONTRACTOR waives all claims against DISTRICT for any EMPLOYEE BENEFITS.

8.1. The Parties agree that DISTRICT will not;

8.1.1. Require CONTRACTOR to work exclusively for DISTRICT; nor

8.1.2. Pay CONTRACTOR a salary, but will pay only the compensation stated in Paragraph 4; nor

8.1.3. Provide tools or benefits to CONTRACTOR.

9. Taxes. CONTRACTOR acknowledges and agrees that it is the sole responsibility of CONTRACTOR to report as income its compensation received from DISTRICT and to make the requisite tax filings and payments to the appropriated federal, state or local tax authorities. No part of CONTRACTOR's compensation shall be subject to withholding by DISTRICT for the payment of EMPLOYEE BENEFITS.

10. District Responsibilities

10.1. Individualized Education Program. SERVICES to be provided will be determined by the DISTRICT Student's Individualized Education Program, hereinafter referred to as an "IEP". DISTRICT will provide CONTRACTOR with the IEP of each DISTRICT Student which DISTRICT is requesting SERVICES for. All SERVICES will be carried out on DISTRICT premises unless the Parties agree in writing that SERVICES will be carried out at another location including, but not limited to, the child's house of residence, the school bus or other mode of transportation indicated by the Student's IEP. DISTRICT agrees that the IEP will not contradict any aspect of Student's plan of care, as established by Student's physician.

10.2. Individual Services Agreement / Integration. This AGREEMENT shall include an Individual Services Agreement, hereinafter referred to as an "ISA", developed for each authorized DISTRICT student to whom CONTRACTOR is to provide SERVICES for. This AGREEMENT shall include all ISA's and they are incorporated herein by this reference. ISA's are void upon termination or expiration of this AGREEMENT. An ISA shall include all specific details including but not limited to the type, frequency and duration of the SERVICES requested by DISTRICT for an authorized DISTRICT student. ISA's can only be changed after DISTRICT convenes an IEP meeting. IEP meetings shall be convened by the DISTRICT at least annually to evaluate:

10.2.1. The educational progress of each student, including all state assessment results pursuant to the requirements of Education Code section 52052; and

10.2.2. Whether changes to the student's IEP are necessary. Changes in any DISTRICT student's educational program, including instruction, services, or instructional setting, provided under this AGREEMENT may only be made on the basis of revisions to the student's IEP.

10.2.3. If there are changes of requested SERVICES for an authorized DISTRICT student resulting from an IEP meeting, DISTRICT will submit in writing, a new ISA to CONTRACTOR within five (5) business days after the IEP meeting. The details, including but not limited to the type, frequency and duration of the SERVICES requested on the new ISA will supersede the requested SERVICES on prior ISA's.

11. Performance of Services.

11.1. Standard of Care. CONTRACTOR represents that CONTRACTOR and its Personnel have the qualifications and ability to perform the SERVICES in a professional manner, without the advice,

control or supervision of DISTRICT. CONTRACTOR's SERVICES will be performed, findings obtained, reports and recommendations prepared in accordance with generally and currently accepted principles and practices of CONTRACTOR's profession for SERVICES to California School districts.

- 11.2. Meetings.** CONTRACTOR agrees to participate with DISTRICT in regular meetings, including by not limited to IEP meetings, as requested by DISTRICT to discuss strategies, timetables, implementations of SERVICES, and any other issues deemed relevant to the operation of CONTRACTOR's performance of SERVICES.
- 11.3. Assessment Reports.** CONTRACTOR shall provide to DISTRICT assessments and written assessment reports about each authorized DISTRICT Student that CONTRACTOR is providing SERVICES for upon request and/or pursuant to DISTRICT policy and procedures.
- 11.4 District Approval.** The SERVICES completed herein must meet the approval of the DISTRICT and shall be subject to the DISTRICT's general right of inspection and supervision to secure the satisfactory completion thereof.

12. Personnel.

- 12.1.** CONTRACTOR will supply DISTRICT with Personnel who meet the following criteria:

- 12.1.1. Possess current state license/registration and/or certification, as applicable and appropriate for the SERVICES provided to DISTRICT, and possess CPR certification, if required by applicable laws, regulations, or accreditation standards, to be presented to DISTRICT Administrator upon request; and
- 12.1.2. Meet the Parties' conditions of employment regarding health clearance, and if requested by the DISTRICT, CONTRACTOR shall include proof of pre-employment physical and TB skin testing as evidenced by submission of a Tuberculosis Clearance Certificate in the form attached to this AGREEMENT, provision of professional references, and any other applicable hiring criteria, documentation of which will be kept in the CONTRACTOR employee file; and
- 12.1.3. Shall have at least one (1) year of relevant professional experience and one (1) year of specialty experience, which shall be documented by references and kept on file.

- 12.2. Certificates/Permits/Licenses/Credentials:** CONTRACTOR will follow its standard employment policies and procedures to verify that all Personnel meet all applicable legal requirements prior to performing SERVICES under the AGREEMENT. This shall include, but not be limited to, ensuring that all Personnel secure and maintain in force such certificates, permits and licenses as are required by law in connection with the furnishing of SERVICES pursuant to this AGREEMENT. CONTRACTOR shall submit to DISTRICT a staff list, and all current licenses, credentials, permits and/or other documents which entitle the holder to provide SERVICES by qualified individuals employed, contracted, and/or otherwise hired by CONTRACTOR. CONTRACTOR shall notify DISTRICT in writing within forty-five (45) days when personnel changes occur which may affect the provision of SERVICES to the DISTRICT's Students. CONTRACTOR shall monitor the status of licenses, credentials, permits and/or other documents for all individuals employed, contracted, and/or otherwise hired by CONTRACTOR. CONTRACTOR shall provide to DISTRICT updated information regarding the status of licenses, credentials, permits and/or other documents as specified in DISTRICT Procedures. For the sake of this AGREEMENT, the following terms are defined:

12.2.1. The term "qualified" means that a person holds a certificate, permit or other document that has met federal and state certification, licensing, registration, or other comparable requirements which apply to the area in which he or she is providing professional services.

12.2.2. The term "license" means a valid non-expired document issued by a licensing agency within the State of California 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.

12.3. Availability of Personnel: The Parties agree that CONTRACTOR's duty to supply Personnel on request of DISTRICT is subject to the availability of qualified CONTRACTOR Personnel. The failure of CONTRACTOR to provide Personnel or the failure of DISTRICT to request Personnel results in no penalty and does not constitute a breach of this AGREEMENT.

12.4. Orientation: CONTRACTOR will cooperate with DISTRICT to provide CONTRACTOR Personnel with an adequate and timely orientation to DISTRICT requirements. At a minimum, DISTRICT will orient CONTRACTOR Personnel to its hazardous communication procedures and the DISTRICT's Exposure Control Plan as it pertains to OSHA requirements for blood borne pathogens.

12.5. Right to Dismiss: DISTRICT may dismiss any CONTRACTOR Personnel for reasons deemed to be sufficient in DISTRICT's sole discretion. DISTRICT may require such Personnel to leave the DISTRICT's premises immediately and will notify CONTRACTOR of such dismissal. DISTRICT's obligation to compensate CONTRACTOR for such Personnel's SERVICES will be limited to the number of hours during which satisfactory SERVICES were provided. CONTRACTOR will not reassign such Personnel to DISTRICT without the prior written approval of DISTRICT.

13. Audit. CONTRACTOR shall establish and maintain books, records, and systems of account, in accordance with generally accepted accounting principles, reflecting all business operations of CONTRACTOR transacted under this AGREEMENT. CONTRACTOR shall retain these books, records, and systems of account during the Term of this AGREEMENT and for five (5) years thereafter. CONTRACTOR shall permit the DISTRICT, its agent, other representatives, or an independent auditor to audit, examine, and make excerpts, copies, and transcripts from all books and records, and to make audit(s) of all billing statements, invoices, records, and other data related to the SERVICES covered by this AGREEMENT. Audit(s) may be performed at any time, provided that the DISTRICT shall give reasonable prior notice to CONTRACTOR and shall conduct audit(s) during CONTRACTOR's normal business hours, unless CONTRACTOR otherwise consents.

14. Permits/Licenses. CONTRACTOR agrees to obtain any and all required business licenses, permits, registrations, professional licenses, or accreditations required by the codes, ordinances, and statutes of the State of California, the County of Riverside, and the City of La Quinta, as appropriate, at the sole cost and expense of CONTRACTOR.

15. Compliance with Laws, Statutes, Regulations. CONTRACTOR shall observe and comply with all rules and regulations of the Governing Board of the DISTRICT and all laws, regulations, municipal codes and ordinances and other workplace requirements and standards applicable to the provision of SERVICES performed and CONTRACTOR's Employees, including, without limitation, federal and state laws governing wages and overtime, equal employment, safety and health, employees' citizenship, withholdings, pensions, reports, and record keeping. CONTRACTOR shall give all notices required by any law, ordinance, rule and regulation bearing on conduct of the SERVICES as indicated or specified. If CONTRACTOR observes that any of the SERVICES required by this AGREEMENT is at variance with any such laws, ordinance, rules or

regulations, CONTRACTOR shall notify the DISTRICT, in writing, and, at the sole option of the DISTRICT, any necessary changes to the scope of the SERVICES shall be made and this AGREEMENT shall be appropriately amended in writing, or this AGREEMENT shall be terminated effective upon CONTRACTOR's receipt of a written termination notice from the DISTRICT. If CONTRACTOR performs any SERVICES that are in violation of any laws, ordinances, rules or regulations, without first notifying the DISTRICT of the violation, CONTRACTOR shall bear all costs arising therefrom. During the term of this AGREEMENT unless otherwise agreed, CONTRACTOR shall comply in all material aspects with all applicable material legal requirements governing the duties, obligations, and business practices of CONTRACTOR and shall obtain any material permits or licenses necessary for its operations.

16. Insurance.

16.1. DISTRICT will not include the CONTRACTOR as an insured under any insurance policy the DISTRICT has for itself, including, without limitation, any liability, life, health, medical, collision, comprehensive, workers' compensation or unemployment compensation.

16.2. CONTRACTOR shall, at CONTRACTOR's sole cost and expense, procure and maintain in force and effect, at all times it performs any portion of the SERVICES for the duration of the AGREEMENT, a policy or policies of insurance covering CONTRACTOR's SERVICES and against claims for injuries to persons or damages to property, which may arise from or in connection with performance under this AGREEMENT by CONTRACTOR, its agents, representatives, or employees. If DISTRICT or CONTRACTOR determines that change in insurance coverage obligations under this section is necessary, either Party may reopen negotiations to modify the insurance obligations. CONTRACTOR shall obtain the following insurance(s) with minimum limits equal to the amount indicated below:

16.2.1. Commercial General Liability and Automobile Liability Insurance. Commercial General Liability Insurance and Any Auto Automobile Liability Insurance that shall protect CONTRACTOR, the DISTRICT, and the State from all claims of bodily injury, property damage, personal injury, death, advertising injury, and medical payments arising performing any portion of the SERVICES. (Form CG 0001 and CA 0001).

16.2.2. Workers' Compensation and Employers' Liability Insurance. Workers' Compensation Insurance and Employers' Liability Insurance for all of its employees or interns performing any portion of the SERVICES. In accordance with provisions of section 3700 of the California Labor Code, CONTRACTOR shall be required to secure workers' compensation coverage for its employees. If any intern or class of employee or employees engaged in performing any portion of the SERVICES under this AGREEMENT are not protected under the Workers' Compensation Statute, adequate insurance coverage for the protection of any intern or employee(s) not otherwise protected must be obtained before any of those employee(s) commence performing any portion of the SERVICES.

16.2.3. Professional Liability (Errors and Omissions). CONTRACTOR shall obtain Professional Liability (Errors and Omissions) Insurance as appropriate to CONTRACTOR's profession.

16.2.4. **Policy Limits.** Minimum policy limits shall be as follows:

Type of Coverage:	Minimum Requirements
Commercial General Liability Insurance: including Bodily Injury, Personal Injury, Property Damage, Advertising Injury, and Medical Payments.	
Each Occurrence	\$1,000,000
General Aggregate	\$1,000,000
Automobile Liability Insurance - Any Auto	
Each Occurrence	\$1,000,000
General Aggregate	\$1,000,000
Professional Liability	\$1,000,000
Worker's Compensation	Statutory Limits
Employer's Liability	\$1,000,000

16.3. Deductible Limits. Any deductibles or self-insured retentions above \$25,000 must be declared to and approved by DISTRICT. At its option, DISTRICT may require CONTRACTOR, at CONTRACTOR's sole cost, to:

16.3.1. Cause its insurer to reduce to levels specified by DISTRICT or eliminate such deductible or self-insured retentions as respects to DISTRICT, its officials and employees; or,

16.3.2. Procure a bond guaranteeing payment of losses and related investigations, claim administration and defense expenses.

16.4. Proof of Carriage of Insurance. CONTRACTOR shall not commence performing any portion of the SERVICES until all required insurance has been obtained and certificates indicating the required coverage have been delivered to the DISTRICT and approved by the DISTRICT. Certificates and insurance policies shall include the following:

16.4.1. A clause stating: "This policy shall not be suspended, voided, canceled or reduced in required limits of liability or amounts of insurance until notice has been mailed to the DISTRICT, stating date of cancellation or reduction. Date of cancellation or reduction shall not be less than thirty (30) days after date of mailing notice except for nonpayment of premium for which such notice shall be ten (10) days."

16.4.2. Language stating in particular those insured, extent of insurance, location and operation to which insurance applies, expiration date, to whom cancellation and reduction notice will be sent, and length of notice period.

16.4.3. An endorsement stating that the DISTRICT and the State and their agents, representatives, employees, trustees, officers, consultants, and volunteers are named additional insured under all policies except Workers' Compensation Insurance, Professional Liability, and Employers' Liability Insurance. An endorsement shall also state that CONTRACTOR's insurance policies shall be primary to any insurance or self-insurance maintained by DISTRICT. Any insurance or self-insurance maintained by DISTRICT, its subsidiaries, officials and employees shall be excess of the CONTRACTOR's insurance and shall not contribute with it.

16.4.4. All policies shall be written on an occurrence form.

16.5. Acceptability of Insurers. All Certificates of Insurance shall be with an insurance company admitted by the Insurance Commissioner of the State of California to transact such insurance in the State of California and with a current A.M Best's rating of no less than A-:VII, unless otherwise acceptable to DISTRICT.

17. Termination. Either Party may revoke and otherwise terminate this AGREEMENT according to the specific terms and/or conditions listed below. Either Party must notify the other Party in writing of their intention to take such action. Any such writing shall be sent to the other Party by United States mail, certified or registered, postage prepaid, return receipt requested.

17.1. Without Cause by District. District may, at any time, with or without reason, terminate this AGREEMENT and compensate CONTRACTOR only for SERVICES satisfactorily rendered to the date of termination. Written notice by DISTRICT shall be sufficient to stop further performance of SERVICES by CONTRACTOR. Notice shall be deemed given when received by CONTRACTOR or no later than five (5) business days after the day of mailing, whichever is sooner.

17.2. Without Cause by Contractor. CONTRACTOR may, upon thirty (30) days' notice, with or without reason, terminate this AGREEMENT. Upon this termination, DISTRICT shall only be obligated to compensate CONTRACTOR for SERVICES satisfactorily rendered to the date of termination. Written notice by CONTRACTOR shall be sufficient to stop further performance of SERVICES to DISTRICT. CONTRACTOR acknowledges that this thirty (30) day notice period is acceptable so that the DISTRICT can attempt to procure the SERVICES from another source.

17.3. With Cause by District. DISTRICT may terminate this AGREEMENT upon giving notice of intention to terminate for cause. Written notice by DISTRICT shall contain the reason for such intention to terminate and unless within three (3) business days after service of such notice the condition or violation shall cease, or satisfactory arrangements for the correction thereof be made, this AGREEMENT shall upon the expiration of the three (3) business days cease and terminate and DISTRICT shall compensate CONTRACTOR only for SERVICES satisfactorily rendered to the date of termination. In the event of such termination, DISTRICT may secure the required services from another contractor. Written notice by DISTRICT shall be deemed given when received by CONTRACTOR or no later than three (3) business days after the day of mailing, whichever is sooner. Cause shall include:

17.3.1. Material violation of this AGREEMENT by CONTRACTOR; or

17.3.2. Any act by CONTRACTOR exposing DISTRICT to liability to others for personal injury or property damage; or

17.3.3. CONTRACTOR ceases conducting business in the normal course, becomes insolvent, makes a general assignment for the benefit of creditors, suffers or permits the appointment of a receiver for its business or assets or shall avail itself of, or become subject to, any proceedings under the Federal Bankruptcy Act or any other statute of any state relating to insolvency or the protection of rights of creditors, then at the option of DISTRICT this AGREEMENT shall terminate and be of no further force and effect and any property of rights tangible or intangible, shall forthwith be returned to DISTRICT.

17.4 Immediate Termination. DISTRICT may terminate this AGREEMENT immediately without prior notice, and upon this termination, DISTRICT shall only be obligated to compensate CONTRACTOR or SERVICES satisfactorily rendered to the date of termination, if any of the following occurs:

- 17.4.1. If CONTRACTOR commits an act of fraud, dishonesty, or an other act of negligent, reckless or willful misconduct in providing SERVICES to DISTRICT; or
- 17.4.2. If any contract by DISTRICT with any third party on which this AGREEMENT substantially depends is terminated or DISTRICT is unable for any other reason to provide services for to the party(ies) to that contract; or
- 17.4.3. If any circumstances beyond the DISTRICT's control, including but not limited to financial constraints imposed by action of the legislature or Governor of the State of California, prevents it from providing services or otherwise hinders, delays, or prevents DISTRICT from receiving revenue or income or increases it overhead to an extent the DISTRICT reasonably decides to reduce or modify its operations.

18. Indemnification.

18.1 CONTRACTOR. To the furthest extent permitted by California law, CONTRACTOR shall defend, indemnify and hold free and harmless the DISTRICT and its Board Members, administrators, employees, agents, representatives, officers, consultants, attorneys, trustees, volunteers, and subcontractors (collectively "DISTRICT Indemnities") against any and all claims, causes of action, judgments, costs, demands, suits, liability, loss, expenses (including reasonable attorneys' fees), damage or injury of any kind, in law or equity (collectively "Claims"), to property or persons, including personal injury and/or death, directly or indirectly arising out of, connected with, or resulting from the performance of the SERVICES of this AGREEMENT, including Claims arising from, connected with, caused by, or claimed to be caused by the active or passive negligent acts or omissions of the DISTRICT, its Board Members, administrators, employees, agents, representatives, officers, consultants, attorneys, trustees, volunteers, and subcontractors, which may be in combination with the active or passive negligent acts or omissions of CONTRACTOR, its employees, agents or officers, or any third party. CONTRACTOR's duty to defend, indemnify, and hold free and harmless shall not include any Claims arising from the sole negligence or sole willful misconduct of the DISTRICT Indemnities. The DISTRICT shall have the right to accept or reject any legal representation that CONTRACTOR proposes to defend the DISTRICT Indemnities. Furthermore, CONTRACTOR will defend the DISTRICT from any claim and will indemnify the DISTRICT against any liability for any Employee Benefits for the CONTRACTOR imposed on the DISTRICT; and CONTRACTOR will reimburse DISTRICT any award, judgment or fine against DISTRICT, based on the position the CONTRACTOR and/or any of its employees or agents who provides any SERVICES to the DISTRICT related to this AGREEMENT was ever the DISTRICT's employee, and all attorney's fees and cost DISTRICT reasonably incurs defending itself against such liability.

- 19. Dispute Resolution.** All disputes arising under or in connection with this AGREEMENT shall be submitted to Judicial Arbitration and Mediation Services, Inc. ("JAMS") or successor organization for binding arbitration in Riverside County by a single arbitrator who shall be a former California Superior Court judge. The arbitrator shall be selected by the Parties pursuant to JAMS' comprehensive arbitration rules and procedures. Except as may be otherwise provided herein, the arbitration shall be conducted under the California Arbitration Act, Code of Civil Procedure § 1280 seq, and pursuant to JAMS procedures. The Parties shall have the discovery rights provided in Code of Civil Procedure §§ 1283.05 and 1283.1. The arbitration hearing shall be commenced within 180 days of the filing of the application with JAMS by any party hereto, and a decision shall be rendered by the arbitrator within thirty (30) days of the conclusion of the hearing. The arbitrator shall have complete authority to render any and all relief, legal and equitable,

appropriate under California law, including the award of punitive damages where legally available and warranted. The arbitrator shall award costs of the proceeding, including reasonable attorney's fees, to the prevailing Party.

20. **No Agency Created.** CONTRACTOR agrees and understands that no authority exists pursuant to this AGREEMENT for CONTRACTOR to enter into any third party contract, assume any obligation, or to make any representation to third parties on behalf of, or which may bind DISTRICT.
21. **Authority to Bind Parties.** Neither Party in the performance of any and all duties under this AGREEMENT, except as otherwise provided in this AGREEMENT, has any authority to enter into any third party contract, assume any obligation, bind the other party to any agreements or undertakings, or make any representation to third parties on behalf of, or which may bind the other Party.
22. **Assignment Prohibited.** CONTRACTOR shall not assign, transfer, convey any of [his or her] rights, or interest under this AGREEMENT, or delegate the performance of any of [his or her] duties hereunder, without the prior written consent of DISTRICT.
23. **Notices.** Any and all notices, demands, or other communications required or desired to be given hereunder by any Party shall be in writing and shall be validly given or made to the other Party if personally served, or if deposited in the United States mail, certified or registered, postage prepaid, return receipt requested. If such notice or demand is served personally, notice shall be deemed constructively made at the time of such personal service. If such notice, demand or other communication is given by mail, such notice shall be conclusively deemed given three (3) business days after deposit thereof in the United States mail addressed to the Party to whom such notice, demand or other communication is to be given as follows:

If to CONTRACTOR: Attn: Vanessa Gonzales

Autism Learning Partners, LLC

1333 S. Mayflower Ave., Ste 220

Monrovia, CA 91016

If to DISTRICT:

Attn: Dr. Charity Plaxton-Hennings
Desert Sands Unified School District
47-950 Dune Palms Road
La Quinta, CA 92253

Any Party hereto may change its address for purposes of this paragraph by written notice given in the manner provided above. If mailed, notice shall be effective as of the date of receipt by addressee. If delivered by hand, the effective date shall be the date of receipt of addressee.

24. **No Unauthorized Use of Names .** Neither Party will use the other's name in any advertisement, promotion, business card, etc. without the other Party's prior written consent.
25. **Fingerprinting.** If the DISTRICT requests a Fingerprinting/Criminal Background Investigation Certificate from CONTRACTOR, it must be completed and submitted to the DISTRICT for all CONTRACTOR Personnel that perform any portion of the SERVICES prior to the performance of any SERVICES by CONTRACTOR.
26. **No Rights in Third Parties.** This AGREEMENT does not create any rights in, or inure to the benefit of, any third party except as expressly provided herein.

- 27. District's Evaluation of Contractor and Contractor's Employees and/or Subcontractors.** The DISTRICT may evaluate CONTRACTOR in any way the DISTRICT is entitled pursuant to applicable law. The DISTRICT's evaluation may include, without limitation:
- 27.1.** Requesting that DISTRICT employee(s) evaluate CONTRACTOR and/or CONTRACTOR's Personnel and subcontractors and each of their performance.
- 27.2.** Announced and unannounced observance of CONTRACTOR, CONTRACTOR's Personnel, and/or subcontractors.
- 28. Limitation of District Liability.** Other than as provided in this AGREEMENT, DISTRICT's financial obligations under this AGREEMENT shall be limited to the payment of the compensation provided in this AGREEMENT. Notwithstanding any other provision of this AGREEMENT, in no event, shall DISTRICT be liable, regardless of whether any claim is based on contract or tort, for any special, consequential, indirect or incidental damages, including, but not limited to, lost profits or revenue, arising out of or in connection with this AGREEMENT for the SERVICES performed in connection with this AGREEMENT.
- 29. Confidentiality.** Due to the value of the DISTRICT's CONFIDENTIAL INFORMATION and the consequences if it is disclosed, taken, or misused for any reason, DISTRICT seeks by this AGREEMENT to protect the DISTRICT's CONFIDENTIAL INFORMATION and any other confidential information CONTRACTOR acquires as a result of CONTRACTOR's provision of SERVICES to DISTRICT. CONTRACTOR recognizes and respects the value of the DISTRICT's CONFIDENTIAL INFORMATION. CONTRACTOR agrees that they will not disclose, divulge, reveal, report or use, for any purpose, any CONFIDENTIAL INFORMATION with respect to the business and operation of DISTRICT, which CONTRACTOR has obtained, except as may be necessary or desirable to further the interests of DISTRICT. This obligation will survive indefinitely upon termination of this AGREEMENT.
- 29.1. HIPAA Compliance:** In instances where CONTRACTOR receives Protected Health Information, hereinafter referred to as "PHI" from DISTRICT, CONTRACTOR agrees that it shall:
- 29.1.1. Comply with the applicable provisions of the Administrative simplification section of the Health Insurance Portability and Accountability Act of 1996, as codified at 42 U.S.C. § 1320d through d-8 ("HIPAA"), and the requirements of any regulations promulgated thereunder; and
- 29.1.2. Not use or further disclose any PHI concerning a patient other than as permitted by this AGREEMENT, the requirements of HIPAA and/or applicable federal regulations. CONTRACTOR shall implement appropriate safeguards to prevent the use or disclosure of a patient's PHI other than as provided for by this AGREEMENT; and
- 29.1.3. Promptly report to DISTRICT any violations, use and/or disclosure of a patient's PHI not provided for by this AGREEMENT as soon as practicable, upon becoming aware of the improper violation(s), use and/or disclosure.
- 30. Non-solicitation.** For a period of two (2) years following the termination of this AGREEMENT, CONTRACTOR shall not hire, solicit, or encourage any employee, consultant, or independent contractor of the DISTRICT, directly or indirectly, to leave the DISTRICT's employment. CONTRACTOR shall not hire any such employee, consultant, or independent contractor who has left the DISTRICT's employment or contractual engagement within one (1) year of such employment or engagement.

31. **Non Discrimination.** It is the policy of the DISTRICT that in connection with all SERVICES performed under contracts there be no discrimination against any employee engaged in the services because of race, color, ancestry, national origin, religious creed, physical disability, medical condition, marital status, sexual orientation, gender, or age and therefore CONTRACTOR agrees to comply with applicable Federal and California laws including, but not limited to the California Fair Employment and Housing Act beginning with Government Code Section 12900 and Labor Code Section 1735 and DISTRICT policy. In addition, CONTRACTOR agrees to require like compliance by all its employees.
32. **Tobacco Use Policy .** In the interest of public health, the DISTRICT provides a healthy tobacco-free environment. Smoking or the use of any tobacco products are prohibited in buildings and vehicles, and on any property owned, leased, or contracted for by DISTRICT. CONTRACTOR agrees to abide to this policy and understands failure to abide to this policy may result in termination of this AGREEMENT.
33. **Non-Waiver .** The failure of the DISTRICT to seek redress for violation of, in any one or more instances to insist upon strict performance of any of term or condition of this AGREEMENT or to exercise any option herein conferred shall not be deemed or construed as a waiver or relinquishment of such term or condition, or prevent a subsequent similar act from constituting a violation of such term or condition. The waiver by either Party of any breach of any term, covenant, or condition herein contained shall not be deemed to be a waiver of such term, covenant, condition, or any subsequent breach of the same or any other term, covenant, or condition herein contained.
34. **Severability.** If any term, condition or provision of this AGREEMENT is held, in whole or in part, by a court of competent jurisdiction to be invalid, void, or unenforceable, the remaining provisions will nevertheless continue in full force and effect, and shall not be affected, impaired or invalidated in any way.
35. **Survival .** All provisions that logically ought to survive termination of this AGREEMENT shall survive.
36. **Governing Law .** The rights, duties, and obligations of the Parties, along with the terms and conditions of this AGREEMENT shall be governed by the laws of the State of California. The Parties further agree that any action or proceeding brought to enforce the terms and conditions of this AGREEMENT shall have venue in Riverside County, California.
37. **Provision of Law Clause .** Each and every provision of law clause required by law to be inserted in the AGREEMENT shall be deemed to be inserted herein and the AGREEMENT shall be read and enforced as though it were included herein, and if through mistake or otherwise any such provision is not inserted, or is not currently inserted, then upon application of either Party the AGREEMENT shall forthwith be physically amended to makes such insertion or correction.
38. **Attorney's Fees, Expenses, Costs.** If either Party hereto becomes involved in litigation arising out of this AGREEMENT or the performance thereof, the court in such litigation, or in a separate suit, shall award reasonable costs and expenses, including attorney fees, the court will not be bound by any court fee schedule, but shall, if it is in the interest of justice to do so, award the full amount of the costs, expenses, and attorney fees paid or incurred in good faith.
39. **Conflicts.** The terms of this AGREEMENT shall control over any conflicting terms in any referenced agreement or document.
40. **Cumulative Rights.** Any specific right or remedy provided in this AGREEMENT will not be exclusive but will be cumulative of all other rights and remedies.

- 41. Calculation of Time.** For the purposes of this AGREEMENT, “days” refers to calendar days and “business days” refers exclusively to weekdays excluding federal, state or local holidays observed by DISTRICT.
- 42. Force Majeure.** Neither Party shall be held responsible or liable for any delay or failure of performance of any part of this AGREEMENT to the extent such delay or failure is caused by or result of Acts of Nature (including fire, flood, earthquake, storm, or other natural disaster), explosion, war, invasion, act of foreign enemies, hostilities (whether war is declared or not), terrorist activities, civil war, rebellion, revolution, insurrection, military or usurped power or confiscation, embargo, government sanction, riot, labor dispute, strike, lockout, interruption or failure of electricity, or other similar causes beyond its control and without the fault or negligence of the delayed or nonperforming Party. The affected Party will notify the other Party in writing within ten (10) days after the beginning of any such cause that would affect its performance. Notwithstanding, if a Party’s performance is delayed for a period exceeding thirty (30) days from the date the other Party receives notice under this paragraph, the non-affected Party will have the right, without any liability to the other Party, to terminate this AGREEMENT.
- 43. Headings, Captions and Interpretations.** Paragraph or Section headings in this AGREEMENT are used solely for convenience, and shall not to be considered a part of this AGREEMENT and are not intended to be a full and accurate description of the contents hereof. No provision of this AGREEMENT shall be interpreted for or against a Party because that Party or its legal representative drafted such provisions, and this AGREEMENT shall be construed as if jointly prepared by the Parties.
- 44. Incorporation of Recitals and Exhibits.** The Recitals and each Exhibit attached hereto are hereby incorporated herein by reference.
- 45. Counterparts.** This AGREEMENT and all amendments and supplements to it may be executed in counterparts, and all counterparts together shall be construed as one document.
- 46. Entire Agreement/Amendment.** This AGREEMENT and any exhibits attached hereto sets forth and constitutes the entire agreement and understanding among the Parties with respect to the subject matter hereof. This AGREEMENT supersedes any and all prior or contemporaneous understandings, negotiations, correspondence, undertakings, promises, covenants, arrangements, communications, representations and agreements, whether oral or written, with respect to the SERVICES contemplated, and may be amended or modified only by a written instrument executed by both Parties to the AGREEMENT.
- 47. Signature and Acceptance.**
- 47.1. Signature Authority.** Each Party has the full power and authority to enter into and perform this AGREEMENT, and the person signing this AGREEMENT on behalf of each Party has been properly authorized and empowered to enter this AGREEMENT.

47.2. ACCEPTANCE OF AGREEMENT. YOU ACKNOWLEDGE THAT YOU HAVE READ THIS AGREEMENT AND AGREE TO ALL ITS TERMS AND CONDITIONS. YOU HAVE INDEPENDENTLY EVALUATED THE DESIRABILITY OF THE SERVICE AND ARE NOT RELYING ON ANY REPRESENTATION AGREEMENT, GUARANTEE OR STATEMENT OTHER THAN AS SET FORTH IN THIS AGREEMENT.

The Parties hereto have executed this AGREEMENT by and through their duly authorized representatives on the dates indicated below.

Desert Sands Unified School District
DISTRICT

Jordan Aquino
(Authorized District Representative's Name)

(District's Representative's Signature)
Assistant Superintendent, Business Services
(Title)

(760) 771-8509 _____
Phone Number (Date Signed)

Autism Learning Partners
(Name of Contractor)

Vanessa Gonzales
(Name of Authorized Representative for Contractor)


(Contractor's Representative's Signature)

Director of Contracting
(Title)

(818) 241-6780 2/17/2022
Phone Number (Date Signed)