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*Nonpublic, Nonsectarian  
School/Agency Services*

*Master Contract*

***2023-24***

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Contract Year: 2023-2024

Contract Number:

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

\_\_\_\_\_

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

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

**AUTHORIZATION FOR MASTER CONTRACT AND GENERAL PROVISIONS**

**1) MASTER CONTRACT**

- a) This Master Contract is entered into this 1st day of July, between the OAKLAND UNIFIED SCHOOL DISTRICT (hereinafter referred to as "LEA") and \_\_\_\_\_ (hereinafter referred to as "CONTRACTOR") for the purpose of providing special education and/or related services to LEA students with exceptional needs under the authorization of California Education Code sections 56157, 56361 and 56365 et seq. and Title 5 of the California Code of Regulations section 3000 et seq., AB490 (Chapter 862, Statutes of 2003) and AB1858 (Chapter 914, Statutes of 2004). It is understood that this Master Contract does not commit LEA to pay for special education and/or related services provided to any LEA student, or CONTRACTOR to provide such special education and/or related services, unless and until an authorized LEA representative approves the provision of special education and/or related services by CONTRACTOR pursuant to an Individualized Education Program (hereinafter referred to as "IEP"), and/or Individual Family Service Plan (hereinafter referred to as IFSP)
  
- b) The Collaborative: The Bay Area Collaborative represents fourteen (14) SELPAs and member nonpublic schools (NPS) and nonpublic agencies (NPA (Collectively NPS/A) (see <https://www.solanocountyselpa.net/governance/bac> for a complete listing and contact information). NPS/A that are contracting within one of the participating SELPAs agree to participate in this collaborative process to establish a uniform contract for identified services and standards. The established system provides NPS/As with an opportunity to have input to the development of the process, contract issues, etc., and a simplified, standard process for rate negotiation with the participating SELPAs. Issues listed on the Rate Schedule portion of this Master Contract may be reviewed on an annual basis upon request of the CONTRACTOR using the established Bay Area SELPA Collaborative system. CONTRACTOR agrees that the rates set forth in this

Master Contract will remain unchanged from July 1 through June 30 of the term of contract, with no changes in the services provided, unless changed in a duly executed amendment to this Master Contract signed by both parties. Increases in rates will be considered on an annual basis and remain unchanged for the term of the contract from July 1 through June 30, with no changes in level of service provided without written approval by both parties.

- c) NPA/Ss that are not a member of the Bay Area Collaborative should negotiate rates with their geographically corresponding SELPA(s). The LEA will contact the corresponding SELPA to verify established rates. Increases in rates will be considered on an annual basis and remain unchanged for the following year from July 1 through June 30, with no changes provided without written approval by both parties.
- d) Any CONTRACTOR not participating as a member of the Bay Area SELPA Collaborative shall individually negotiate rates following local SELPA and/or LEA procedures. Those CONTRACTORS shall notify the SELPA with whom they contract of any proposed rate changes effective July 1 by March 1 of the preceding year.
- e) The Bay Area SELPA Collaborative Chair shall maintain, annually update and disseminate to all LEAs, NPS/As who are members of the Collaborative, a master rate schedule reflecting such NPS/A rates.
- f) Upon CONTRACTOR's acceptance of a student referred by the LEA, the LEA shall complete an Individual Services Agreement (hereinafter referred to as "ISA") as specified in the LEA Procedures which shall identify the provider of each service required by the student's IEP/IFSP). For purposes of enrollment, the LEA must provide approval before any authorization for payment can be made. Such authorization may be provided electronically, by telecommunications, by mail or by fax. Unless otherwise agreed in writing, or in the student's ISA, CONTRACTOR acknowledges its obligation to provide all services specified in the pupil's IEP/IFSP. The LEA acknowledges its responsibility to pay for all services rendered to LEA students by CONTRACTOR. The ISA shall be executed within ninety (90) days of an LEA student's enrollment. (Education Code Section 56366(c)(1)) LEA and CONTRACTOR shall enter into an ISA for each LEA student served by CONTRACTOR. CONTRACTOR shall notify the LEA in writing in advance of providing any service(s) when CONTRACTOR is unable to meet the requirements of this Master Contract or of any Individual Services Agreement.
- g) Unless placement and or services are made pursuant to an Office of Administrative Hearings (hereinafter referred to as "OAH") order, a lawfully executed settlement 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 or NPS/A services 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) DEFINITIONS

The following definitions shall apply for purposes of this contract:

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

be deemed to be a license as defined in Title 5 of the California Code of Regulations section 3001(l).

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

### **3) TERM OF MASTER CONTRACT**

The term of this Master Contract shall be from July 1, 2023 to June 30, 2024 (Title 5 California Code of Regulations section 3062(a)). Neither the CONTRACTOR nor the LEA is required to renew this Master Contract in subsequent contract years. The parties acknowledge that any subsequent Master Contract is to be re-negotiated prior to June 30, 2024. If the subsequent Master Contract has not been executed prior to June 30, 2024, this Contract shall remain in force and effect until terminated as provided herein or a new Master Contract is executed.

### **4) CERTIFICATION AND LICENSES**

CONTRACTOR shall be certified by the California Department of Education (hereinafter referred to as "CDE") as an NPS/A. All NPS/A services shall be provided consistent with the area of certification and licensure specified by CDE Certification and as defined in California Education Code, section 56366 *et seq* and within the professional scope of practice of each provider's license, certification and/or credential. A current copy of CONTRACTOR's NPS/A certification

or a waiver of such certification issued by the CDE pursuant to Education Code section 56366.2 must be provided to LEA on or before the date this contract is executed by CONTRACTOR. This Master Contract shall be null and void if such certification or waiver is expired, revoked, rescinded, or otherwise nullified during the effective period of this Master Contract. Total student enrollment shall be limited to capacity as stated on CDE certification.

In addition to meeting the certification requirements of the State of California, CONTRACTOR that operates a non-public school or agency outside of this State shall be certified 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 and designated instruction and related services to pupils under the federal Individuals with Disabilities Education Act (20 U.S.C. Sec. 1400 et seq.).

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

## **5) COMPLIANCE WITH LAWS, STATUTES, REGULATIONS**

- a) During the term of this Master Contract the CONTRACTOR and the LEA shall comply with all applicable federal and state laws and regulations relating to the provision of



special education and related services, and facilities for individuals with exceptional needs.

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

## **6) RIGHT TO REPORT MASTER CONTRACT VIOLATIONS**

CONTRACTOR and LEA acknowledge and understands that either party may report to the CDE any violations of the provisions of this Master Contract; and that this may result in the suspension and/or revocation of CDE NPS/A certification pursuant to California Education Code section 56366.4(a) or action by the CDE against the LEA.

## **7) INTEGRATION / CONTINUANCE OF CONTRACT FOLLOWING EXPIRATION OR TERMINATION**

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

of the most recent executed Master Contract between CONTRACTOR and LEA for so long as CONTRACTOR is servicing authorized students at the discretion of the LEA.

## **8) INDIVIDUAL SERVICE AGREEMENT**

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

# ADMINISTRATION OF CONTRACT

## 9) NOTICES

All notices provided for by this contract shall be in writing. Notices shall be faxed, emailed with verification of receipt, mailed by first class mail deposited with the United States Postal Service or delivered by hand and shall be effective as of the date of receipt by addressee. All notices mailed to LEA shall be addressed to both:

Name <u>SELPA Director</u>	Name _____
LEA <u>OAKLAND UNIFIED SCHOOL DISTRICT</u>	LEA _____
Address <u>915 54TH STREET</u>	Address _____
City, State, Zip <u>OAKLAND, CA 94608</u>	City, State, Zip _____
Phone _____	Phone _____

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

## 10) MAINTENANCE OF RECORDS

- a) All records shall be maintained by CONTRACTOR as required by state and federal laws and regulations. Notwithstanding the foregoing sentence, CONTRACTOR shall maintain all records for at least five (5) years after the termination of this Master Contract. For purposes of this Master Contract, "records" shall include, but not be limited to: student records as defined by California Education Code section 49061(b); cost data records as set forth in Title 5 of the California Code of Regulations section 3061; registers and roll books of teachers and/or daily service providers; daily service logs and notes and other documents used to record the provision of related services including supervision; daily service logs and notes used to record the provision of services provided through additional instructional assistants, NPA behavior intervention aides, and bus aides; behavior emergency reports (BER); incident reports; notification of injuries; 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/A certifications; by-laws of current board of directors/trustees, if incorporated; statement of income and expenses; general journals; cash receipts and disbursement books; general ledgers and supporting documents; documents evidencing financial expenditures; federal/state payroll quarterly reports; evidence of electronic payments; and bank statements and cancelled checks or facsimile thereof.

b) CONTRACTOR shall maintain LEA electronic and physical student records in a secure location to ensure confidentiality and prevent unauthorized access. CONTRACTOR shall maintain a current list of the names and positions of CONTRACTOR's employees who have access to confidential records. CONTRACTOR shall maintain an access log for each LEA student's record which lists all persons, agencies, or organizations requesting or receiving information from the record (California Education Code Section 49064). Such logs shall be maintained as required and include the name, title, agency/organization affiliation, date/time of access for each individual requesting or receiving information from the LEA student's record, and a description of the record(s) provided. Such logs need to record access to the LEA student's records by: (a) the LEA student's parent; (b) an individual to whom written consent has been executed by the LEA student's parent; or (c) employees of LEA or CONTRACTOR having a legitimate educational interest in requesting or receiving information from the record (Education Code Section 49064). CONTRACTOR/LEA shall maintain copies of any written parental concerns granting access to student records. For purposes of this paragraph, "employees of LEA or CONTRACTOR" do not include subcontractors. CONTRACTOR shall grant the following access to student records, (a) the student's parent; (b) employees of LEA or CONTRACTOR having a legitimate educational interest in requesting or receiving information from the record, and comply with parents' requests for copies of student records, as required by state and federal laws and regulations. CONTRACTOR agrees, in the event of school or agency closure, to forward LEA student records to LEA within five (5) business days. These records shall include, but not be limited to, the LEA student's current transcripts, IEP/IFSPs, , BER's, incident reports, notification of injuries and all other relevant reports. LEA and/or SELPA shall have access to and receive copies of any and all records upon request within five (5) business days.

#### **11) SEVERABILITY CLAUSE**

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

#### **12) SUCCESSORS IN INTEREST**

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

#### **13) VENUE AND GOVERNING LAW**

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

#### **14) MODIFICATIONS AND AMENDMENTS**

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

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

This Master Contract may be terminated with or without cause by either the CONTRACTOR or LEA. To terminate the Master Contract either party shall give no less than twenty (20) calendar days prior written notice (California Education Code Section 56366(a)(4)). At the time of termination, CONTRACTOR shall provide to LEA any and all documents CONTRACTOR is required to maintain under this Master Contract. ISAs are void upon termination of this Master Contract, as provided in Section 5 or 6. CONTRACTOR or LEA may terminate an ISA for cause. To terminate the ISA, either party shall give twenty (20) calendar days prior written notice (refer to Section 7).

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

#### **16) INSURANCE**

- a) CONTRACTOR shall procure and maintain for the duration of the Master Contract insurance against claims for injuries to persons or damages to property, which may arise from or in connection with performance under this Master Contract by CONTRACTOR, its agents, representatives, or employees.
- b) Prior to final approval of this Master Contract, CONTRACTOR shall deliver to the LEA a certificate of insurance for each required policy with insurers and additional insured policy endorsements for the comprehensive general liability insurance and comprehensive automobile liability insurance. If at any time said policies of insurance lapse or become canceled, this MASTER CONTRACT shall become void. The acceptance by LEA of the above-required insurance does not serve to limit the liability or responsibility of the insurer or CONTRACTOR.
- c) Insurance coverage shall be at least as broad as:
  - i) Insurance Services Office Commercial General Liability coverage (occurrence form CG 0001).
  - ii) Insurance Services Office form number CA 0001 (Ed. 1/2010) covering Automobile Liability, code 1 (any auto).

- iii) Workers' Compensation insurance as required by the state in which services are performed and Employer's Liability Insurance with limits of \$2,000,000/\$2,000,000/\$2,000,000.

d) CONTRACTOR shall maintain limits of insurance no less than:

	Agencies with 1-5 providers	Agencies with 6+ providers and non-public school	Residential
General Liability			
Per occurrence	\$1,000,000	\$2,000,000	\$3,000,000
Fire damage	\$500,000	\$500,000	\$500,000
Medical expenses	\$5,000	5,000	5,000
Personal and adv. Injury	\$1,000,000	\$1,000,000	\$1,000,000
General aggregate	\$1,000,000	\$2,000,000	\$6,000,000
Business Auto Liability combined single limit	\$2,000,000	\$2,000,000	\$2,000,000
Professional Liability/Errors and Omissions coverage not to exclude sexual molestation and abuse coverage unless that coverage is afforded elsewhere in the commercial general liability insurance			
Per Occurrence	\$1,000,000	\$1,000,000	\$3,000,000
General Aggregate	\$3,000,000	\$3,000,000	\$6,000,000
Workers Compensation and Employers Liability	\$2,000,000	\$2,000,000	\$2,000,000

- e) For all insurance coverage procured by CONTRACTOR, the following terms apply:
- i) Any deductibles or self-insured retentions above \$25,000 must be declared in writing to and approved by the LEA. At its option, LEA may require the CONTRACTOR, at the CONTRACTOR's sole cost, to: (a) cause its insurer to reduce to levels specified by the LEA or eliminate such deductibles or self-insured retentions as respects to the LEA, its officials and employees, or (b) procure a bond guaranteeing payment of losses and related investigations, claim administration and defense expenses.
  - ii) The general liability and automobile liability policies are to contain, or be endorsed to contain, the following provisions:
    - a) The LEA, its subsidiaries, officials and employees are to be covered as additional insured as respects: liability arising out of activities performed by or on behalf of CONTRACTOR; products and completed operations of the CONTRACTOR; premises owned, occupied or used by the CONTRACTOR; or automobiles owned, leased, hired or borrowed by the CONTRACTOR. The coverage shall contain no special limitations on the scope of protection afforded to the LEA, its subsidiaries, officials and employees.
    - b) 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, its subsidiaries, officials and employees. Any insurance or self-insurance maintained by the LEA, its subsidiaries, officials and employees shall be excess of the CONTRACTOR's insurance and shall not contribute with it.
    - c) Each insurance policy required by this clause shall be endorsed to state that coverage shall not be suspended, voided, canceled by either party, reduced in coverage or in limits except after thirty (30) days prior written notice by certified mail, return receipt requested, has been given to the LEA.
  - f) Insurance is to be placed with insurers admitted by the State of California and with a current A.M. Best's rating of no less than A-: VII, unless otherwise acceptable to the LEA.
  - g) The CONTRACTOR shall furnish the LEA with original or photocopies of endorsements effecting coverage required by this clause. The endorsements are to be signed by a person authorized by that insurer to bind coverage on its behalf. All Certificates of Insurance shall reference the contract number, the name of school or agency submitting the contract number, the name of school or agency submitting the certificate, an

indication if the school or agency is an NPS or NPA, and the location of the school or agency submitting the certificate.

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

## **17) INDEMNIFICATION AND HOLD HARMLESS**

- a) CONTRACTOR shall indemnify and hold LEA and its Board Members, administrators, employees, agents, attorneys, volunteers, and subcontractors (“LEA Indemnities”) harmless against all liability, loss, damage and expense (including reasonable attorneys’ fees) resulting from or arising out of this Master Contract or its performance, to the extent that such loss, expense, damage or liability was caused, in whole or in part, by negligence, intentional act or willful misconduct of CONTRACTOR, including, without limitation, its agents, employees, subcontractors or anyone employed directly or indirectly by it (excluding LEA and LEA Indemnities). The duty and obligation to defend shall arise immediately upon tender of a claim or lawsuit to the CONTRACTOR.
- b) 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 thereof, to the extent that such loss, expense, damage or liability was proximately caused by the gross negligence or willful act of LEA, including, without limitation, its agents, employees, subcontracts or anyone employed directly or indirectly by it (excluding CONTRACTOR and/or any CONTRACTOR indemnities).
- c) LEA represents that it is self-insured in compliance with the laws of the State of California, that the self-insurance covers district employees acting within the course and scope of their respective duties and that its self-insurance covers the LEA’s indemnification obligations under this Master Contract.

## **18) INDEPENDENT CONTRACTOR**

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



If the LEA is determined to be a partner, joint venture, co-principal, 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.

## **19) SUBCONTRACTING**

- a) CONTRACTOR shall provide written notification to LEA before subcontracting for special education and/or related services pursuant to this Master Contract. CONTRACTOR shall enter into an initial subcontract only with a provider who is certified as an NPS/A to deliver any of the instructional or related services contemplated under this Master Contract. The LEA and the CONTRACTOR shall maintain a copy of the written approval. CONTRACTOR shall provide all required clearances for its employees, including, but not limited to fingerprint requirements, and tuberculosis. When subcontracting with an NPA, CONTRACTOR shall not charge LEA a higher rate than its own approved collaborative rate.
- b) Furthermore, when CONTRACTOR enters into subcontracts for the provision of special education and/or related services (including without limitation transportation) for any student, CONTRACTOR shall cause each subcontractor to procure and maintain insurance during the term of each subcontract. Such subcontractor's insurance shall comply with the provisions of Section 16. Each subcontractor shall furnish the LEA with original endorsements and certificates of insurance affecting coverage required by Section 16. The endorsements are to be signed by a person authorized by that insurer to bind coverage on its behalf. The endorsements are to be on the forms provided by the LEA. All endorsements are to be received and approved by the LEA before the subcontractor's work commences. As an alternative to the LEA's forms, a subcontractor's insurer may provide complete, certified copies of all required insurance policies, including endorsements reflecting the coverage required by this Master Contract. All subcontractors must meet the requirements as contained in Section 46 Fingerprint Clearance Requirements and Section 47 Staff Qualifications of this Master Contract.

## **20) CONFLICTS OF INTEREST**

- a) CONTRACTOR and any member of its Board of Directors (or Trustees) shall avoid any relationship with LEA that constitutes or may constitute a conflict of interest pursuant to California Education Code Section 56042 and including, but not limited to, employment with LEA, provision of private party assessments and/or reports, and attendance at IEP/IFSP team meetings acting as a student's advocate.
- b) LEA shall neither execute an ISA with CONTRACTOR nor amend an existing ISA for a LEA student when a recommendation for special education and/or related services is based in whole or in part on assessment(s) or reports provided by CONTRACTOR to the

LEA student without prior written authorization by LEA. This paragraph shall apply to CONTRACTOR regardless of when an assessment is performed or a report is prepared (i.e., before or after the LEA student is enrolled in CONTRACTOR's school/agency) or whether an assessment of the LEA student is performed or a report is prepared in the normal course of the services provided to the LEA student by CONTRACTOR.

## **21) NON-DISCRIMINATION**

CONTRACTOR and LEA programs, activities, and practices shall be free from unlawful discrimination, including discrimination against an individual or group based on race, color, ancestry, nationality, national origin, ethnic group identification, age, religion, marital, pregnancy, or parental status, physical or mental disability, sex, sexual orientation, gender, gender identity or expression, or genetic information; a 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 the event any CONTRACTOR employee, working on a public school campus, alerts CONTRACTOR or LEA of a concern, CONTRACTOR and LEA shall coordinate efforts to respond and rectify any validated concerns.

## **EDUCATIONAL PROGRAM**

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

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

(including, but not limited to, screenings, assessments, or interviews that occur prior to or as a condition of the LEA pupil's enrollment under the terms of this Master Contract).

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

## **23) GENERAL PROGRAM OF INSTRUCTION**

### a) General Program

- i) All NPS/A services shall be provided consistent with the area of certification specified by CDE Certification and as defined in California Education Code section 56366 et seq. No service will be provided by the CONTRACTOR outside of the CONTRACTOR's certification unless otherwise agreed to by the LEA.
- ii) When CONTRACTOR is an NPS, CONTRACTOR's general program of instruction shall: (a) be consistent with LEA's standards regarding required courses of study and curriculum; (b) include curriculum that addresses mathematics, literacy and the use of educational, assistive technology and transition services; (c) be consistent with CDE's standards regarding the particular course of study and curriculum; (d) provide the services as specified in the LEA student's IEP/IFSP and ISA. The State Standards and coursework selected for each student shall be aligned with the student's IEP/IFSP to meet the individual student's needs.
- iii) LEA students shall have access to the following educational materials, services, and programs that are consistent with each student's individualized educational program: (a) For kindergarten and grades 1-8 inclusive, state adopted Common Core State Standards ("CCSS") for curriculum and instructional materials; and for grades 9-12 inclusive, standards-aligned, core curriculum and instructional materials used by an LEA that contracts with the non-public, non-sectarian school; (b) college preparation courses; (c) extracurricular activities, such as art, sports, music and academic clubs; (d) career preparation and vocational training, consistent with transition plans pursuant to state and federal law and; (e) supplemental assistance, including individual academic tutoring, psychological counseling, and career and college counseling (California Education Code 56366.10). CONTRACTOR's general program of instruction shall be described in writing and a copy provided to LEA within 5 days upon request.
- iv) When NPS CONTRACTOR serves LEA students in grades 9 through 12 inclusive, LEA shall provide to CONTRACTOR a specific list of the course requirements to be satisfied by LEA students leading toward graduation or completion of diploma requirements. When CONTRACTOR is an NPA and/or related services provider, CONTRACTOR's general program of instruction and/or

services shall be consistent with LEA and CDE guidelines and provided as specified in the LEA student's IEP/IFSP and ISA. The NPA providing Behavior Intervention Development services shall review or develop a written plan that specifies the nature of its' NPA service for each LEA pupil within thirty (30) days of enrollment which shall be available upon request. CONTRACTOR shall immediately notify LEA in writing if no parent, guardian or adult caregiver is present at the IEP meeting held to review and approve the plan. CONTRACTOR shall provide to LEA a written description of the general program of instruction and/or services provided prior to the effective date of this Master Contract. Contractors providing Behavior Intervention services must have a Board Certified Behavior Analyst, or an appropriately trained professional.

- v) Except for emergency situations requiring a change of location in order to continue the education of LEA students, school-based services may not be unilaterally converted by CONTRACTOR to a substitute program or provided at a location not specifically authorized by the IEP/IFSP team. Except for services provided by a contractor that is a licensed children's institution, all services not provided in the school setting require the presence of, or the prior written consent of a parent, guardian or adult caregiver during the delivery of services. LCI contractors shall ensure that appropriate and qualified residential or clinical staff is present during the provision of services under this Master Contract.

b) Transportation Services:

- i) In the event that transportation services for a student served by CONTRACTOR pursuant to an Individual Services Agreement are to be provided by a party other than CONTRACTOR or the LEA or its transportation providers, such services shall be reflected in a separate agreement signed by the parties hereto, and provided to the LEA and SELPA Director by the CONTRACTOR. Except as provided below, CONTRACTOR shall compensate the transportation provider directly for such services, and shall charge the LEA for such services at the actual and reasonable rates billed by the transportation provider, plus a ten percent (.10) administrative fee, unless a "flat rate" is provided in the transportation contract. In the event that the transportation provider notifies the LEA or SELPA Director that CONTRACTOR is more than 90 days behind in payment for transportation services, LEA shall have the right, in its sole and exclusive discretion, but not the obligation, to make payment for such services directly to the transportation provider, and to deduct such payments from any sums owed to CONTRACTOR pursuant to this Master Contract and any Individual Services Agreement between the parties. In the event that the LEA makes direct payment of the transportation provider's charges, it shall be entitled to withhold both the transportation charges themselves and such additional amount as shall be reasonably necessary to compensate the LEA for the staff and other costs incurred in making direct payment of those charges. The

remedies provided to the LEA pursuant to this Paragraph shall not be exclusive. CONTRACTOR shall not include transportation through the use of services or equipment owned, leased or contracted through the LEA unless expressly provided in the Individual Services Agreement for the student transported.

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

#### **24) INSTRUCTIONAL MINUTES**

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

#### **25) CLASS SIZE**

- a) When CONTRACTOR is a NPS, CONTRACTOR shall ensure that class size shall not exceed a ratio of one teacher per fourteen (14) pupils. Each classroom with 2 or more students shall be assigned at least one paraprofessional. Upon written approval by an authorized LEA representative, class size may be temporarily increased by a ratio of 1 teacher to sixteen (16) pupils when necessary to provide services to pupils with disabilities. For any billing period where the class size has exceeded sixteen (16) students for five consecutive school days, the CONTRACTOR shall have a 10% decrease in its approved daily rate for those LEA students that exceeded sixteen (16), for those days (over five).

- b) In the event 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 ensure appropriate coverage of student by first utilizing existing certificated staff. The NPS and the LEA may agree to one 30 school day period per contract year where class size may be increased to ensure coverage by an appropriately credentialed teacher. Such an agreement shall be in writing and signed by both parties. This provision does not apply to a NPA.
- c) CONTRACTOR providing special education instruction for individuals with exceptional needs between the ages of three and five years, inclusive, shall also comply with the appropriate instructional adult to child ratios pursuant to California Education Code sections 56440 et seq.

## **26) CALENDARS**

- a) When CONTRACTOR is a Non-Public School, the CONTRACTOR shall submit to LEA a school calendar with the total number of billable days not to exceed 180 days for the regular school year, plus extended school year billable days as determined by the IEP/IFSP team ((34 CFR § Section 300.106); a minimum of 20 instructional days (excluding July 4<sup>th</sup>). Billable days shall include only those days that are included in the submitted and approved school calendar, and/or required by the IEP/IFSP for each student. CONTRACTOR shall adhere to the requirements for providing Extended School Year as outlined in Title 5, Article 4 of the California Code of Regulations. Unless otherwise specified by the students IEP/IFSP, educational services shall occur at the school site.
- b) When CONTRACTOR is an NPA, CONTRACTOR shall be provided with a LEA developed/approved calendar; CONTRACTOR herein agrees to observe holidays as specified in the LEA-developed/approved calendar. CONTRACTOR shall provide services pursuant to the LEA-developed/approved calendar, or as specified in the LEA pupil's IEP/IFSP and ISA. Unless otherwise specified in the LEA student's IEP/IFSP and ISA, CONTRACTOR shall provide related services to LEA pupils on only those days that the LEA pupil's school of attendance is in session and the LEA student attends school. CONTRACTOR shall bill only for services provided on billable days of attendance as indicated on the LEA calendar unless otherwise specified in the LEA student's IEP/IFSP and ISA.
- c) CONTRACTOR shall identify at least five (5) "emergency days" in their calendar to be used as regular school days during school closure when no attendance waiver is approved by the CDE.

## **27) DATA REPORTING**

- a) CONTRACTOR shall agree to provide all data related to student information and billing information with LEA. CONTRACTOR shall agree to provide all data related to any and all sections of this contract and requested by and in the format require by the LEA.

CONTRACTOR shall provide the LEA with invoices, attendance reports and progress reports for LEA students enrolled in CONTRACTOR's NPS/A.

- b) 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 Code sections 48900 and 48915. CONTRACTOR shall also include, in this monthly report, 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.
- c) The LEA shall provide the CONTRACTORS with approved forms and/or format for such data including but not limited to invoicing, attendance reports and progress reports. The LEA may approve use of CONTRACTORS-provided forms at their discretion.

## **28) LEAST RESTRICTIVE ENVIRONMENT/DUAL ENROLLMENT**

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

## **29) STATEWIDE ACHIEVEMENT TESTING**

- a) When CONTRACTOR is an NPS, CONTRACTOR shall administer all statewide assessments within the California Assessment of Student Performance and Progress ("CAASPP"), Desired Results Developmental Profile ("DRDP"), California Alternative Assessment ("CAA"), achievement and abilities tests (using LEA-authorized assessment instruments), the Fitness Gram, English Language Proficiency Assessment for California (ELPAC) the Alternative English Language Proficiency Assessments for California ("Alternative ELPAC"),, as appropriate to the student, and mandated by LEA pursuant to LEA and state and federal guidelines. In the event the LEA requests that the NPS administer the assessments, NPS staff will be trained by a contracting LEA in the

administration of all State-wide assessments in accordance with the guidelines of Ed Code 56385. Verification of training will be maintained with CONTRACTOR.

- b) NPS CONTRACTOR is subject to the alternative accountability system developed pursuant to Education Code section 52052, in the same manner as public schools. Each LEA student placed with CONTRACTOR by the LEA shall be tested, as determined by the student's IEP, by qualified staff of CONTRACTOR in accordance with that accountability program. Contractor shall report the test results to the CDE as required by Education Code section 56366(a)(8)(A). Test results shall be made available to the CONTRACTOR by the LEA, if the results are not sent to the CONTRACTOR by the test publisher or CDE.
- c) LEA shall provide NPS with the SSID for each LEA student. LEA shall cooperate with CONTRACTOR to accommodate CONTRACTOR's testing window. (Education Code Section 56366(a)(8)(B))

### **30) ATTENDANCE AT DISTRICT MANDATED MEETINGS**

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

### **31) POSITIVE BEHAVIOR INTERVENTIONS**

- a) CONTRACTOR shall comply with the requirements of Education Code section 56521.5 regarding positive behavior interventions. LEA students who exhibit serious behavioral challenges must receive timely and appropriate assessments and positive supports and interventions in accordance with the federal law and its implementing regulations. If the IEP) team determines that a student's behavior impedes his or her learning or the learning of others, the IEP team is required to consider the use of positive behavioral interventions and supports, and other strategies, to address that behavior, consistent with Section 1414(d)(3)(B)(i) and (d)(4) of Title 20 of the United States Code and associated federal regulations. This could mean that instead of developing a BIP, the IEP team may conclude it is sufficient to address the student's behavioral problems through the development of behavioral goals and behavioral interventions to support those goals.



NPS site based staff and relevant NPA staff will be trained in positive behavior strategies prior to working with students.

- b) CONTRACTOR shall maintain a written policy pursuant to California Education Code section 56521.1 regarding emergency interventions and BERs. CONTRACTOR shall ensure that all of its staff members are trained annually in crisis intervention and emergency procedures, and evidenced-based practices and interventions specific to the unique behavioral needs of the CONTRACTOR's pupil population as related to appropriate behavior management strategies. The training shall be provided within 30 days of employment to new staff who have any contact or interaction with pupils during the schoolday, and annually to all staff who have any contact or interaction with pupils during the schoolday. The CONTRACTOR shall select and conduct the training in accordance with California Education Code section 56366.1. CONTRACTOR shall maintain written records of the training and provide written verification of the training annually and upon request. This training shall include, but not be limited to:
  - i) Positive behavioral intervention and supports, including collection, analysis, and use of data to inform, plan, and implement behavioral supports.
  - ii) How to understand and address challenging behaviors, including evidence-based strategies for preventing those behaviors.
  - iii) Evidence-based interventions for reducing and replacing challenging behaviors, including deescalation techniques.
- c) Staff will not participate in restraint of students until trained in crisis prevention programs. Evidence of training in a SELPA approved crisis intervention program to staff working in a staffing ratio of 1:1 with students with severe behavioral needs shall be submitted to the LEA at the beginning of the school year and within thirty (30) days of any new hire as referenced above. If the training is not able to be provided within 30 days, the non-public school or agency will notify the LEA to determine a plan to provide the training in a timely manner.
- d) Pursuant to Education Code section 56521.1 emergency interventions shall not be used as a substitute for a Behavior Intervention Plan (BIP), and instead may only be used to control behavior that is unpredictable and spontaneous. For an emergency intervention to be used, the behavior must pose a clear and present danger of serious physical harm to the individual with exceptional needs, or others. Before emergency interventions may be applied, the behavior must be of the kind that cannot be immediately prevented by a response less restrictive than the temporary application of a technique used to contain the behavior. Emergency intervention shall not be employed longer than necessary to contain the behavior. If a situation requires prolonged use of emergency intervention, staff must seek assistance from the school site administrator or a law enforcement agency.
- e) CONTRACTOR shall complete a BER when an emergency occurs that is defined as a serious, dangerous behavior that staff has determined to present a clear and present

danger to others. It requires a non-violent physical intervention to protect the safety of student, self, or others and a physical intervention has been used; or a physical intervention has not been used, but an injury or serious property damage has occurred. Personal Safety Techniques may or may not have been used. Emergencies **require** a BER form be completed and submitted to the LEA within twenty-four (24) hours for administrative action. CONTRACTOR shall notify Parent within twenty-four (24) hours via telephone. If the student does not have a BIP, an IEP team shall schedule a meeting to review the BER, determine if there is a necessity for a functional behavioral assessment, and to determine an interim plan. If the student already has a BIP, the IEP team shall review and modify the BIP if a new serious behavior has been exhibited or existing behavioral interventions have proven to be ineffective. CONTRACTOR shall schedule with LEA an IEP meeting within two (2) days.

- f) Pursuant to Education Code section 56521.2, CONTRACTOR shall not authorize, order, consent to, or pay for the following interventions, or any other interventions similar to or like the following:
- i) Any intervention that is designed to, or likely to, cause physical pain, including, but not limited to, electric-shock.
  - ii) An intervention that involves the release of noxious, toxic, or otherwise unpleasant sprays, mists, or substances in proximity to the face of the individual.
  - iii) An intervention that denies adequate sleep, food, water, shelter, bedding, physical comfort, or access to bathroom facilities.
  - iv) An intervention that is designed to subject, used to subject, or likely to subject, the individual to verbal abuse, ridicule, or humiliation, or that can be expected to cause excessive emotional trauma.
  - v) Restrictive interventions that employ a device, material, or objects that simultaneously immobilize all four extremities. including the procedure known as prone containment, except that prone containment or similar techniques may be used by trained personnel as a limited emergency intervention.
  - vi) Locked seclusion, unless it is in a facility otherwise licensed or permitted by state law to use a locked room.
  - vii) An intervention that precludes adequate supervision of the individual.
  - viii) An intervention that deprives the individual of one or more of his or her senses.
- g) CONTRACTOR shall comply with Education Code section 48905.8. Specifically,
- i) CONTRACTOR shall not do any of the following:

- a) Use seclusion or a behavioral restraint for the purpose of coercion, discipline, convenience, or retaliation.
  - b) Use locked seclusion, unless it is in a facility otherwise licensed or permitted by state law to use a locked room.
  - c) Use a physical restraint technique that obstructs a pupil's respiratory airway or impairs the pupil's breathing or respiratory capacity, including techniques in which a staff member places pressure on a pupil's back or places his or her body weight against the pupil's torso or back.
  - d) Use a behavioral restraint technique that restricts breathing, including, but not limited to, using a pillow, blanket, carpet, mat, or other item to cover a pupil's face.
  - e) Place a pupil in a facedown position with the pupil's hands held or restrained behind the pupil's back.
  - f) Use a behavioral restraint for longer than is necessary to contain the behavior that poses a clear and present danger of serious physical harm to the pupil or others.
- ii) CONTRACTOR shall:
- a) Keep constant, direct observation of a pupil who is in seclusion, which may be through observation of the pupil through a window, or another barrier, through which the educational provider is able to make direct eye contact with the pupil. This observation shall not be through indirect means, including through a security camera or a closed-circuit television.
  - b) Afford to pupils who are restrained the least restrictive alternative and the maximum freedom of movement, and shall use the least number of restraint points, while ensuring the physical safety of the pupil and others.
  - c) If prone restraint techniques are used, a staff member shall observe the pupil for any signs of physical distress throughout the use of prone restraint. Whenever possible, the staff member monitoring the pupil shall not be involved in restraining the pupil.
- h) Notwithstanding the provisions of sections 31(f) and 31(g) above and Education Code 48905.8, NPS/NPA staff shall not use prone restraint.
- i) In the case of a child whose behavior impedes the child's learning or that of others, the IEP team shall consider the use of positive behavioral interventions and supports, and

other strategies, to address that behavior, consistent with Section 1414(d)(3)(B)(i) and (d)(4) of Title 20 of the United States Code and associated federal regulations.

### **32) STUDENT DISCIPLINE**

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

### **33) IEP / IFSP TEAM MEETINGS**

- a) Upon referral of an LEA student to CONTRACTOR, the LEA shall provide CONTRACTOR with a copy of that student's IEP/IFSP, as well as available assessment information, and facilitate, if requested, an observation of the student. CONTRACTOR retains the right to decline enrollment of any student, unless ordered by the Office of Administrative Hearing (OAH) or a Court of Competent Jurisdiction. CONTRACTOR shall notify the LEA written notification of its intent to decline enrollment of the LEA student.
- b) An IEP/IFSP team meeting shall be convened at least annually to evaluate: (1) the educational progress of each student placed with CONTRACTOR, including all state assessment results pursuant to the requirements of Education Code section 52052; (2) whether or not the needs of the LEA student continue to be best met at the NPS; and (3) whether changes to the LEA student's IEP/IFSP are necessary, including whether the student may be transitioned to a public school setting. With parent and LEA concurrence, an IEP team may excuse a required IEP team member either from the entire meeting or after the member's report.

- c) Each LEA student shall be allowed to provide confidential input to any representative of his or her IEP/IFSP team. Except as otherwise provided in the Master Contract, CONTRACTOR and LEA shall participate in all IEP/IFSP team meetings regarding LEA students for whom ISAs have been or may be executed. A CONTRACTOR who is providing NPA services may request payment for services for attending any meeting that occurs after the Annual Review of the IEP/IFSP. At any time during the term of this Master Contract, the parent, the CONTRACTOR or the LEA may request a review of the student's IEP/IFSP, subject to all procedural safeguards required by law, including reasonable notice given to, and participation of, the CONTRACTOR in the meeting. Every effort shall be made to schedule IEP/IFSP team meetings at a time and place that is mutually convenient to parents, CONTRACTOR and LEA. CONTRACTOR shall provide to LEA assessments and written assessment reports by service providers upon request and/or pursuant to LEA policy and procedures.
  
- d) Changes in any LEA student's educational program, including instruction, services, or instructional setting, provided under this Master Contract may only be made on the basis of revisions to the student's IEP/IFSP. In the event that the CONTRACTOR believes the student requires a change of placement, the CONTRACTOR may request a review of the student's IEP/IFSP for the purposes of consideration of a change in the student's placement. Student is entitled to remain in the last agreed upon and implemented placement unless parent agrees otherwise or an interim alternative educational placement is deemed lawful and appropriate by LEA or OAH.

### **34) SURROGATE PARENTS AND FOSTER YOUTH**

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

### **35) DUE PROCESS PROCEEDINGS**

CONTRACTOR shall fully participate in special education due process proceedings including mediations and hearings, as requested by LEA. Participation further includes the willingness to make CONTRACTOR's staff available for witness preparation and testimony as is necessary to facilitate a due process hearing. CONTRACTOR shall also fully participate in the investigation and provision of documentation related to any complaint filed with the State of California, the Office of Civil Rights, or any other state and/or federal governmental body or agency. Full

participation shall include, but in no way be limited to, cooperating with LEA representatives to provide complete answers raised by any investigator and/or the immediate provision of any and all documentation that pertains to the operation of CONTRACTOR's program and/or the implementation of a particular student's IEP/Individual and Family Service Plan ("IFSP").

### **36) COMPLAINT PROCEDURES**

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

### **37) LEA STUDENT PROGRESS REPORTS/REPORT CARDS AND ASSESSMENTS**

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

CONTRACTOR. If Contractor is asked to provide formalized standardized assessment, such service will be paid at the rate stated in Section 62.

### **38) TRANSCRIPTS**

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

### **39) LEA STUDENT CHANGE OF RESIDENCE**

- a) Within three (3) school days after CONTRACTOR or LEA becomes aware of a LEA student's change of residence, CONTRACTOR shall notify LEA and/or the LEA shall notify CONTRACTOR of the LEA student's change of residence. Upon enrollment, CONTRACTOR shall notify parents in writing of the parent's obligation to notify CONTRACTOR of the LEA student's change of residence. CONTRACTOR shall maintain, and provide upon request by LEA, documentation of such notice to parents.
- b) If the LEA student's change of residence is to a residence outside of LEA's service boundaries or CONTRACTOR fails to follow the procedures specified in this provision, LEA shall not be responsible for the costs of services delivered after the LEA student's change of residence, if CONTRACTOR had knowledge or should reasonably have had knowledge of the LEA student's change of residence. LEAs will adhere to requirements for students identified as homeless or foster youth under current education code.

### **40) WITHDRAWAL OF LEA STUDENT FROM PROGRAM**

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

### **41) PARENT ACCESS**

- a) CONTRACTOR shall provide for reasonable parental access to students and all facilities including, but not limited to, the instructional setting, recreational activity areas, meeting rooms and student living quarters, when applicable. CONTRACTOR shall comply with any known court orders regarding parental visits and access to LEA students.
- b) CONTRACTOR operating programs associated with a NPS/RTC shall cooperate with a parent's reasonable request for LEA student therapeutic visits in their home or at the NPS/RTC. CONTRACTOR shall require that parents obtain prior written authorization

for therapeutic visits from the CONTRACTOR and the LEA at least thirty (30) days in advance. When requested, CONTRACTOR shall facilitate all parent travel and accommodations and for providing travel information to the parent as appropriate. Payment by LEA for approved travel-related expenses shall be made directly through the LEA.

- c) CONTRACTOR providing services in the student's home as specified in the IEP shall ensure that at least one parent of the child, or an adult caregiver with written and signed authorization to make decisions in an emergency, is present. The names of any adult caregiver other than the parent shall be provided to the LEA prior to the start of any home based services, including written and signed authorization in emergency situations. The parent shall inform the LEA of any changes of caregivers and provide written authorization for emergencies. The adult caregiver cannot also be an employee or volunteer associated with the NPS/NPA service provider.
- d) All problems and/or concerns reported to parents, both verbal and written, shall also be provided to the LEA.

#### **42) SERVICES AND SUPERVISION ON PUBLIC SCHOOL CAMPUSES**

- a) If CONTRACTOR provides services on LEA public school campuses, CONTRACTOR shall comply with Penal Code Section 627.1 et. seq., and LEA procedures regarding visitors to school campuses specified by LEA policy and in the LEA Procedures, and shall follow the procedures of the campus at which services are being provided.
- b) CONTRACTOR shall be responsible for purchase and provision of the supplies and assessment tools necessary to implement the provision of services on LEA public school campuses.
- c) In the event CONTRACTOR wishes to bring an animal, other than a bona fide service animal, on LEA premises, both CONTRACTOR'S management and LEA must agree in writing.

#### **43) LICENSED CHILDREN'S INSTITUTION CONTRACTORS**

- a) If CONTRACTOR is a licensed children's institution (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 and any other applicable laws and/or regulations, including LEA guidelines or procedures. An LCI shall not require that a student be placed in its NPS as a condition of being placed in its residential facility.
- b) 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 LEA students, including those identified as eligible for special education. For those identified special



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

#### **44) STATE MEAL MANDATE**

When CONTRACTOR is an NPS, CONTRACTOR and LEA shall satisfy the State Meal Mandate under California Education Code sections 49005 et seq.; 49501.5, the universal meal mandate enacted by AB 130 (2021-22); 49530 et seq; and 49550 et seq.

LEA, at its sole discretion, may elect to directly provide meals to CONTRACTOR for distribution to LEA students at the nonpublic school on its own or by another local school district.

CONTRACTOR acknowledges that the LEA does not receive any state or federal reimbursement for any meals CONTRACTOR provides to LEA students and that CONTRACTOR is only eligible to receive direct reimbursement if it is an approved site under the National School Lunch Program.

In the event the LEA requests CONTRACTOR to provide meals to LEA students, CONTRACTOR will provide breakfast and lunch to LEA students in compliance with the meal pattern requirements under the School Breakfast Program and National School Lunch Program nutritional standards. LEA shall reimburse CONTRACTOR for each meal made available at a mutually agreed upon rate. In the event CONTRACTOR is unable to provide meals, the LEA and CONTRACTOR will work collaboratively to find a solution. In the event CDE determines that meals do not need to be provided, this paragraph shall not apply.

CONTRACTOR shall maintain all documentation of meals provided to LEA students. CONTRACTOR shall comply with record keeping requirements under the School Breakfast Program and National School Lunch Program or LEA template. Upon request, CONTRACTOR shall provide copies of any such records to LEA. CONTRACTOR shall also allow LEA to conduct site monitoring visits as deemed necessary by the LEA.

If CONTRACTOR uses a third-party vendor to provide meals, CONTRACTOR will assure that the third-party vendor agrees to comply with all meal pattern requirements of the School Breakfast Program and National School Lunch Program nutritional standards. Upon request, CONTRACTOR shall provide LEA with any contracts it has with third-party vendors providing meals for students.

#### **45) MONITORING**

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

observe the instructional setting, interview CONTRACTOR, and review each LEA student's records and progress. Such access shall include unannounced monitoring visits. When making site visits, LEA shall initially report to CONTRACTOR's site administrative office.

- b) The LEA (or SELPA) shall report the findings resulting from the monitoring visit to the California Department of Education within 60 calendar days of the onsite visit.
- c) 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.
- d) If CONTRACTOR is also a LCI, LEA shall annually evaluate whether CONTRACTOR is in compliance with Education Code section 56366.9 and Health and Safety Code section 1501.1(b).
- e) During the term of this Master Contract, CONTRACTOR shall participate in a District Review to be conducted as aligned with the CDE On-site Review or more often if necessary. This review will address programmatic aspects of the NPS/A, compliance with relevant state and federal regulations, and Master Contract compliance.
- f) CONTRACTOR shall participate in compliance reviews of LEA in accordance with requirements of CDE. CONTRACTOR will use all SELPA IEP forms. CONTRACTOR will adhere to all SELPA assurances and procedures required for compliance.
- g) 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.
- h) When CONTRACTOR is an NPS, CONTRACTOR shall prepare a School Accountability Report Card in accordance with California Education Code Section 56366(a)(9) and 33126 and state guidelines.

## **PERSONNEL**

### **46) FINGERPRINT CLEARANCE REQUIREMENTS**

- a) CONTRACTOR shall comply with the requirements of California Education Code section 44237, 35021.1, 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 that the volunteers will have no direct contact with LEA students, prior to service with any LEA

student. CONTRACTOR hereby agrees that CONTRACTOR's employees and volunteers, unless CONTRACTOR determines that the volunteers will have no direct contact with LEA pupils, shall not come in contact with LEA students until CDOJ and FBI clearance are ascertained. CONTRACTOR shall certify in writing to LEA that none of its employees, and volunteers, unless CONTRACTOR determines that the volunteers will have no direct contact with LEA students, or contractors who may come into contact with LEA students have been convicted of a violent or serious felony as those terms are defined in California Education Code section 44237(h), unless despite the employee's conviction of a violent or serious felony, he or she has met the criteria to be eligible for employment pursuant to California Education Code section 44237(i) or (j). In addition, CONTRACTOR shall make a request for subsequent arrest service from the CDOJ as required by California Penal Code section 11105.2. Upon request, clearance certification shall be submitted to the LEA. In addition, CONTRACTOR shall make a request for subsequent arrest service from CDOJ as required by California Penal Code section 11105.2.

- b) According to Education Code sections 44237 and 56366.1 CONTRACTOR shall verify that it has received a successful criminal background check clearance and has enrolled in subsequent arrest notice service, as specified, **for each owner, operator, and employee of the NPS/A who may have contact with students**. Further this bill deletes the exemption for applicants possessing a valid California state teaching credential or who are currently licensed by another state agency that requires a criminal record summary, from submitting 2 sets of fingerprints for the purpose of obtaining a criminal record summary from the Department of Justice and the Federal Bureau of Investigation. Notwithstanding the restrictions on sharing and destroying criminal background check information, CONTRACTOR, upon demand, shall make available to the State Superintendent evidence of a successful criminal background check clearance and enrollment in subsequent arrest notice service, as provided, for each owner, operator, and employee of the NPS/A. CONTRACTOR is required to retain the evidence with their "Custodian of Records", as specified, for all staff, including those licensed or credentialed by another state agency. Background clearances and proof of subsequent arrest notification service as required by California Penal Code section 11105.2 for all staff shall be provided upon request to the State Superintendent.

#### **47) STAFF QUALIFICATIONS**

- a) CONTRACTOR shall ensure that all individuals employed, contracted, and/or otherwise hired by CONTRACTOR to provide classroom and/or individualized instruction or related services hold a license, certificate, permit, or other document equivalent to that which staff in a public school are required to hold in the service rendered consistent with Education Code section 56366.1(n)(1) and are qualified pursuant to Title 5 of the California Code of Regulations sections 3064 and 3065.

- b) Only those NPS/A located outside of California that employ staff that hold a current valid credential or license to render special education and related services as required by that state shall be eligible to be certified. NPA/NPS staff shall be required to hold credentials and licenses within the state where they are providing services regardless of where the agency is located.
- c) In accordance with California Education Code section 56366.1(a)(5), when CONTRACTOR is a nonpublic school, NPS, an appropriately qualified person shall serve as curricular and instructional leader, and be able to provide leadership, oversight and professional development. The administrator of the NPS holds or is in the process of obtaining one of the following: (A) An administrative credential granted by an accredited postsecondary educational institution and two years of experience with pupils with disabilities. (B) A pupil personnel services credential that authorizes school counseling or psychology. (C) A license as a clinical social worker issued by the Board of Behavioral Sciences. (D) A license in psychology regulated by the Board of Psychology. (E) A master's degree issued by an accredited postsecondary institution in education, special education, psychology, counseling, behavioral analysis, social work, behavioral science, or rehabilitation. (F) A credential authorizing special education instruction and at least two years of experience teaching in special education before becoming an administrator. (G) A license as a marriage and family therapist certified by the Board of Behavioral Sciences. (H) A license as an educational psychologist issued by the Board of Behavioral Sciences. (I) A license as a professional clinical counselor issued by the Board of Behavioral Sciences (California Education Code Section 56366.1. (a)(5)) CONTRACTOR shall maintain, and provide to the LEA upon request, documentation of its administrator's qualifications in accordance with the above.
- d) CONTRACTOR shall comply with personnel standards and qualifications regarding instructional aides and teacher assistants respectively pursuant to Federal requirements and California Education Code sections 45340 et seq. and 45350 et seq. CONTRACTOR shall comply with all laws and regulations governing the licensed professions, including but not limited to, the provisions with respect to supervision.
- e) Notwithstanding the foregoing, if current license or credential documents are not available through no fault of the NPS/A, timely application having theretofore been made, this Master Contract shall remain in effect until such documents are made available to the NPS/A from the Consumer Affairs Department or the Commission on Teacher Credentialing. The NPS/A shall in turn submit copies of same to the LEA within five (5) business days of receipt by the NPS/A.

#### **48) VERIFICATION OF LICENSES, CREDENTIALS AND OTHER DOCUMENTS**

- a) CONTRACTOR shall submit to LEA a staff list, and copies of all current licenses, credentials, permits and/or other documents, which entitle the holder to provide special education and/or related services by individuals employed, contracted, and/or otherwise hired by CONTRACTOR. CONTRACTOR shall notify the CDE and the LEA in writing as

specified in the LEA Procedures and CDE within forty-five (45) days when personnel changes occur which may affect the provision of special education and/or related services to LEA students as specified in the LEA Procedures. Notwithstanding the foregoing, if current license or credential documents are not available through no fault of the NPS/A, timely application having theretofore been made, this Master Contract shall remain in effect until such documents are made available to the NPS/A from the Consumer Affairs Department or the Commission on Teacher Credentialing. The NPS/A shall in turn submit copies of same to the LEA within five (5) business days of receipt by the NPS/A.

- b) CONTRACTOR shall monitor the status of licenses, credentials, permits and/or other documents for all individuals employed, contracted, and/or otherwise hired by CONTRACTOR to provide special education services to LEA students. CONTRACTOR shall provide to LEA updated information regarding the status of licenses, credentials, permits and/or other documents as specified in LEA Procedures. CONTRACTOR will be considered to be in breach of this contract for any service provided by an unqualified provider or one who has an expired credential. In such an event, the provider shall be paid at 70% of the agreed upon rate.

#### **49) CALSTRS REPORTING REQUIREMENT**

CONTRACTOR shall identify to the LEA any employee (or the CONTRACTOR, if the CONTRACTOR is an individual) expected to perform services under this Agreement who is then-receiving CalSTRS benefits, and who may perform creditable service for the LEA as defined in Education Code 22119.5. Identification to the LEA shall include the individual's full legal name and STRS and social security identification numbers. Before any services by the individual are provided, the CONTRACTOR shall provide to the LEA a signed written confirmation from the individual that he/she is aware of the separation-from-service requirement earnings limitations imposed by Education Code Sections 22714, 24114, 24116, 24214, 24214.5, and 24215. CONTRACTOR shall thereafter provide on a monthly basis to the LEA the actual amounts paid to the individual for services rendered under this Agreement, with the LEA responsible for reporting the individual's earnings to CalSTRS as required by law or regulation.

Pursuant to Education Code 22164.5(b), the activities of an employee of CONTRACTOR shall not be included in the definition of "retired member activities" if all of the following conditions apply:

- (1) The employee performs a limited-term agreement.
- (2) The third-party employer does not participate in a California public pension system.
- (3) The activities performed by the individual are not normally performed by employees of an employer, as defined in Section 22131.

## **50) STAFF ABSENCE**

- a) When CONTRACTOR is an NPS and CONTRACTOR's classroom teacher is absent, CONTRACTOR shall provide an appropriately credentialed substitute teacher in the absent teacher's classroom in accordance with California Education Code section 56061. CONTRACTOR shall provide to LEA documentation of substitute coverage on LEA substitute teacher log. Substitute teachers shall remain with their assigned class during all instructional time. LEA shall not be responsible for payment for instruction and/or services when an appropriately credentialed substitute teacher is not provided. If a teacher is absent and a non-qualified substitute has been provided, CONTRACTOR will notify the LEA immediately. The LEA will determine how to address the denial of FAPE.

The LEA shall not be responsible for any payment for instruction and/or services when an appropriately credentialed substitute teacher is not provided in accordance with California Education Code section 56061.

- b) When CONTRACTOR is a NPA and/or related services provider, and CONTRACTOR's service provider is absent, CONTRACTOR shall provide a qualified (as defined in section eight (8) of this Master Contract and as determined by LEA) substitute, unless LEA provides appropriate coverage in lieu of CONTRACTOR's service providers. LEA will not pay for services unless a qualified substitute is provided and/or CONTRACTOR provides a mutually agreed upon plan evidencing the provision of "make-up" services by a qualified service provider within thirty (30) calendar days from the date on which the services should have been provided. Provider shall notify LEA immediately of the development of the plan for any missed services that include: 5 or more consecutive days of specialized academic instruction (SAI) or more than 2 weeks of missed related services. CONTRACTOR shall not "bank" or "carry over" make-up service hours under any circumstances, unless otherwise agreed to in writing by CONTRACTOR and LEA.

## **HEALTH AND SAFETY MANDATES**

### **51) HEALTH AND SAFETY**

- a) CONTRACTOR shall comply with all applicable federal, state, local, and LEA laws, regulations, ordinances, policies, and procedures regarding student and employee health and safety. CONTRACTOR shall comply with the requirements of California Education Code sections 49406et. seq. regarding the examination of CONTRACTOR's employees and volunteers for tuberculosis. CONTRACTOR shall provide to LEA documentation for each individual volunteering, employed, contracted, and/or otherwise hired by CONTRACTOR of such compliance before an individual comes in contact with an LEA student. CONTRACTOR will comply with the requirements of California Education Code section 35021 et seq., regarding preventing registered sex offenders from volunteering and to request fingerprinting clearance of volunteers.

- b) CONTRACTOR shall comply with OSHA Bloodborne 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.

## **52) FACILITIES, FACILITIES MODIFICATIONS AND FIRE DRILLS**

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

## **53) ADMINISTRATION OF MEDICATION**

- a) CONTRACTOR shall comply with the requirements of Federal Regulations and California Education Code and the California Code of Regulations, when CONTRACTOR serves an LEA student that is required to take prescription and/or over-the-counter medication during the school day. CONTRACTOR may designate personnel to assist the LEA student with the administration of such medication after the LEA student's parent(s) provides to CONTRACTOR:
  - i) a written statement from a physician detailing the type, administration method, amount, and time schedules by which such medication shall be taken; and
  - ii) a written statement from the LEA student's parent(s) granting CONTRACTOR permission to administer medication(s) as specified in the physician's statement.
- b) CONTRACTOR shall maintain, and provide to LEA upon request, copies of such written statements. CONTRACTOR shall maintain a written log for each LEA student to whom medication is administered. Such written log shall specify the LEA student's name; the type of medication; the date, time, and amount of each administration; and the name of CONTRACTOR's employee who administered the medication.
- c) CONTRACTOR maintains full responsibility for storing medications in a secure location and ensuring appropriate staff training in the administration of such medication consistent with physician's written orders or current student's Individual Health Care

Plan. Any change in medication type, administration method, amount or schedule must be authorized by both a licensed physician and parent.

#### **54) INCIDENT/ACCIDENT REPORTING**

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

#### **55) MANDATED REPORTING REQUIREMENTS**

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

#### **56) SEXUAL HARASSMENT**

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



In the event any CONTRACTOR employee, working on a public school campus, alerts CONTRACTOR or LEA of a concern, CONTRACTOR and LEA shall coordinate efforts to respond and rectify any validated concerns.

#### **57) REPORTING OF MISSING CHILDREN**

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

### **FINANCIAL**

#### **58) ENROLLMENT, CONTRACTING, SERVICE TRACKING, ATTENDANCE REPORTING, AND BILLING PROCEDURES**

- a) CONTRACTOR shall ensure that the nonpublic school or nonpublic agency has the necessary financial resources to provide an appropriate education for the students enrolled and will distribute those resources in such a manner to implement the IEP/IFSP for each and every student.
- b) CONTRACTOR shall be paid for the provision of special education and/or related services specified in the LEA student's IEP/IFSP and ISA. All payments by LEA shall be made in accordance with the terms and conditions of this Master Contract.
- c) CONTRACTOR shall maintain registers for the basic education program and each related service. Original attendance forms shall be completed by the actual service provider whose signature shall appear on such forms and shall be available for review, inspection, or audit by LEA during the effective period of this contract and for a period of five (5) years after the date of origination. CONTRACTOR shall verify the accuracy of minutes of reported attendance that is the basis of services being billed for payment.
- d) CONTRACTOR shall submit accurate and timely invoices and related documents to LEA for payment, for each calendar month when education or related services were provided to an LEA student. Invoices shall be submitted no later than thirty (30) days after the end of the attendance accounting period in which the services were rendered. LEA shall make payment to CONTRACTOR based on the number of billable days of attendance and hours of service at rates specified in this contract within forty-five (45) days of LEA's

receipt of properly submitted hard copy of invoices prepared and submitted as specified in California Education Code Section 56366.5. CONTRACTOR shall correct deficiencies and submit rebilling invoices no later than thirty (30) calendar days after the invoice is returned by LEA. LEA shall pay properly submitted re-billing invoices no later than forty-five (45) days from the date a completely corrected re-billing invoice is received by LEA.

- e) If the LEA fails to comply with the provision of payment within 45 days of receipt of the request for payment of services, the CONTRACTOR may require the LEA to pay an additional amount of 1-1/2 percent of the unpaid balance per month until full payment is made (California Education Code 56366.6 (b)). Upon written notification of dispute, CONTRACTOR shall not apply additional charges to the disputed bill until the matter is resolved.

## **59) RIGHT TO WITHHOLD PAYMENT**

- a) LEA may withhold payment to CONTRACTOR when:
  - i) CONTRACTOR has failed to perform, in whole or in part, under the terms of this contract
  - ii) CONTRACTOR was overpaid by LEA as determined by inspection, review, and/or audit of its program, work, and/or records
  - iii) CONTRACTOR has failed to provide supporting documentation with an invoice, as required by Section 57
  - iv) education and/or related services are provided to LEA pupils by personnel who are not appropriately credentialed, licensed, or otherwise qualified
  - v) LEA has not received prior to school closure or contract termination, all documents concerning one or more LEA pupils enrolled in CONTRACTOR's educational program
  - vi) CONTRACTOR fails to confirm a pupil's change of residence to another district or confirms the change or residence to another district, but fails to notify LEA with five (5) days of such confirmation
  - vii) CONTRACTOR receives payment from Medi-Cal or from any other agency or funding source for a service provided to a LEA pupil.
- b) The amount which may be withheld by LEA with respect to each of the subparagraphs of the preceding paragraph are as follows:

- i) the value of the service CONTRACTOR failed to perform
  - ii) the amount of overpayment
  - iii) the portion of the invoice for which satisfactory documentation has not been provided by CONTRACTOR
  - iv) the amount invoiced for services provided by the individual not appropriately credentialed, licensed, or otherwise qualified
  - v) the proportionate amount of the invoice related to the applicable pupil for the time period from the date of the violation occurred and until the violation is cured
  - vi) the proportionate amount of the invoice related to the applicable pupil for the time period from the date of the violation occurred and until the violation is cured
  - vii) the amount paid to CONTRACTOR by Medi-Cal or another agency or funding source for the service provided to the LEA pupil.
- c) If LEA determines that cause exists to withhold payment to CONTRACTOR, LEA shall, within ten (10) business days of receipt of such invoice, provide to CONTRACTOR written notice that LEA is withholding payment. Such notice shall specify the basis or bases for LEA's withholding payment and the amount to be withheld. Within thirty (30) days from the date of receipt of such notice, CONTRACTOR shall take all necessary and appropriate action to correct the deficiencies that form the basis for LEA's withholding payment, submit a written request for extension of time to correct the deficiencies, or submit to LEA written documentation demonstrating that the basis or bases cited by the LEA for withholding payment is unfounded. Upon receipt of CONTRACTOR's written request showing good cause, LEA shall extend CONTRACTOR's time to correct deficiencies (usually an additional thirty (30) days), otherwise payment will be denied.
- d) If after subsequent request for payment has been denied and CONTRACTOR believes that payment should not be withheld, CONTRACTOR shall send written notice to LEA specifying the reason it believes payment should not be withheld. LEA shall respond to CONTRACTOR's notice within thirty (30) business days by indicating that a warrant for the amount of payment will be made or stating the reason LEA believes payment should not be made. If LEA fails to respond within thirty (30) business days or a dispute regarding the withholding of payment continues after the LEA's response to CONTRACTOR's notice, CONTRACTOR shall invoke the following escalation policy.
- i) Persons involved after forty-one (41) business days: If CONTRACTOR notifies LEA that the dispute has not been resolved by the LEA Specialist, LEA's Administrator will become involved and shall attempt to resolve the dispute. The

LEA Coordinator shall respond to the CONTRACTOR in writing within ten (10) business days.

- ii) Persons involved after fifty-one (51) business days: If CONTRACTOR notifies LEA that the dispute has not been resolved by the LEA Administrator, the SELPA Director shall become involved. The SELPA Director shall respond to the CONTRACTOR in writing within ten (10) business days. This shall be the final LEA determination regarding the withholding of payment.
  - iii) Persons involved after sixty-one (61) business days: Dispute Resolution, as defined in the SELPA's Local Plan, shall be followed.
- e) If the dispute has not been resolved through the SELPA's Dispute Resolution process, the party claiming injury may seek legal or CDE redress, or may submit, if mutually agreed to in writing by the parties, the matter to binding arbitration by an arbitrator or arbitration service agreed upon by the parties. Each party shall be responsible for their own fees for arbitration, if applicable. The parties agree that this Master Contract provision dealing with Master Contract disputes does not alter the parties' right to bring action in accordance with the applicable statute of limitations under state or federal law.

#### **60) PAYMENT FROM OUTSIDE AGENCIES**

CONTRACTOR shall notify LEA when Medi-Cal or any other agency is billed for the costs associated with the provision of special education and/or related services covered by this Master Contract or the ISA to LEA pupils. Upon request, CONTRACTOR shall provide to LEA any and all documentation regarding reports, billing, and/or payment by Medi-Cal or any other agency for the costs associated with the provision of special education and/or related services covered by this Master Contract or ISA to LEA pupils. CONTRACTOR shall provide prior written notice of the rights and protections required by Title 34 of the Code of Federal Regulations section 300.154(d) whenever it seeks to use the LEA students' public benefits to pay for special education and related services. Such notice shall be provided before seeking payment from Medi-Cal for the first time and annually.

#### **61) PAYMENT FOR STUDENT ABSENCES**

- a) For student absences beginning on the first day of quarantine or isolation consistent with public health protocol, when student's symptoms allow for participation in instruction, CONTRACTOR shall receive payment consistent with the student's approved ISA, contingent upon the provision of agreed upon services consistent with the Emergency Circumstances documented in the pupil's IEP in accordance with Education Code section 56345(a)(9). In the event that a student's symptoms do not allow participation in instruction, they shall be considered absent due to illness.

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

i) **Positive Attendance Method**

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

ii) **Excused Absence Method**

a) LEA shall not be responsible for payment for more than 8 cumulative days of absences, for each of the first ninety days and second ninety days of the school year (i.e., semester), unless a written time extension is granted by LEA. No more than three of the 8 cumulative absences shall be unexcused.

b) On the 4th consecutive day of a pupil’s absence, CONTRACTOR shall notify LEA of such absence. If CONTRACTOR fails to provide such notice by the 4th day of consecutive absence, CONTRACTOR shall not be compensated for services delivered during continuing absence after the 4th consecutive day of excused absence.

c) All excused absences must be verified and a copy must be submitted to LEA with the monthly invoice. All documentation must be kept for at least five (5) years from the date of origination.

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

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

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

- (1) Written note from parent, guardian, representative or adult pupil (over 18 or emancipated)
- (2) Telephone conversation with parent, guardian, representative, or adult pupil (over 18 or emancipated)

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

## **62) SCHOOL CLOSURE**

The following shall apply in the event of an NPS school closure due to an emergency consistent with guidelines followed by LEAs under Education Code Section 41422 and 46392:

In the event of a NPS School Closure for the reasons set forth in Education Code section 41422, if the LEA is able to obtain alternative placement for the student, CONTRACTOR shall not receive payment for days the student is not in attendance due to CONTRACTOR'S school closure. If the LEA is unable to obtain an alternative placement, CONTRACTOR shall receive payment consistent with the student's approved ISA, contingent upon the provision of agreed upon services consistent with the Emergency Circumstances documented in the pupil's IEP in accordance with Education Code section 56345(a)(9).

When the emergency school closure is lifted, CONTRACTOR shall notify the LEAs it serves of any lost instructional minutes. CONTRACTOR and LEAs shall work collaboratively to determine the need for make-up days or service changes, and shall work together to amend IEP and ISA paperwork as appropriate.

## **62) NPA PUPIL ABSENCE**

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

## **63) INSPECTION AND AUDIT**

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

- c) CONTRACTOR shall provide access to LEA to all records including, but not limited to:
- i) student records as defined by California Education Code section 49061(b)
  - ii) registers and roll books of teachers
  - iii) daily service logs and notes or other documents used to record the provision of related services
  - iv) Medi-Cal/daily service logs and notes and other documents used to record provision of services provided by instructional assistants, behavior intervention aides, bus aides, and supervisors
  - v) absence verification records (parent/doctor notes, telephone logs, and related documents)
  - vi) bus rosters
  - vii) staff lists specifying credentials held, business licenses held, documents evidencing other qualifications, social security numbers, dates of hire, and dates of termination
  - viii) staff time sheets; non-paid staff and volunteer sign-in sheets
  - ix) transportation and other related service subcontracts
  - x) school calendars
  - xi) bell/class schedules
  - xii) liability and worker's compensation insurance policies
  - xiii) state NPS/A certifications
  - xiv) marketing materials
  - xv) by-laws
  - xvi) lists of current board of directors/trustees, if incorporated, statements of income and expenses
  - xvii) general journals
  - xviii) cash receipts and disbursement books
  - xix) general ledgers and supporting documents
  - xx) federal/state payroll quarterly reports; and bank statements and canceled checks or facsimile thereof.
  - xxi) Such access shall include unannounced inspections by LEA. CONTRACTOR shall make available to LEA all budgetary information including operating budgets submitted by CONTRACTOR to LEA for the relevant contract period being audited.
- d) CONTRACTOR shall make all records, or copies of records, available at either the office of the LEA or at the CONTRACTOR's offices (to be specified by LEA) at all times and without charge. All records shall be provided to LEA within ten (10) working days of a written request from LEA. CONTRACTOR shall, at no cost to LEA, provide assistance for such examination or audit. LEA's rights under this section shall also include access to CONTRACTOR's offices for purposes of interviewing CONTRACTOR's employees. If any document or evidence is stored in an electronic form, a hard copy shall be made available to the LEA, unless the LEA agrees to the use of the electronic format. CONTRACTOR may request from the LEA an extension of time to comply with any records request, which shall not be unreasonably withheld.

- e) If an inspection, review, or audit by the LEA, a state agency, a federal agency, and/or an independent agency/firm determines that the CONTRACTOR or the LEA owes the other monies as a result of over billing, underpayment, or failure to perform, in whole or in part, any of its obligations under this Master Contract, the party owed money shall provide to the other party written notice demanding payment and specifying the basis or bases for such demand. Unless otherwise agreed in writing, the party that owes money shall make such payment within thirty (30) days of receipt of the written notice demanding payment. In the event that a party from whom payment is demanded disputes that any payment is owed, the matter shall be resolve in accordance with the dispute resolution section of this Master Contract.
  
- f) The attached rate schedule limits the number of LEA students that may be enrolled and maximum dollar amount of the contract. It may also limit the maximum number of students that can be provided specific services. Per diem rates for LEA students whose IEPs authorize less than a full instructional day shall be adjusted proportionally. Special education and/or related services offered by CONTRACTOR, shall be provided by qualified personnel as per State and Federal law, and the codes and charges for such educational and/or related services during the term of this contract, shall be as stated in Section 62.

**64) RATE SCHEDULE**

Per Diem rates for students whose IEPs authorize less than a full instructional day may be adjusted proportionally. In such cases only, the adjustments in basic education rate shall be based on the percentage the required minimum number of minutes per grade level as set forth in paragraph 24, above, and in California Education Code Section 46200-46208.

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

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

The CONTRACTOR CDS NUMBER: \_\_\_\_\_

PER ED CODE 56366 – TEACHER-TO-PUPIL RATIO: \_\_\_\_\_

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

- a) Non-Bundled Education Program
  - i) General Program Tuition Daily Rate: \_\_\_\_\_



ii) Related Services:

<b>Service</b>	<b>Rate</b>	<b>Period</b>
Intensive Individual Services (340)	\$65	hourly
Language and Speech (415) INDIVIDUAL		
Language and Speech (415) GROUP		
Adapted Physical Education (425)		
Health and Nursing: Specialized Physical Health Care (435)		
Health and Nursing: Other Services (436)		
Assistive Technology Services (445)		
Occupational Therapy (450) INDIVIDUAL		
Occupational Therapy (450) GROUP		
Physical Therapy (460) INDIVIDUAL		
Physical Therapy (460) INDIVIDUAL		
Individual Counseling (510)		
Counseling and Guidance (515)		
Parent Counseling (520)		
Social Work Services (525)		
Psychological Services (530)		
Behavior Intervention Services (535)	\$100	hourly
Specialized Services for Low Incidence Disabilities (610)		
Specialized Deaf and Hard of Hearing (710)		
Interpreter Services (715)		
Audiological Services (720)		
Specialized Vision Services (725)		
Orientation and Mobility (730)		

Specialized Orthopedic Services (740)		
Reader Services (745)		
Transcription Services (755)		
Recreation Services, Including Therapeutic (760)		
College Awareness (820)		
Work Experience Education (850)		
Job Coaching (855)		
Mentoring (860)		
Travel Training (870)		
Other Transition Services (890)		
Other (900)		
Service		

b) Bundled Education Program


- i) Includes Educational Counseling (not ed related mental health) services, Speech & Language services, Behavior Intervention Planning, and Occupational Therapy as specified on the student's IEP.
- ii) Daily Rate: \_\_\_\_\_


## APPROVALS

Master Contract approved by the governing Board on 1/10/2024

Total amount of contract not to exceed \$200,000.00

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

CONTRACTOR	DISTRICT
(Name of NPA/S)	OAKLAND UNIFIED SCHOOL DISTRICT (Name of SELPA / LEA)
<i>Nicole Postma</i> (Signature & Date)                      6/5/23	 05/11/2023 (Signature & Date)
Nicole Postma Director of Business Development (Name & Title of Authorized Representative)	Approved as to form by: Roxanne De La Rocha OUSD Staff Counsel (Name & Title of Authorized Representative)
Nicole Postma (Notices to Contractor shall be addressed to)	SELPA DIRECTOR (Notices to LEA shall be addressed to)
7108 S Kanner Hwy Stuart, FL 34997 (Contractor Address)	915 54TH ST. (LEA Address)
(Contractor City, State, Zip Code)	OAKLAND, CA 94608 (LEA City, State, Zip Code)
Phone: 616-890-3920 Fax: Email: npostma@teampbs.com Website: www.teampbs.com	Phone: Fax: Email: rain.johnson@ousd.org Website: www.ousd.org

Name: Dr. Kyla Johnson-Trammell  
Position: Superintendent & Secretary  
Sign:   
Date: August 1, 2023

	(Address Additional Notices to)
	Phone: Fax: Email:



CALIFORNIA DEPARTMENT OF EDUCATION
NOTICE OF NONPUBLIC AGENCY CERTIFICATION

Date: December 20, 2022

NPA ID: 9901453

Nonpublic Agency: Positive Behavior Supports-SF

Site Administrator: Nicole Postma

Mailing Address: 95 3rd Street, 2nd Floor

City: San Francisco CA 94103

NPA AUTHORIZED TO PROVIDE SERVICES AT NPA SITE [ ] Yes [x] No

Grades: K to 12

Ages: 3 to 22

Site Address:

City: CA

Student Gender: All

2023 CERTIFICATION STATUS:

APPROVED

Maximum Capacity: 76+

EFFECTIVE DATES:

January 01, 2023 through December 31, 2023

Certified related services must be provided according to Title 5 of the California Code of Regulations, Section 3051 et. seq. Related services may not be provided in lieu of core academic direct instruction unless specifically stated on student IEPs.

[ ] Amended

Certification is not an endorsement of the services offered by the nonpublic agency (NPA), but states only that the NPA meets minimum legal standards. "Approved" or "Conditional" certifications authorize the NPA to accept students placed by local educational agencies (LEAs) under California Education Code, Section 56366.

Authorized to Provide the Following Related Services:

- [ ] APE [x] BII [ ] LSDR [ ] PCT [ ] SDTI [ ] VECD
[ ] AS [ ] CG [ ] MT [ ] PS\* [ ] SW [ ] LI:
[ ] ATS [ ] EE [ ] OM [ ] PT [ ] TS [ ] Other Services:
[x] BID [ ] HNS [ ] OT [ ] RS [ ] VS \*Other than Assessment and IEP Development

Per California Education Code 56366.4(a)(5)(A), the superintendent may revoke or suspend the certification of a nonpublic, nonsectarian school or agency for any of the following reasons: Failure to notify the department in writing of any of the following within 45 days of the occurrence: changes in credentialed, licensed, or registered staff who render special education and related services; ownership; management; or control of the nonpublic, nonsectarian school or agency.

Nonpublic Agencies Unit, Special Education Division



# **BANACK INSURANCE AGENCY LLC**

**800 VIRGINIA AVENUE, SUITE 27  
FT. PIERCE, FL 34982**

**June 5, 2023**

**To: Theresa Wyres  
Director of Quality Assurance  
Positive Behavior Supports Corporation**

**Re: Additional Insured and Primary and Non-Contributory Clauses**

**Per our conversation, attached is the certificate as requested along with a copy of the General Liability Coverage section of your Underwriters at Lloyd's policy administered by Hiscox Inc. I have outlined in the policy where the Hiscox form includes Additional Insured status for Commercial General Liability as required by written contract. I have also highlighted the "primary and non-contributory" and waiver of subrogation clauses.**

**If you have any questions please feel free to contact our office.**

**Sincerely,  
Michael G. Banack**

**TEL: (772) 464-8833 FAX: (772) 464-8966**



# Effective with UNDERWRITERS AT LLOYD'S, LONDON

Administered by Hiscox Inc.

5 Concourse Parkway Suite 2150, Atlanta, GA 30328

(646) 452-2353

## Insurance for Outpatient Mental Healthcare Professionals

### DECLARATIONS

THIS INSURANCE IS ISSUED PURSUANT TO THE FLORIDA SURPLUS LINES LAW. PERSONS INSURED BY SURPLUS LINES CARRIERS DO NOT HAVE THE PROTECTION OF THE FLORIDA INSURANCE GUARANTY ACT TO THE EXTENT OF ANY RIGHT OF RECOVERY FOR THE OBLIGATION OF AN INSOLVENT UNLICENSED INSURER.

### SURPLUS LINES INSURERS' POLICY RATES AND FORMS ARE NOT APPROVED BY ANY FLORIDA REGULATORY AGENCY.

Broker No.:	US 0000743	Risk Placement Services, Inc. (RPS Tampa)
Certificate No.:	MEO4026591.23	2002 N Lois Ave Ste 130
Renewal of:	MEO4026591.22	Tampa, FL 33607

1. **Named Insured:** Positive Behavior Supports Corporation  
**Address:** 7108 South Kanner Highway  
 Stuart, FL 34997

2. **Policy Period:** **Inception Date:** 01/31/2023 **Expiration Date:** 01/31/2024  
 Inception date shown shall be at 12:01 A.M. (Standard Time) to Expiration date shown above at 12:01 A.M. (Standard Time) at the address of the Named Insured.

3. **General terms and conditions wording:** WCL P0001 CW (02-21)  
 The General terms and conditions apply to this policy in conjunction with the specific wording detailed in each section below.

4. **Endorsements:** E6020.3 - War and Civil War Exclusion Endorsement, E6002.2 - Florida Amendatory Endorsement, E6015.10 - Lloyd's Syndicate (3624) Endorsement, E6016.2 - Service of Suit, E6017.3 - Nuclear Incident Exclusion Clause-Liability-Direct (Broad) Endorsement, E6018.2 - Applicable Law Endorsement, E6509.1 - Cyber Incidents Endorsement (AHC), and E6047.1 - Notice of Cancellation to Third Party Endorsement

5. **Optional Extension Period:** 12/24/36 months at 75/150/225 percent of the annual premium, for eligible coverage parts.

6. **Notification of claims to:** Hiscox Claims  
 5 Concourse Parkway, Suite 2150  
 Atlanta GA, 30328  
 Fax: 678-731-9501  
 Email: [HiscoxClaims@Hiscox.com](mailto:HiscoxClaims@Hiscox.com)

**Additional Notification requirements:** NONE





Effective with UNDERWRITERS AT LLOYD'S, LONDON

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5 Concourse Parkway Suite 2150, Atlanta, GA 30328
(646) 452-2353

Insurance for Outpatient Mental Healthcare Professionals
DECLARATIONS

7. Policy Premium: [Redacted] Premium Allocated to TRIA: \$0 Administration Fee: N/A

Outpatient Mental Healthcare Professional Liability Claims-Made and Reported Coverage Part:
WCLAHC P0011 CW (02-18)

Covered Professional Services: Solely in the performance of providing outpatient applied behavior analysis services including virtual therapy services.
Professional Liability (PL): \$ 1,000,000 Each Claim / \$ 3,000,000 Aggregate
Billing and Regulatory Action: \$ 50,000 Aggregate Limit (Shared Limit with PL)
Subpoena Assistance: \$ 10,000 Aggregate Limit (Separate Limit)
HIPAA Violations: \$ 250,000 Aggregate Limit (Shared Limit with PL)
Sexual Abuse/Misconduct: \$ 1,000,000 Aggregate Limit (Shared Limit with PL)
Retroactive Date: 01-31-2019
Retention: \$ 10,000
PL Premium: [Redacted]
Endorsements: E6146.1 - First Dollar Defense Endorsement, E6176.5 - Crisis Management Sublimit Endorsement, E6490.1 - Medication Management Exclusion Endorsement, E6497.1 - Add Aircraft, Autos, Watercraft Exclusion Endorsement (AHC PL), E5754.3 - Additional Insured Endorsement (Scheduled AI), and E6489.1 - Outpatient Mental Healthcare Professionals Waiver of Retention Endorsement

General Liability Occurrence Coverage Part: WCL P0002 CW (10/14)

General Liability (GL): \$ 1,000,000 Each Occurrence / \$ 3,000,000 Aggregate
Products and Completed Operations: \$ 1,000,000 Each Occurrence Limit (Shared Limit with GL)
Personal and Advertising Injury: \$ 1,000,000 Each Claim Limit (Shared Limit with GL)
Damage to Premises: \$ 50,000 Any One Premise Limit (Shared Limit with GL)
Medical Payments: \$ 5,000 Each Person Limit (Separate Limit)
Hired & Non-Owned Auto (HNOA): \$ 1,000,000 Each Claim (Shared Limit with GL)
Retention: \$ 10,000
GL Premium: [Redacted]
Endorsements: E6802.2 - Employee Benefits Liability Endorsement, E6803.1 - Sexual Misconduct Exclusion Endorsement, E6834.1 - Additional Insured - Designated Person or



## Effective with UNDERWRITERS AT LLOYD'S, LONDON

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5 Concourse Parkway Suite 2150, Atlanta, GA 30328  
(646) 452-2353

### Insurance for Outpatient Mental Healthcare Professionals

#### DECLARATIONS

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Organization, E6851.1 - Specific Primary and Non-Contributory Endorsement - Schedule,  
and E6801.3 - Hired and Non-Owned Auto Liability Endorsement

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In accordance with the authorization granted to Hiscox Inc. under Contract No. B1234HisInc2020 by certain Underwriters at Lloyd's, London, whose names and the proportions underwritten by them can be ascertained by reference to the said Contract, which bears the Seal of Lloyd's Policy Signing Office and is on file at the office of the said Agency and in consideration of the premium specified herein, the said Underwriters do hereby bind themselves, each for their own part and not one for another, their heirs, executors and administrators, to insure as follows in accordance with the terms and conditions contained or endorsed hereon.

The Certificate terms and conditions contained herein or endorsed hereon and such other provisions, agreements or conditions as may be endorsed hereon or added hereto are hereby incorporated in this Certificate. No representative of the Underwriters shall have the power to waive or be deemed to have waived any provision or condition of this Certificate unless such waiver, if any, shall be written upon or attached hereto; nor shall any privilege or permission affecting the insurance under this Certificate exist or be claimed by the Insured(s) unless so written or attached.

IN WITNESS WHEREOF this Certificate has been signed at New York, New York

Authorized Representative  
Kevin Kerridge  
January 17, 2023  
Hiscox Inc.



## General Liability Coverage Part (Occurrence)

### I. What is covered

#### A. Bodily injury and property damage

We will pay up to the **coverage part limit** for **damages you** become legally obligated to pay because of **bodily injury** or **property damage** to which this Coverage Part applies, provided:

1. the **bodily injury** or **property damage** occurs during the **policy period**;
2. the **bodily injury** or **property damage** is caused by an **occurrence** that takes place in the **coverage territory**; and
3. **you** have paid the applicable **retention** stated in the Declarations.

We will have the right and duty to defend any **claim** seeking such **damages**, as set out in Section II. Defense and supplementary payments. We may, at **our** discretion, investigate any **occurrence** and settle any **claim** that may result.

#### B. Personal and advertising injury

We will pay up to the Personal and Advertising Injury Limit stated in the Declarations for **damages you** become legally obligated to pay because of **personal and advertising injury** to which this Coverage Part applies, provided:

1. the **personal and advertising injury** is caused by an offense arising out of **your** business operations;
2. the **personal and advertising injury** is caused by an offense committed in the **coverage territory** during the **policy period**; and
3. **you** have paid the applicable **retention** stated in the Declarations.

We will have the right and duty to defend any **claim** seeking such **damages**, as set out in Section II. Defense and supplementary payments. We may, at **our** discretion, investigate any offense and settle any **claim** that may result.

#### C. Medical payments

Regardless of fault, we will pay up to the Medical Payments limit stated in the Declarations for **medical expenses** incurred by each person for **bodily injury** caused by an **accident** to which this Coverage Part applies, provided:

1. the **accident** takes place within the **coverage territory** and on premises rented to or owned by **you** or in connection with **your** business operations;
2. the **accident** occurs during the **policy period**;
3. the expenses are incurred and reported to **us** within one year of the date of the **accident**; and
4. the person who sustained such **bodily injury** submits to examination, at **our** expense, by physicians of **our** choice as often as **we** reasonably require.

### II. Defense and supplementary payments

#### A. Claims against you

With respect to any **claim** against **you** that **we** investigate, defend, or settle, **we** will pay:

1. **claim expenses we** incur with counsel of **our** choice to defend **you**;
2. up to \$2,500 for the cost of bail bonds required because of accidents or traffic law violations arising out of the use of any vehicle to which the **bodily injury** coverage described in Section I. What is covered, A. Bodily injury and property damage, applies, but **we** will have no obligation to apply for or furnish any such bonds;
3. the cost of bonds to release attachments, but only for bond amounts within the applicable limit. **We** will have no obligation to apply for or furnish any such bonds;
4. reasonable expenses incurred by **you** at **our** request to assist **us** in the investigation or defense of such **claim**, including actual loss of earnings up to \$1,000 a day because of time off from work;

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## General Liability Coverage Part (Occurrence)

5. court costs taxed against **you** in the **claim**; however, costs do not include attorney fees or expenses;
  6. prejudgment interest awarded against **you** on that part of any judgment **we** pay. If **we** make an offer to pay the applicable limit, **we** will not pay any prejudgment interest based on the period of time after the offer; and
  7. interest on the full amount of any judgment that accrues after entry of the judgment and before **we** have paid, offered to pay, or deposited in court the part of the judgment that is within the applicable limit.
- B. Claims against your indemnitee
- If **we** defend a **claim** against **you**, and **your** indemnitee is also named as a party to the **claim**, **we** will also defend such indemnitee if all of the following conditions are met:
1. the **claim** against the indemnitee seeks **damages** for which **you** have assumed the indemnitee's liability in an **insured contract**;
  2. **you** have assumed the obligation to defend or pay for the defense of the indemnitee in the same **insured contract**;
  3. this Coverage Part would apply to the liability **you** have assumed if the **claim** against the indemnitee had been made against **you**;
  4. the allegations in the **claim** and the information **we** know about the **occurrence** are such that no conflict of interest appears to exist between **your** interests and **your** indemnitee's interests;
  5. **you** and **your** indemnitee request that **we** conduct and control the defense of such indemnitee and agree **we** can assign the same counsel to defend both **you** and **your** indemnitee; and
  6. **your** indemnitee agrees in writing to:
    - a. follow the requirements of Section III. Your obligations to us, B. Your duty to cooperate, of the General Terms and Conditions;
    - b. notify any other insurer whose coverage may be available to the indemnitee and cooperate with **us** with respect to coordinating any other insurance applicable to the indemnitee; and
    - c. authorize **us** to conduct and control the defense of the indemnitee.

Our obligation to make any payments under this Section II ends when **we** have used up the **coverage part limit**.

No **retention** will apply to amounts **we** pay under this Section II, and such payments will be in addition to, and not part of, the **coverage part limit**.

### III. Who is an insured

In addition to the **named insured**, other persons or organizations may qualify as **insureds**, as stated below. For purposes of this Section III only, **you** means the **named insured**.

- A. Sole proprietorships
- If **you** are an individual, **you** and **your** spouse are **insureds**, but only with respect to the conduct of a business of which **you** are the sole owner. However, if **you** die:
1. persons or organizations having proper temporary custody of **your** property are **insureds**, but only with respect to the maintenance or use of such property and only for acts until **your** legal representative has been appointed; and
  2. **your** legal representative is an **insured**, but only with respect to his or her duties as **your** legal representatives. As such, they will assume **your** legal rights and duties under this Coverage Part.
- B. Partnerships or joint ventures
- If **you** are a duly organized partnership (including a limited liability partnership) or a joint venture, **your** members, partners, and their spouses are **insureds**, but only with respect to the conduct of **your** business.



## General Liability Coverage Part (Occurrence)

- C. Limited liability companies  
If you are a duly organized limited liability company, your members and their spouses are **insureds**, but only with respect to the conduct of your business. Your managers are also **insureds**, but only with respect to their duties as your managers.
- D. Other organizations  
If you are an organization (including a professional corporation) other than a partnership, joint venture, or limited liability company, your directors and officers are **insureds**, but only with respect to their duties as your directors or officers. Your stockholders and their spouses are also **insureds**, but only with respect to their liability as your stockholders.
- E. Trusts  
If you are a trust, your trustees are **insureds**, but only with respect to their duties as your trustees.
- F. Employees  
Your employees are **insureds**, but only while in the course and scope of their employment by you or while performing duties related to the conduct of your business.
- G. Volunteer workers  
Your volunteer workers are **insureds**, but only while in the course and scope of their activities related to the conduct of your business performed on your behalf or at your direction.
- H. Real estate managers  
Persons (other than your employees) or organizations acting as your real estate managers are **insureds**, but only with respect to their duties as your real estate managers.
- I. Amateur athletic participants  
Any person representing you while participating in an amateur athletic activity you sponsor is an **insured**. However, no such person is an **insured** for:
1. **bodily injury** to:
    - a. a co-participant, your employee, or your volunteer worker while also participating in the amateur athletic activity you sponsor; or
    - b. you or any of your partners, members, or officers; or
  2. **property damage** to property owned, occupied, or used by; rented to; or in the care, custody, or control of:
    - a. a co-participant in the amateur athletic activity you sponsor, your employee, or your volunteer worker; or
    - b. you or any of your partners, members, or officers.
- J. Newly acquired or formed organizations  
If there is no other similar insurance available, any organization you acquire or form during the **policy period**, and in which you have majority ownership or interest at the time of an **occurrence** or offense covered by this Coverage Part, will qualify as an **insured**. This coverage is effective on the date of acquisition or formation and is afforded only until the 180th day after you acquire or form the organization, or the end of the **policy period**, whichever is earlier.  
There is no coverage for the acquired or formed organization for:
1. **bodily injury** or **property damage** that occurred; or
  2. **personal or advertising injury** arising out of an offense that was committed, before you acquired or formed the organization.
- The acquired or formed organization is an **insured** only with respect to the conduct of your business.
- K. Additional insureds  
If you have agreed in a written contract or agreement to add them as an additional insured to a policy providing the type of coverage afforded by this Coverage Part, the following persons or organizations are **insureds**:
1. Any person or organization from whom you lease any premises, but only with respect to liability arising out of the ownership, maintenance, or use of that part of the premises leased to you.  
However, there is no coverage for such additional insureds for any structural alterations, new construction, or demolition operations performed by or on behalf of the additional insured.



## HISCOX PRO™ General Liability Coverage Part (Occurrence)

A person or organization's status as an additional insured under this subsection 1 ends when **you** cease to be a tenant in the premises.

2. Any person or organization for whom **you** are performing operations, but only with respect to liability arising out of:

- a. **your** acts or omissions or of those acting on **your** behalf; and
- b. the performance of **your** ongoing operations for the additional insured.

However, there is no coverage for such additional insureds for:

- a. **bodily injury, property damage, or personal and advertising injury** arising out of the rendering of or failure to render any professional architectural, engineering, or surveying services, including:
  - (1) the preparing, approving, or failing to prepare or approve, maps, shop drawings, opinions, reports, surveys, field orders, change orders, drawings, or specifications; or
  - (2) supervisory, inspection, architectural, or engineering activities; or
- b. **bodily injury or property damage** occurring after:
  - (1) all work, including materials, parts, or equipment furnished in connection with such work, on the project (other than service, maintenance, or repairs) to be performed by or on behalf of the additional insured at the location of the covered operations has been completed; or
  - (2) that portion of **your work** out of which the injury or damage arises has been put to its intended use by any person or organization other than another contractor or subcontractor engaged in performing operations for a principal as a part of the same project.

A person or organization's status as an additional insured under this subsection 2 ends when **your** operations for that additional insured are completed.

3. Any person or organization who sells or distributes **your products** (referred to in this subsection as "vendor"), but only with respect to **bodily injury or property damage** arising out of **your products** sold or distributed in the regular course of such vendor's business.

However, there is no coverage for such additional insureds for:

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



## HISCOX PRO™ General Liability Coverage Part (Occurrence)

- (1) repackaging when unpacked solely for the purpose of inspection, demonstration, testing, or the substitution of parts under instructions from the manufacturer, and then repackaged in the original container;
- (2) demonstration, installation, servicing, or repair operations performed at the vendor's premises in connection with the sale of the product; or
- (3) inspections, adjustments, tests, or servicing the vendor has either agreed to make or normally undertakes to make in the usual course of business, in connection with the distribution or sale of the product.

This insurance does not apply to any person or organization from whom **you** have acquired:

- a. products;
  - b. any ingredient or part of any product; or
  - c. any container containing any products.
4. Any person or organization from whom **you** lease any equipment, but only with respect to liability arising out of **your** maintenance, operation, or use of such equipment.
- A person or organization's status as an additional insured under this subsection 4 ends when the equipment lease expires, and this insurance will not apply to any **occurrence** or offense which takes place after such expiration.
5. Any other person or organization not included in 1 through 4 above, provided the contract or agreement:
- a. is currently in effect or becomes effective during the **policy period**; and
  - b. was executed before the **bodily injury** or **property damage** occurred or the offense out of which the **personal and advertising injury** arises was committed.

Coverage is available for additional insureds solely for their liability arising out of **your** negligence or of those acting on **your** behalf and not for any liability arising out of the sole negligence of the additional insured.

Notwithstanding anything to the contrary in the other insurance provisions in the General Terms and Conditions or in this Coverage Part, the coverage available under this Coverage Part to any additional insured will be primary and non-contributory, and any other insurance available to the additional insured for the same **claim** or **occurrence** will be specifically excess of the **coverage part limit**.

Notwithstanding anything to the contrary in the subrogation provision in the General Terms and Conditions, **we** agree to waive any right of recovery **we** may have against any additional insured because of payments **we** make for injury or damage arising out of:

1. the ownership, maintenance, or use of that part of any premises leased to **you**;
2. **your** ongoing operations; or
3. **your work** done under a contract with the additional insured and included in the **products-completed operations hazard**.

The limits of liability applicable to any additional insured are either the amounts specified in the contract or agreement requiring them to be added as an additional insured, or the limits identified in the Declarations, whichever is less, and such amounts will be a part of, and not in addition to, the **coverage part limit**.

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#### IV. Limits of liability

The limits stated in the Declarations and the rules below will be the most **we** will pay regardless of the number of:

1. **insureds**;
2. **claims** made or brought; or
3. persons or organizations making or bringing **claims**.



## General Liability Coverage Part (Occurrence)

- A. Per location limit The Per Location Limit identified in the Declarations is the most **we** will pay for all **damages** because of **bodily injury** and **property damage** occurring at each separate location where **you** perform business operations arising out of any one **occurrence**. This limit will apply only if an endorsement listing **your** separate locations is added to this Coverage Part.
- B. Products-completed operations limit The Products-Completed Operations Limit identified in the Declarations is the most **we** will pay for all **damages** because of **bodily injury** and **property damage** included in the **products-completed operations hazard** arising out of any one **occurrence**.
- C. Personal and advertising injury limit The Personal and Advertising Injury Limit identified in the Declarations is the most **we** will pay for all **damages** because of **personal and advertising injury** arising out of any one **claim**.
- D. Damage to premises limit The Damage to Premises limit identified in the Declarations is the most **we** will pay for all **damages** because of **property damage** to any one premises while rented to **you** or temporarily occupied by **you** with permission of the owner.
- E. Elevator liability sublimit An Elevator Liability Sublimit of \$25,000 is the most **we** will pay for all **damages** because of **property damage** resulting from the use of an elevator at premises **you** own, rent, or occupy and arising out of any one **occurrence**.
- F. Medical payments limit The Medical Payments limit identified in the Declarations is the most **we** will pay for the sum of **medical expenses** for **bodily injury** sustained by any one person covered under Section I. What is covered, C. Medical payments.

No **retention** will apply to amounts **we** pay under Section I. What is covered, C. Medical payments, and such amounts will be in addition to, and not part of, the **coverage part limit**.

All other limits described in this Section IV will be in excess of the **retention** and will be a part of, and not in addition to, the **coverage part limit**.

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### V. Other provisions affecting coverage

- A. Notifying us of claims, occurrences, or offenses
1. **You** must give written notice to **us** of any **claim** made or brought against **you** as soon as possible, including the specifics of the **claim** and the date received.
  2. **You** must give written notice to **us** of any **occurrence** or offense which may result in a **claim** as soon as possible. To the greatest extent possible, the notice must include:
    - a. how, when, and where the **occurrence** or offense took place;
    - b. the names and addresses of any injured persons and witnesses; and
    - c. the nature and location of any injury or damage arising out of the **occurrence** or offense.

All such notifications must be in writing and include a copy of any **claim**, and must be submitted to **us** via the designated email address or mailing address identified in Item 6 of the Declarations.

- B. Retention **Our** obligation to pay any **damages** under this Coverage Part is in excess of the **retention**, which **you** must pay in connection with each covered **occurrence** or offense. The **retention** does not apply to **claim expenses** or any other payments **we** make under Section II. Defense and supplementary payments.
- C. Legal action against us No person or organization has a right under this Coverage Part:
1. to join **us** as a party or otherwise bring **us** into a **claim** seeking **damages** from **you**; or
  2. to sue **us** on this Coverage Part unless all of its terms and conditions have been fully complied with.





## HISCOX PRO™ General Liability Coverage Part (Occurrence)

A person or organization may sue us to recover on an agreed settlement or final judgment against you, but we will not be liable for damages that are not covered under this Coverage Part or that are in excess of the applicable limits. An agreed settlement means a settlement and release of liability signed by us, you, and the claimant or claimant's legal representative.

### D. Other insurance

For purposes of this Coverage Part, the Other insurance provision in Section V. Other provisions affecting coverage, of the General Terms and Conditions is replaced by the following:

If other valid and collectible insurance is available to you for a claim we would otherwise cover under this Coverage Part, our obligations are limited as follows:

1. **Primary insurance** - This Coverage Part is primary except when the Excess insurance provision below applies. If this Coverage Part is primary, our obligations are not affected unless any of the other insurance is also primary. Then, we will share with any other insurance by the method described in the Method of sharing provision below.
2. **Excess insurance** - This Coverage Part is excess over any other insurance, whether primary, excess, contingent, or on any other basis:
  - a. that provides fire, extended coverage, builder's risk, installation risk, or similar coverage for your work;
  - b. that applies to property damage to premises rented to you or temporarily occupied by you with permission of the owner;
  - c. if the loss arises out of aircraft, autos, or watercraft (to the extent not subject to Exclusion A. 1. Aircraft, autos, or watercraft);
  - d. that is insurance available to you because you have been added as an additional insured.

When this Coverage Part is excess, we have no duty to defend you against any claim if any other insurer has a duty to defend you against such claim. If no other insurer defends, we will undertake to do so, but we will be entitled to your rights against those other insurers.

When this Coverage Part is excess over other insurance, we will pay only our share of the amount of loss, if any, that exceeds the sum of:

- a. the total amount that all other insurance would pay for loss in the absence of this Coverage Part; and
- b. the total of all deductible and self-insured amounts under all other insurance and this Coverage Part.

We will share the remaining loss, if any, with any other insurance that is not described in this Excess insurance provision and was not purchased or agreed specifically to apply in excess of this Coverage Part.

### 3. Method of sharing

If all of the other insurance permits contribution by equal shares, we will contribute by equal shares. Under this method, each insurer contributes equal amounts until it has paid its applicable limits or none of the loss remains, whichever occurs first.

If any other insurance does not permit contribution by equal shares, we will contribute by limits. Under this method, each insurer's share is based on the ratio of its applicable limits to the total applicable limits of all insurers.

### E. Separation of insureds

Except with respect to the limits and any rights or duties specifically assigned to the named insured, this Coverage Part applies separately to each insured against whom a claim is made or brought.

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## VI. Exclusions – What is not covered

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# HISCOX PRO™ General Liability Coverage Part (Occurrence)

**A. Bodily injury and property damage exclusions**

Aircraft, autos, or watercraft

We will have no obligation to pay any sums under this Coverage Part, including any **damages** or **claim expenses**, for any **claim** for:

1. **bodily injury** or **property damage** arising out of the ownership, maintenance, use, or entrustment to others of any aircraft, **auto**, or watercraft owned or operated by or rented or loaned to **you**. Use includes operation and **loading and unloading**.

This exclusion will apply even if the **claim** against **you** alleges negligence or other wrongdoing in the supervision, hiring, employment, training, or monitoring of others by **you**, if the **occurrence** causing the **bodily injury** or **property damage** involved the ownership, maintenance, use, or entrustment to others of any aircraft, **auto**, or watercraft owned or operated by or rented or loaned to **you**.

However, this exclusion will not apply to:

- a. watercraft while ashore on premises owned by or rented to **you**;
- b. watercraft **you** do not own, provided it is:
  - (1) less than 75 feet long; and
  - (2) not being used to transport persons or property for a charge;
- c. the parking of an **auto** on, or on the ways next to, premises owned by or rented to **you**, provided the **auto** is not owned by or rented or loaned to **you**;
- d. liability assumed in an **insured contract** for the ownership, maintenance, or use of an aircraft or watercraft by others;
- e. **bodily injury** or **property damage** arising out of:
  - (1) the operation of machinery or equipment that is attached to, or part of, a land vehicle that would qualify under the definition of **mobile equipment** if it were not subject to a compulsory financial responsibility law or other motor vehicle insurance law in the state where it is licensed or principally garaged; or
  - (2) operation of the equipment described in 6.b or 6.c of the definition of **mobile equipment**; or
- f. aircraft **you** do not own. However, this Coverage Part will be excess over any other insurance that applies to such aircraft, whether primary, excess, contingent, or on any other basis, and the rules stated in Section V. Other provisions affecting coverage, D. Other insurance, 2. Excess insurance will apply.

Damage to impaired property or property not physically injured

2. **property damage** to **impaired property** or property that has not been physically injured arising out of:

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

However, this exclusion will not apply to the loss of use of other property arising out of sudden and accidental physical injury to **your product** or **your work** after it has been put to its intended use.

Damage to property

3. **property damage** to:

- a. property **you** own, rent, or occupy, including any costs or expenses incurred by **you** or any other person or organization for repair, replacement, enhancement, restoration, or maintenance of such property for any reason, including prevention of injury to a person or damage to another's property;
- b. premises **you** sell, give away, or abandon, if the **property damage** arises out of any part of those premises;
- c. property loaned to **you**;
- d. personal property in **your** care, custody, or control;

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# HISCOX PRO™ General Liability Coverage Part (Occurrence)

- e. that particular part of real property on which **you** or any contractors or subcontractors working directly or indirectly on **your** behalf are performing operations, if the **property damage** arises out of those operations; or
- f. that particular part of any property that must be restored, repaired, or replaced because **your work** was incorrectly performed on it.

Subsections a, c, and d of this exclusion will not apply to **property damage** (other than damage by fire) to premises (including the contents of the premises) rented to **you** for seven or fewer consecutive days. However, any payments **we** make for **property damage** to such property will be subject to the Damage to Premises Limit.

Subsection b of this exclusion will not apply if the premises are **your work** and were never occupied, rented, or held for rental by **you**.

Subsections c, d, e, and f of this exclusion will not apply to liability assumed under a sidetrack agreement.

Subsection f of this exclusion will not apply to **property damage** included in the **products-completed operations hazard**.

Subsections c, d, and f of this exclusion will not apply to **property damage** arising out of the use of an elevator at premises **you** own, rent, or occupy. However, any payments **we** make for such **property damage** will be subject to the Elevator Liability Sublimit.

Subsection d of this exclusion will not apply to **property damage** to equipment **you** borrow while at a job site, but only if it is not being used by anyone to perform operations at the time of such **property damage**.

- |                             |    |   |
|-----------------------------|----|---|
| Damage to your product      | 4. | <b>property damage</b> to <b>your product</b> arising out of it or any part of it; however, this exclusion will not apply to <b>property damage</b> arising out of the use of an elevator at premises <b>you</b> own, rent, or occupy, but any payments <b>we</b> make for such <b>property damage</b> will be subject to the Elevator Liability Sublimit.  |
| Damage to your work         | 5. | <b>property damage</b> to <b>your work</b> arising out of it or any part of it and included in the <b>products-completed operations hazard</b> ; however, this exclusion will not apply if the damaged work or the work out of which the damage arises was performed on <b>your</b> behalf by a subcontractor.  |
| Expected or intended Injury | 6. | <b>bodily injury</b> or <b>property damage</b> expected or intended from the standpoint of any <b>insured</b> ; however, this exclusion will not apply to <b>bodily injury</b> or <b>property damage</b> resulting from the use of reasonable force to protect persons or property.   |
| Injury to employee          | 7. | <ul style="list-style-type: none"> <li>a. <b>bodily injury</b> to <b>your employee</b> arising out of and in the course and scope of employment by <b>you</b> or while performing duties related to the conduct of <b>your</b> business; or</li> <li>b. <b>bodily injury</b> to the spouse, child, parent, brother, or sister of such <b>employee</b> as a consequence of any <b>bodily injury</b> described in paragraph 7.a above.</li> </ul> <p>This exclusion will apply:</p> <ul style="list-style-type: none"> <li>a. whether <b>you</b> may be liable as an employer or in any other capacity; and</li> <li>b. to any obligation to share <b>damages</b> with or repay someone else who must pay <b>damages</b> because of any injury described in paragraphs 7.a and 7.b above.</li> </ul> <p>However, this exclusion will not apply to:</p> <ul style="list-style-type: none"> <li>a. liability for <b>damages</b> <b>you</b> assume in an <b>insured contract</b>; or</li> <li>b. <b>bodily injury</b> arising out of and in the course and scope of domestic employment by <b>you</b>, unless benefits for such injury are in whole or in part either payable or required to be provided under any workers' compensation law.</li> </ul> |
| Liquor liability            | 8. | <b>bodily injury</b> or <b>property damage</b> for which <b>you</b> may be held liable by reason of: <ul style="list-style-type: none"> <li>a. causing or contributing to the intoxication of any person;</li> </ul>  |

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# HISCOX PRO™ General Liability Coverage Part (Occurrence)

- b. furnishing alcoholic beverages to a person under the legal drinking age or under the influence of alcohol; or
- c. any statute, ordinance, or regulation relating to the sale, gifting, distribution, or use of alcoholic beverages.

However, this exclusion will apply only if **you** are in the business of manufacturing, distributing, selling, serving, or furnishing alcoholic beverages.

Mobile equipment

9. **bodily injury** or **property damage** arising out of:
- a. the transportation of **mobile equipment** by an **auto** owned or operated by or loaned or rented to **you**; or
  - b. the use of **mobile equipment** in, while in practice for, or while being prepared for, any prearranged racing, speed, demolition, or stunting activity.

Prior knowledge

10. **bodily injury** or **property damage** which:
- a. **you**;
  - b. any **insured** listed in A through E of Section III. Who is an insured; or
  - c. any **employee** authorized by **you** to give or receive notice of an **occurrence** or **claim**, knew had occurred prior to the **policy period**.

Any continuation, change, or resumption of any such **bodily injury** or **property damage** during or after the **policy period** will be deemed to have been known prior to the **policy period**.

**Bodily injury** or **property damage** will be deemed to be known if **you**, any **insured** listed in A through E of Section III. Who is an insured, or any **employee** authorized by **you** to give or receive notice of an **occurrence** or **claim**:

- a. reports all or any part of the **bodily injury** or **property damage** to **us** or any other insurer;
- b. receives a **claim** because of the **bodily injury** or **property damage**; or
- c. becomes aware by any other means that the **bodily injury** or **property damage** has occurred or has begun to occur.

Exclusions 1, 2, 3, 4, 5, 8, and 9 of this Section A do not apply to damage by fire to premises while rented to **you** or temporarily occupied by **you** with the owner's permission. However, any payments **we** make for **property damage** to such premises will be subject to the Damage to Premises Limit.

## B. Personal and advertising injury exclusions

**We** will have no obligation to pay any sums under this Coverage Part, including any **damages** or **claim expenses**, for any **claim** for **personal and advertising injury**:

Breach of contract

1. based upon or arising out of any breach of contract, except an implied contract to use another's advertising idea in **your advertisement**.

Failure to conform to statements

2. based upon or arising out of the failure of goods, products, or services to conform with any statement of quality or performance made in **your advertisement**.

Insureds in media and internet type businesses

3. committed by any **insured** whose business is:
- a. advertising, broadcasting, publishing, or telecasting;
  - b. designing or determining content of websites for others; or
  - c. an internet search, access, content, or service provider.

However, this exclusion will not apply to **personal and advertising injury** caused by:

- a. false arrest, detention, or imprisonment;
- b. malicious prosecution; or

- c. the wrongful eviction from, wrongful entry into, or invasion of the right of private occupancy of a room, dwelling, or premises that a person occupies, committed by or on behalf of its owner, landlord, or lessor.

For purposes of this exclusion, the placing of frames, borders or links, or advertising, for you or others anywhere on the internet is not, by itself, considered the business of advertising, broadcasting, publishing, or telecasting.

- |   |  |
|---|--|
| Knowing violation of rights of another        | 4. caused by <b>you</b> or at <b>your</b> direction with knowledge the act would violate the rights of another and would inflict <b>personal and advertising injury</b> .  |
| Material published prior to policy period     | 5. based upon or arising out of oral or written publication of material whose first publication took place prior to the <b>policy period</b> .   |
| Material published with knowledge of falsity  | 6. based upon or arising out of oral or written publication of material by <b>you</b> or at <b>your</b> direction with knowledge of its falsity.   |
| Unauthorized use of another's name or product | 7. based upon or arising out of any actual or alleged unauthorized use of another's name or product in <b>your</b> email address, domain name, metatag, or any similar tactics to mislead another's potential customers. |
| Wrong description of prices                   | 8. based upon or arising out of any actual or alleged wrong description of the price of goods, products, or services stated in <b>your advertisement</b> .   |

**C. Medical payments exclusions**


We will have no obligation to pay any sums under Section I. What is covered, C. Medical payments for **medical expenses** for **bodily injury**:

- |                                       |  |
|---------------------------------------|--|
| Athletic activities                   | 1. to any person injured while practicing, instructing, or participating in any physical exercises or games, sports, or athletic contests; however, this exclusion will not apply to a person who is not an <b>insured</b> injured while participating in an amateur athletic activity <b>you</b> sponsor. |
| Injury on normally occupied premises  | 2. to any person injured on that part of any premises <b>you</b> own or rent that the person normally occupies.  |
| Injury to you                         | 3. to <b>you</b> or any person hired to work for or on behalf of <b>you</b> or <b>your</b> tenant; however, this exclusion will not apply to a <b>volunteer worker</b> .   |
| Products-completed operations hazard  | 4. included in the <b>products-completed operations hazard</b> .   |
| Workers' compensation or similar laws | 5. to any person, whether or not <b>your employee</b> , if benefits for such <b>bodily injury</b> are payable or must be provided under any workers' compensation, disability benefits, or any similar law.  |

**D. Exclusions applicable to the entire general liability coverage part**


We will have no obligation to pay any sums under this Coverage Part for **medical expenses**, or for any **claim**, including any **damages** or **claim expenses**, for **bodily injury**, **property damage**, or **personal and advertising injury**:

- |                   |  |
|-------------------|--|
| Asbestos          | 1. based upon or arising out of the actual or alleged mining, processing, manufacturing, use, testing, ownership, sale, or removal of asbestos, asbestos fibers, or material containing asbestos; exposure to asbestos, asbestos fibers, or materials containing asbestos; or the provision of instructions, recommendations, notices, warnings, supervision, or advice given, or which should have been given, in connections with asbestos, asbestos fibers, or structures or materials containing asbestos. |
| Biological agents | 2. based upon or arising out of: <ul style="list-style-type: none"> <li>a. the actual, alleged, or threatened contaminative, pathogenic, toxic, or other hazardous properties of <b>biological agents</b>; or</li> <li>b. any:</li> </ul>  |




# HISCOX PRO™ General Liability Coverage Part (Occurrence)

- (1) request, demand, or order that **you** or others test for, monitor, clean up, remove, contain, treat, detoxify, or neutralize, or in any way respond to or assess the effect of any **biological agents**; or
  - (2) **claim** or other proceeding by or on behalf of a governmental authority or others for the testing for, monitoring, cleaning up, removing, containing, treating, detoxifying, or neutralizing, or in any way responding to or assessing the effects of any **biological agents**.
- Communicable disease 3. based upon or arising out of the actual or alleged transmission of a communicable disease. This exclusion will apply even if the **claim** against **you** alleges negligence or other wrongdoing in the:
- a. supervising, hiring, employing, training, or monitoring of others that may be infected with and spread a communicable disease;
  - b. testing for a communicable disease;
  - c. failure to prevent the spread of the disease; or
  - d. failure to report the disease to authorities.
- Contractual liability 4. for which **you** are legally obligated to pay as **damages** because of liability assumed in a contract or agreement. However, this exclusion will not apply to liability for **damages**:
- a. **you** would have in the absence of such contract or agreement; or
  - b. assumed in an **insured contract**, provided the **bodily injury, property damage, or personal and advertising injury** occurs after such contract or agreement has been fully executed.
- Crime or fraud 5. based upon or arising out of any actual or alleged criminal or fraudulent conduct committed by **you**, at **your** direction, or with **your** consent or knowledge.
- Electronic chatrooms, bulletin boards, or websites 6. based upon or arising out of an electronic chatroom, bulletin board, or website **you** host, own, or over which **you** exercise control.
- Electronic data 7. based upon or arising out of the loss of, loss of use of, damage to, corruption of, inability to access, or inability to manipulate electronic data.
- Employment related liability 8. based upon or arising out of any actual or alleged:
- a. obligation under any workers' compensation, unemployment compensation, employers' liability, fair labor standards, labor relations, wage and hour, or disability benefit law, including any similar provisions of any federal, state, or local statutory or common law;
  - b. liability or breach of any duty or obligation owed by **you** as an employer or prospective employer; or
  - c. harassment, wrongful termination, retaliation, or discrimination, including but not limited to adverse or disparate impact,
- including any resulting **damages** sustained at any time by the brother, child, parent, sister, or spouse of such person as a consequence of the above.
- This exclusion will apply:
- a. whether **you** may be liable as an employer or in any other capacity; and
  - b. to any obligation to share **damages** with or repay someone else who must pay **damages** because of any of the above.
- Fair credit 9. based upon or arising out of any actual or alleged violation of the Fair Credit Reporting Act and/or Fair and Accurate Credit Transactions Act, both as may be amended, or any similar federal, state, or local statutes, rules, or regulations in or outside the U.S.



# HISCOX PRO™ General Liability Coverage Part (Occurrence)

- Intellectual property
10. based upon or arising out of any actual or alleged infringement, use, or disclosure of any intellectual property, including but not limited to copyright, trademark, trade dress, patent, service mark, service name, title, or slogan, or any publicity rights violations, cyber squatting violations, moral rights violations, any act of passing-off, or any misappropriation of trade secret.
- However, this exclusion will not apply to:
- the use of another's advertising idea in **your advertisement**; or
  - infringement of copyright, trade dress, or slogan in **your advertisement**.
- Lead
11. based upon or arising out of:
- the actual, alleged, or threatened contaminative, pathogenic, toxic, or other hazardous properties of **lead**;
  - any:
    - request, demand, or order that **you** or others test for, monitor, clean up, remove, contain, treat, detoxify or neutralize, or in any way respond to or assess the effect of **lead**; or
    - claim** or other proceeding by or on behalf of a governmental authority or others for the testing for, monitoring, cleaning up, removing, containing, treating, detoxifying, or neutralizing, or in any way responding to or assessing the effects of **lead**.
- Pollution
12. based upon or arising out of:
- the actual, alleged, or threatened discharge, dispersal, seepage, migration, release, or escape of **pollutants**:
    - at or from any premises, site, or location which is or was at any time owned or occupied by or rented or loaned to **you**; however, this subsection will not apply to:
      - bodily injury** if sustained within a building and caused by smoke, fumes, vapor, or soot originating from equipment that is used to heat, cool, or dehumidify the building, or equipment that is used to heat water for personal use by the building's occupants;
      - bodily injury** or **property damage** for which **you** may be held liable, if **you** are a contractor and the owner or lessee of such premises, site, or location has been added to **your** policy as an additional insured with respect to **your** ongoing operations performed for that additional insured at the premises, site, or location, and such premises, site, or location is not and never was owned or occupied by or rented or loaned to any **insured** other than that additional insured; or
      - bodily injury** or **property damage** arising out of heat, smoke, or fumes from a **hostile fire**;
    - at or from any premises, site, or location which is or was at any time used by **you** or any other person or organization for the handling, storage, disposal, processing, or treatment of waste;
    - which are or were at any time transported, handled, stored, disposed of, processed, or treated as waste by or for **you** or for any person or organization for whom **you** are legally liable;
    - at or from any premises, site, or location on which **you** or any contractor or subcontractor working directly or indirectly on **your** behalf is performing operations, if the **pollutants** are brought onto the premises, site, or location in connection with such operations by **you** or **your** contractor or subcontractor. However, this subsection will not apply to:
      - bodily injury** or **property damage** arising out of the escape of fuels, lubricants, or other operating fluids necessary to perform the normal



# HISCOX PRO™ General Liability Coverage Part (Occurrence)


electrical, hydraulic, or mechanical functions necessary for the operation of **mobile equipment** or its parts, if such fuels, lubricants, or other operating fluids escape from a vehicle part designed to hold, store, or receive them. This exception will not apply if the **bodily injury** or **property damage** arises out of the intentional discharge, dispersal, or release of the fuels, lubricants, or other operating fluids or if such fuels, lubricants, or operating fluids are brought onto the premises, site, or location with the intent that they be discharged, dispersed, or released as part of the operations being performed by **you** or **your** contractor or subcontractor;

- (b) **bodily injury** or **property damage** sustained within a building and caused by the release of gases, fumes, or vapors from materials brought into that building in connection with operations being performed by **you** or **your** contractor or subcontractor; or
- (c) **bodily injury** or **property damage** arising out of heat, smoke, or fumes from a **hostile fire**; or
- (5) at or from any premises, site, or location on which **you** or any contractors or subcontractors working directly or indirectly **your** behalf are performing operations, if the operations are to test for, monitor, clean up, remove, contain, treat, detoxify, or neutralize, or in any way respond to or assess the effects of **pollutants**; or
- b. any:
  - (1) request, demand, or order that **you** or others test for, monitor, clean up, remove, contain, treat, detoxify, or neutralize, or in any way respond to or assess the effect of **pollutants**; or
  - (2) **claim** or other proceeding by or on behalf of a governmental authority or others for the testing for, monitoring, cleaning up, removing, containing, treating, detoxifying, or neutralizing, or in any way responding to or assessing the effects of **pollutants**.

However, this subsection will not apply to liability for **damages** because of **property damage** **you** would have in the absence of such request, demand, order, **claim**, or other proceeding by or on behalf of a governmental authority.

- |  |   |
|--|---|
| Privacy  | <p>13. based upon or arising out of any actual or alleged:</p> <ul style="list-style-type: none"> <li>a. unauthorized acquisition, access, use, or disclosure of, improper collection or retention of, or failure to protect any non-public personally identifiable information or confidential corporate information that is in <b>your</b> care, custody, or control; or</li> <li>b. violation of any privacy law or consumer data protection law protecting against the use, collection, or disclosure of any information about a person or any confidential corporate information.</li> </ul> |
| Professional services                          | <p>14. based upon or arising out of <b>your</b> actual or alleged performance of or failure to perform <b>professional services</b>.</p>  |
| Recall of products, work, or impaired property | <p>15. based upon or arising out of the loss of use, withdrawal, recall, inspection, repair, replacement, adjustment, removal, or disposal of:</p> <ul style="list-style-type: none"> <li>a. <b>your product</b>;</li> <li>b. <b>your work</b>; or</li> <li>c. <b>impaired property</b>;</li> </ul> <p>if such product, work, or property is withdrawn or recalled from the market or from use by any person or organization because of a known or suspected defect, deficiency, inadequacy, or dangerous condition in it.</p>  |
| Silica   | <p>16. based upon or arising out of any actual, alleged, or threatened exposure to, inhalation of, or contact with silicon dioxide, silica products, silica fibers, silica dust, any silica byproducts, or silica, whether alone or in combination with any substance, product, or material.</p>  |





# HISCOX PRO™ General Liability Coverage Part (Occurrence)

Unsolicited telemarketing 17. based upon or arising out of any actual or alleged violation of any federal, state, or local statutes, ordinances, or regulations relating to unsolicited telemarketing, solicitations, emails, faxes, text messages, or any other communications of any type or nature, including but not limited to the Telephone Consumer Protection Act, CAN-SPAM Act, or any "anti-spam" or "do-not-call" statutes, ordinances, or regulations.

Exclusions 8, 12, and 15 of this Section D do not apply to damage by fire to premises while rented to **you** or temporarily occupied by **you** with the owner's permission. However, any payments **we** make for **property damage** to such premises will be subject to the Damage to Premises Limit.

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## VII. Definitions

The following definitions apply to this Coverage Part. Additional definitions are contained in the General Terms and Conditions, Section VI. Definitions applicable to all Coverage Parts.

### Accident

means a sudden and unintended event that causes **bodily injury** to a third party. This definition applies only to coverage provided under Section I. What is covered, C. Medical payments.

### Advertisement

means a notice about **your** goods, products, or services that is published or broadcast to the general public or a specific market segment for the purpose of attracting customers or supporters. For purposes of this definition:

1. notices that are published include material placed on the internet or on other similar electronic means of communication; and
2. with regard to websites, only that part of the website that is about **your** goods, products, or services for the purposes of attracting customers or supporters is considered an advertisement.

### Auto

means:

1. a land motor vehicle, trailer, or semi-trailer designed for travel on public roads, including any attached machinery or equipment, or
2. any other land vehicle subject to a financial responsibility law or other motor vehicle insurance law in the state where it is licensed or principally garaged.

However, **auto** does not include **mobile equipment**.

### Biological agents

means any:

1. a. bacteria;  
b. mildew, mold, or fungi;  
c. other microorganisms; or  
d. mycotoxins, spores, or other byproducts of any of the foregoing;
2. viruses or other pathogens (whether or not a microorganism); or
3. colony or group of any of the foregoing.

### Bodily injury

means physical injury, sickness, or disease sustained by a person, including resulting death, humiliation, mental injury, mental anguish, emotional distress, suffering, or shock, at any time. All such resulting injury will be deemed to occur at the time of the physical injury, sickness, or disease that caused it.

### Claim

means any:

1. written assertion of liability;
2. written demand for **damages**; or
3. civil proceeding seeking **damages**.

for **bodily injury**, **property damage**, or **personal and advertising injury** to which this Coverage Part applies. This includes an arbitration proceeding or any other alternative dispute resolution proceeding in which such **damages** are sought and to which **you** submit with **our** consent.


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## General Liability Coverage Part (Occurrence)

<b>Claim expenses</b>	means all reasonable and necessary fees, costs, and expenses (including the fees of attorneys and experts) incurred in the investigation, defense, or appeal of a <b>claim</b> .
<b>Coverage territory</b>	means anywhere in the world, but this Coverage Part will apply only to a <b>claim</b> brought in the United States, its territories or possessions, or Canada.
<b>Damages</b>	<p>means any monetary amount <b>you</b> are ordered to pay by a court, or by an arbitrator in an arbitration to which <b>we</b> have consented.</p> <p>However, <b>damages</b> does not include any civil, regulatory, or criminal fines, restitution, disgorgement, sanctions, taxes, or penalties, including those imposed by any federal, state, or local governmental authority, or any multiple, punitive, or exemplary damages.</p> <p><b>Damages</b> because of <b>bodily injury</b> includes care, loss, or services, or death resulting at any time from the <b>bodily injury</b>.</p>
<b>Employee</b>	means any person employed by <b>you</b> , including any <b>leased worker</b> , but does not include a <b>temporary worker</b> .
<b>Hostile fire</b>	means a fire that becomes uncontrollable or breaks out from where it was intended to be.
<b>Impaired property</b>	<p>means tangible property, other than <b>your product</b> or <b>your work</b>, that cannot be used or is less useful because:</p> <ol style="list-style-type: none"><li>1. it incorporates <b>your product</b> or <b>your work</b> that is known or thought to be defective, deficient, inadequate, or dangerous; or</li><li>2. <b>you</b> have failed to fulfill the terms or conditions of a contract or agreement;</li></ol> <p>if such property can be restored to use by:</p> <ol style="list-style-type: none"><li>1. the repair, replacement, adjustment, or removal of <b>your product</b> or <b>your work</b>; or</li><li>2. <b>your</b> fulfilling the terms or conditions of the contract or agreement.</li></ol>
<b>Insured contract</b>	<p>means:</p> <ol style="list-style-type: none"><li>1. a contract for the lease of premises, but not any portion of the lease that indemnifies any person or organization for damage by fire to premises while rented to <b>you</b> or temporarily occupied by <b>you</b> with permission of the owner;</li><li>2. a sidetrack agreement;</li><li>3. an easement or license agreement, except in connection with construction or demolition operations on or within 50 feet of a railroad;</li><li>4. an obligation, as required by ordinance, to indemnify a municipality, except in connection with work for a municipality;</li><li>5. an elevator maintenance agreement; or</li><li>6. any other contract or agreement pertaining to <b>your</b> business (including an indemnification of a municipality in connection with work performed for such municipality) in which <b>you</b> assume the tort liability of another to pay <b>damages</b> sustained by a third party to which this Coverage Part would apply. Tort liability means liability that would be imposed by law in the absence of any contract or agreement.</li></ol> <p>However, an insured contract does not include that part of any contract or agreement:</p> <ol style="list-style-type: none"><li>1. that indemnifies a railroad for <b>bodily injury</b> or <b>property damage</b> arising out of construction or demolition operations on or within 50 feet of any railroad property and affecting any railroad bridge or trestle, tracks, roadbeds, tunnel, underpass, or crossing;</li><li>2. that indemnifies an architect, engineer, or surveyor for <b>damages</b> arising out of:<ol style="list-style-type: none"><li>a. preparing, approving, or failing to prepare or approve maps, drawings, opinions, reports, surveys, field orders, change orders, designs, or specifications; or</li><li>b. giving or failure to give directions or instructions, if that is the primary cause of the injury or damage; or</li></ol></li></ol>

 **HISCOX PRO™** General Liability Coverage Part (Occurrence)

3. under which an insured who is an architect, engineer, or surveyor assumes the liability for injury or damage arising out of the insured's rendering of or failure to render professional services of any kind.

**Lead** means the element lead in any form, including its use or presence in any alloy, compound, byproduct, or other material waste. Waste includes, but is not limited to, materials to be recycled, reconditioned, or reclaimed.

**Leased worker** means any person leased to you by a labor leasing firm to perform duties related to the conduct of your business. However, leased worker does not include a temporary worker.

**Loading or unloading** means the handling of property:

1. after it is moved from the place where it is accepted for movement into or onto an aircraft, auto, or watercraft;
2. while it is in or on an aircraft, auto, or watercraft; or
3. while it is being moved from an aircraft, auto, or watercraft to the place where it is finally delivered.

**Loading or unloading** does not include the movement of property by means of a mechanical device, other than a hand truck, that is not attached to the aircraft, auto, or watercraft.

**Medical expenses** means reasonable expenses for necessary:

1. first aid administered at the time of an accident;
2. medical, surgical, x-ray, and dental services, including prosthetic devices; and
3. ambulance, hospital, professional nursing, and funeral services.

**Mobile equipment** means any of the following types of land vehicles, including any attached machinery or equipment:

1. bulldozers, farm machinery, forklifts, and other vehicles designed for use principally off public roads;
2. vehicles maintained for use solely on or next to premises owned by or rented to you;
3. vehicles that travel on crawler treads;
4. vehicles, whether self-propelled or not, maintained primarily to provide mobility to permanently mounted:
  - a. power cranes, shovels, loaders, diggers, or drills; or
  - b. road construction or resurfacing equipment such as graders, scrapers, or rollers;
5. vehicles not described in 1, 2, 3, or 4 above that are not self-propelled and are maintained primarily to provide mobility to permanently attached equipment of the following types:
  - a. air compressors, pumps, and generators, including spraying, welding, building cleaning, geophysical exploration, lighting, and well-servicing equipment; or
  - b. cherry pickers and similar devices used to raise or lower workers; and
6. vehicles not described in 1, 2, 3, or 4 above maintained primarily for purposes other than the transportation of persons or cargo. However, mobile equipment does not include self-propelled vehicles with the following types of permanently attached equipment:
  - a. equipment designed primarily for:
    - (1) snow removal;
    - (2) road maintenance, but not construction or resurfacing; or
    - (3) street clearing or cleaning;
  - b. cherry pickers and similar devices mounted on automobile or truck chassis and used to raise or lower workers; or

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 **General Liability Coverage Part (Occurrence)**

- c. air compressors, pumps, and generators, including spraying, welding, building cleaning, geophysical exploration, lighting, and well-servicing equipment.

Instead, vehicles described in a, b, or c above will be considered autos.

<b>Occurrence</b>	means an accident arising out of your business operations, including continuous or repeated exposure to substantially the same general harmful conditions.
<b>Officer</b>	means a person holding any of the officer positions created by an organization's charter, constitution, by-laws, or any other similar governing documents.
<b>Personal and advertising injury</b>	means injury, including consequential <b>bodily injury</b> , arising out of one or more of the following offenses: <ul style="list-style-type: none"><li>1. false arrest, detention, or imprisonment;</li><li>2. malicious prosecution;</li><li>3. the wrongful eviction from, wrongful entry into, or invasion of the right of private occupancy of a room, dwelling, or premises that a person occupies, committed by or on behalf of its owner, landlord, or lessor;</li><li>4. oral or written publication, in any manner, of material that slanders or libels a person or organization or disparages a person's or organization's goods, products, or services;</li><li>5. oral or written publication, in any manner, of material that violates a person's right to privacy;</li><li>6. the use of another's advertising idea in <b>your advertisement</b>; or</li><li>7. infringement of copyright, trademark, trade dress, or slogan in <b>your advertisement</b>.</li></ul>
<b>Pollutants</b>	means any solid, liquid, gaseous, or thermal irritant or contaminant, including smoke, vapor, dust, nanoparticles, fibers, soot, ash, fumes, acids, alkalis, chemicals, and waste. Waste includes, but is not limited to, materials to be recycled, reconditioned, or reclaimed.
<b>Products-completed operations hazard</b>	<ul style="list-style-type: none"><li>1. includes all <b>bodily injury</b> and <b>property damage</b> taking place away from premises owned, occupied by, loaned, or rented to you and arising out of <b>your product</b> or <b>your work</b>, except:<ul style="list-style-type: none"><li>a. products that are still in your physical possession; or</li><li>b. work that has not yet been completed or abandoned. However, <b>your work</b> will be deemed completed at the earliest of the following times:<ul style="list-style-type: none"><li>(1) when all of the work called for in <b>your contract</b> or agreement has been completed;</li><li>(2) when all of the work to be performed at the site has been completed, if <b>your contract</b> or agreement calls for work at more than one site; or</li><li>(3) when that part of the work completed at a site has been put to its intended use by any person or organization other than another contractor or subcontractor working on the same project.</li></ul>Work that may need service, maintenance, correction, repair, or replacement, but which is otherwise complete, will be treated as completed; and</li></ul></li><li>2. does not include <b>bodily injury</b> or <b>property damage</b> arising out of:<ul style="list-style-type: none"><li>a. the transportation of property, unless the injury or damage results from a condition in or on a vehicle not owned or operated by or loaned or rented to you and that condition was created by the <b>loading or unloading</b> of that vehicle by you; or</li><li>b. the existence of tools, uninstalled equipment, or abandoned or unused materials.</li></ul></li></ul>
<b>Professional services</b>	means professional services customarily provided by an architect, engineer, surveyor, physician, surgeon, dentist, or other healthcare provider, accountant, insurance agent/broker, investment advisor, securities broker/dealer, or attorney, or any other services identified as Covered Professional Services in the Declarations.

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 **HISCOX PRO™** General Liability Coverage Part (Occurrence)

- Property damage** means:
1. physical injury to tangible property, including all resulting loss of use of that property. All such loss of use will be deemed to occur at the time of the physical injury that caused it; or
  2. loss of use of tangible property that is not physically injured. All such loss of use will be deemed to occur at the time of the **occurrence** that caused it.
- Tangible property does not include any software, data, or other information in electronic form.
- Retention** means the amount stated as such under the General Liability Coverage Part section of the Declarations.
- Temporary worker** means a person who is furnished to **you** to substitute for a permanent **employee** on leave or to meet seasonal or short-term workload conditions. **Temporary worker** does not include **leased worker**.
- Volunteer worker** means a person who is not **your employee**, and who donates his or her work and acts at **your** direction and within the scope of duties determined by **you**, and is not paid a fee, salary, or other compensation by **you** or anyone else for their work performed for **you**.
- You, your, or insured** means the **named insured** and any other person or organization expressly described as an **insured** in Section III. Who is an insured.
- Your product**
1. means any:
    - a. goods or products, other than real property, manufactured, sold, handled, distributed, or disposed of by:
      - (1) **you**;
      - (2) others trading under **your** name; or
      - (3) a person or organization whose assets or business **you** have acquired; and
    - b. containers (other than vehicles), materials, parts, or equipment furnished in connection with such goods or products;
  2. includes:
    - a. representations or warranties made at any time with respect to the durability, fitness, performance, quality, or use of **your product**; and
    - b. the providing of or failure to provide instructions or warnings; and
  3. does not include vending machines or other property loaned or rented to or located for the use of others but not sold.
- Your work**
1. means:
    - a. work or operations performed by **you** or on **your** behalf; and
    - b. materials, parts, or equipment furnished in connection with such work or operations; and
  2. includes:
    - a. representations or warranties made at any time with respect to the durability, fitness, performance, quality, or use of **your work**; and
    - b. the providing of or failure to provide instructions or warnings.



**TOKIO MARINE**  
**HCC**

**HOUSTON CASUALTY COMPANY**

ADMINISTRATIVE OFFICES: 13403 NORTHWEST FREEWAY, HOUSTON, TEXAS 77040

**e-MD® / MEDEFENSE™ PLUS INSURANCE DECLARATIONS**

- 1. **Named Insured:** Positive Behavior Supports Corporation
- 2. **Address:** 7108 South Kanner Highway  
Stuart, Florida 34997
- 3. **Policy Number:** H23EMD502717-02                      **Renewal of:** H22EMD502717-01
- 4. **Policy Period:** Effective Date: January 31, 2023 to Expiration Date: January 31, 2024  
(12:01 a.m. Local Time at the Address of the **Named Insured** stated in Item 2 above)
- 5. **Retroactive Date:** Full Prior Acts. - e-MD®  
Full Prior Acts. - MEDEFENSE™ Plus
- 6. **Knowledge Date:** January 31, 2019
- 7. **Premium:** \$50,676.00

8. **Limits of Liability:**

“Nil” or “N/A” indicates that the Coverage was not purchased and that portion of the Policy does not apply.

	Each Claim	Aggregate
<b>A. MEDEFENSE™ Plus Limits of Liability:</b>	\$1,000,000.00	\$1,000,000.00
(Claims Made and Reported Coverage)		
<b>Damages Sublimit of Liability:</b>	NIL	NIL
<b>B. e-MD® Limits Per Insuring Agreement</b>		

**e-MD® Third Party Liability Insuring Agreements**

(Claims Made and Reported Coverage)

	Each Claim	Aggregate
Multimedia Liability Coverage	\$1,000,000.00	\$1,000,000.00
Security and Privacy Liability Coverage	\$1,000,000.00	\$1,000,000.00
Privacy Regulatory Defense and Penalties Coverage	\$1,000,000.00	\$1,000,000.00
PCI DSS Liability Coverage	\$1,000,000.00	\$1,000,000.00
Bodily Injury Liability Coverage	\$250,000.00	\$250,000.00
Property Damage Liability Coverage	\$50,000.00	\$50,000.00
TCPA Defense Coverage	\$50,000.00	\$50,000.00

**To Report a Loss**  
 • Dial toll-free #1 (844)777-8323 or visit our  
 • Website: <https://my.rpsins.com/claimsfnol>  
 • Contact Insurer directly (see policy section)



**TOKIO MARINE**  
**HCC**

**HOUSTON CASUALTY COMPANY**

ADMINISTRATIVE OFFICES: 13403 NORTHWEST FREEWAY, HOUSTON, TEXAS 77040

**e-MD® / MEDEFENSE™ PLUS INSURANCE DECLARATIONS**

**e-MD® First Party Insuring Agreements**

(Event Discovered and Reported Coverage)

	<b>Each Claim</b>	<b>Aggregate</b>
Breach Event Costs Coverage	\$1,000,000.00	\$1,000,000.00
Post Breach Remediation Costs Coverage	\$25,000.00	\$25,000.00
BrandGuard® Coverage	\$1,000,000.00	\$1,000,000.00
System Failure Coverage	\$1,000,000.00	\$1,000,000.00
Dependent System Failure Coverage	\$1,000,000.00	\$1,000,000.00
Cyber Extortion Coverage	\$1,000,000.00	\$1,000,000.00
Cyber Crime Coverage		
A. Financial Fraud Sublimit	\$100,000.00	\$100,000.00
B. Telecommunications and Utilities Fraud Sublimit	\$100,000.00	\$100,000.00
C. Phishing Fraud Sublimits		
1. Your Phishing Fraud Loss Sublimit	\$100,000.00	\$100,000.00
2. Client Phishing Fraud Loss Sublimit	\$50,000.00	\$50,000.00
3. Phishing Fraud Aggregate Sublimit (C.1. & C.2. combined)		\$100,000.00
Cyber Crime Aggregate Limit (A., B., & C. combined)		\$100,000.00
Bricking Loss Coverage	\$1,000,000.00	\$1,000,000.00
Property Damage Loss Coverage	\$50,000.00	\$50,000.00
Reward Expenses Coverage	\$50,000.00	\$50,000.00
Court Attendance Costs Coverage	\$25,000.00	\$25,000.00

- C. Maximum Policy Aggregate Limit:** \$1,000,000.00
- D. e-MD® Additional Defense Costs Limit:** Not Applicable  
(Not applicable to MEDEFENSE™ Plus, Bodily Injury Liability, Property Damage Liability or TCPA Defense Coverage)
- E. Breach Event Costs Outside the Limit Enhancement:** N/A

**9. Deductibles, Waiting Periods, Periods of Indemnity and Period of Restoration:**

- A. MEDEFENSE™ Plus Deductible:** \$25,000.00 each **Claim**
- B. e-MD®:**
  - Multimedia Liability Coverage Deductible \$100,000.00 each **Claim**
  - Security and Privacy Liability Coverage Deductible \$100,000.00 each **Claim**
  - Privacy Regulatory Defense and Penalties Coverage Deductible \$100,000.00 each **Claim**
  - PCI DSS Liability Coverage Deductible \$100,000.00 each **Claim**



**TOKIO MARINE**  
**HCC**

**HOUSTON CASUALTY COMPANY**

ADMINISTRATIVE OFFICES: 13403 NORTHWEST FREEWAY, HOUSTON, TEXAS 77040

**e-MD® / MEDEFENSE™ PLUS INSURANCE DECLARATIONS**

Bodily Injury Liability Coverage Deductible	\$100,000.00 each <b>Claim</b>
Property Damage Liability Coverage Deductible	\$100,000.00 each <b>Claim</b>
TCPA Defense Coverage Deductible	\$100,000.00 each <b>Claim</b>
Breach Event Costs Coverage Deductible	\$100,000.00 each <b>Claim</b>
Post Breach Remediation Costs Coverage Deductible	\$100,000.00 each <b>Claim</b>
BrandGuard® Coverage	
<b>Waiting Period:</b>	2 weeks
<b>Period of Indemnity:</b>	6 months
System Failure Coverage	
A. Data Recovery Deductible	\$100,000.00 each <b>Claim</b>
B. Non-Physical Business Interruption	
<b>Waiting Period:</b>	8 hours
<b>Period of Restoration:</b>	6 months
Dependent System Failure Coverage	
A. Data Recovery Deductible	\$100,000.00 each <b>Claim</b>
B. Non-Physical Business Interruption	
<b>Waiting Period:</b>	12 hours
<b>Period of Indemnity:</b>	4 months
Cyber Extortion Coverage Deductible	\$100,000.00 each <b>Claim</b>
Cyber Crime Coverage Deductible	\$100,000.00 each <b>Claim</b>
Bricking Loss Coverage Deductible	\$100,000.00 each <b>Claim</b>
Property Damage Loss Coverage Deductible	\$100,000.00 each <b>Claim</b>
Reward Expenses Coverage Deductible	\$100,000.00 each <b>Claim</b>
Court Attendance Costs Coverage Deductible	None
<b>C. e-MD® Aggregate Deductible:</b>	\$300,000.00

**10. How to Report a Claim:**

Report any **Claim** or potential **Claim** to:

Tokio Marine HCC Cyber & Professional Lines Group  
 Claims Department  
 16501 Ventura Blvd., Suite 200  
 Encino, CA 91436  
 Claims Telephone Number: 888-627-8995  
 Claims Email Address: [CyberClaims@tmhcc.com](mailto:CyberClaims@tmhcc.com)





**TOKIO MARINE**  
**HCC**

## **HOUSTON CASUALTY COMPANY**

ADMINISTRATIVE OFFICES: 13403 NORTHWEST FREEWAY, HOUSTON, TEXAS 77040

### **e-MD® / MEDEFENSE™ PLUS INSURANCE DECLARATIONS**

#### **Schedule of Endorsements**

It is hereby agreed that the following endorsements are attached to and are made a part of this Policy at time of issue:

1. CBO1013-42020 Amendment of Created or Acquired Subsidiaries Clause
2. CBO1095-22021 Amendment to Add a First Coverage Coinsurance
3. CBO1090-42020 Amendment to Other Insurance Provisions: Excess Insurance
4. CBO1092-52020 Nuclear Incident Exclusion
5. CBO1089-42020 Policyholder Disclosure Notice of Terrorism Insurance Coverage
6. CBO1097-52022 Ransomware Attack Sublimit and Coinsurance
7. CBO1088-42020 Service of Suit

By: Michael J. Schell  
Authorized Representative

# Request for Taxpayer Identification Number and Certification

**Give Form to the  
requester. Do not  
send to the IRS.**

▶ Go to [www.irs.gov/FormW9](http://www.irs.gov/FormW9) for instructions and the latest information.

See Specific Instructions on page 3.

<b>1</b> Name (as shown on your income tax return). Name is required on this line; do not leave this line blank. <b>Positive Behavior Supports Corporation</b>	
<b>2</b> Business name/disregarded entity name, if different from above	
<b>3</b> Check appropriate box for federal tax classification of the person whose name is entered on line 1. Check only <b>one</b> of the following seven boxes.	<b>4</b> Exemptions (codes apply only to certain entities, not individuals; see instructions on page 3):
<input type="checkbox"/> Individual/sole proprietor or single-member LLC	<input type="checkbox"/> C Corporation
<input checked="" type="checkbox"/> S Corporation	<input type="checkbox"/> Partnership
<input type="checkbox"/> Limited liability company. Enter the tax classification (C=C corporation, S=S corporation, P=Partnership) ▶ _____	<input type="checkbox"/> Trust/estate
<input type="checkbox"/> Other (see instructions) ▶ _____	Exempt payee code (if any) _____
<b>5</b> Address (number, street, and apt. or suite no.) See instructions. <b>95 3rd Street 2nd Floor</b>	Requester's name and address (optional)
<b>6</b> City, state, and ZIP code <b>San Francisco, CA 94103-3103</b>	Exemption from FATCA reporting code (if any) _____
<b>7</b> List account number(s) here (optional)	<small>(Applies to accounts maintained outside the U.S.)</small>

## Part I Taxpayer Identification Number (TIN)

Enter your TIN in the appropriate box. The TIN provided must match the name given on line 1 to avoid backup withholding. For individuals, this is generally your social security number (SSN). However, for a resident alien, sole proprietor, or disregarded entity, see the instructions for Part I, later. For other entities, it is your employer identification number (EIN). If you do not have a number, see *How to get a TIN*, later.

Social security number									

or

Employer identification number										
4	6		-	2	8	4	3	2	1	3

**Note:** If the account is in more than one name, see the instructions for line 1. Also see *What Name and Number To Give the Requester* for guidelines on whose number to enter.

## Part II Certification

Under penalties of perjury, I certify that:

1. The number shown on this form is my correct taxpayer identification number (or I am waiting for a number to be issued to me); and
2. I am not subject to backup withholding because: (a) I am exempt from backup withholding, or (b) I have not been notified by the Internal Revenue Service (IRS) that I am subject to backup withholding as a result of a failure to report all interest or dividends, or (c) the IRS has notified me that I am no longer subject to backup withholding; and
3. I am a U.S. citizen or other U.S. person (defined below); and
4. The FATCA code(s) entered on this form (if any) indicating that I am exempt from FATCA reporting is correct.

**Certification instructions.** You must cross out item 2 above if you have been notified by the IRS that you are currently subject to backup withholding because you have failed to report all interest and dividends on your tax return. For real estate transactions, item 2 does not apply. For mortgage interest paid, acquisition or abandonment of secured property, cancellation of debt, contributions to an individual retirement arrangement (IRA), and generally, payments other than interest and dividends, you are not required to sign the certification, but you must provide your correct TIN. See the instructions for Part II, later.

<b>Sign Here</b>	Signature of U.S. person ▶	Date ▶ <u>4/24/23</u>
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## General Instructions

Section references are to the Internal Revenue Code unless otherwise noted.

**Future developments.** For the latest information about developments related to Form W-9 and its instructions, such as legislation enacted after they were published, go to [www.irs.gov/FormW9](http://www.irs.gov/FormW9).

### Purpose of Form

An individual or entity (Form W-9 requester) who is required to file an information return with the IRS must obtain your correct taxpayer identification number (TIN) which may be your social security number (SSN), individual taxpayer identification number (ITIN), adoption taxpayer identification number (ATIN), or employer identification number (EIN), to report on an information return the amount paid to you, or other amount reportable on an information return. Examples of information returns include, but are not limited to, the following.

- Form 1099-INT (interest earned or paid)

- Form 1099-DIV (dividends, including those from stocks or mutual funds)
- Form 1099-MISC (various types of income, prizes, awards, or gross proceeds)
- Form 1099-B (stock or mutual fund sales and certain other transactions by brokers)
- Form 1099-S (proceeds from real estate transactions)
- Form 1099-K (merchant card and third party network transactions)
- Form 1098 (home mortgage interest), 1098-E (student loan interest), 1098-T (tuition)
- Form 1099-C (canceled debt)
- Form 1099-A (acquisition or abandonment of secured property)

Use Form W-9 only if you are a U.S. person (including a resident alien), to provide your correct TIN.

*If you do not return Form W-9 to the requester with a TIN, you might be subject to backup withholding. See What is backup withholding, later.*