



**NONPUBLIC AGENCY
CONTRACT**

**ASSESSMENT, CONSULTATION &
TREATMENT**

2021-2022

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2021-2022
NONPUBLIC AGENCY/RELATED SERVICES PROVIDER:

Assessment, Consultation & Treatment
(Hereinafter referred to as “CONTRACTOR”)

NONPUBLIC AGENCY SERVICES
MASTER CONTRACT

AUTHORIZATION FOR CONTRACT AND GENERAL PROVISIONS

1. MASTER CONTRACT FOR INDIVIDUAL SERVICES

This Master Contract (or “Agreement”) is entered into this date: March 2, 2022, between the Azusa Unified School District (LEA, participating as a member of the special education local plan area), hereinafter referred to as the local educational agency (“LEA”) and Assessment, Consultation & Treatment (nonpublic agency), hereinafter referred to as NPA or “CONTRACTOR” for the purpose of providing special education and/or related services to students with exceptional needs under the authorization of California Education Code sections 56157, 56361 and 56365 *et seq.* and Title 5 of the California Code of Regulations section 3000 *et seq.*, AB490 (Chapter 862, Statutes of 2003) and AB1858 (Chapter 914, Statutes of 2004). It is understood that this agreement does not commit LEA to pay for special education and/or related services provided to any 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.

Upon acceptance of a student, LEA shall submit an Individual Services Agreement (hereinafter referred to as “ISA”) to CONTRACTOR within 30 days. Unless otherwise agreed in writing, these forms shall acknowledge CONTRACTOR’s obligation to provide all services specified in the student’s Individualized Education Plan (hereinafter referred to as “IEP”). The ISA shall be executed within ninety (90) days of a student’s enrollment. LEA and CONTRACTOR shall enter into an ISA for each student served by CONTRACTOR. As available and appropriate, the LEA shall make available access to any electronic IEP system and /or electronic data base for ISA developing including invoicing.

Unless placement is made pursuant to an Office of Administrative Hearings (hereinafter referred to as “OAH”) order, a lawfully executed agreement between LEA and parent or authorized by LEA for a transfer student pursuant to California Education Code section 56325, or by written direction of the LEA, LEA is not responsible for the costs associated with services until the date on which an IEP team meeting is convened, signed by the LEA student’s parent evidencing the parent’s agreement to the IEP.

2. **CONTRACT FOR PROFESSIONAL SERVICES**

Upon written agreement which shall consist of either (a) a Referral Form returned to CONTRACTOR, or (b) confirmed electronic-based agreement, CONTRACTOR will engage in professional services to include:

2a. Consultation with Special Education Management and Behavior Specialist Staff

CONTRACTOR will be engaged by AUSD for specific behavior consultation services/tasks that are not directly a result of specified in a student's IEP and thus do not warrant an ISA. CONTRACTOR may be engaged by AUSD in discussions with staff, observations of students and/or staff, and conduct file review to provide oral and/or written input to management and staff regarding specific behavior issues of concern to AUSD including but not limited to:

- i. Student-specific behavior concerns
- ii. Classroom behavior management
- iii. Guidance or feedback/review of behavior assessment
- iv. Guidance or feedback/review of behavior intervention plans
- v. Guidance or feedback/review of goals and/or progress
- vi. Crisis management and reporting
- vii. Staff training and support

2b. District Audit

CONTRACTOR will conduct an audit of AUSD's Behavior Support Program through collaboration with AUSD on the scope of the analysis to determine to what extent AUSD's behavior services are effectively accomplishing their goals and meeting statutory requirements. CONTRACTOR will conduct site visits, observations, staff and stakeholder interviews, and documentation reviews toward review of the structure and methods of the Behavior Support Program that may include but are not limited to the following components:

- i. Identification and referral
- ii. Levels of behavior support
- iii. Behavior assessment
- iv. Service recommendations
- v. Service provision
- vi. Behavior emergencies
- vii. IEP goals and components
- viii. Staff training and support
- ix. Behavior goal-based instruction and progress monitoring
- x. Behavior management
- xi. Least restrictive methods and environments; transition and termination

The audit will culminate in CONTRACTOR providing a report and/or presentation involving an objective analysis of program components and include a specific set of recommendations for actions by administration and staff.

CONTRACTOR will draft a 3-5 year roll out plan in the area of Behavior Support Programs inclusive of:

- i. Developing a tiered program of behavior support
- ii. Developing a training plan for staff in the Behavior Support Program
- iii. Behavior Program Plan

3. **CERTIFICATIONS AND LICENSES**

CONTRACTOR shall be certified by the California Department of Education (hereinafter referred to as "CDE") as a nonpublic agency. All nonpublic agency services shall be provided consistent with the area of certification and licensure specified by CDE certification and as defined in California Education, Code sections 56366 *et seq.* and within the professional scope of practice of each provider's license, certification and/or credential. A current copy of CONTRACTOR's nonpublic agency certification or a waiver of such certification issued by the CDE pursuant to Education Code section 56366.2 must be provided to LEA on or before the date this Agreement is executed by CONTRACTOR. This Master Contract may be terminated 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 the capacity as stated on CONTRACTOR's CDE certification.

With respect to CONTRACTOR's certification, failure to notify LEA in writing promptly, not more than 45 days of any changes in: (1) credentialed/licensed staff; (2) ownership; (3) management and/or control of the agency; (4) major modification or relocation of facilities; or (5) significant modification of the program may result in the suspension or termination of this Master Contract by the LEA.

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

During the term of this Master Contract unless otherwise agreed, CONTRACTOR shall comply with all applicable federal, state, and local statutes, laws, ordinances, rules, policies, and regulations. CONTRACTOR shall also comply with all applicable NPA LEA policies and procedures, unless, taking into consideration all of the surrounding facts and circumstances, a policy/procedure or policies/procedures, or a portion of a policy/policies, does not reasonably apply to CONTRACTOR.

CONTRACTOR hereby acknowledges and agrees that it accepts all risks and responsibilities for its failure to comply with all applicable LEA policies/procedures and shall indemnify LEA applicable policies/procedures and shall indemnify LEA under the provisions of section 16 of this contract for such failure.

CONTRACTOR acknowledges and understands that LEA may report to the CDE any violations of the provisions of this Master Contract; and that this may result in the suspension and/or

revocation of CDE nonpublic agency certification pursuant to California Education Code section 56366.4(a).

5. TERM OF MASTER CONTRACT

The term of this Master Contract shall be from January 1, 2022 to June 30, 2022 (Title 5 California Code of Regulations section 3062(a)) unless otherwise stated. Neither the CONTRACTOR nor the LEA is required to renew this Master Contract in subsequent contract years. However, the parties acknowledge that any subsequent Master Contract is to be renegotiated prior to June 30, 2022. In the event the contract is not renegotiated by June 30th, the most recently executed Master Contract will remain in effect for 90 days. (Title 5 California Code of Regulations section 3062(d)) No Master Contract will be offered unless and until all of the contracting requirements have been satisfied. The offer of a Master Contract to a CONTRACTOR is at the sole discretion of the LEA.

Both parties agree to negotiate in good faith the basic education rates that the LEA will pay the CONTRACTOR during the term of each Master Contract. When a final rate agreement is formally executed, the new rates will be retroactive to the start of the applicable Master Contract and paid upon receipt of properly submitted billing for the retroactive difference.

The provisions of this Master Contract apply to CONTRACTOR and any of its employees or independent contractors. Notice of any change in CONTRACTOR's ownership or authorized representative shall be provided in writing to LEA within thirty (30) calendar days of change of ownership or change of authorized representative (EC56366.4).

6. INTEGRATION/CONTINUANCE OF CONTRACT FOLLOWING EXPIRATION OR TERMINATION

This Master Contract includes each Individual Services Agreement ("ISA") and they are incorporated herein by this reference. This Master Contract supersedes any prior or contemporaneous written or oral understanding or agreement. This Master Contract may be amended only by written amendment executed by both parties.

If CONTRACTOR does not return the Master Contract to LEA duly signed by an authorized representative within ninety (90) calendar days of issuance with agreed upon rates, the new contract rates will not take effect until the newly executed Master Contract is received by LEA. If CONTRACTOR fails to execute the new Master Contract within such 90-day period, all payments for services performed after the 90-day period shall cease until such time as the new Master Contract for the current school year is signed and returned to LEA by CONTRACTOR. (California Education Code section 56366(c)(1) and (2)). In the event that this Master Contract expires or terminates, CONTRACTOR and LEA shall continue to be bound to all of the terms and conditions of the most recent executed Master Contract for services provided to LEA students authorized by the LEA.

7. INDIVIDUAL SERVICES AGREEMENT (“ISA”)

This Agreement shall include an 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 California Education Code section 56366 (a)(2)(A). When an ISA is effective beyond this contract’s expiration, and a new concurrent Master Contract is in effect, the rates on the new master contract apply to that ISA. In the event that this Master Contract expires or terminates, CONTRACTOR and 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.

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. At any time during the term of this Master Contract, a LEA student’s parent/guardian, CONTRACTOR, or LEA may request a review of a LEA student’s IEP subject to all procedural safeguards required by law. (California Education Code section 56366(a) (3)).

Unless otherwise provided in this Master Contract, the CONTRACTOR shall provide all services specified in the LEA student’s IEP unless the CONTRACTOR and the LEA agree otherwise in the ISA. (California Education Code sections 56366(a) (5), 56366.10 (a), and Title 5 of the California Code of Regulations Section 3062(e)). In the event the CONTRACTOR is unable to provide a specific service at any time during the life of the ISA, the CONTRACTOR shall notify the LEA in writing within ten (10) business days of the last date a service was provided. CONTRACTOR shall provide any and all subsequent compensatory service hours awarded to student as a result of lack of provision of services by CONTRACTOR while student was served by the nonpublic agency. LEA shall compensate CONTRACTOR for the compensatory service hours at the rates specified by the current contract unless billed for previously or included in a bundled rate.

If a parent/guardian or LEA contests the termination of an ISA by initiating a due process proceeding with the OAH, CONTRACTOR shall abide by the “stay-put” requirement of state and federal law unless the parent/guardian agrees otherwise or an interim alternative educational placement is deemed lawful and appropriate by LEA or OAH. CONTRACTOR shall adhere to all LEA requirements concerning changes in placement.

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

8. DEFINITIONS

The following definitions shall apply for purposes of this contract:

- a. The term “CONTRACTOR” means the nonpublic. agency certified by the California Department of Education identified on page 1 of this Master Contract and its officers and employees.

- b. The term “authorized LEA representative” means a LEA special education administrator or designee.
- c. The term “credential” means a valid credential, life diploma, permit, or document in special education or pupil personnel services issued by, or under the jurisdiction of, the State Board of Education if issued prior to 1970, or the California Commission on Teacher Credentialing (“CTC”) temporary county certificates that allow individuals to teach in nonpublic, nonsectarian (and other) schools while their applications for certification by the CTC are being processed, and which entitles the holder thereof to perform services for which certification qualifications are required as defined in Title 5 of the California Code of Regulations section 3001(j).
- d. The term "qualified" means that a person holds a certificate, permit or other document equivalent to that which staff in a public school are required to hold to provide special education and designated instruction and services and has met federal and state certification, licensing, registration, or other comparable requirements which apply to the area in which he or she is providing special education or related services, including those requirements set forth in Title 34 of the Code of Federal Regulations sections 200.56 and 200.58, and those requirements set forth in Title 5 of the California Code of Regulations Sections 3064 and 3065, and adheres to the standards of professional practice established in federal and state law or regulation, including the standards contained in the California Business and Professions Code.

Nothing in this definition shall be construed as restricting the activities in services of a graduate needing direct hours leading to licensure, or of a student teacher or intern leading to a graduate degree at an accredited or approved college or university, as authorized by state laws or regulations. (Title 5 of the California Code of Regulations Section 3001 (y)).

- e. The term “license” means a valid nonexpired 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, or refer to themselves using a specified professional title, including but not limited to mental health and board and care services at a residential placement. If a license is not available through an appropriate state licensing agency, a certificate of registration with the appropriate professional organization at the national or state level which has standards established for the certificate that are equivalent to a license shall be deemed to be a license as defined in Title 5 of the California Code of Regulations section 3001(r).
- f. The term “Parent” means
 - 1. a biological or adoptive parent of a child unless the biological or adoptive parent does not have legal authority to make educational decisions for the child;

2. a guardian generally authorized to act as the child’s parent or authorized to make educational decisions for the child, including a responsible adult appointed for the child in accordance with Welfare and Institutions Code sections 361 and 726;
 3. 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;
 4. a surrogate parent who has been appointed pursuant to Government Code sections 7579.5 or 7579.6 and in accordance with the requirements of federal law;
 5. 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).
 6. Parent does not include the state or any political subdivision of government or the nonpublic school or agency under contract with the LEA for the provision of special education or designated instruction and services for a child. (California Education Code section 56028).
- g. The term “days” means calendar days unless otherwise specified.
- h. The phrase “billable day” means a school day in which instructional minutes meet or exceed those in comparable LEA programs.
- i. The phrase “billable day of attendance” means a school day as defined in California Education Code Section 46307, in which a LEA 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.

ADMINISTRATION OF CONTRACT

9. NOTICES

All notices provided for by this contract shall be in writing. Notices shall be mailed, electronically delivered or delivered by hand and shall be effective as of the date of receipt by addressee.

All notices related to this Master Contract shall be mailed to LEA.

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

10. MAINTENANCE OF RECORDS

CONTRACTOR shall maintain all records as required by state and federal laws and regulations. CONTRACTOR and LEA agree that neither party is a “covered entity” or maintains “protected

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health information” as defined by the Health Insurance Portability and Accountability Act (“HIPPA”). Rather, CONTRACTOR and LEA acknowledge that the student educational records maintained by the parties are governed by the Family Educational Rights and Privacy Act (“FERPA”). Notwithstanding the foregoing sentence, CONTRACTOR shall maintain all records for at least five (5) years after the termination of this Master Contract. For purposes of this Master Contract, “records” shall include, but not be limited to: pupil records as defined by California Education Code section 49061(b) including electronically stored information; cost data and fiscal 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 used to record the provision of related services including supervision; daily service logs and notes or other documents used to record the provision of services provided through adult assistance (herein after referred to as “aide”), behavior intervention aides, and bus aides; absence verification records; bus rosters; staff lists specifying credentials held and documents evidencing other staff qualifications, social security numbers, dates of hire, and dates of termination; records of employee training and certification; staff time sheets; non-paid staff and volunteer sign-in sheets; transportation and other related services subcontracts; school calendars; bell/class schedules when applicable; liability and worker’s compensation insurance policies; state nonpublic agency certifications; by-laws; lists of current board of directors/trustees, if incorporated; and other documents evidencing financial expenditures; federal/state payroll quarterly reports (Form 941/DE3DP); and bank statements and canceled checks or facsimile thereof.

CONTRACTOR shall maintain LEA 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. Such log shall be maintained as required by California Education Code section 49064 and include the name, title, agency/organization affiliation, and date/time of access for each individual requesting or receiving information from the LEA student’s record. Such log shall record access to the LEA student’s records by: (a) the LEA student’s parent; (b) parties to whom directory information is released pursuant to California Education Code section 49073. (c) an individual to whom written consent has been executed by the LEA student’s parent; or (d) employees of LEA or CONTRACTOR having a legitimate educational interest in requesting or receiving information from the record pursuant to California Education Code Section 49076. For purposes of this paragraph, “employees of LEA or CONTRACTOR” do not include subcontractors. CONTRACTOR shall grant parents access to student records, and comply with parents’ requests for copies of student records, as required by state and federal laws and regulations. CONTRACTOR agrees, in the event of school or agency closure, to forward LEA student records within ten (10) business days to LEA. These shall include, but are not limited to, current transcripts, state test score reports, IEP/IFSPs, and reports.

11. SEVERABILITY CLAUSE

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

12. **SUCCESSORS IN INTEREST AND NO ASSIGNMENT**

This contract binds CONTRACTOR’s successors and assignees. CONTRACTOR shall notify the LEA within 30 days of any change of ownership or corporate control.

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

This Master Contract may be modified or amended by either party to conform to administrative and statutory guidelines issued by any state or federal governmental agency. The party seeking modification or amendment shall provide 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 modifications or changes are based. In the event urgency or emergency legislation is passed, the notice period may be less than thirty (30) days.

14. **TERMINATION**

This Master Contract or ISA may be terminated for cause. The cause shall not be the availability of a public class initiated during the period of the contract unless the parent agrees to the transfer of the student to the public school program at an IEP team meeting. To terminate the contract either party shall give twenty (20) days prior written notice. California Education Code section 56366(a)(4). At the time of termination, CONTRACTOR shall provide upon request 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) days’ prior written notice.

15. **INSURANCE**

CONTRACTOR shall, at his, her, or its sole cost and expense, maintain in full force and effect, during the term of this Agreement, the following insurance coverage from a California licensed, authorized and/or admitted insurer, sufficient to cover any claims, damages, liabilities, costs and expenses (including attorney’s fees) arising out of or in connection with Contractor's fulfillment of any of its obligations under this Agreement or either party's use of the Work or any component or part thereof. The CONTRACTOR shall provide a Certificate of Insurance which lists the LEA as an additional insured and will contain no exclusions; and a copy of the insurance policy in its entirety which shall confirm the parties understanding that it is the intent of the parties that the insurance cover any and all obligations including liabilities or debts incurred by the LEA as a result of the CONTRACTOR’S negligence which results in the LEA incurring any loss including but not limited to as a result of Education Code section 56383 or any civil action.

- a. **Commercial General Liability Insurance**, which lists LEA as an additional insured, including both bodily injury and property damage, with limits as follows:

- \$1,000,000 per occurrence
- \$ 100,000 fire damage
- \$ 5,000 medical expenses
- \$1,000,000 personal & adv. Injury

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\$2,000,000 general aggregate
\$2,000,000 products/ completed operations aggregate

- b. **Workers' Compensation and Employers Liability Insurance** in a form and amount covering Contractor's full liability under the California Workers' Compensation Insurance and Safety Act and in accordance with applicable state and federal laws.

Part A – Statutory Limits (CA Labor Code 3700 et seq.)

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

Sole proprietors with no employees are exempt from providing Workers' Compensation and Employers Liability Insurance, but must provide a signed Workers' Compensation Statement.

- c. **Errors & Omissions (E & O)/Malpractice (Professional Liability)** coverage, which lists the LEA as an additional insured, with the following limits:

\$1,000,000 per occurrence

\$1,000,000 general aggregate

- d. **Sexual Molestation and Abuse coverage, unless that coverage is afforded elsewhere in the Commercial General Liability or Professional Liability policy by endorsement, with the following limits:**

\$3,000,000 per occurrence

\$3,000,000 general aggregate.

- e. Contractor, upon execution of this contract and periodically thereafter upon request, shall furnish the LEA with certificates of insurance and a complete copy of the insurance policy evidencing such coverage. The Commercial General Liability, E & O / Professional Liability, and the Sexual Molestation and Abuse Coverage policies shall name the LEA Alta Loma Unified School District and the Board of Education as additional insured. Premiums on all insurance policies shall be paid by Contractor and shall be deemed included in Contractor's obligations under this contract at no additional charge.
- f. Any deductibles or self-insured retentions above \$100,000 must be declared to and approved by the LEA. At its option, LEA may require the CONTRACTOR, at the CONTRACTOR's sole cost, to: (a) cause its insurer to reduce to levels specified by the LEA or eliminate such deductibles or self-insured retentions with respect to the LEA, its officials and employees, or (b) procure a bond guaranteeing payment of losses and related investigation.
- g. For any claims related to the services 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.

- h. All Certificates of Insurance must reference the contract number, name of the school or agency submitting the certificate, and the location of the school or agency submitting the certificate.

16. INDEMNIFICATION AND HOLD HARMLESS

To the fullest extent allowed by law, CONTRACTOR shall indemnify and hold LEA and its Board Members, administrators, employees, agents, attorneys, volunteers, and subcontractors (“LEA Indemnitees”) harmless against all liability, loss, damage and expense (including reasonable attorneys’ fees and costs) resulting from or arising out of this Master Contract or its performance, to the extent that such loss, expense, damage or liability was proximately caused by the negligent, intentional or willful act or omission of CONTRACTOR, including, without limitation, its agents, employees, subcontractors or anyone employed directly or indirectly by it (excluding LEA and LEA Indemnitees). The duty and obligation to defend shall arise immediately upon tender of a request to defend a due process hearing complaint under the Individuals with Disabilities in Education Act, or lawsuit naming the LEA. The duty to indemnify and defend shall any and all obligations including liabilities or debts incurred by the LEA as a result of the CONTRACTOR’S negligence which results in the LEA incurring any loss including but not limited to as a result of Education Code section 56383 or any civil action.

To the fullest extent allowed by law, LEA shall indemnify and hold CONTRACTOR and its Board Members, administrators, employees, agents, attorneys, and subcontractors (“CONTRACTOR Indemnitees”) harmless against all liability, loss, damage and expense (including reasonable attorneys’ fees and costs) resulting from or arising out of this Master Contract or its performance, to the extent that such loss, expense, damage or liability was proximately caused by the negligent, intentional act or willful act or omission of LEA, including, without limitation, its agents, employees, subcontractors or anyone employed directly or indirectly by it (excluding CONTRACTOR and/or any CONTRACTOR Indemnitees).

LEA represents that it is insured/self-insured in compliance with the laws of the State of California, that the self-insurance/insurance covers LEA employees acting within the course and scope of their respective duties and that its self-insurance/insurance covers the LEA’s indemnification obligations under this Master Contract.

17. INDEPENDENT CONTRACTOR

Nothing herein contained will be construed to imply a joint venture, partnership or principal-agent relationship between the LEA and CONTRACTOR. CONTRACTOR shall provide all services under this Agreement as an independent contractor, and neither party shall have the authority to bind or make any commitment on behalf of the other. Nothing contained in this Agreement shall be deemed to create any association, partnership, joint venture or relationship of principal and agent, master and servant, or employer and employee between the parties or any affiliates of the parties, or between the LEA and any individual assigned by CONTRACTOR to perform any services for the LEA.

18. **SUBCONTRACTING**

CONTRACTOR shall provide written notification to LEA before subcontracting for special education and/or related services pursuant to this Master Contract. CONTRACTOR shall incorporate all of the provisions of this Master Contract in all subcontracts, to the fullest extent reasonably possible. Furthermore, when CONTRACTOR enters into subcontracts for the provision of special education and/or related services (including without limitation transportation) for any LEA 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 15. Each subcontractor shall furnish the LEA with original endorsements and certificate of insurance effecting coverage required by section 15. The endorsements are to be signed by a person authorized by that insurer to bind coverage on its behalf. All endorsements are to be received and approved by the LEA before the subcontractor's work commences. The Commercial General Liability and Automobile Liability policies shall name the LEA and the LEA's Board of Education as an additional insured.

As an alternative to the LEA's forms, a subcontractor's insurer may provide complete, certified copies of all required insurance policies, including endorsements affecting the coverage required by this Master Contract. All Certificates of Insurance must reference the LEA contract number, name of the school or agency submitting the certificate, indication if NPS or NPA, and the location of the school or agency submitting the certificate. In addition, all sub-contractors must meet the requirements as contained in section 45 Clearance Requirements and section 46 Staff Qualifications of this Master Contract.

19. **CONFLICTS OF INTEREST**

CONTRACTOR shall provide upon request to LEA a copy of its current bylaws and a current list of its Board of Directors (or Trustees), if it is incorporated. CONTRACTOR and any member of its Board of Directors (or Trustees) shall disclose any relationship with LEA that constitutes or may constitute a conflict of interest including, but not limited to, employment with LEA, provision of private party assessments and/or reports, and attendance at IEP team meetings and/or due process proceedings acting as a student's advocate. Unless CONTRACTOR and LEA otherwise agree in writing, LEA shall not execute an ISA with CONTRACTOR nor amend an existing ISA for a LEA student when a parent of the LEA student is an owner, employee or agent of the NPA or NPS. CONTRACTOR shall endeavor to avoid the assignment of close relatives or cohabitants to work in situations involving the provision of special education and/or related services to any LEA student where conflicts of interest could arise. For purposes of this Agreement, close relatives shall be defined as including spouse, sibling, parent, child, or grandchild; cohabitants shall be defined as persons living together. Exceptions to this term can only be made in writing between CONTRACTOR and LEA. Pursuant to California Education Code section 56042, an attorney or advocate for a parent of an individual with exceptional needs shall not recommend placement at CONTRACTOR's facility if the attorney or advocate is employed or contracted by the CONTRACTOR, or will receive a benefit from the CONTRACTOR, or otherwise has a conflict of interest.

Unless CONTRACTOR and LEA otherwise agree in writing, LEA shall neither execute an ISA with CONTRACTOR nor amend an existing ISA for a LEA student when a recommendation for new or additional special education and/or related services is based in whole or in part on

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assessment(s) or reports provided by CONTRACTOR to the LEA student without prior written authorization by LEA. This section 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. LEA shall compensate CONTRACTOR for related service assessments, performed at the request of the LEA when CONTRACTOR, prior to beginning the assessment, provides LEA with a written notice of the expected costs of the assessment, and LEA elects to proceed with the assessment. To avoid a conflict of interest, and in order to ensure the appropriateness of an Independent Educational Evaluation (hereinafter referred to as "IEE") and its recommendations, the LEA may, in its discretion, not fund an IEE by an evaluator who provides ongoing service(s) or is sought to provide service(s) to the student for whom the IEE is requested. Likewise, the LEA may, in its discretion, not fund ongoing services provided by the evaluator whose IEE the LEA agrees to fund when no other appropriate assessor is available, LEA may request and if contractor agrees, the contractor may provide an IEE.

20. **NON-DISCRIMINATION**

CONTRACTOR shall not, in employment or operation of its programs, unlawfully discriminate on the basis of gender, nationality, national origin, ancestry, race, color, ethnicity, ethnic group affiliation, religion, age, marital status, pregnancy or parental status, sex, sexual orientation, gender, gender identity or expression, physical or mental disability, genetic information, or any other classification protected by federal or state law or the perception of one or more of such characteristics, or association with a person or group with one or more of these actual or perceived characteristics.

EDUCATIONAL PROGRAM

21. **FREE AND APPROPRIATE PUBLIC EDUCATION**

LEA shall provide CONTRACTOR with a copy of the IEP including the Individualized Transition Plan (hereinafter referred to as "ITP") of each LEA student served by CONTRACTOR. CONTRACTOR shall provide to each LEA student special education and/or related services (including transition services) within the nonpublic agency consistent with the LEA student's IEP and as specified in the ISA. If student services are provided by a subcontractor (i.e. Related Services Provider), CONTRACTOR shall notify LEA within thirty (30) days if the provision of services cease.

Unless otherwise agreed to between CONTRACTOR and LEA, CONTRACTOR shall be responsible for the provision of all appropriate supplies, equipment, or facilities for LEA students, as specified in the LEA student's IEP and ISA. CONTRACTOR shall ensure that facilities are adequate to provide LEA students with an environment, which meets all pertinent health and safety regulations. CONTRACTOR shall make no charge of any kind to parents for special education and/or related services as specified in the LEA student's IEP and ISA including, but not limited to, screenings, assessments, or interviews that occur prior to or as a condition of the LEA student's enrollment under the terms of this Master Contract. CONTRACTOR may charge a LEA student's parent(s) for services and/or activities not necessary for the LEA student to receive a free appropriate public education after: (a) written

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notification to the LEA student's parent(s) of the cost and voluntary nature of the services and/or activities; and (b) receipt by the LEA of the written notification and a written acknowledgment signed by the LEA student's parent(s) of the cost and voluntary nature of the services and/or activities. CONTRACTOR shall adhere to all LEA requirements concerning parent/ guardian acknowledgment of financial responsibility.

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

22. **GENERAL PROGRAM OF INSTRUCTION**

All CONTRACTOR services shall be provided consistent with the area of certification specified by CDE certification and as defined in California Education Code section 56366 *et seq*, and shall ensure that facilities are adequate to provide LEA students with an environment, which meets all pertinent health and safety regulations.

When CONTRACTOR is a nonpublic agency and/or related services provider, CONTRACTOR's general program of instruction and/or services shall utilize evidence-based practices and be consistent with LEA and CDE guidelines and certification and be provided as specified in the LEA student's IEP and ISA.

The nonpublic agency providing Behavior Intervention Therapy as a related service shall develop a written treatment plan that specifies the nature of their nonpublic agency service for each student within thirty (30) days of enrollment and shall be available upon request. Except for services provided by a contractor that is a LCI, all services not provided in the clinic/school setting require the presence of a parent, guardian or adult caregiver with written and signed authority to make decisions in an emergency during the delivery of services. LCI contractors shall ensure that appropriate and qualified residential or clinical staff are present during the provision of services under this Master Contract. CONTRACTOR shall immediately notify LEA in writing if no parent, guardian or adult caregiver is present. It is understood and agreed that the parent of a LEA student shall not be deemed by CONTRACTOR to be qualified as a provider for their own child. CONTRACTOR shall make available upon request to LEA a written description of the general program of instruction and/or services provided prior to the effective date of this Master Contract. It is understood that Behavior Intervention Therapy services are limited per CDE Certification and do not constitute an instructional program.

23. **INSTRUCTIONAL MINUTES**

As CONTRACTOR is a nonpublic agency and/or related services provider, the total number of minutes per school day provided by CONTRACTOR shall be specified in the LEA student's ISA developed in accordance with the LEA student's IEP. Should a student require services beyond the total number of minutes per school day (i.e., aide student in being transported, support before school or afterschool on campus), these additional minutes shall be specified in the LEA student's ISA.

When CONTRACTOR provides Professional Services not specified by an IEP and related ISA, written agreement via (a) a Referral Form returned to CONTRACTOR, or (b) confirmed

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electronic-based agreement shall include an outline of compensation inclusive of contracted tasks and anticipated number of hours and/or cost associated with the agreement.

24. CALENDARS

As CONTRACTOR is a nonpublic agency, CONTRACTOR shall be provided with a LEA-developed/approved calendar. CONTRACTOR herein agrees to observe holidays as specified in the LEA-developed/approved calendar. CONTRACTOR shall provide services pursuant to the LEA-developed/approved calendar; or as specified in the LEA student's IEP and ISA. Unless otherwise specified in the LEA student's IEP and ISA, CONTRACTOR shall provide related services to LEA students on only those days that the LEA student's school of attendance is in session and the LEA student attends school. CONTRACTOR shall bill only for services provided on billable days of attendance as indicated on the LEA calendar unless otherwise specified in the LEA student's IEP and ISA.

25. DATA REPORTING

CONTRACTOR shall agree to provide all data related to student information, billing information, and discipline information (see Section 31) requested by and in the format required by the LEA. It is understood that all nonpublic agencies shall utilize the Special Education Information System (SEIS) or comparable system approved by the LEA and SELPA for all IEP development and progress reporting. Additional progress reporting may be required by the LEA. The LEA shall provide the CONTRACTOR with appropriate software, user training and proper internet permissions to allow adequate access.

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.

26. LEAST RESTRICTIVE ENVIRONMENT/DUAL ENROLLMENT

CONTRACTOR and LEA shall follow applicable LEA policies and procedures that support Least Restrictive Environment ("LRE") 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.

CONTRACTOR and LEA shall ensure that LRE placement options are addressed at all IEP team meetings regarding students for whom ISAs have been or may be executed. This shall include IEP team consideration of supplementary aids and services as well as goals and objectives as necessary for placement in the LRE and necessary to enable students to transition to less restrictive settings.

27. LEA MEETINGS AND TRAININGS

CONTRACTOR shall attend LEA meetings for contracting nonpublic agencies when applicable 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

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responsibilities, transition services, IEP System and standardized testing. LEA shall provide CONTRACTOR with reasonable notice of mandated meetings. When CONTRACTOR serves multiple LEAs, CONTRACTOR will inform other contracting LEAs after its completion of mandated instruction on federal or state requirements at a different LEA.

LEA may invite CONTRACTOR to LEA staff development and training to implement new and revised mandated requirements, including, but not limited to, common core curriculum, state testing, and other topics related to the provision of services for LEA students.

28. **POSITIVE BEHAVIOR INTERVENTIONS**

CONTRACTOR shall comply with the requirements of Education Code Section 49005, et seq., 56521.1, and 56521.2 regarding positive behavior interventions. LEA students who exhibit serious behavioral challenges must receive timely and appropriate assessments and positive supports and interventions in accordance with the federal law and its implementing regulations. If the individualized education program (“IEP”) team determines that a student’s behavior impedes his or her learning or the learning of others, the IEP team is required to consider the use of positive behavioral interventions and supports, and other strategies, to address that behavior, consistent with Section 1414(d)(3)(B)(i) and (d)(4) of Title 20 of the United States Code and associated federal regulations. This could mean that instead of developing a BIP, the IEP team may conclude it is sufficient to address the student’s behavioral problems through the development of behavioral goals and behavioral interventions to support those goals.

CONTRACTOR shall maintain a written policy pursuant to California Education Code section 56521.1 regarding emergency interventions, including prohibited behavioral interventions, and Behavioral Emergency Reports (“BERs”). CONTRACTOR shall ensure that all of its instructional staff are trained in crisis intervention, emergency procedures, and evidence-based practices and interventions specific to the unique behavioral needs of the CONTRACTOR’s pupil population. The training shall be provided within 30 days of employment to new staff who have any contact or interaction with pupils during the 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. Training includes certification with crisis management and intervention program (i.e., Professional Crisis Management Association). Documentation of such training shall be made available to LEA upon request.

Pursuant to Education Code section 56521.2, emergency interventions shall not be used as a substitute for a Behavior Intervention Plan (“BIP”), and instead may only be used to control behavior that is unpredictable and spontaneous. For an emergency intervention to be used, the behavior must pose a clear and present danger of serious physical harm to the individual with exceptional needs, or others. Before emergency interventions may be applied, the behavior must be of the kind that cannot be immediately prevented by a response less restrictive than the temporary application of a technique used to contain the behavior. Emergency intervention shall not be employed longer than necessary to contain the behavior. If a situation requires prolonged use of emergency intervention, staff must seek assistance from the school site administrator or a law enforcement agency.

CONTRACTOR shall complete a BER when an emergency occurs that is defined as a serious, dangerous behavior that staff has determined to present a clear and present danger to others. It may require 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 (1) one school day for administrative action. CONTRACTOR shall notify LEA and Parent within twenty-four (24) hours. If the student does not have a Behavior Intervention Plan (“BIP”) or Positive Behavior Intervention Plan (“PBIP”), an IEP team shall schedule a meeting to review the BER, determine if there is a necessity for a functional behavioral assessment, and to determine an interim plan. If the student already has a BIP, the IEP team shall review and modify the BIP if a new serious behavior has been exhibited or existing behavioral interventions have proven to be ineffective. Within (2) two school days, CONTRACTOR and LEA shall schedule an IEP meeting.

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:

(1) Any intervention that is designed to, or likely to, cause physical pain, including, but not limited to, electric-shock (2) An intervention that involves the release of noxious, toxic, or otherwise unpleasant sprays, mists, or substances in proximity to the face of the individual. (3) An intervention that denies adequate sleep, food, water, shelter, bedding, physical comfort, or access to bathroom facilities. (4) An intervention that is designed to subject, used to subject, or likely to subject, the individual to verbal abuse, ridicule, or humiliation, or that can be expected to cause excessive emotional trauma. (5) Restrictive interventions that employ a device, material, or objects that simultaneously immobilize all four extremities, including the procedure known as prone containment, except that prone containment or similar techniques may be used by trained personnel as a limited emergency intervention. (6) Locked seclusion, unless it is in a facility otherwise licensed or permitted by state law to use a locked room. (7) An intervention that precludes adequate supervision of the individual. (8) An intervention that deprives the individual of one or more of his or her senses. (b) In the case of a child whose behavior impedes the child’s learning or that of others, the individualized education program team shall consider the use of positive behavioral interventions and supports, and other strategies, to address that behavior, consistent with Section 1414(d)(3)(B)(i) and (d)(4) of Title 20 of the United States Code and associated federal regulations. (*Added by Stats. 2013, Ch. 48, Sec. 43. Effective July 1, 2013.*)

29. **STUDENT DISCIPLINE**

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

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A nonpublic agency shall notify the California Department of Education and the local educational agency with which it has a master contract of any pupil-involved incident at the school or agency in which law enforcement was contacted. This notification shall be provided in writing, no later than one business day after the incident occurred.

CONTRACTOR will report discipline data (Education Code Sections 48900 and 48915) upon request according to district requirements for reporting.

30. **IEP TEAM MEETINGS**

An IEP team meeting shall be convened at least annually to evaluate: (1) the educational progress of each student placed with CONTRACTOR, including all state assessment results pursuant to the requirements of California Education Code section 52052; (2) whether or not the needs of the student continue to be best met at the nonpublic school; and (3) whether changes to the student's IEP are necessary, including whether the student may be transitioned to a public school setting (California Education Code sections 56366 (a) (2) (B) (i) and (ii)). Pursuant to California Education Code section 56345(b) (4), if an LEA student is to be transferred from a NPS setting into a regular class setting in a public school for any part of the school day, the IEP team shall document, if appropriate, a description of activities provided to integrate the student into the regular education program, including the nature of each activity as well as the time spent on the activity each day or week and a description of the activities provided to support the transition of the student from the special education program into the regular education program. Each LEA student shall be allowed to provide confidential input to any representative of his or her IEP team pursuant to California Education Code Section 56341.5. Except as otherwise provided in the Master Contract, CONTRACTOR and LEA shall participate in all IEP team meetings regarding LEA students for whom ISAs have been or may be executed. 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, subject to all procedural safeguards required by law, including reasonable notice given to, and participation of, the CONTRACTOR in the meeting. In preparation for IEPs or upon request with 30 days prior written notice CONTRACTOR shall provide to LEA academic assessments and written progress reports by service providers. It is understood that provider attendance at an IEP team meeting are part of CONTRACTOR's professional responsibility and is a billable service under this Master Contract.

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 or ISA. In the event that the CONTRACTOR believes the student requires a change of services, the CONTRACTOR must provide the rationale within the IEP process.

31. **DUE PROCESS PROCEEDINGS**

CONTRACTOR shall fully participate in special education due process proceedings including resolution meetings, 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

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with the State of California, the Office of Civil Rights, or any other state and/or federal governmental body or agency. Participation in due process proceedings is billable to the LEA at the professional's contracted rate for services.

32. **SERVICES, SUPERVISION AND PROFESSIONAL CONDUCT**

If CONTRACTOR provides services on LEA public school campuses, CONTRACTOR shall comply with Penal Code sections 627.1 *et. seq.*, and LEA procedures regarding visitors to school campuses specified by LEA policy, and the procedures of the campus being visited. CONTRACTOR shall be responsible for the purchase and provision of the supplies and assessment tools necessary to implement the provision of their contracted services on LEA public school campuses.

For services provided on a public school campus, sign in/out procedures shall be followed along with all other procedures for being on campus consistent with school and LEA policy. It is understood that the public-school credentialed classroom teacher is responsible for the educational program and all nonpublic agency service providers shall work collaboratively with and not replace the classroom teacher, who shall remain in charge of the instructional program.

CONTRACTORS providing nonpublic agency services outside of the student's school as specified in the IEP shall ensure that at least one parent of the child or an adult caregiver with written and signed authority to make decisions in an emergency is present during provision of services. The names of 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 adult caregiver cannot also be an employee or volunteer associated with the NPA service provider. All significant problems and/or concerns (e.g., law enforcement, medical response, BER, any behavioral incident that could result in need for IEP) reported by CONTRACTOR to parents or guardians, or from parent or guardian to CONTRACTOR, in either verbal or written form, shall be reported to the LEA.

It is understood, that all employees, subcontractors and volunteers of any certified nonpublic agency shall adhere to customary professional standards when providing services. All practices shall be within the scope of professional responsibility as defined in the professional code of conduct for each profession. Reports regarding student progress shall be consistent with the provision of this contract.

PERSONNEL

33. **CLEARANCE REQUIREMENTS**

CONTRACTOR shall comply with the requirements of California Education Code sections 44237, 35021.1, 35021.2, and 56366.1 including, but not limited to: obtaining clearance from the California Department of Justice (hereinafter referred to as "CDOJ") for CONTRACTOR's employees, volunteers, subcontractors, related outside agency service provider's staff or any person with regular student contact employed directly or indirectly by it prior to service with any LEA student. CONTRACTOR hereby agrees that CONTRACTOR's employees, volunteers, subcontractors or any person employed directly or indirectly (such as Department of Probation, Department of Children and Family Services, and/or Department of Children's

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Services) by it shall not come in contact with LEA students until CDOJ clearance is ascertained. CONTRACTOR shall certify in writing to LEA that none of its employees, and volunteers, subcontractors or any person employed directly or indirectly by it 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). Contractor shall certify to LEA that they have successful background checks and enrolled in subsequent arrest notification service for all employees who may come into contact with students. In addition, CONTRACTOR shall make a request for subsequent arrest service from the CDOJ as required by California Penal Code section 11105.2.

Notwithstanding the restrictions on sharing and destroying criminal background check information, CONTRACTOR, upon demand, shall make available to the State Superintendent of Instruction evidence of a successful criminal background check clearance and enrollment in subsequent arrest notice service, as provided, for each owner, operator, and employee of the nonpublic agency. CONTRACTOR is required to retain the evidence, 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.

34. STAFF QUALIFICATIONS

CONTRACTOR shall ensure that all individuals employed, contracted, and/or otherwise hired by CONTRACTOR to provide classroom and/or individualized instruction or related services hold a license, certificate, permit, or other document equivalent to that which staff in a public school are required to hold in the service rendered consistent with Education Code section 56366.1(n)(1) and are qualified pursuant to Title 34 of the Code of Federal Regulations sections 200.56 and 200.58, and Title 5 of the California Code of Regulations sections 3001(y), 3064 and 3065. Such qualified staff may only provide related services within the scope of their professional license, certification or credential and ethical standards set by each profession and not assume responsibility or authority for another related services provider or special education teacher's scope of practice.

CONTRACTOR shall ensure that all staff are appropriately credentialed to provide instruction and services to students with disabling conditions placed in their program/school through documentation provided to the CDE (5 CCR 3064 (a)).

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.* Specifically, all paraprofessionals, including, but not limited to, instructional aides and teacher assistants, employed, contracted, and/or otherwise hired or subcontracted by CONTRACTOR to provide classroom and/or individualized instruction or related services, shall possess a high school diploma (or its recognized equivalent) and at least one of the following qualifications: (a) completed at least 2 years of study at an institution of higher education; or (b) obtained an associate's (or higher) degree; or (3) met a rigorous standard of quality and can demonstrate, through a formal state or local assessment (i) knowledge of, and the ability to assist in instructing, reading, writing, and

mathematics; or (ii) knowledge of, and the ability to assist in instructing, reading readiness, writing readiness, and mathematics readiness, as appropriate. CONTRACTOR shall comply with all laws and regulations governing the licensed professions, including but not limited to, the provisions with respect to supervision.

In addition to meeting the certification requirements of the State of California, a CONTRACTOR that operates a program outside of this State and serving a student by this LEA shall be certified or licensed by that state to provide 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.).

35. **VERIFICATION OF LICENSES, CREDENTIALS AND OTHER DOCUMENTS**

CONTRACTOR shall monitor the status of licenses, credentials, certifications, permits and/or other documents for all individuals employed, contracted, and/or otherwise hired by CONTRACTOR. User account must be closed by CONTRACTOR within five (5) days of employee separation.

CONTRACTOR shall ensure that all licenses, credentials, permits, certifications 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 are current and valid with the appropriate licensing authority.

CONTRACTOR shall notify LEA and CDE in writing within forty-five (45) days when personnel changes occur which may affect the provision of special education and/or related services to LEA students. CONTRACTOR shall notify LEA within forty-five (45) days if any such licenses, certifications or waivers are expired, suspended, revoked, rescinded, challenged pursuant to an administrative or legal complaint or lawsuit, or otherwise nullified during the effective period of this Master Contract. The LEA shall not be obligated to pay for any services provided by a person whose such licenses, certifications or waivers are expired, suspended, revoked, rescinded, or otherwise nullified during the period during which such person is providing services under this Master Contract. Failure to notify the LEA and CDE of any changes in credentialing/licensed staff may result in suspension or revocation of CDE certification and/or suspension or termination of this Master Contract by the LEA.

36. **STAFF ABSENCE**

When CONTRACTOR is a nonpublic agency and/or related services provider, and CONTRACTOR's service provider is absent, CONTRACTOR shall provide a qualified (as defined in section seven (7) of this agreement 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 documentation evidencing the provision of "make-up" services by a qualified service provider within thirty (30) calendar days from the date on which the services should have been provided. CONTRACTOR shall not "bank" or "carry over" make up Behavior Intervention (i.e., aide services) service hours. They shall make up Behavior Consultation/BID hours within the academic calendar year.

HEALTH AND SAFETY MANDATES

37. HEALTH AND SAFETY

CONTRACTOR shall comply with all applicable federal, state, local, and LEA laws, regulations, ordinances, and policies, regarding student and employee health and safety. CONTRACTOR shall comply with the requirements of California Education Code sections 35021 *et. seq.* and 49406 regarding the examination of CONTRACTOR's employees and volunteers for tuberculosis and required vaccination(s). CONTRACTOR shall ensure and provide upon request to LEA documentation for each individual employed and contracted by CONTRACTOR of such compliance before an individual comes in contact with an LEA student.

38. CHILD ABUSE REPORTING

CONTRACTOR shall 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 sections 11165.7, AB 1432, and Education Code 44691. To protect the privacy rights of all parties involved (i.e, reporter, child and alleged abuser), reports will remain confidential as required by law and professional ethical mandates. CONTRACTOR shall ensure that all nonpublic agency providers, subcontractors or any person employed directly by it, are trained on the Suspected Child Abuse Reporting requirements, at the beginning of each school year. A written assurance acknowledging the legal requirements of such reporting and verification of staff adherence to such reporting shall be submitted to the LEA upon request.

39. SEXUAL HARASSMENT

CONTRACTOR shall have an antiharassment and discrimination policy that clearly describes the kinds of conduct that constitutes sexual harassment as well as harassment or discrimination based upon race, color, religion, medical condition, disability, age, citizenship, or other class protected by 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 and other complaints. CONTRACTOR further agrees to provide annual training to all employees regarding the laws concerning sexual harassment and related procedures pursuant to Government Code 12950.1.

FINANCIAL

40. ENROLLMENT, CONTRACTING, SERVICE TRACKING, ATTENDANCE REPORTING, AND BILLING PROCEDURES

CONTRACTOR shall ensure that the agency has the necessary personnel and financial resources to provide an appropriate education for the students enrolled and will distribute those resources in such a manner to implement the IEP for each and every LEA student. CONTRACTOR shall use the codes and rates as delineated in section 61 and Exhibit A (Rate Schedule) when preparing ISA's and submitting invoice documentation.

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

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

If LEA determines that cause exists to withhold payment to CONTRACTOR, LEA shall, within ten (10) business days of this determination, provide to CONTRACTOR written notice that LEA is withholding payment. Such notice shall specify the basis or bases for LEA's withholding payment and the amount to be withheld. Within thirty (30) days from the date of receipt of such notice, CONTRACTOR shall take all necessary and appropriate action to correct the deficiencies that form the basis for LEA's withholding payment or submit a written request for extension of time to correct the deficiencies. Upon receipt of CONTRACTOR's written request showing good cause, LEA shall extend CONTRACTOR's time to correct deficiencies (usually an additional thirty (30) days), otherwise payment will be denied.

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

If after subsequent request for payment has been denied and CONTRACTOR believes that payment should not be withheld, CONTRACTOR shall send written notice to LEA specifying the reason it believes payment should not be withheld. LEA shall respond to CONTRACTOR's notice within thirty (30) business days by indicating that a warrant for the amount of payment will be made or stating the reason LEA believes payment should not be made. If LEA fails to respond within thirty (30) business days or a dispute regarding the withholding of payment continues after the LEA's response to CONTRACTOR's notice, CONTRACTOR may invoke the following escalation policy.

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

After sixty (60) business days: Disagreements between the LEA and CONTRACTOR concerning the Master Contract may be appealed to the County Superintendent of Schools or the State Superintendent of Public Instruction pursuant to the provisions of California Education Code Section 56366(c) (2).

41. **PAYMENT FOR ABSENCES**

When CONTRACTOR is a nonpublic agency and CONTRACTOR's service provider is absent, CONTRACTOR shall provide a qualified (as defined in section seven (7) of this agreement and as determined by LEA) substitute, unless LEA provides appropriate coverage in lieu of CONTRACTOR's service providers in accordance with section 48 of this agreement. LEA shall not pay for services unless a qualified substitute is provided and/or CONTRACTOR provides documentation evidencing the provision of "make-up" services by a qualified service provider within thirty (30) calendar days from the date on which the services should have been provided. In the event of Provider absence for Behavior Intervention Implementation Therapy services provided at the school site, services shall not be deemed eligible for make-up. CONTRACTOR shall not "bank" or "carry over" make up service hours under any circumstances, unless otherwise agreed to in writing by CONTRACTOR and LEA. In the event services were not provided, reasons for why the services were not provided shall be included.

If CONTRACTOR is a nonpublic agency, it shall notify LEA of the absence or refusal of service of an LEA student no later than the fifth consecutive service day of the student's absence or refusal of services. Unless otherwise stipulated in the LEA student's IEP, or authorized by a LEA representative, LEA shall not be responsible for the payment of services when a student is absent or refuses services and student is not eligible for makeup services. In the event services were not provided, reasons for why the services were not provided shall be included.

42. **INSPECTION AND AUDIT**

The CONTRACTOR shall maintain and the LEA shall have the right to examine and audit all of the books, records, documents, accounting procedures, programs and practices and other evidence that reflect all costs claimed to have been incurred or fees claimed to have been earned under this Agreement.

CONTRACTOR shall provide access to LEA to all records including, but not limited to: pupil records as defined by California Education Code section 49061(b) including electronically stored information; cost data and fiscal 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 used to record the provision of related services including supervision; daily service logs and notes or other documents used to record the provision of services provided through adult assistance (herein after referred to as "aide"), behavior intervention aides; absence verification records; staff lists specifying credentials held and documents evidencing other staff qualifications, dates of hire, and dates of termination; records of employee training and certification; staff time sheets; liability and worker's compensation insurance policies; state nonpublic school and/or agency certifications; by-laws; lists of current board of directors/trustees, if incorporated; and other documents evidencing financial expenditures; federal/state payroll quarterly reports (Form 941/DE3DP); and bank statements and canceled checks or facsimile thereof. Such access shall include unannounced inspections

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by LEA. CONTRACTOR shall make available to LEA all budgetary information including operating budgets submitted by CONTRACTOR to LEA for the relevant contract period being audited.

CONTRACTOR shall make all records available at the office of LEA or CONTRACTOR's offices (to be specified by LEA) at reasonable times and without charge. All records shall be provided to LEA within five (5) business 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, it shall be provided in a format that is accessible and readable by current software utilized by the LEA.

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

43. RATE SCHEDULE

The attached rate schedule (Exhibit A) limits the number of contracted LEA students that may be enrolled and the maximum dollar amount of the contract. It may also limit the maximum number of contracted LEA students that can be provided specific services. Special education and/or related services offered by CONTRACTOR, shall be provided by qualified personnel as per State and Federal law, and the codes and charges for such educational and/or related services during the term of this contract, shall be as stated in Exhibit A, attached hereto.

44. DEBARMENT CERTIFICATION

By signing this agreement, the CONTRACTOR certifies that:

- (a) The CONTRACTOR and any of its shareholders, partners, or executive officers are not presently debarred, suspended, proposed for debarment, or declared ineligible for the award of contracts by any Federal agency, and
- (b) Have not, within a three-year period preceding this contract, been convicted of or had a civil judgment rendered against them for: commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a Federal, state or local government contract or subcontract; violation of Federal or state antitrust statutes relating to the submission of offers; or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, tax evasion, or receiving stolen property; and are not presently indicted for, or otherwise criminally or

civilly charged by a Government entity with, commission of any of these offenses

The parties hereto have executed this Master Contract by and through their duly authorized agents or representatives. This Master Contract is effective on the 2nd day of March 2022, and terminates at 5:00 P.M. on June 30, 2022, unless sooner terminated as provided herein.

CONTRACTOR,
Assessment, Consultation and Treatment

LEA,
Azusa Unified School District

Nonpublic Agency

By: *Paula Santos*
 Signature Date
 Dr. Paula Santos, Psy.D., BCBA-D
 Name and Title of Authorized Representative

By: _____
 Signature Date
 Dr. Dayna Mitchell, Assist. Superintendent, Ed. Services
 Name and Title of Authorized Representative

Notices to CONTRACTOR shall be addressed to:

Notices to LEA shall be addressed to:

Dr. Paula M. Santos	Erin Kremer, Director Special Education
Assessment, Consultation & Treatment	LEA Azusa Unified School District
255 E. Santa Clara St. Ste. 210	546 South Citrus Avenue
Arcadia CA 91006	Azusa CA 91702
Phone: (626)824.0982 Fax: (888)717.7674	Phone: (626) 858-6184 Fax
drsantos@ACTpsychology.com	ekremer@azusa.org

EXHIBIT A: 2021-2022

RATES

4.1 RATE SCHEDULE FOR CONTRACT YEAR- RELATED SERVICES