

# Heartwood Charter School

## Agenda for the special meeting of the Heartwood Charter School Board of Directors

Call in location: 225 Tamalpais Rd, Fairfax, CA 94930

Call in location: 55 Fire Rd, Woodacre, CA 94973

The meeting may be joined by phone: (US)[+1 475-441-4761](tel:+14754414761) PIN: 512 966 445#

**Wednesday, September 29, 2021, 2021**

**9:00 AM Public Session**

Call to Order

- I. Roll Call
- II. Action Items
  - A. The Board will consider whether to continue to conduct Board meetings via video conference during the current pandemic conditions in order to mitigate the risk to health and safety that is presented by in-person meetings and approve, defer or agree to study further.
  - B. The Board will consider the corrections to Assignment Changes for faculty and approve, defer or agree to study further.
  - C. The Board will consider a revised contract for Presence Learning to correct terms for California services and approve, defer or agree to study further.
- III. Dates and Future Agenda Items

# Charter Currents: Governor Signs Legislation Authorizing Board Teleconferencing Flexibility but Delays Implementation a Bit

**Sacramento, CA**—On September 16, Governor Newsom signed [AB 361](#), legislation to facilitate teleconferencing of public meetings during states of emergency into law and, followed four days later with [Executive Order N-15-21](#), which delays the implementation of AB 361 until October 1. AB 361 amends California’s various public agency open meeting laws, including the Brown Act and codifies public agencies’ ability to conduct meetings via teleconference, notwithstanding some of the usual provisions that make teleconferences impractical during emergencies. This should give governing boards extended flexibility to teleconference during the pandemic after the governor’s current executive orders allowing this flexibility to expire on September 30.

The details of AB 361, however, differ from the current teleconferencing flexibility afforded public agencies. Charter school governing boards should review the specifics of AB 361 and take action to decide whether and how to take advantage of its flexibility, ideally prior to October 1 or shortly thereafter. Under long-standing law, the Brown Act allows for teleconferencing during public meetings, but is subject to numerous restrictions, some of which are difficult or impossible to implement during emergency situations (e.g., requiring an open facility at each teleconference location, which is difficult or impossible when social distancing).

## When Is Teleconferencing Flexibility Applicable?

AB 361 flexes some, but not all of the usual restrictions on teleconferencing during specified states of emergency. It provides that legislative bodies (governing boards and subject board committees) may use teleconferencing without complying with some of the usual restrictions during a “proclaimed state of emergency,” in any of the following three circumstances:

- **Required or recommended social distancing:** During periods when state or local officials have imposed or recommended measures to promote social distancing.
- **Meeting to determine health/safety risks:** When the legislative body meets for the purpose of determining, by majority vote, whether, as a result of the emergency, meeting in person would present imminent risks to the health or safety of attendees. CSDC presumes that charter schools enjoy a reasonable degree of local discretion to make such determinations, subject to the larger requirement that the governor has proclaimed a state of emergency pursuant to [Government Code section 8625](#).
- **Meeting after determining immediate health/safety risks exist:** After a legislative body has made the determination (noted immediately above) that meeting in person would present imminent risks to health and safety.

If one or more of the above three apply, the legislative body may use the more flexible teleconferencing provisions inserted by AB 361, subject to the many details described below. Note that while it appears that either state or local orders or recommendations to implement social distancing can be considered (per the first bullet point above), and the determination of health/safety risks is made at the local level (per the second and third points above), all three are subject to the threshold requirement that the governor declare a state of emergency pursuant to the Government Code.

If a state of emergency as declared by the governor continues to remain active, legislative bodies must “re-up” their decision to teleconference using this flexibility within 30 days after their initial teleconference, and every 30 days thereafter. Doing so, a legislative body must make the following findings, by majority vote:

- The body has reconsidered the circumstances of the state of emergency.

- Either of the following circumstances exist: (1) The state of emergency continues to directly impact the ability of the members to meet safely in person, and/or (2) state or local officials continue to impose or recommend measures to promote social distancing.

Changed Assignments  
9/28/2021

	Status	Assignment (students)	Assignment Change	FTE	Current Pay	Additional Assignment	Proposed Salary 21-22	Proposed Est Pay 21-22		Effective Date
Kelly Prescutti	Returning	30.00	Handwork 2 periods	1.00	\$63,000	\$2,600	\$65,600			9/1/2021
Kit Mayberry	Returning	27.00	Math 5 hours, 1 addl tutoring, reduce to 27 students	1.00	\$64,000	\$6,600	\$70,600			9/1/2021
Melissa Hartley	Current	17.00	Reduce roster to 17 Gen Ed, add 13 hrs Acad. Support	1.00	\$52,500	\$17,063	\$52,800			
Angela Cloud	Current	10.00	Cume folder management (one time)	0.40	\$21,000	\$1,000		\$ 30.20	\$ 22,080	
Maggie Moore	Returning	-	Up to 4 hours Academic Support	0.10	\$0	\$7,800		\$ 50.00	\$ 7,800	9/27/2021
Devyn Gilman	New	-	Up to 6 hours Academic Support	0.15	\$0	\$11,700		\$ 40.00	\$ 11,700	9/27/2021
Sarah Rose McMahon	swb	1.00	Move from K to 1st assistant	1.00	\$28,800			\$ 24.00	\$ 31,425	9/1/2021
Scott Kreinberg	Returning	30.00	Increase roster to 30 General Ed	1.00	\$52,500		\$63,000			9/27/2021
Talia Maas-Howard	Returning	30.00	Increase roster to 30 General Ed	1.00	\$52,500		\$63,000			10/1/2021



# PresenceLearning

## Service Order

### LEA Name and Contact Information

Name: Heartwood Charter School-CA

Address: 170 Liberty School Road Petaluma, CA

### LEA Primary Point of Contact

Name: Mark Puccinelli

Email Address: [mark@heartwoodcharterschool.org](mailto:mark@heartwoodcharterschool.org)

### LEA Secondary Point of Contact

Name: Alicia Soliz

Email Address: [alicia@heartwoodcharterschool.org](mailto:alicia@heartwoodcharterschool.org)

### PresenceLearning Contact Information

Name: David Cottle

Email Address: [david.cottle@presencelearning.com](mailto:david.cottle@presencelearning.com)

# Service Order

## 1. Services

Service Type	Student Quantity/ Groups	Service Rate
Hourly SLP Services	7	\$87.00
Hourly OT Services	6	\$87.00
Hourly BMH Services	1	\$87.00
Annual Student Administrative Fee	14	\$100.00

## 2. SLP Assessments

Service Type	Student Quantity/ Groups	Service Rate
Screening by SLP	0	\$64.00
Bilingual Screening by SLP	0	\$115.00
Evaluation Coordination and Reporting by SLP	0	\$257.00
Evaluation Coordination and Reporting by Bilingual SLP	0	\$257.00
Review of Records by SLP	0	\$114.00
Additional Assessment Component by SLP	0	\$33.00
Articulation Standard Assessment	0	\$69.00
Auditory Processing Select Index	0	\$85.00
Classroom Observation by SLP	0	\$47.00
Early Childhood Language Assessment	0	\$103.00
Fluency Standard Assessment	0	\$114.00
Language Select Index	0	\$31.00
Language Standard Assessment	0	\$149.00
Pragmatic Language Standard Assessment	0	\$91.00
Phonological Process Analysis Select Index	0	\$26.00
Phonological Processing Assessment	0	\$77.00
Supplemental Language Screener	0	\$26.00
Spanish Language Standard Assessment	0	\$143.00
Spanish Language Select Index	0	\$47.00
Spanish Auditory Processing Select Index	0	\$85.00
Additional Bilingual Assessment Component	0	\$47.00
Spanish Articulation Measures	0	\$47.00
Spanish Articulation Standard Assessment	0	\$57.00

Service Type	Student Quantity/ Groups	Service Rate
Augmentative Alternative Communication Assessment	0	\$114.00
Additional Language Subtest	0	\$33.00
Home Coordination by SLP	0	\$114.00
Language Difference vs. Disorder Analysis	0	\$86.00
Pre-referral Meeting by SLP	0	\$114.00

### 3. OT Assessments

Service Type	Student Quantity/ Groups	Service Rate
Screening by OT	0	\$64.00
Evaluation Coordination and Reporting by OT	0	\$257.00
Review of Records by OT	0	\$114.00
Classroom Observation by OT	0	\$47.00
Standard School-Related-ADL Assessment	0	\$74.00
Standard Sensory Processing Assessment	0	\$74.00
Standard Motor Skills Assessment	0	\$86.00
Standard Visual Perception Assessment	0	\$74.00
Standard Preschool Assessment	0	\$114.00
Additional Assessment Component by OT	0	\$33.00
Home Coordination by OT	0	\$114.00
Informal Fine Motor Assessment	0	\$47.00
Pre-referral Meeting by OT	0	\$114.00

### 4. BMH Assessments

Service Type	Student Quantity/ Groups	Service Rate
Screening by MHP	0	\$150.00
Evaluation Coordination and Reporting by MHP	0	\$290.00
Review of Records by MHP	0	\$270.00
Rating Scale Assessment	0	\$150.00
Classroom Observation by MHP	0	\$135.00
Additional Assessment by MHP	0	\$270.00
Additional Requested Meetings	0	\$67.00
Bilingual Services by MHP	0	\$135.00
Home Coordination by MHP	0	\$135.00
Pre-referral Meeting by MHP	0	\$135.00
Additional Requested Paperwork	0	\$67.00

5. Psychoeducational Assessments

Service Type	Student Quantity/ Groups	Service Rate
Evaluation Coordination and Reporting by MHP	0	\$290.00
Review of Records by MHP	0	\$270.00
Cognitive Select Index	0	\$135.00
Processing Select Index	0	\$135.00
Achievement Select Index	0	\$135.00
Rating Scale Assessment	0	\$150.00
Classroom Observation by MHP	0	\$135.00
Achievement Standard Battery	0	\$270.00
Long Cognitive Battery	0	\$270.00
Additional Assessment by MHP	0	\$270.00
Processing Standard Battery	0	\$270.00
Additional Requested Meetings	0	\$67.00
School Psych Consultation	0	\$87.00
Bilingual Services by MHP	0	\$135.00
Short Cognitive Battery	0	\$135.00
Spanish Select Index	0	\$300.00
Spanish Battery	0	\$390.00
Screening by MHP	0	\$150.00
Home Coordination by MHP	0	\$135.00
Pre-referral Meeting by MHP	0	\$135.00
Additional Requested Paperwork	0	\$67.00

Document Camera	\$85.00 (each)
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## Service Order

Contracted Students	14
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Assessments Commitment	5
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Psychoeducational Assessment Commitment	\$5,000.00
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Monthly Commitment*	\$2,557.80	29 hours at \$87.00
December Commitment*	\$1,705.20	20 hours at \$87.00

\*This is the monthly minimum amount you will be invoiced during the contracted period.

Service Order Term	July 1, 2021 through June 30, 2022
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## Service Order Form

Except as expressly set forth in this Service Order, the parties agree to be bound by the terms of the Master Service Agreement ("Agreement"). To the extent there is any conflict between this Service Order and the Agreement, this Service Order shall govern. The terms of this Service Order are confidential information.

The Parties have executed this Service Order as of the date of the last signature ("Service Order Effective Date").

PresenceLearning, Inc.

LEA

By:

By:

Name:

Name:

Title:

Title:

Date:

Date:

# Master Service Agreement

BY ACCEPTING A SERVICE ORDER OR OTHER AGREEMENT (THE "ORDERING DOCUMENT") THAT INCORPORATES THIS MASTER SERVICE AGREEMENT ("MASTER CONTRACT"), LEA (AS DEFINED IN THE ORDERING DOCUMENT) AGREES TO FOLLOW AND BE BOUND BY THE TERMS AND CONDITIONS OF THIS MASTER CONTRACT. THE ORDERING DOCUMENT AND MASTER CONTRACT TOGETHER CONSTITUTE THE AGREEMENT OF THE PARTIES AND ARE REFERRED TO COLLECTIVELY HEREIN AS THE "AGREEMENT." THE TERMS OF THE ORDERING DOCUMENT SHALL CONTROL OVER ANY CONFLICTING TERMS IN THE MASTER CONTRACT.

## 1. THE AGREEMENT.

This Agreement is entered into between LEA and PresenceLearning, Inc., a Delaware corporation with an office and place of business located at 180 Montgomery Street, Suite 1850, San Francisco, California 94104 "PresenceLearning" or "CONTRACTOR") (collectively, "Parties") 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 Agreement 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. Upon acceptance of a LEA student, LEA shall submit to CONTRACTOR an Individual Services Agreement ("ISA") and a Nonpublic Services Student Enrollment form as specified in the LEA Procedures. Unless otherwise specified or 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"). Provided that the LEA submits to CONTRACTOR an ISA, the ISA shall be executed within ninety (90) days of an LEA student's enrollment, and LEA and CONTRACTOR shall enter into an ISA for each LEA student served by CONTRACTOR. As available and appropriate, the LEA shall make available access to any electronic IEP system and /or electronic database for ISA developing including invoicing.

## 2. CERTIFICATION.

CONTRACTOR shall be certified by the California Department of Education (hereinafter referred to as "CDE") as a nonpublic, nonsectarian agency. All nonpublic agency services shall be provided consistent with the area of certification specified by CDE Certification and as defined in California Education Code, section 56366 et seq and within the professional scope of practice of each provider's license, certification and/or credential. Total student enrollment, if stated on CDE certification, shall be limited to that capacity.

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

During the term of this Agreement, unless otherwise agreed, CONTRACTOR shall comply with all applicable federal, state, and local statutes, laws, ordinances, rules, policies, and regulations. CONTRACTOR acknowledges and understands that LEA may report to the CDE any violations of the provisions of this Agreement; 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).

## 4. TERM OF AGREEMENT.

The term of this Agreement shall be reflected on the ORDERING DOCUMENT and shall not exceed one year (Title 5 California Code of Regulations section 3062(a)) unless otherwise in writing.

## 5. INTEGRATION/CONTINUANCE OF CONTRACT FOLLOWING EXPIRATION OR TERMINATION.

This Agreement includes the LEA Procedures and each ISA and they are incorporated herein by this reference. This Agreement supersedes any prior or contemporaneous written or oral understanding or agreement except as set forth in the ORDERING DOCUMENT. This Agreement may be amended only by written amendment executed

by both parties. The LEA may require copies of teacher credentials and clearances, insurance documentation and CDE certification. The LEA may also require additional information as applicable. In the event that this Agreement expires or terminates, CONTRACTOR shall continue to be bound to all of the terms and conditions of the most recent executed Agreement between CONTRACTOR and LEA for so long as CONTRACTOR is servicing authorized LEA students at the discretion of the LEA.

## **6. INDIVIDUAL SERVICES AGREEMENT.**

This Agreement shall include an ISA for each LEA student to whom CONTRACTOR is to provide 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). An ISA may be effective for more than one contract year provided that there is a concurrent Agreement in effect. In the event that this Agreement expires or terminates, CONTRACTOR shall continue to be bound to all of the terms and conditions of the most recent executed ISAs between CONTRACTOR and LEA for so long as CONTRACTOR is servicing authorized LEA students. Any and all changes to a LEA student's educational placement/program provided under this Agreement 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 Agreement, a LEA student's parent, CONTRACTOR, or LEA may request a review of a LEA student's IEP subject to all procedural safeguards required by law. Unless otherwise provided in this Agreement or in the IEP or ISA, the CONTRACTOR shall provide all services specified in the IEP. (California Education Code sections 56366(a) (5) and 3062(e)). In the event the CONTRACTOR is unable to provide a specific service which it agreed to provide at any time during the life of the ISA, the CONTRACTOR shall notify the LEA in writing within a commercially reasonable period. If a parent or LEA contests the termination of an ISA by initiating a due process proceeding with the OAH, CONTRACTOR shall abide by the "stay-put" requirement of state and federal law unless the parent agrees otherwise or an interim alternative educational 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 of the County where the LEA is located, or the State Superintendent of Public Instruction pursuant to the provisions of California Education Code section 56366(c) (2).

## **7. DEFINITIONS.**

The following definitions shall apply for purposes of this contract:

- a. The term "authorized LEA representative" means a LEA administrator designated to be responsible for nonpublic agencies. It is understood, a representative of the Special Education Plan Local Area (SELPA) of which the LEA is a member is an authorized LEA representative in collaboration with the LEA. The LEA maintains sole responsibility for the contract, unless otherwise specified in the contract
- b. The term "credential" means a valid credential, life diploma, permit, or document in special education or pupil personnel services issued by, or under the jurisdiction of, the State Board of Education if issued prior to 1970 or the California Commission on Teacher Credentialing, which entitles the holder thereof to perform services for which certification qualifications are required as defined in Title 5 of the California Code of Regulations section 3001(j).
- c. 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 applicable 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 service 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)).

d. 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 or refer to themselves using a specified professional title. If a license is not available through an appropriate state licensing agency, a certificate of registration with the appropriate professional organization at the national or state level which has standards established for the certificate that are equivalent to a license shall be deemed to be a license as defined in Title 5 of the California Code of Regulations section 3001(r).

e. The term “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, or a foster parent if the authority of the biological or adoptive parent to make educational decisions on the child’s behalf has been specifically limited by court order in accordance with Code of Federal Regulations 300.30(b)(1) or (2). “Parent” does not include the state or any political subdivision of government or the nonpublic 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).

f. The term “days” means calendar days unless otherwise specified.

g. The phrase “billable day” means a school day in which instructional minutes meet or exceed those in comparable LEA programs.

h. 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**

### **8. NOTICES.**

All notices provided for by this contract shall be in writing. Notices shall be mailed or delivered by hand and shall be effective as of the date of receipt by addressee. All notices mailed to LEA shall be addressed to the person and address as indicated on the ORDERING DOCUMENT. Notices to CONTRACTOR shall be addressed as indicated on the ORDERING DOCUMENT.

### **9. MAINTENANCE OF RECORDS & CONFIDENTIALITY.**

CONTRACTOR shall maintain records as required by applicable state and federal laws and regulations. For purposes of this Agreement, “records” may include student records as defined by California Education Code section 49061(b) including electronically stored information; cost data records as set forth in Title 5 of the California Code of Regulations section 3061; registers and roll books of teachers and/or daily service providers; daily service logs and notes and other documents used to record the provision of related services including supervision; daily service logs and notes used to record the provision of services provided through additional instructional assistants, NPA behavior intervention aides, and bus aides; absence verification records (parent/doctor notes, telephone logs, and related documents) if the CONTRACTOR is funded for excused absences, however, such records are not required if positive attendance is required; bus rosters; staff lists specifying credentials held and documents evidencing other staff qualifications, social security numbers, dates of hire, and dates of termination; records of employee training and certification, staff time sheets; non-paid staff and volunteer sign-in sheets; transportation and other related services subcontracts; school calendars; bell/class schedules when applicable; liability and worker’s compensation insurance policies; state nonpublic agency certifications by-laws; lists of current board of directors/trustees, if incorporated; documents evidencing financial expenditures; federal/state payroll quarterly reports; 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 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 need not 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. CONTRACTOR/LEA shall maintain copies of any written parental concerns granting access to student records. 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 agency closure, to forward LEA student records within a commercially reasonable period to LEA. These shall include, but not limited to, any current transcripts, IEP/IFSPs, and reports. LEA and/or SELPA shall be provided access to or copies of any and all records upon request within five business days. If LEA collects benchmarking data at the individual or school level, LEA shall provide CONTRACTOR with such benchmarking data for the individual students and school served pursuant to this Agreement. To the extent not prohibited by this Section or applicable law, CONTRACTOR may store indefinitely, use and publish deidentified benchmarking data. LEA understands that it may receive confidential and proprietary information relating to CONTRACTOR's business (hereinafter referred to as "CONTRACTOR CONFIDENTIAL INFORMATION"). LEA agrees that the CONTRACTOR CONFIDENTIAL INFORMATION is confidential and is the sole, exclusive and extremely valuable property of CONTRACTOR. In addition, LEA understands that it may receive confidential and proprietary information of third parties other than LEA, including but not limited to information and materials relating to assessments, in the course of the provision of Services. To the extent permitted by law, LEA agrees that it will keep confidential CONTRACTOR CONFIDENTIAL INFORMATION the confidential and proprietary materials and information of CONTRACTOR and third parties which it receives or to which it has physical or digital access pursuant to this Agreement. LEA also agrees that it will not disclose materials relating to an assessment to the student who will be assessed before it is necessary to do so to perform such an assessment. It is understood and agreed that money damages would not be a sufficient remedy for any LEA's breach of confidentiality and that CONTRACTOR shall be entitled to specific performance, including, without limitation, injunctive relief, as a remedy for any such breach by the LEA in any court of competent jurisdiction. Such remedy shall not be deemed to be the exclusive remedy for breach of confidentiality but shall be in addition to all other remedies available at law or equity. Notwithstanding any other provision in this Agreement, LEA may disclose CONTRACTOR CONFIDENTIAL INFORMATION or the existence of this Agreement to the extent required by any applicable law, regulation or court; provided however that, prior to making any such disclosure, LEA will notify CONTRACTOR promptly after becoming aware of a request for, or the existence of its obligation to make, such disclosure and will permit CONTRACTOR to seek to challenge, or limit, such required disclosure, and to review any materials prior to disclosure. Further, each party may disclose the existence of this Agreement or Confidential Information of the other for the limited purpose of enforcing its rights under this Agreement before a court of competent jurisdiction, provided that such disclosure will be accomplished in such a manner so as to protect the rights of the parties to this Agreement to the maximum extent reasonably possible.

The Parties agree that mutual consent is required for the initial publication or distribution of any research and/or marketing materials, including without limitation, customer or vendor lists, press releases, and research and case studies mentioning both Parties, but that once this consent is given for initial publication the Parties may republish such works in their original or reasonably modified form at will.

#### **10. 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.

#### **11. SUCCESSORS IN INTEREST.**

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

#### **12. VENUE AND GOVERNING LAW.**

The laws of the State of California shall govern the terms and conditions of this Agreement with venue in San Francisco County.



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

This Agreement may be modified or amended by the LEA, with mutual agreement of CONTRACTOR, 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 proposed changes or modifications made to conform to administrative or statutory guidelines and a copy of the statute or regulation upon which the modification or changes are based.

### **14. TERMINATION AND RENEWAL.**

This Agreement or any Individual Service Agreement 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 as required by California Education Code section 56366(a)(4). At the time of termination, CONTRACTOR may provide to LEA any and all documents CONTRACTOR is required to maintain under this Agreement. ISAs are void upon termination of this Agreement except as provided in Sections 5 and 6. CONTRACTOR or LEA may terminate an ISA for cause. To terminate an ISA, either party shall give twenty (20) days prior written notice. This Agreement shall continue until the end of the term set forth in the ORDERING DOCUMENT (hereinafter referred to as the "INITIAL TERM") and shall automatically renew on an annual basis (each a "RENEWAL TERM") unless (a) terminated in accordance with this Section or (b) either party gives written notice of its intention not to renew forty-five (45) days before expiration of the INITIAL TERM or a RENEWAL TERM. Upon the expiration or termination of this Agreement for any reason, all amounts owed to CONTRACTOR under this Agreement, which accrued before such termination or expiration will be immediately due and payable. For the avoidance of doubt, early termination of this Agreement by LEA prior to the expiration of its then-current term, other than for cause, shall be considered a breach of this Agreement and LEA shall pay a cancellation fee of \$750 per Student, multiplied by the greater of (a) the number of students who have received SERVICES in the 60 days before termination or (b) the number of Contracted Students (as defined in the ORDERING DOCUMENT) (hereinafter referred to as the "TERMINATION LIQUIDATED DAMAGES AMOUNT") by way of liquidated damages. LEA acknowledges that the actual damages likely to result from breach of this Section are difficult to estimate on the effective date hereof and would be difficult for CONTRACTOR to prove. The parties intend that LEA's payment of the TERMINATION LIQUIDATED DAMAGES AMOUNT would serve to compensate CONTRACTOR for LEA's breach of its obligations under this Section, and they do not intend for it to serve as punishment or penalty for any such breach by LEA.

### **15. INSURANCE.**

CONTRACTOR shall, at its sole cost and expense, maintain in full force and effect, during the term of this Agreement, insurance coverage from a California licensed and/or admitted insurer with an A minus (A-), VII, or better rating from A.M. Best. At the request of LEA, CONTRACTOR will provide a Certificate of Insurance.

### **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 Indemnities") harmless against all liability, loss, damage and expense (including reasonable attorneys' fees) resulting from or arising out of this Agreement or its performance, to the extent that such loss, expense, damage or liability was proximately caused by negligence, intentional act, or willful act or omission of CONTRACTOR, including, without limitation, its agents, employees, subcontractors or anyone employed directly or indirectly by it (excluding LEA and LEA Indemnities).

To the fullest extent allowed by law, 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 Agreement or its performance, to the extent that such loss, expense, damage or liability was proximately caused by the negligent or willful act or omission of LEA, including, without limitation, its agents, employees, subcontractors or anyone employed directly or indirectly by it (excluding CONTRACTOR and/or any CONTRACTOR Indemnities).

The foregoing obligations are conditioned upon: (a) prompt written notice by the indemnified party to the indemnifying party of any claim, action or demand for which indemnity is claimed; (b) complete control of the defense and settlement thereof by the indemnifying party, provided that no settlement of an indemnified claim shall be made without the consent of the indemnified party, such consent not to be unreasonably withheld or delayed; and (c) reasonable cooperation by the indemnified party in the defense as the indemnifying party may request. The indemnified party shall have the right to participate in the defense against the indemnified claims with counsel of its choice at its own expense.

In no event will CONTRACTOR be liable for any incidental damages, consequential damages, or any lost profits arising from or relating to this Agreement or to the services provided pursuant to this Agreement, whether in contract or tort or otherwise, even if CONTRACTOR knew or should have known of the possibility of such damages. CONTRACTOR's cumulative liability relating to this Agreement will not exceed the actual fees paid by LEA to CONTRACTOR during the school year for three (3) months immediately preceding the date on which a claim is made; provided that such amount shall under no circumstances exceed \$10,000. LEA acknowledges that this Agreement reflects an adequate and acceptable allocation of risk and that in the absence of the foregoing limitations CONTRACTOR would not enter into this Agreement.

LEA represents that it is self-insured in compliance with the laws of the state of California, that the self-insurance covers district employees acting within the course and scope of their respective duties, and that its self-insurance covers LEA's indemnification obligations under this Agreement.

#### **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 subcontracted or assigned by CONTRACTOR to perform any services for the LEA.

If the LEA is held to be a partner, joint venturer, co-principal, employer or co-employer of CONTRACTOR, CONTRACTOR may, at its sole discretion, indemnify and hold harmless the LEA from and against any and all claims for loss, liability, or damages arising from that holding, as well as any expenses, costs, taxes, penalties and interest charges incurred by the LEA as a result of that holding.

#### **18. SUBCONTRACTORS.**

LEA understands and agrees that CONTRACTOR will subcontract the provision of services pursuant to this Agreement to independent contractors who shall have applicable clearances and qualifications as set forth in Sections 35 and 36 (each hereinafter referred to as a "SUBCONTRACTOR" and collectively as "SUBCONTRACTORS").

#### **19. CONFLICTS OF INTEREST/NON-SOLICITATION.**

LEA may request a copy of CONTRACTOR's current bylaws and a current list of its Board of Directors. CONTRACTOR and any member of its Board of Directors shall disclose any relationship with LEA that constitutes or may constitute a conflict of interest including, but not limited to, employment with LEA and attendance at IEP team meetings acting as a student's advocate. Pursuant to California Education code section 56042, an attorney or advocate for a parent of an individual with exceptional needs shall not recommend placement with CONTRACTOR 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.



LEA acknowledges and agrees to the ability of CONTRACTOR, through employees, agents and/or SUBCONTRACTORS, to conduct an assessment or evaluation, including but not limited to an Independent Educational Evaluation (hereinafter referred to as "IEE"), of a LEA student, and provide services to that student pursuant to an IEP or ISA that reflects the findings of that assessment or evaluation. Where this Agreement provides that CONTRACTOR shall conduct one or more assessments or evaluations of a LEA student, LEA agrees to fund requested services provided to that student for whom the assessment or evaluation is requested. LEA shall not, during the term of this Agreement and for one (1) year thereafter, directly or indirectly solicit, induce, or attempt to induce any CONTRACTOR employee or SUBCONTRACTOR providing services pursuant to this Agreement without CONTRACTOR's prior written consent. LEA should contact its account manager with any inquiries concerning the aforementioned. If LEA causes any CONTRACTOR employee or SUBCONTRACTOR providing services pursuant to this Agreement to terminate or curtail that individual's relationship with CONTRACTOR, and such termination or curtailment results in a loss of business or revenue for CONTRACTOR, LEA shall pay a solicitation fee of \$30,000 (hereinafter referred to as the "SOLICITATION LIQUIDATED DAMAGES AMOUNT") by way of liquidated damages. LEA acknowledges that the actual likely to result from breach of the foregoing are difficult to estimate and would be difficult for CONTRACTOR to approve. The parties intend that LEA's payment of the SOLICITATION LIQUIDATED DAMAGES AMOUNT would serve to compensate CONTRACTOR for LEA's breach of the foregoing obligations, and they do not intend for it to serve as punishment or penalty for any such breach by LEA.

## **20. NON-DISCRIMINATION.**

CONTRACTOR shall not unlawfully discriminate on the basis of race, religion, sex, national origin, age, sexual orientation, or disability in employment or operation of its programs.

## **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"), where necessary, 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. Unless otherwise agreed to between CONTRACTOR and LEA, LEA shall be responsible for the provision of all appropriate supplies, equipment, and/or facilities for LEA students, as specified in the LEA student's IEP and ISA. 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 Agreement).

## **22. GENERAL PROGRAM OF INSTRUCTION.**

All nonpublic agency services shall be provided consistent with the area of certification specified by CDE Certification and as defined in California Education Code section 56366 et seq.

CONTRACTOR's general program of instruction and/or services shall utilize evidence-based practices and predictors and be consistent with LEA and CDE guidelines and certification, and provided as specified in the LEA student's IEP and ISA. The nonpublic agency providing Behavior Intervention services 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 provided in writing to the LEA. School-based services may not be unilaterally converted by CONTRACTOR to a substitute program or provided at a location not specifically authorized by the IEP team. All services not provided in the school setting require the presence of a parent, guardian or adult caregiver during the delivery of services, provided such guardian or caregiver have a signed authorization by the parent or legal guardian to authorize emergency services as requested. It is understood that Behavior Intervention services are limited per CDE Certification and do not constitute as an instructional program. CONTRACTOR shall not provide transportation nor subcontract for transportation services for LEA students unless the LEA and CONTRACTOR agree otherwise in writing.

## **23. INSTRUCTIONAL MINUTES**

The total number of minutes per school day provided by CONTRACTOR should be specified in the LEA student's ISA developed in accordance with the LEA student's IEP.

#### **24. CALENDARS.**

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 directly 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 LEA only for direct therapy services provided on billable days of attendance as indicated on the LEA calendar unless otherwise agreed to by the LEA. It is understood that direct therapy services may not be provided on weekends, holidays and other times when school is not in session. Indirect services such as documentation may be provided outside of billable days of attendance on the LEA calendar.

#### **25. DATA REPORTING.**

CONTRACTOR shall provide to LEA on request data related to student information and billing information concerning the services provided pursuant to this Agreement. 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 CONTRACTOR with approved forms and/or format for such data including but not limited to attendance reports and progress reports, as applicable. The LEA may approve use of CONTRACTOR provided forms at their discretion.

#### **26. MANDATED ATTENDANCE AT LEA MEETINGS.**

CONTRACTOR, through an employee, agent and/or SUBCONTRACTOR, may attend LEA mandated meetings concerning services provided pursuant to this Agreement by phone, video conference or in-person, at CONTRACTOR's sole discretion. LEA shall provide CONTRACTOR with reasonable notice of mandated meetings. Attendance at such meetings constitutes a billable service.

#### **27. IEP TEAM MEETINGS.**

An IEP team meeting shall be convened at least annually to evaluate the educational progress of each student receiving services by or through CONTRACTOR. Each LEA student shall be allowed to provide confidential input to any representative of his or her IEP team. Except as otherwise provided in the Agreement or by mutual agreement, CONTRACTOR, through an employee and/or SUBCONTRACTOR at its sole discretion, 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 Agreement, 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, through an employee and/or SUBCONTRACTOR at its sole discretion, in the meeting. Every effort shall be made to schedule IEP team meetings at a time and place that is mutually convenient to parent, CONTRACTOR and LEA. CONTRACTOR, through an employee and/or SUBCONTRACTOR at its sole discretion, may attend IEP team meetings by phone or by video conference..

CONTRACTOR shall provide to LEA assessments and written assessment reports by service providers upon request and/or pursuant to LEA policy and procedures. It is understood that attendance at an IEP meeting is a billable service under this Agreement.

It is understood that the CONTRACTOR shall utilize the approved electronic IEP system of the LEA such as the Special Education Information System (SEIS)(hereinafter referred to as "THE APPROVED SYSTEM") for all IEP planning and progress reporting. LEA or the SELPA shall provide training for CONTRACTOR to assure access to THE APPROVED SYSTEM. CONTRACTOR shall maintain confidentiality of all IEP data on THE APPROVED

SYSTEM and shall protect the password requirements of the system. When a student disenrolls or ceases receiving services pursuant to this Agreement from CONTRACTOR, CONTRACTOR shall discontinue use of THE APPROVED SYSTEM for that student unless otherwise asked to do so by LEA. Changes in any LEA student's educational program, including instruction, services, or instructional setting, provided under this Agreement may only be made on the basis of revisions to the student's IEP. In the event that the CONTRACTOR believes the student requires a change of placement, the CONTRACTOR may request a review of the student's IEP for the purposes of consideration of a change in the student's placement. 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.

#### **28. SURROGATE PARENTS.**

CONTRACTOR shall comply with LEA surrogate parent assignments.

#### **29. DUE PROCESS PROCEEDINGS.**

CONTRACTOR, through an employee, agent, and/or SUBCONTRACTOR at its sole discretion, shall fully participate in special education due process proceedings including mediations and hearings concerning services provided pursuant to this Agreement, as requested by LEA. CONTRACTOR, through an employee, agent, and/or SUBCONTRACTOR at its sole discretion, 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, concerning services provided pursuant to this Agreement.

#### **30. LEA STUDENT PROGRESS REPORTS/REPORT CARDS AND ASSESSMENTS.**

On written request by LEA, CONTRACTOR shall provide to LEA progress reports, which shall include progress over time towards a LEA student's IEP goals and objectives concerning which CONTRACTOR is providing services pursuant to this Agreement. A copy of any progress reports shall be maintained at the CONTRACTOR's place of business and shall be submitted to the LEA within 10 days of request. The CONTRACTOR shall provide access to supporting documentation used to determine progress on any goal or objective, including but not limited to log sheets, observation notes, data sheets, pre/post tests, rubrics and other similar data collection used to determine progress or lack of progress on approved goals, objectives, transition plans or behavior support plans. The LEA may request such data at any time. The CONTRACTOR shall provide this data supporting progress within a commercially reasonable period. Additional time may be granted as needed by the LEA.

CONTRACTOR shall complete academic or other assessment of the LEA student with respect to goals and objectives concerning which CONTRACTOR is providing services pursuant to this Agreement one month prior to the LEA student's annual or triennial review IEP team meeting for the purpose of reporting the LEA student's present levels of performance at the IEP 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 is responsible for updating of goals and objectives, progress reporting and development of present levels of performance with respect to services which CONTRACTOR is providing pursuant to this Agreement. All other assessments shall be provided by the LEA unless the LEA specifies in writing a request for CONTRACTOR assessments including the approved timelines, conditions and costs. Such assessment costs may be added to the ISA and/or approved separately by the LEA at its sole discretion. It is understood that all billable hours, excluding indirect services such as documentation, should be specified in the ISA. Supervision provided by a qualified individual as specified in Title 5 Regulation, subsection 3065, shall be determined as appropriate and included in the ISA. Supervision means the direct observation of services, data review, case conferencing and program design consistent with professional standards for each professional's license, certification, or credential. CONTRACTOR shall not charge the LEA student's parent(s) for the provision of progress reports, report cards, and/or any assessments, interviews, or meetings. It is understood that copies of data

collection notes, forms, charts and other such data are part of the pupil's record and shall be made available to the LEA upon written request.

### **31. LEA STUDENT CHANGE OF RESIDENCE**

. Within five (5) school days after CONTRACTOR becomes aware of a LEA student's change of residence, CONTRACTOR should notify LEA of the LEA student's change of residence as specified in LEA Procedures. If CONTRACTOR had knowledge of the LEA student's change of residence boundaries and CONTRACTOR fails to follow the procedures specified in this provision, LEA shall not be responsible for the costs of services delivered after the LEA student's change of residence.

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

If CONTRACTOR provides services on LEA public school campuses, CONTRACTOR shall comply with Penal Code Section 627.1 et. seq., and LEA procedures regarding visitors to school campuses specified by LEA policy and in the LEA procedures, and the procedures of the campus being visited. It is understood, that all employees, agents, and SUBCONTRACTORS of CONTRACTOR shall adhere to customary professional standards when providing SERVICES (as defined in Section 57). 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 the contract. Except as otherwise expressly set forth herein, SERVICES are provided "as is" without any warranty and CONTRACTOR expressly disclaims any and all warranties, express, implied, or statutory, including warranties of title, noninfringement, merchantability, and fitness for a particular purpose.

### **33. CONTRACTOR MATERIALS.**

CONTRACTOR will own all right, title and interest (including patent rights, copyrights, trade secret rights, and all other intellectual property rights of any nature relating to the products, materials, services, designs, know-how, data, software, graphic art and similar works authored, created, contributed to, made, conceived or reduced to practice, in whole or in part, by CONTRACTOR or its agents or affiliates which arise out of the performance of services. LEA agrees to maintain (and not supplement, remove, or modify) all copyright, trademark, or other proprietary notices on any materials utilized in providing the Services. Provided LEA is not in breach of any term of this Agreement, CONTRACTOR grants LEA a non-exclusive, limited license, which license shall terminate upon expiration or termination of this Agreement, to reproduce and distribute the materials for which CONTRACTOR has the right to so grant solely to assist in the provision of services in accordance with the terms herein.

### **34. MONITORING.**

CONTRACTOR shall comply with applicable law concerning the monitoring or auditing of its program and services to LEA students.

PERSONNEL

### **35. CLEARANCE REQUIREMENTS.**

CONTRACTOR shall comply with applicable requirements of California Education Code section 44237 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 SUBCONTRACTORS, unless CONTRACTOR determines that the employee or SUBCONTRACTOR will have no direct contact with LEA students. CONTRACTOR hereby agrees that CONTRACTOR's employees and SUBCONTRACTORS, unless CONTRACTOR determines that the employee or SUBCONTRACTOR will have no direct contact with LEA students, 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 or SUBCONTRACTORS, unless CONTRACTOR determines that the employee or SUBCONTRACTOR will have no direct contact with LEA students, 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 or SUBCONTRACTOR'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). Clearance certification shall be submitted to the LEA. In addition,



with regard to employees and SUBCONTRACTORS who will have direct contract with LEA students, CONTRACTOR shall make a request for subsequent arrest service from the CDOJ as required by California Penal Code section 11105.2.

### **36. STAFF QUALIFICATIONS.**

CONTRACTOR shall ensure that all individuals employed, contracted, subcontracted, 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 may not assume responsibility or authority for another related services provider or special education teacher's scope of practice. CONTRACTOR shall comply with all applicable laws and regulations governing the licensed professions, including but not limited to, the provisions with respect to supervision.

### **37. VERIFICATION OF LICENSES, CREDENTIALS AND OTHER DOCUMENTS.**

At LEA request, CONTRACTOR shall submit to LEA a 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 persons employed, contracted, and/or otherwise hired or subcontracted by CONTRACTOR who will be providing services to LEA students pursuant to this Agreement. CONTRACTOR shall notify LEA in writing within thirty (30) days when personnel changes occur which may affect the provision of services to LEA students, as specified in the LEA Procedures. CONTRACTOR shall provide the CDE with the verified dates of fingerprint clearance, Department of Justice clearance and Tuberculosis Test clearance for any employee or SUBCONTRACTOR prior to such person's starting to work with any student. CONTRACTOR shall monitor the status of licenses, credentials, permits and/or other documents for all persons employed, contracted, subcontracted, and/or otherwise hired by CONTRACTOR to provide services pursuant to this Agreement. CONTRACTOR shall provide to CDE updated information regarding the status of licenses, credentials, permits and/or other documents concerning such persons' or CONTRACTOR's ability to provide such services within 45 days of known changes. 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 Agreement. Consistent failure to notify the LEA and CDE of major changes in credentialing/licensed staff may result in suspension or revocation of CDE certification and/or suspension or termination of this Agreement by the LEA.

### **38. STAFF ABSENCE.**

When CONTRACTOR's service provider is absent, CONTRACTOR shall attempt to 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. It is understood that the parent of a student shall not be deemed to be qualified substitute to provide services to their student. 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 service hours under any circumstances, unless otherwise agreed to in writing by CONTRACTOR and authorized LEA representative.

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

It is understood that all employees, subcontractors, and volunteers of any certified nonpublic school or agency shall adhere to the customary professional and ethical standards when providing services. All practices shall only be within the scope of professional responsibility as defined in the professional code of conduct for each profession as well as any LEA professional standards as specified in Board policies and/or regulations when made available to the CONTRACTOR. For services provided on a public school campus, sign in/out procedures shall be followed

by nonpublic agency providers working in a public school classroom along with all other procedures for being on campus consistent with school and district policy. Such policies and procedures shall be made available to the CONTRACTOR. It is understood that the public school credentialed classroom teacher is responsible for the instructional program. For services provided in a pupil's home as specified in the IEP, CONTRACTOR must assure that the parent or LEA approved responsible adult is present during the provision of services. All problems and/or concerns reported to parents, both verbal and written shall also be provided to the LEA.

#### **40. HEALTH AND SAFETY.**

CONTRACTOR shall comply with all applicable federal, state, local, and LEA laws, regulations, ordinances, policies, and procedures regarding student and employee health and safety. CONTRACTOR shall comply with the requirements of California Education Code sections 35021 et. seq., 49406, and Health and Safety Code Section 3454(a) regarding the examination of CONTRACTOR's employees and volunteers for tuberculosis. At LEA request, CONTRACTOR shall provide to LEA documentation of such compliance for each individual volunteering, employed, contracted, subcontracted, and/or otherwise hired by CONTRACTOR before the individual comes in contact with a LEA student.

#### **41. INCIDENT/ACCIDENT REPORTING.**

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

#### **42. CHILD ABUSE REPORTING.**

CONTRACTOR and its staff members will adhere to applicable child abuse reporting obligations and procedures as specified in California Penal Code section 11164 et seq. To protect the privacy rights of all parties involved (i.e. reporter, child and alleged abuser), reports will remain confidential as required by law and professional ethical mandates.

#### **43. SEXUAL HARASSMENT.**

CONTRACTOR shall have a Sexual and Gender Identity harassment policy that clearly describes the kinds of conduct that constitutes sexual harassment and that 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.

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

CONTRACTOR shall assure LEA that the agency has the necessary financial resources to provide the services provided for pursuant to this Agreement and will distribute those resources in such a manner to implement the IEP for each and every student receiving such services.

CONTRACTOR shall comply with all applicable LEA procedures concerning enrollment, contracting, attendance reporting, service tracking and billing as specified by the LEA Procedures. CONTRACTOR shall be paid for the provision of the following services (collectively, the "SERVICES"), including associated indirect services, specified in the LEA students' IEPs and ISAs. All payments by LEA shall be made in accordance with the terms and conditions of this Agreement and governed by all applicable federal and state laws. SERVICES may include but are not limited to the following:

- a. Clinical and therapy services, consultation, participation in individualized education planning and other meetings, collaboration with school staff, documentation and planning, parent contact, and service coordination
- b. Assessments, e.g., pre- and post-assessments and intervention services; initial and triennial assessments; psychoeducational assessment (PA) services; screenings. Assessments include a base rate encompassing a Review

of Records, writing an integrated report, attending the pre-assessment and results meetings, and testing set up. Additional assessments will be administrated where outlined in the Student's assessment plan.

- c. Review of Records / Parent & Teacher Interviews, e.g., a cumulative file review for a student, including medical, educational, and social development histories, plus current parent and teacher interviews.
- d. Supervision of Speech-Language Pathology Assistants (SLPA), Certified Occupational Therapy Assistants (COTA), and Clinical Fellows (CF)
- e. Setup, including equipment and provision of a camera for use with PA and other services if ordered

CONTRACTOR shall maintain separate registers for any SERVICES provided by instructional assistants, behavior intervention aides and bus aides. Original attendance forms (i.e., roll books for the basic education program service tracking documents and notes for instructional assistants, behavioral intervention aides, bus aides, and each related service) shall be completed by the actual service provider and shall be available for review, inspection, or audit by LEA during the effective period of this Agreement and for a period of five (5) years thereafter. CONTRACTOR shall verify the accuracy of minutes of reported attendance that is the basis of services being billed for payment.

CONTRACTOR shall submit invoices and related documents to LEA for payment for services rendered. Invoices and related documents shall be properly submitted electronically unless another method of delivery is mutually agreed upon. Each invoice will contain information as may be requested by the LEA. Such an invoice is subject to all conditions of this Agreement. At the discretion of LEA, an electronic invoice may be required provided such notice has been made in writing and training provided to CONTRACTOR at no additional charge for such training. Invoices should 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 amounts specified in this contract within thirty (30) days of the invoice date. In no case shall initial payment claim submission for any fiscal year (July through June) extend beyond the following June 30th after the close of the fiscal year. In no case shall any rebilling for the fiscal year (July through June) extend beyond 12 months after the close of the fiscal year. If the billing or rebilling error is the responsibility of the LEA, then no limit is set provided that the LEA and CONTRACTOR have communicated such concerns in writing during the 12-month period following the close of the fiscal year.

#### **45. RIGHT TO WITHHOLD PAYMENT.**

LEA may withhold payment to CONTRACTOR when: (a) CONTRACTOR was overpaid by LEA as determined by mutual inspection, review, and/or audit of its program, work, and/or records; (b) CONTRACTOR has failed to provide supporting documentation with an invoice as requested; (c) education and/or related services are provided to LEA students by personnel who are not appropriately credentialed, licensed, or otherwise qualified; or (d) CONTRACTOR receives payment from Medi-Cal or from any other agency or funding source for a service provided to a LEA student. It is understood that no payments shall be made for any invoices that is not received by twelve (12) months following the close of the prior fiscal year, for services provided in that year.

Final payment to CONTRACTOR in connection with the cessation of operations and/or termination of a Master Contract will be subject to the same documentation standards described for all payment claims for regular ongoing operations. The final payment may be adjusted to offset any previous payments to the CONTRACTOR determined to have been paid in error or in anticipation of correction of documentation deficiencies by the CONTRACTOR that remain uncorrected. The amount which may be withheld by LEA with respect to each of the 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 as mutually agreed by LEA and CONTRACTOR (d): the amount invoiced for services provided by the individual not appropriately credentialed, licensed, or otherwise qualified; (e): the amount paid to CONTRACTOR by Medi-Cal or another agency or funding source for the service provided to the LEA student. If LEA determines that cause exists to withhold payment to CONTRACTOR based exclusively on the above criteria in this Section, LEA shall, within ten (10) business days of receipt of an invoice (hereinafter referred to as the "DISPUTE PERIOD"), 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. Unless CONTRACTOR

receives notice of any such dispute within the DISPUTE PERIOD, such invoice shall be considered undisputed and shall be due and payable no later than 30 days of the date of such invoice. Within thirty (30) days from the date of receipt of any notice of dispute, CONTRACTOR shall take all necessary and appropriate action to correct the deficiencies that form the basis for LEA's withholding payment or submit a written request for extension of time to correct the deficiencies. Upon receipt of CONTRACTOR's written request showing good cause, LEA shall extend CONTRACTOR's time to correct deficiencies (usually an additional thirty (30) days), otherwise payment will be denied. If after subsequent request for payment has been denied and CONTRACTOR believes that payment should not be withheld, CONTRACTOR shall send written notice to LEA specifying the reason it believes payment should not be withheld. LEA shall respond to CONTRACTOR's notice within thirty (30) business days by indicating that a warrant for the amount of payment will be made or stating the reason LEA believes payment should not be made. If LEA fails to respond within thirty (30) business days or a dispute regarding the withholding of payment continues after the LEA's response to CONTRACTOR's notice, CONTRACTOR 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). Outstanding balances shall accrue interest at a rate equal to the lesser of one and one half percent (1.5%) per month or the maximum rate permitted by applicable law, from due date until paid, plus CONTRACTOR's reasonable costs of collection.

#### **46. PAYMENT FROM OUTSIDE AGENCIES.**

LEA understands that CONTRACTOR will not bill Medi-Cal or any other agency for the costs associated with the provision of services to LEA students. If CONTRACTOR bills Medi-Cal or any other agency is billed for the costs associated with the provision of special education and/or related services to LEA students, CONTRACTOR shall notify LEA and, upon request, shall provide to LEA any and all documentation regarding reports, billing, and/or payment by Medi-Cal or any other agency for the costs associated with the provision of special education and/or related services to LEA students.

#### **47. STUDENT ABSENCES.**

CONTRACTOR shall notify LEA of the absence of an LEA student no later than the fifth consecutive service day of the student's absence or as specified in the LEA Procedures.

#### **48. INSPECTION AND AUDIT.**

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

CONTRACTOR may provide access, on request, to LEA to records as defined in Section 9 above. All records shall be provided to LEA by electronic means or, at LEA's request and expense, in hard copy, within a commercially reasonable period of a written request from LEA.

#### **49. RATE SCHEDULE/ORDERING DOCUMENT.**

In consideration for the Services, LEA agrees to pay CONTRACTOR, in accordance with the fees identified on the ORDERING DOCUMENT, all undisputed amounts are due within thirty (30) days of the invoice date. Outstanding balances shall accrue interest at a rate equal to the lesser of one and one-half percent (1.5%) per month or the maximum rate permitted by applicable law, from due date until date paid, plus CONTRACTOR'S reasonable costs of collection.

(a) Clinical Services. The ORDERING DOCUMENT will list the clinical discipline of the services LEA purchases ("Clinical Services") referenced as SLP Services, SLP Supervision, OT Services, OT Supervision, BMH Services. These Clinical Services may be purchased as an Hourly Service or Annual Service.



- (b) Hourly Service Fee. If applicable, the ORDERING DOCUMENT may specify an Hourly Service Fee, for a particular discipline (SLP, OT, BMH) which is based on a per hour, per clinician pricing.
- (c) Annual Service Fee. If applicable, the ORDERING DOCUMENT may specify an Annual Service Fee, for a particular discipline (SLP, OT, BMH) which is based on the student group size and therapy hours (the assumptions will be listed). If LEA makes any changes, CONTRACTOR may make a pricing adjustment to the Annual Service Fee.
- (d) Student Administrative Fee. If applicable, the ORDERING DOCUMENT may specify Student Administrative Fee which will be billed in the first invoice and any Renewal Term on a per student, per service basis. At any time during the Term, if students are added to receive a Service, LEA will be billed Student Administrative Fee for those students during the month the services start.
- (e) Monthly Commitment. If applicable, the ORDERING DOCUMENT may specify a minimum dollar payment due each month during the Term (“Monthly Commitment”), excluding any Psychoeducational Assessment minimums. A Monthly Commitment fee will not be charged for (i) the month in which Services begin, or (ii) the last month of Services. If LEA’s fees are less than the Monthly commitment, LEA will be billed the difference on a quarterly basis. For the month(s) exempt from a Monthly Commitment, LEA shall pay the total fees incurred for the month.
- (f) Assessments Commitment. If applicable, the ORDERING DOCUMENT may specify the minimum number of assessments (excluding Psychoeducational Assessments) for which payment is due at the end of the Term. Screenings, review of records, and evaluations may count towards this Assessment Commitment. At the end of the Term, CONTRACTOR will reconcile the Assessment Commitment with actual Assessments given, and LEA will be invoiced for the difference if the Assessment Commitment was not met.
- (g) Psychoeducational Assessments Commitment. If applicable, the ORDERING DOCUMENT may specify a minimum fee for psychoeducational assessments for which payment is due at the end of the Term. At the end of the Term, CONTRACTOR will reconcile the Psychoeducational Assessment Commitment fee with actual Psychoeducational Assessment fees billed, and LEA will be invoiced for the difference if the Psychoeducational Assessment Commitment fee was not met.
- (h) Unplanned Student Absence Fee. If LEA cancels a session with less than 24 hours advance notice or the session does not occur due to a student absence (“Unplanned Student Absence”), LEA agrees to pay CONTRACTOR the applicable Rate for the duration of the scheduled session. If LEA has agreed to be billed for a minimum number of hours in a period, e.g., one week, the duration of the session shall be applied toward such minimum for the period in which the session was scheduled to occur.
- (i) Contracted Students. If applicable, the ORDERING DOCUMENT may specify the number of students for whom LEA has purchased Services.
- (j) Disputes. LEA may dispute an invoice no later than twenty (20) calendar days from the date of the invoice. The parties will work together in good faith to resolve any disputes as soon as possible. Upon resolution, LEA shall remit the amount owed within ten (10) calendar days.

## **50. DEBARMENT CERTIFICATION**

CONTRACTOR certifies that:

- (a) 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.

#### 51. REPRESENTATIONS.

LEA hereby represents and warrants to CONTRACTOR as follows:

- (a) LEA has the right, power, and authority to enter into and perform its obligations under this Agreement,
- (b) LEA has obtained all necessary consents in accordance with its operations to execute and deliver this Agreement and perform its obligations under this Agreement,
- (c) the undersigned has the right, power and authority to enter into this Agreement on behalf of LEA,
- (d) this Agreement constitutes the legal, valid and binding obligation of LEA, enforceable against LEA in accordance with its terms, subject only to the effect, if any, of (A) applicable bankruptcy and other similar laws affecting the rights of creditors generally and (B) rules of law governing specific performance, injunctive relief and other equitable remedies,
- (e) the execution, delivery, performance of and compliance with this Agreement will not, with or without the passage of time, result in any violation or be in conflict with or constitute a default under any contract to which LEA is a party or any terms or provisions thereof,
- (f) LEA will comply with any applicable law concerning SERVICES, including but not limited to obtaining informed parental consent where required, and take no action that prevents or impedes CONTRACTOR or its employees, agents or SUBCONTRACTORS from complying with any applicable law,
- (g) any authorized representative of LEA (hereinafter referred to as a "LEA AUTHORIZED INDIVIDUAL") has the authority to enter into an ORDERING DOCUMENT for the provision of services,
- (h) that LEA has verified the accuracy, completeness and appropriateness of all students' medical, educational, demographic, disciplinary, and therapeutic-related information (hereinafter referred to as "STUDENT RECORDS") prior to LEA's providing CONTRACTOR with access to such STUDENT RECORDS,
- (i) that LEA acknowledges and agrees that the professional duty to educate, supervise and treat the students lies solely with LEA, and that the provision of SERVICES in no way replaces or substitutes for the professional judgment of LEA or a SUBCONTRACTOR,
- (j) that prior to receiving services, LEA will provide CONTRACTOR with the conditions described in the Environment, Equipment and Supervision Specifications, available at <https://www.presencelearning.com/tc/eq-spec>, and other conditions as set forth by CONTRACTOR, and that if LEA does not provide CONTRACTOR with the specified conditions, as determined by CONTRACTOR in its sole discretion, within 30 days of the beginning of a TERM, CONTRACTOR does not guarantee sufficient clinician availability to provide services, and
- (k) that LEA acknowledges that CONTRACTOR is not a healthcare provider or clinician, and that it cannot and does not independently review or verify the medical accuracy or completeness of STUDENT RECORDS made available to it pursuant to this Agreement.

IN WITNESS WHEREOF, the parties have executed this Agreement as of the date first written above.

PresenceLearning, Inc.	LEA
By:	By:
Name:	Name:
Title:	Title:

Date:

Date:

## Equipment Schedule

This Equipment Schedule (the “Schedule”) is incorporated and made part of the Master Service Agreement (the “Agreement”) between PresenceLearning, Inc., (“PresenceLearning”) and entity named in the Service Order that is receiving the Services (“Customer”) and lists the terms and conditions of the purchase of hardware, test kits and materials (collectively “Equipment”) from PresenceLearning. Unless otherwise defined herein, capitalized terms shall have the definition set forth in the Agreement.

1. **Included Hardware.** In connection with the provision of the Services, Customer may, at Customer’s option, be provided with the following hardware at no additional cost.

Hardware Type	Units per Student
Webcam	1 for every 40 students
Headset	1 for every 10 students
Headset USB	1 for every 10 students
Splitter	1 for every 10 students

2. **Hardware Available for Purchase.** Customer may, at Customer’s option, purchase the additional hardware set forth below at the purchase prices set forth opposite each hardware type (note that the listed prices do not include any applicable tax or shipping costs):

Equipment Type	Price per unit
Standard webcam with tripod	\$49.00
ANDREA Over Ear USB headset	\$29.00
ANDREA 455 Stereo headset	\$25.00
ANDREA Y-100B Splitter	\$5.00
ANDREA USB Sound Card Adapter	\$14.00
iPad Splitter	\$10.00
Document Camera	\$85.00

Customer is not restricted from purchasing hardware from any other vendor or any third-party. A list of the recommended hardware providers and specifications is provided in Section 10.

3. **WISC-V Kits.**

3.1 Purchase of WISC-V Kits. If the Agreement provides that the Customer may access WISC-V assessments, Customer may purchase WISC-V test kits (each, a “Kit”) from PresenceLearning. Kits are not included in the price of the assessments. Each Kit comes with one (1) set of Block Design Blocks and one (1) Block Design Stimulus Book for use in connection with the WISC-V assessments. Prices of the Kits will be reflected in the Service Order entered into at the time the Kits are to be purchased.

WISC-V	Price per unit
WISC-V Stimulus Book	\$11.00
WISC-V Blocks	\$46.00

3.2 Tracking and Return of Kits. Customer understands and acknowledges that the Kits are considered trade secrets by their respective publishers and will make commercially reasonable efforts to retrieve the Kit from each student that received one. After a Kit has been used, Customer must arrange for the return of the Kit directly to Customer. On a quarterly basis, Customer will acknowledge and confirm to PresenceLearning that the Kits are in the Customer’s possession (in a mutually agreed upon manner). At no time will a Kit remain in

the possession of Customer's student once it has been used.

**4. Delivery; Title; Risk of Loss.**

4.1 Brick and Mortar Schools. PresenceLearning will ship Equipment directly to Customer at the address provided in the Agreement. If Customer's location is temporarily inaccessible due to COVID-related closures, PresenceLearning will temporarily ship Equipment to any other address provided by Customer.

4.2 Virtual School. PresenceLearning will ship the Equipment to the addresses provided by Customer.

4.3 FOB. PresenceLearning shall ship and deliver the Equipment FOB destination, and the title to and risk of loss of the Equipment will pass to Customer upon delivery.

4.4 Delivery Dates. All delivery dates are approximate. PresenceLearning shall not be liable for any losses, damage, penalties or expenses for failure to meet any expected delivery date.

4.5 Received and Accepted. Equipment is deemed received and accepted upon delivery to the address provided by Customer.

5. **Delivery Addresses**. Customer is solely responsible for providing the correct shipping address for each addressee that is to receive the Equipment. If Customer provides an incorrect address, then Customer will purchase replacement Equipment that will be delivered to the correct address. If Equipment is misdelivered due to PresenceLearning's error, PresenceLearning will promptly ship replacement Equipment to the correct address at no cost to Customer.

6. **Inspection of Goods**. Customer has the right to examine the Equipment upon receipt and has 3 days in which to notify PresenceLearning of any claim for damages based on the condition of the Equipment. Such notice must specify in detail the particulars of the claim. Failure to provide such notice within the requisite time period constitutes irrevocable acceptance of the equipment. Defective Equipment must be returned to PresenceLearning in accordance with accepted trade practices.

7. **Fees; Payment**. Customer agrees to pay for the Equipment according to the terms set forth in the applicable Service Order. Customer is responsible for all taxes and shipping, which fees may vary based on shipment destination.

8. **Disclaimer of Warranty**. PresenceLearning is not the manufacturer of the Equipment and the Equipment is being sold "as is," and the PresenceLearning disclaims all warranties of quality, whether express or implied, including the warranties of merchantability and fitness for particular purpose.

9. **Delay or Failure to Perform**. PresenceLearning will not be liable to Customer for any delay, non-delivery or default due to labor disputes, transportation shortage, Acts of God, or any other causes outside of PresenceLearning's control. PresenceLearning shall notify Customer immediately upon realization that it will not be able to deliver the Materials as promised.

10. **Suggested Hardware Specification**. The following is a list of suggested hardware and specifications for use in clinical services.

Hardware Type	Requirements	Suggested Brand	Suggested Model
Webcam with tripod	<ul style="list-style-type: none"> <li>• Attachable tripod</li> <li>• Video resolution 1920X1080</li> <li>• Auto focus</li> <li>• Field of View = 65°</li> </ul>	N/A	N/A
Headset	<ul style="list-style-type: none"> <li>• Noise-canceling microphone</li> <li>• 40mm stereo speakers with deep bass sound deliver crystal clear audio</li> </ul>	ANDREA	EDU-455 STEREO HEADSET
Headset USB	<ul style="list-style-type: none"> <li>• Noise-canceling microphone</li> <li>• 40mm stereo speakers with deep bass sound deliver crystal clear audio</li> </ul>	ANDREA	OVER EAR USB NC-455VM
Splitter	<ul style="list-style-type: none"> <li>• Splitter cable allows you to connect 2 headphones simultaneously to your computer so parents and providers can monitor and listen to what the student is hearing</li> </ul>	ANDREA	Y-100B
Sound card	<ul style="list-style-type: none"> <li>• External USB headset adapter with CD quality digital sample rates</li> <li>• Bypasses a computer's sound system, creating superior low-noise audio</li> </ul>	ANDREA	EDU-USB PL- CS-PRESENCE
Document camera	<ul style="list-style-type: none"> <li>• Capture images of A4 and US letter pages</li> <li>• Built-in LED lights</li> </ul>	HUE	HD Pro Camera

## Addendum to the Master Service Agreement

This Addendum (the “Addendum”) is hereby attached and made part of the existing Master Services Agreement (“Agreement”) between PresenceLearning and Customer. Unless otherwise defined herein, capitalized terms shall have the definition set forth in the Agreement. In the event of any conflicting definitions, terms or conditions between this Addendum and the Agreement, this Addendum shall control.

The parties agree to amend the Agreement as follows:

**1. Clinical Services.** The Service Order will list the clinical discipline of the services Customer has purchased, referenced by discipline type, which services may be purchased on an hourly or annual basis (other fees may apply), and include direct clinical therapy, indirect clinical services, IEP development, attendance to meetings (collectively, “Clinical Services”).

### 2. Clinician Conversion; Conversion Fee.

2.1. Clinician Conversion. During the Term of the Agreement, Customer may not, directly or indirectly, solicit, induce, hire, or attempt to induce or hire any PresenceLearning clinician except in accordance with the terms set forth in this Section 2.

2.2. Conversion Fee. Customer shall notify PresenceLearning of its intent to offer employment to any clinician not less than ten (10) calendar days prior to offering such employment (any clinician that accepts such offer of employment, a “Converted Clinician”). Upon the date a Converted Clinician commences employment with Customer (the “Conversion Effective Date”): (i) the Converted Clinician shall be allowed to continue to utilize the Platform (in the same manner and with the same functionality as the Converted Clinician utilized the Platform prior to the Conversion Effective Date) through the expiration of the Service Order pursuant to which the Converted Clinician was performing Services hereunder prior to becoming a Converted Clinician and (ii) Customer shall pay PresenceLearning the applicable fee set forth below (such fee, the “Conversion Fee”):

#### Calculation of Conversion Fee

Conversion Effective Date:	Conversion Fee:
July 1 <sup>st</sup> – September 30 <sup>th</sup>	\$20,000.00
October 1 <sup>st</sup> – December 31 <sup>st</sup>	\$15,000.00
January 1 <sup>st</sup> – March 31 <sup>st</sup>	\$10,000.00
April 1 <sup>st</sup> – June 30 <sup>th</sup>	\$5,000.00

### 3. Additional Fees.

3.1. Short-Term Assignments. If Customer requires PresenceLearning to deliver Clinical Services, excluding any Assessments or Evaluations, for periods that are not expected to exceed eighty-four calendar (84) days (such assignments, “Short-Term Assignments”), the fees for such Short-Term Assignments shall include an additional fee equal to 30% of the hourly service fee set forth in the applicable Service Order (the “Short-Term Premium”). For the avoidance of doubt, the Short-Term Premium shall not be due and payable with respect to any Assessments or Evaluations.

3.2. Bilingual Services Fee. If Customer requires PresenceLearning to deliver any services to students in a language other than English (such services, “Bilingual Services”) the fees for such Bilingual Services



shall include an additional fee equal to 20% of the hourly service fee set forth in the applicable Service Order.

3.3. Service Coordination Fee. If applicable, the Service Order may specify a Service Coordination Fee which will be billed monthly and will include planning, coordination and administration of services and other services not included in Clinical Services.

3.4. Unplanned Student Absence Fee. If Customer cancels a session with less than 24 hours advance notice, a session does not occur due to a student absence, or if a student fails to attend a session (each such instance, an “Unplanned Student Absence”), Customer agrees to pay Contractor (i) if the Unplanned Student Absence is from a therapy session, the applicable rate for the duration of such therapy session or (ii) if the Unplanned Student Absence is from an assessment, the applicable fee shall be \$20.00 for SLP assessment, \$20.00 for an OT assessment, or \$30.00 for a BMH assessment. If Customer has agreed to be billed for a minimum number of hours in a period, e.g., one week, the duration of the session shall be applied toward such minimum for the period in which the session was scheduled to occur.

Agreed to:

Agreed to:

PresenceLearning, Inc.	Licensee: [Entity Name]
By: _____ Authorized by Signature                      Date	By: _____ Authorized by Signature                      Date
Print Name: _____	Print Name: _____