		Agr	eement N	lo
AGREEMENT BETWEEN THE COUN	TY OF	SAN	MATEO	AND PALCARE INC
This Agreement is entered into this County of San Mateo, a political subdiv 'County," and Palcare Inc., hereinafter	vision o called	of the s	state of C ractor."	

Whereas, pursuant to Section 31000 of the California Government Code, County may contract with independent contractors for the furnishing of such services to or for County or any Department thereof; and

Whereas, it is necessary and desirable that Contractor be retained for the purpose of providing subsidized licensed childcare services to San Francisco International Airport-based employees and County employees.

Now, therefore, it is agreed by the parties to this Agreement as follows:

1. Exhibits and Attachments

The following exhibits and attachments are attached to this Agreement and incorporated into this Agreement by this reference:

Exhibit A—Services

Exhibit B—Payments and Rates

Exhibit C—Current Family Monthly Fee Schedule

2. Services to be performed by Contractor

In consideration of the payments set forth in this Agreement and in Exhibit B, Contractor shall perform services for County in accordance with the terms, conditions, and specifications set forth in this Agreement and in Exhibit A.

Payments

In consideration of the services provided by Contractor in accordance with all terms, conditions, and specifications set forth in this Agreement and in Exhibit A, County shall make payment to Contractor based on the rates and in the manner specified in Exhibit B. County reserves the right to withhold payment if County determines that the quantity or quality of the work performed is unacceptable. In no event shall County's total fiscal obligation under this Agreement exceed Seven Million Dollars (\$7,000,000). In the event that the County makes any advance payments, Contractor agrees to refund any amounts in excess of the amount owed by the County at the time of contract termination or expiration. Contractor is not entitled to payment for work not performed as required by this agreement.

4. Term

Subject to compliance with all terms and conditions, the term of this Agreement shall be from July 1, 2023, through June 30, 2028.

5. Termination

This Agreement may be terminated by Contractor or by the Director of Human Resources or his/her designee at any time without a requirement of good cause upon ninety (90) days' advance written notice to the other party. Subject to availability of funding, Contractor shall be entitled to receive payment for work/services provided prior to termination of the Agreement. Such payment shall be that prorated portion of the full payment determined by comparing the work/services actually completed to the work/services required by the Agreement.

County may terminate this Agreement or a portion of the services referenced in the Attachments and Exhibits based upon the unavailability of Federal, State, or County funds by providing written notice to Contractor as soon as is reasonably possible after County learns of said unavailability of outside funding.

County may terminate this Agreement for cause. In order to terminate for cause, County must first give Contractor notice of the alleged breach. Contractor shall have five business days after receipt of such notice to respond and a total of ten calendar days after receipt of such notice to cure the alleged breach. If Contractor fails to cure the breach within this period, County may immediately terminate this Agreement without further action. The option available in this paragraph is separate from the ability to terminate without cause with appropriate notice described above. In the event that County provides notice of an alleged breach pursuant to this section, County may, in extreme circumstances, immediately suspend performance of services and payment under this Agreement pending the resolution of the process described in this paragraph. County has sole discretion to determine what constitutes an extreme circumstance for purposes of this paragraph, and County shall use reasonable judgment in making that determination.

6. Contract Materials

At the end of this Agreement, or in the event of termination, all finished or unfinished documents, data, studies, maps, photographs, reports, and other written materials (collectively referred to as "contract materials") prepared by Contractor under this Agreement shall become the property of County and shall be promptly delivered to County. Upon termination, Contractor may make and retain a copy of such contract materials if permitted by law.

7. Relationship of Parties

Contractor agrees and understands that the work/services performed under this Agreement are performed as an independent contractor and not as an employee of County and that neither Contractor nor its employees acquire any of the rights, privileges, powers, or advantages of County employees.

8. Hold Harmless

a. General Hold Harmless

Contractor shall indemnify and save harmless County and its officers, agents, employees, and servants from all claims, suits, or actions of every name, kind, and description resulting from this Agreement, the performance of any work or services required of Contractor under this Agreement, or payments made pursuant to this Agreement brought for, or on account of, any of the following:

- (A) injuries to or death of any person, including Contractor or its employees/officers/agents;
- (B) damage to any property of any kind whatsoever and to whomsoever belonging;
- (C) any sanctions, penalties, or claims of damages resulting from Contractor's failure to comply, if applicable, with the requirements set forth in the Health Insurance Portability and Accountability Act of 1996 (HIPAA) and all Federal regulations promulgated thereunder, as amended; or
- (D) any other loss or cost, including but not limited to that caused by the concurrent active or passive negligence of County and/or its officers, agents, employees, or servants. However, Contractor's duty to indemnify and save harmless under this Section shall not apply to injuries or damage for which County has been found in a court of competent jurisdiction to be solely liable by reason of its own negligence or willful misconduct.

The duty of Contractor to indemnify and save harmless as set forth by this Section shall include the duty to defend as set forth in Section 2778 of the California Civil Code.

9. Assignability and Subcontracting

Contractor shall not assign this Agreement or any portion of it to a third party or subcontract with a third party to provide services required by Contractor under this Agreement without the prior written consent of County: Any such assignment or subcontract without County's prior written consent shall give County the right to automatically and immediately terminate this Agreement without penalty or advance notice.

10. Insurance

a. General Requirements

Contractor shall not commence work or be required to commence work under this Agreement unless and until all insurance required under this Section has been obtained and such insurance has been approved by County's Risk Management, and Contractor shall use diligence to obtain such insurance and to obtain such approval. Contractor shall furnish County with certificates of insurance evidencing the required coverage, and there shall be a specific contractual liability endorsement extending Contractor's coverage to include the contractual liability assumed by Contractor pursuant to this Agreement. These certificates shall specify or be endorsed to provide that thirty (30) days' notice must be given, in writing, to County of any pending change in the limits of liability or of any cancellation or modification of the policy.

b. Workers' Compensation and Employer's Liability Insurance

Contractor shall have in effect during the entire term of this Agreement workers' compensation and employer's liability insurance providing full statutory coverage. In signing this Agreement, Contractor certifies, as required by Section 1861 of the California Labor Code, that (a) it is aware of the provisions of Section 3700 of the California Labor Code, which require every employer to be insured against liability for workers' compensation or to undertake self-insurance in accordance with the provisions of the Labor Code, and (b) it will comply with such provisions before commencing the performance of work under this Agreement.

c. Liability Insurance

Contractor shall take out and maintain during the term of this Agreement such bodily injury liability and property damage liability insurance as shall protect Contractor and all of its employees/officers/agents while performing work covered by this Agreement from any and all claims for damages for bodily injury, including accidental death, as well as any and all claims for property damage which may arise from Contractor's operations under this Agreement, whether such operations be by Contractor, any subcontractor, anyone directly or indirectly employed by either of them, or an agent of either of them. Such insurance shall be combined single limit bodily injury and property damage for each occurrence and shall not be less than the amounts specified below:

(a)	Comprehensive	General	Liability	.\$1,000,000
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(b) Motor Vehicle Liability Insurance.....\$1,000,000

Both County and the City and County of San Francisco ("City"), and their officers, agents, employees, and servants shall be named as additional insured on any such policies of insurance, which shall also contain a provision that (a) the insurance afforded thereby to County and City and theirs officers, agents, employees, and servants shall be primary insurance to the full limits of liability of the policy and (b) if the County or City or their officers, agents, employees, and servants have other insurance against the loss covered by such a policy, such other insurance shall be excess insurance only.

In the event of the breach of any provision of this Section, or in the event any notice is received which indicates any required insurance coverage will be diminished or canceled, County, at its option, may, notwithstanding any other provision of this Agreement to the contrary, immediately declare a material breach of this Agreement and suspend all further work and payment pursuant to this Agreement.

11. Compliance With Laws

All services to be performed by Contractor pursuant to this Agreement shall be performed in accordance with all applicable Federal, State, County, and municipal laws, ordinances, regulations, and executive orders, including but not limited to the Health Insurance Portability and Accountability Act of 1996 (HIPAA) and the Federal Regulations promulgated thereunder, as amended (if applicable), the Americans with Disabilities Act of 1990, as amended, and

Section 504 of the Rehabilitation Act of 1973, which prohibits discrimination on the basis of disability in programs and activities receiving any Federal or County financial assistance, as well as any required economic or other sanctions imposed by the United States government or under state law in effect during the term of the Agreement. Such services shall also be performed in accordance with all applicable ordinances and regulations, including but not limited to appropriate licensure, certification regulations, provisions pertaining to confidentiality of records, and applicable quality assurance regulations. In the event of a conflict between the terms of this Agreement and any applicable State, Federal, County, or municipal law, regulation, or executive order, the requirements of the applicable law, regulation, or executive order will take precedence over the requirements set forth in this Agreement.

Further, Contractor certifies that it and all of its subcontractors will adhere to all applicable provisions of Chapter 4.107 of the San Mateo County Ordinance Code, which regulates the use of disposable food service ware. Accordingly, Contractor shall not use any non-recyclable plastic disposable food service ware when providing prepared food on property owned or leased by the County and instead shall use biodegradable, compostable, reusable, or recyclable plastic food service ware on property owned or leased by the County.

Contractor will timely and accurately complete, sign, and submit all necessary documentation of compliance.

12. Non-Discrimination and Other Requirements

a. General Non-discrimination

No person shall be denied any services provided pursuant to this Agreement (except as limited by the scope of services) on the grounds of race, color, national origin, ancestry, age, disability (physical or mental), sex, sexual orientation, gender identity, marital or domestic partner status, religion, political beliefs or affiliation, familial or parental status (including pregnancy), medical condition (cancer-related), military service, or genetic information.

b. Equal Employment Opportunity

Contractor shall ensure equal employment opportunity based on objective standards of recruitment, classification, selection, promotion, compensation, performance evaluation, and management relations for all employees under this Agreement. Contractor's equal employment policies shall be made available to County upon request.

c. Section 504 of the Rehabilitation Act of 1973

Contractor shall comply with Section 504 of the Rehabilitation Act of 1973, as amended, which provides that no otherwise qualified individual with a disability shall, solely by reason of a disability, be excluded from the participation in, be denied the benefits of, or be subjected to discrimination in the performance of any services this Agreement. This Section applies only to contractors who are providing services to members of the public under this Agreement.

d. Compliance with County's Equal Benefits Ordinance

Contractor shall comply with all laws relating to the provision of benefits to its employees and their spouses or domestic partners, including, but not limited to, such laws prohibiting discrimination in the provision of such benefits on the basis that the spouse or domestic partner of the Contractor's employee is of the same or opposite sex as the employee.

e. <u>Discrimination Against Individuals with Disabilities</u>

The nondiscrimination requirements of 41 C.F.R. 60-741.5(a) are incorporated into this Agreement as if fully set forth here, and Contractor and any subcontractor shall abide by the requirements of 41 C.F.R. 60–741.5(a). This regulation prohibits discrimination against qualified individuals on the basis of disability and requires affirmative action by covered prime contractors and subcontractors to employ and advance in employment qualified individuals with disabilities.

f. History of Discrimination

Contractor certifies that no finding of discrimination has been issued in the past 365 days against Contractor by the Equal Employment Opportunity Commission, the California Department of Fair Employment and Housing, or any other investigative entity. If any finding(s) of discrimination have been issued against Contractor within the past 365 days by the Equal Employment Opportunity Commission, the California Department of Fair Employment and Housing, or other investigative entity, Contractor shall provide County with a written explanation of the outcome(s) or remedy for the discrimination prior to execution of this Agreement. Failure to comply with this Section shall constitute a material breach of this Agreement and subjects the Agreement to immediate termination at the sole option of the County.

g. Reporting; Violation of Non-discrimination Provisions

Contractor shall report to the County Executive Officer the filing in any court or with any administrative agency of any complaint or allegation of discrimination on any of the bases prohibited by this Section of the Agreement or the Section titled "Compliance with Laws". Such duty shall include reporting of the filing of any and all charges with the Equal Employment Opportunity Commission, the California Department of Fair Employment and Housing, or any other entity charged with the investigation or adjudication of allegations covered by this subsection within 30 days of such filing, provided that within such 30 days such entity has not notified Contractor that such charges are dismissed or otherwise unfounded. Such notification shall include a general description of the circumstances involved and a general description of the kind of discrimination alleged (for example, gender-, sexual orientation-, religion-, or race-based discrimination).

Violation of the non-discrimination provisions of this Agreement shall be considered a breach of this Agreement and subject the Contractor to penalties, to be determined by the County Executive Officer, including but not limited to the following:

- i. termination of this Agreement;
- ii. disqualification of the Contractor from being considered for or being awarded a County contract for a period of up to 3 years;
- iii. liquidated damages of \$2,500 per violation; and/or

iv. imposition of other appropriate contractual and civil remedies and sanctions, as determined by the County Executive Officer.

To effectuate the provisions of this Section, the County Executive Officer shall have the authority to offset all or any portion of the amount described in this Section against amounts due to Contractor under this Agreement or any other agreement between Contractor and County.

h. Compliance with Living Wage Ordinance

As required by Chapter 2.88 of the San Mateo County Ordinance Code, Contractor certifies all contractor(s) and subcontractor(s) obligated under this contract shall fully comply with the provisions of the County of San Mateo Living Wage Ordinance, including, but not limited to, paying all Covered Employees the current Living Wage and providing notice to all Covered Employees and Subcontractors as required under the Ordinance.

13. Compliance with County Employee Jury Service Ordinance

Contractor shall comply with Chapter 2.85 of the County's Ordinance Code, which states that Contractor shall have and adhere to a written policy providing that its employees, to the extent they are full-time employees and live in San Mateo County, shall receive from the Contractor, on an annual basis, no fewer than five days of regular pay for jury service in San Mateo County, with jury pay being provided only for each day of actual jury service. The policy may provide that such employees deposit any fees received for such jury service with Contractor or that the Contractor may deduct from an employee's regular pay the fees received for jury service in San Mateo County. By signing this Agreement, Contractor certifies that it has and adheres to a policy consistent with Chapter 2.85. For purposes of this Section, if Contractor has no employees in San Mateo County, it is sufficient for Contractor to provide the following written statement to County: "For purposes of San Mateo County's jury service ordinance, Contractor certifies that it has no full-time employees who live in San Mateo County. To the extent that it hires any such employees during the term of its Agreement with San Mateo County, Contractor shall adopt a policy that complies with Chapter 2.85 of the County's Ordinance Code." The requirements of Chapter 2.85 do not apply unless this Agreement's total value listed in the Section titled "Payments", exceeds two-hundred thousand dollars (\$200,000); Contractor acknowledges that Chapter 2.85's requirements will apply if this Agreement is amended such that its total value exceeds that threshold amount.

14. Retention of Records; Right to Monitor and Audit

- (a) Contractor shall maintain all required records relating to services provided under this Agreement for five (5) years after County makes final payment and all other pending matters are closed, and Contractor shall be subject to the examination and/or audit by County, a Federal grantor agency, and the State of California.
- (b) Contractor shall comply with all program and fiscal reporting requirements set forth by applicable Federal, State, and local agencies and as required by County.
- (c) Contractor agrees upon reasonable notice to provide to County, to any Federal or State department having monitoring or review authority, to County's authorized representative, and/or

to any of their respective audit agencies access to and the right to examine all records and documents necessary to determine compliance with relevant Federal, State, and local statutes, rules, and regulations, to determine compliance with this Agreement, and to evaluate the quality, appropriateness, and timeliness of services performed.

15. Merger Clause; Amendments

This Agreement, including the Exhibits and Attachments attached to this Agreement and incorporated by reference, constitutes the sole Agreement of the parties to this Agreement and correctly states the rights, duties, and obligations of each party as of this document's date. In the event that any term, condition, provision, requirement, or specification set forth in the body of this Agreement conflicts with or is inconsistent with any term, condition, provision, requirement, or specification in any Exhibit and/or Attachment to this Agreement, the provisions of the body of the Agreement shall prevail. Any prior agreement, promises, negotiations, or representations between the parties not expressly stated in this document are not binding. All subsequent modifications or amendments shall be in writing and signed by the parties.

16. Controlling Law; Venue

The validity of this Agreement and of its terms, the rights and duties of the parties under this Agreement, the interpretation of this Agreement, the performance of this Agreement, and any other dispute of any nature arising out of this Agreement shall be governed by the laws of the State of California without regard to its choice of law or conflict of law rules. Any dispute arising out of this Agreement shall be venued either in the San Mateo County Superior Court or in the United States District Court for the Northern District of California.

17. Notices

Any notice, request, demand, or other communication required or permitted under this Agreement shall be deemed to be properly given when both: (1) transmitted via facsimile to the telephone number listed below or transmitted via email to the email address listed below; and (2) sent to the physical address listed below by either being deposited in the United States mail, postage prepaid, or deposited for overnight delivery, charges prepaid, with an established overnight courier that provides a tracking number showing confirmation of receipt.

In the case of County, to:

Name/Title: Lisa Okada / Deputy Director of Human Resources

Address: 455 County Center, 5th Floor, Redwood City, CA 94063

Telephone: 650-363-7824

Email: lokada@smcgov.org

In the case of Contractor, to:

Name/Title: Lisa Kiesselbach PhD, Executive Director Address: 945 California Drive, Burlingame, CA 94010

Telephone: 650-340-1289 Ext 314

Email: lisa@palcare.org

18. Electronic Signature

Both County and Contractor wish to permit this Agreement and future documents relating to this Agreement to be digitally signed in accordance with California law and County's Electronic Signature Administrative Memo. Any party to this Agreement may revoke such agreement to permit electronic signatures at any time in relation to all future documents by providing notice pursuant to this Agreement.

19. Payment of Permits/Licenses

Contractor bears responsibility to obtain any license, permit, or approval required from any agency for work/services to be performed under this Agreement at Contractor's own expense prior to commencement of said work/services. Failure to do so will result in forfeit of any right to compensation under this Agreement.

In witness of and in agreement with this Agreement's terms, the parties, by their duly authorized representatives, affix their respective signatures:

For Contractor: Palcare Inc	۵
Sisa Kiesseldoch 5-1-23 Contractor Signature Date	Lisa Kiesselbach Contractor Name (please print)
	9
COUNTY OF SAN MATEO	
Ву:	
President, Board of Supervisors, San Mateo County	
Date:	
ATTEST:	
Ву:	
Clerk of Said Board	

Exhibit A

1. Description of Services

In consideration of the payments set forth in Exhibit B, Contractor shall provide the following services:

Provide priority enrollment for licensed extended-hour childcare services as described below, first to Airport-based employees and then to County employees, at the County-owned childcare facility at 945 California Drive in Burlingame, CA, in accordance with the below provisions and funding structures.

Contractor agrees that its services are being provided as a subcontract to the County's separate Agreement with the City and County of San Francisco ("City Agreement"), and that the purpose of the City Agreement is to allow the City and its Airport Commission to provide financial assistance for childcare services for Airport-based employees.

2. Definitions

The following terms, as used herein and in Exhibit B, have the following respective meanings:

"Airport" means the San Francisco International Airport, which is operated by the Airport Commission of the City and County of San Francisco.

"Airport-based Employee" means a person employed by the Commission or an employer based at the Airport. Airport-based Employees are placed into one of three family categories, as follows:

- a) California state income (lower income families): Requires a formal application and related documents to certify for CDE (as defined below) subsidies. Services are based on both income qualifications and need (i.e., employment). Most families that qualify have an income that falls below the state median income. For example: A family of four's combined annual adjusted gross income currently cannot go over \$112,105 annually, or \$9,342 monthly. The calculations determine a family fee from \$0 to \$600. The amount varies according to income and family size and can be changed according to CDE guidelines.
- b) Airport tuition assistance (lower to medium income families): Airport tuition assistance is determined by 15% of the adjusted gross annual family income and proof of employment at the Airport via a current badge, or proof of address on the Airport campus if no badge is available. For example, if gross annual income is \$120,000, 15% of this income would be \$18,000. This is then divided by 12 months. The Airport-based employee would be required to pay \$1,500 of the monthly tuition per child enrolled at Palcare. The current tuition cost for each program from Monday to Friday for eight hours a day is as follows:

Infants (3 months to 24 months): \$2,841 per month
Toddlers (2 years to 3 years): \$2,541 per month
Preschool and Pre-K (3 years to 5 years): \$2,243 per month

c) Discounted tuition (higher income families): Families whose adjusted gross income does not qualify for tuition assistance will receive a 5% subsidy toward Palcare's monthly tuition. City will match Palcare's 5% discount, giving higher income families an additional 5% discount for a total of 10%.

"Airport Scholarship Program" means City's subsidy of childcare tuition for certain low-income families, as provided in Section 3.C. below.

"Annual Registration Fee" means the Annual Registration and Materials Fee normally charged by Palcare to all families that use Palcare services, currently in the amount of \$300 per child, as the same may be adjusted from time to time.

"City" means the City and County of San Francisco.

"Commission" means the Airport Commission of the City and County of San Francisco.

"County Employee" means a regular employee of the County of San Mateo who works at least 20 hours per week.

"CDE" means the California Department of Education, Child Development Division.

"Extended Hours Support" means that Palcare will provide extended hour childcare services with a 15% premium for childcare professionals during the extended hours, up to the maximum amount defined below, so that childcare services will be available from Monday-Friday, 6 am – 11 pm and Saturdays 8am – 4 pm. Extended hours is defined as Monday-Friday, 6pm- 11pm and Saturdays, 8am-4pm.

	FY 2023	FY 2024	FY 2025	FY 2026	FY 2027
Maximum Amount to support extended hours	\$12,908	\$26,257	\$28,111	\$30,096	\$32,221

"Family Contribution Amount" means, for any month, the monthly amount a family is required to pay, calculated as follows:

- a) for a California state income family (lower income family) (defined above), the lesser of:
 - the family contribution amount that such family must pay for childcare services for such month, which is determined by Palcare from the applicable "Part-Time Fee" or "Full-Time Fee" amounts on the Family Fee Schedule, it being understood that such monthly amounts are a "per family per month" charge, regardless of the number of such family's children actually enrolled at Palcare, and
 - ii. 15% of such family's monthly income multiplied by the number of such

family's children enrolled at Palcare during such month.

- b) for an Airport Tuition Assistance family (defined above), 15% of such family's monthly income multiplied by the number of such family's children enrolled at Palcare during such month.
- c) for any other family (Discounted Tuition family, as defined above), 95% of Palcare's monthly tuition.

For purposes of this definition, the same monthly income figure for a family shall be used for the Family Fee Schedule (in subsection (a)(i) above) and the 15% calculations under subsections (a)(ii) and (b) above.

"Flexible Scheduling" means the ability of Airport-based Employees to schedule and pay for childcare services during the hours and days they specifically need rather than on a standard full- or part- day basis, and to change their schedules every month as necessary.

"Full-time Equivalent" means a child receiving childcare services 10 hours per day, 21 days per month.

"Family Fee Schedule" means the DOE Child Care and Development Family Fee Schedule as updated from time to time, the current version of which is attached hereto as Appendix C. This schedule shall automatically update when DOE updates its Family Fee Schedule. During the term of this Agreement, County shall require Palcare to forward to City any updated fee schedule, which shall be automatically incorporated into this Agreement as part of Appendix C hereto without the necessity of a formal amendment of this Agreement.

"Index" means the Consumer Price Index for All Urban Consumers (CPI-U) in the San Francisco-Oakland-San Jose region as reported and published by the U.S. Department of Labor, Bureau of Labor Statistics, for the twelve-month period ending the previous December 31.

"Lunch Program" means Palcare's provision of providing a morning and afternoon snack, and a hot lunch and dinner for all children ages two years and up.

"Priority Enrollment" means the right of an Airport-based Employee's child, ahead of children of County Employees and the general community, to be (a) enrolled upon applying for service if a space is available in the appropriate childcare class, or (b) placed at the front of Palcare's waiting list for the next available opening at Palcare in the appropriate class. Palcare shall grant the children of County Employees secondary priority enrollment behind the children of Airport-based Employees, but ahead of the general community.

3. Childcare Program Services

Flexible Scheduling. Palcare shall provide Flexible Scheduling for Airport-based Employees to select and pay for childcare services by the hour rather than on a standard full- or part-day

basis. Palcare shall also provide Airport-based Employees with the option to change their childcare schedules on a monthly basis.

Priority Enrollment. Palcare shall reserve 100 Full-time Equivalent spaces for Priority Enrollment, which shall be allotted first to Airport-based employee children, and second to County employee children, ahead of the general community.

4. Documentation and Invoices

Contractor shall provide to County, within 30 days of the end of each quarter ending on September 30, December 31, March 31 and June 30, documentation of the actual costs billed each month in each quarter in accordance with this Agreement. This documentation shall be sent to the individuals indicated to be noticed in Section 17.

The quarterly invoices shall clearly show the total amount due, as well as a detailed breakdown of how such amount was determined. Specifically, the invoices shall include the following schedules for each month in the quarter under consideration:

	Schedule	Required Information			
1	Flexible Scheduling Fee for families that do not qualify for CDE or the Airport Scholarship Program Subsidy.	 The regular monthly tuition for Airport families; A list of Airport families and the corresponding tuition fees; Total fees for all the families; and The resulting 20% payable as outlined in Exhibit B, Section A 			
2a	Airport Scholarship Subsidy for qualifying families that also receive CDE subsidies.	 The monthly total regular tuition, the CDE subsidy and the Family Contribution Amount for each qualifying family; The total amounts; Corresponding subsidy payable by (calculated in accordance with the formula in Exhibit B, Section B); and Relevant supporting documentation (separate CDE schedule showing the CDE subsidy amounts for each family). 			
2b	Airport Scholarship Subsidy for qualifying families that do not receive CDE subsidies.	 The monthly total regular tuition and the Family Contribution Amount for each qualifying family; The total amounts; and The corresponding subsidy payable (calculated in accordance with the formula in Exhibit B, Section B). 			

2c	Flexible Scheduling Fee for families that qualify for the Airport Scholarship Program Subsidy.	 The monthly total regular tuition for each family and the corresponding total; and The resulting 20% payable as outlined in Exhibit B, Sections A and B above. Alternatively, the information for this schedule may be shown in Schedules 2a and 2b, as long as these Flexible Scheduling Fees are clearly presented separate from the Airport scholarship subsidies.
3	Annual Registration Fees.	 The Annual Registration Fees charged each month to new/renewing Airport-based employee families; The names of the children associated with such fees; and The total for all the children of Airport-based employees.
4	Lunch Program Support Fees	 The total number of Airport-based employee children over the age of two enrolled at Palcare x Days enrolled per month; and The total number of days of care for all Airport-based employee children over the age of two per month.
	Extended Hours Support	None
	<u>Fees</u>	
5	(included on annual basis)	
6	Priority Enrollment Fees.	 The total Full-time Equivalent spaces occupied by Airport-based employee children each month; The total number of Airport-based employee children on the waiting list each month; The average number of Airport-based children during the final quarter of the preceding year; and The monthly amount payable, calculated on a prorata basis as outlined in Section 3.G above.
7	Summary.	 The monthly total amounts in all the schedules indicated above; The overall monthly totals; and The grand total payable for the quarter.

County reserves the right to request additional supporting documentation for the invoices and associated schedules, and to adjust the amounts due if documentation of costs does not substantiate the amounts billed. In the event a subsequent dispute arises related to City funds disbursed by County to Palcare, Palcare agrees to indemnify and defend County pursuant to Section 8 of this Agreement.

Contractor agrees to maintain and make available to County and City, during regular business hours, accurate books and accounting records relating to its Services under this Agreement. Contractor will permit County and City to audit, examine and make excerpts and transcripts from such books and records, and to make audits of all invoices, materials, payrolls, records or personnel and other data related to all other matters covered by this Agreement, whether funded in whole or in part under this Agreement. Contractor shall maintain such data and records in an accessible location and condition for a period of not fewer than five years after final payment under this Agreement or until after final audit has been resolved, whichever is later. The State of California or any federal agency having an interest in the subject matter of this Agreement shall have the same rights as conferred upon City by this Section.

The timely submission of all reports is a necessary and material term and condition of this Agreement. The reports, including any copies, shall be submitted on recycled paper and printed on double-sided pages to the maximum extent possible.

5. Compliance with City Laws

Pursuant to the requirements imposed by the related City Agreement, to which this is a subcontract, Contractor agrees to comply with all applicable City Municipal Code provisions and other Laws. The full text of the San Francisco Municipal Code provisions incorporated by reference in this Article and elsewhere in the Agreement ("Mandatory City Requirements") are available at http://www.amlegal.com/codes/client/san-francisco ca. these provisions include but are not limited to:

- Conflict of Interest. By executing this Agreement, Contractor certifies that it does not know of any fact which constitutes a violation of Section 15.103 of the City's Charter; Article III, Chapter 2 of City's Campaign and Governmental Conduct Code; Title 9, Chapter 7 of the California Government Code (Section 87100 et seq.), or Title 1, Division 4, Chapter 1, Article 4 of the California Government Code (Section 1090 et seq.), and further agrees promptly to notify the City if it becomes aware of any such fact during the term of this Agreement.
- Prohibition on Use of Public Funds for Political Activity. In performing the
 Services, Contractor shall comply with Administrative Code Chapter 12G ("Chapter
 12G"), which prohibits funds appropriated by the City for this Agreement from being
 expended to participate in, support, or attempt to influence any political campaign for
 a candidate or for a ballot measure. Contractor is subject to the enforcement and
 penalty provisions in Chapter 12G.
- Sugar-Sweetened Beverage Prohibition. Contractor agrees that it shall not sell, provide, or otherwise distribute Sugar-Sweetened Beverages, as defined by Administrative Code Chapter 101, as part of its performance of this Agreement.
- Packaged Water Prohibition. Contractor agrees that it shall not sell, provide, or otherwise distribute Packaged Water, as defined by San Francisco Environment Code Chapter 24, as part of its performance of this Agreement.
- Tropical Hardwood and Virgin Redwood Ban. Pursuant to San Francisco Environment Code Section 804(b), the City urges Contractor not to import, purchase,

obtain, or use for any purpose, any tropical hardwood, tropical hardwood wood product, virgin redwood or virgin redwood wood product.

- Nondisclosure of City Data, Private or Confidential Information. If this Agreement requires City to disclose "Private Information" to Contractor within the meaning of Administrative Code Chapter 12M ("Chapter 12M"), Contractor and subcontractor shall use such information only consistent with the restrictions stated in Chapter 12M and in this Agreement and only as necessary in performing the Services. Contractor is subject to the enforcement and penalty provisions in Chapter 12M. In the performance of Services, Contractor may have access to, or collect on City's behalf, City Data and /or Confidential Information, the disclosure of which to third parties may damage City. If City discloses City Data or Confidential Information to Contractor, or Contractor collects such information on City's behalf, such information must be held by Contractor in confidence and used only in performing the Agreement. Contractor shall exercise the same standard of care to protect such information as a reasonably prudent contractor would use to protect its own confidential information.
- Ownership of City Data. The Parties agree that as between them, all rights, including all intellectual property rights, in and to the City Data and any derivative works of the City Data is the exclusive property of the City.

Management of City Data and Confidential Information

- o Use of City Data and Confidential Information. Contractor agrees to hold City Data received from, or collected on behalf of, the City, in strictest confidence. Contractor shall not use or disclose City Data except as permitted or required by the Agreement or as otherwise authorized in writing by the City. Any work using, or sharing or storage of, City Data outside the United States is subject to prior written authorization by the City. Access to City Data must be strictly controlled and limited to Contractor's staff assigned to this project on a need-to-know basis only. Contractor is provided a limited non-exclusive license to use the City Data solely for performing its obligations under the Agreement and not for Contractor's own purposes or later use. Nothing in this Agreement shall be construed to confer any license or right to the City Data or Confidential Information, by implication, estoppel or otherwise, under copyright or other intellectual property rights, to any third-party. Unauthorized use of City Data by Contractor, subcontractors or other third-parties is prohibited. For purpose of this requirement, the phrase "unauthorized use" means the data mining or processing of data, stored or transmitted by the service, for commercial purposes, advertising or advertising-related purposes, or for any purpose other than security or service delivery analysis that is not explicitly authorized.
- Disposition of Confidential Information. Upon request of City or termination or expiration of this Agreement, and under any document retention period required by this Agreement, Contractor shall promptly, but in no event later than thirty (30) calendar days, return all data given to or collected by Contractor on City's behalf, which includes all original media. Once Contractor has received written confirmation from City that City's Data has been successfully transferred to City, Contractor shall within ten (10) business days clear or purge all City Data from its servers, any hosted environment Contractor has used in performance of this Agreement,

including its subcontractors environment(s), work stations that were used to process the data or for production of the data, and any other work files stored by Contractor in whatever medium. Contractor shall provide City with written certification that such purge occurred within five (5) business days of the purge. Secure disposal shall be accomplished by "clearing," "purging" or "physical destruction," consistent with National Institute of Standards and Technology Special Publication 800-88 or most current industry standard.

- Notification of Legal Requests. Contractor shall immediately notify County and City upon receipt of any subpoenas, service of process, litigation holds, discovery requests and other legal requests ("Legal Requests") related to data which was collected, used, maintained, process, stored, or generated by or on behalf of the County or City in connection with this Agreement, or which in any way might reasonably require access to such data, in no event later than 24 hours after it receives the request. Contractor shall not respond to such Legal Requests without first notifying County and City, other than to notify the requestor that the information sought is potentially covered under a non-disclosure agreement. Contractor shall retain and preserve data received under this Agreement consistent with the County and City's instruction and requests, including, without limitation, any retention schedules and/or litigation hold orders provided by the County and City to Contractor, independent of where the data is stored.
- Airport Intellectual Property. Under Resolution No. 01-0118, adopted by the Airport Commission on April 18, 2001, the Airport Commission affirmed that it will not tolerate the unauthorized use of its intellectual property, including the SFO logo, CADD designs, and copyrighted publications. No proposers, bidders, contractors, tenants, permittees, and others doing business with or at the Airport (including subcontractors and subtenants) may use the Airport intellectual property, or any intellectual property confusingly similar to the Airport intellectual property, without the Airport Director's prior written consent.
- Federal Nondiscrimination Requirements. During the performance of this Agreement, Contractor, for itself, its assignees, and successors in interest (hereinafter referred to as "Contractor") agrees as follows:
 - Compliance with Regulations. Contractor (hereinafter includes consultants) will comply with the below Title VI List of Pertinent Nondiscrimination Acts and Authorities, as they may be amended from time to time, which are herein incorporated by reference and made a part of this Agreement.
 - Nondiscrimination. Contractor, with regard to the work performed by it during the Agreement, will not discriminate on the grounds of race, color, or national origin in the selection and retention of subcontractors, including procurements of materials and leases of equipment. Contractor will not participate directly or indirectly in the discrimination prohibited by the Nondiscrimination Acts and Authorities, including employment practices when the Agreement covers any activity, project, or program set forth in Appendix B of 49 CFR part 21.
 - Solicitations for Subcontracts. Including Procurements of Materials and Equipment: In all solicitations, either by competitive bidding, or negotiation made by Contractor for work to be performed under a subcontract, including procurements of materials, or leases of equipment, each potential subcontractor or supplier will be notified by Contractor of Contractor's obligations under this Agreement and the Nondiscrimination Acts And Authorities on the grounds of race, color, or national origin.

- Information and Reports. Contractor will provide all information and reports required by the Acts, the Regulations, and directives issued pursuant thereto and will permit access to its books, records, accounts, other sources of information, and its facilities as may be determined by the Airport or the Federal Aviation Administration to be pertinent to ascertain compliance with such Nondiscrimination Acts and Authorities and instructions. Where any information required of a contractor is in the exclusive possession of another who fails or refuses to furnish the information, the contractor will so certify to the Airport or the Federal Aviation Administration, as appropriate, and will set forth what efforts it has made to obtain the information.
- Sanctions for Noncompliance. In the event of a Contractor's noncompliance with the Non-discrimination provisions of this Agreement, the Airport will impose such contract sanctions as it or the Federal Aviation Administration may determine to be appropriate, including, but not limited to:

 Withholding payments to the contractor under the contract until the contractor complies; and/or

Cancelling, terminating, or suspending a contract, in whole or in part.

- Incorporation of Provisions. Contractor will include this entire section on federal nondiscrimination provisions in every subcontract, including procurements of materials and leases of equipment, unless exempt by the Acts, the Regulations and directives issued pursuant thereto. Contractor will take action with respect to any subcontract or procurement as the Airport or the Federal Aviation Administration may direct as a means of enforcing such provisions including sanctions for noncompliance. Provided, that if Contractor becomes involved in, or is threatened with litigation by a subcontractor, or supplier because of such direction, Contractor may request the Airport to enter into any litigation to protect the interests of the Airport. In addition, Contractor may request the United States to enter into the litigation to protect the interests of the United States.
- Title VI List of Pertinent Nondiscrimination Acts and Authorities. During the
 performance of this Agreement, Contractor, for itself, its assignees, and successors
 in interest agrees to comply with applicable non-discrimination statutes and
 authorities; including but not limited to:

 Title VI of the Civil Rights Act of 1964 (42 USC §2000d et seq., 78 stat. 252), (prohibits discrimination on the basis of race, color, national origin);

 49 CFR part 21 (Non-discrimination In Federally-Assisted Programs of The Department of Transportation—Effectuation of Title VI of The Civil Rights Act of 1964);

The Uniform Relocation Assistance and Real Property Acquisition Policies
 Act of 1970 (42 USC §4601) (prohibits unfair treatment of persons displaced
 or whose property has been acquired because of federal or federal-aid
 programs and projects);

Section 504 of the Rehabilitation Act of 1973, (29 USC. §794 et seq.), as amended (prohibits discrimination on the basis of disability); and 49 CFR

part 27;

The Age Discrimination Act of 1975, as amended (42 USC §6101 et seq.),

(prohibits discrimination on the basis of age);

 Airport and Airway Improvement Act of 1982, (49 USC §471, Section 47123), as amended (prohibits discrimination based on race, creed, color, national origin, or sex);

- The Civil Rights Restoration Act of 1987, (PL 100-209), (Broadened the scope, coverage and applicability of Title VI of the Civil Rights Act of 1964, The Age Discrimination Act of 1975 and Section 504 of the Rehabilitation Act of 1973, by expanding the definition of the terms "programs or activities" to include all of the programs or activities of the federal-aid recipients, subrecipients and contractors, whether such programs or activities are federally funded or not);
- Titles II and III of the Americans with Disabilities Act of 1990, which prohibit discrimination on the basis of disability in the operation of public entities, public and private transportation systems, places of public accommodation, and certain testing entities (42 USC §12131 12189) as implemented by Department of Transportation regulations at 49 CFR parts 37 and 38 and the Department of Justice regulations at 28 CFR, parts 35 and 36;
- The Federal Aviation Administration's Non-discrimination statute (49 USC)
- §47123) (prohibits discrimination on the basis of race, color, national origin, and sex);
- Executive Order 12898, Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations, which ensures nondiscrimination against minority populations by discouraging programs, policies, and activities with disproportionately high and adverse human health or environmental effects on minority and low-income populations;
- Executive Order 13166, Improving Access to Services for Persons with Limited English Proficiency, and resulting agency guidance, national origin discrimination includes discrimination because of limited English proficiency (LEP). To ensure compliance with Title VI, you must take reasonable steps to ensure that LEP persons have meaningful access to your programs (70 CFR at 74087 to 74100);
- Title IX of the Education Amendments of 1972, as amended, which prohibits you from discriminating because of sex in education programs or activities (20 USC §1681 et seq.).

Exhibit B

In consideration of the services provided by Contractor described in Exhibit A and subject to the terms of the Agreement, County shall pay Contractor based on the following fee schedule and terms. Contractor agrees that the obligations of County to provide funding to Contractor for Airport-based employees, as described in this Agreement, are limited solely to the funds in County's possession that are received from City consistent with to the separate City Agreement.

Each quarter, County will pay Contractor the quarterly payment amounts required under this Agreement corresponding to the three months in such quarter, based upon quarterly invoices submitted by Contractor to County. In no event shall County be liable for interest or late charges for any late payments.

No quarterly payment shall exceed the applicable maximum Quarterly payment amount set forth below:

Fiscal Year	Maximum Quarterly Payment Amount	Maximum Annual Payment Amount
2023-24	\$300,000	\$1,200,000
2024-25	\$325,000	\$1,300,000
2025-26	\$350,000	\$1,400,000
2026-27	\$375,000	\$1,500,000
2027-28	\$375,000	\$1,500,000

This quarterly payment shall be calculated based on the following fees:

- A. <u>Flexible Scheduling Fee</u>. In order to provide Flexible Scheduling to Airport-based Employees, and consistent with the City Agreement, Palcare will invoice the County for a fee equal to 20% of the regular monthly tuition charged to Airport-based Employees (prior to subtracting any CDE subsidy or Family Contribution Amount for lower-income families described in paragraph B. below). This fee is intended to assist Palcare with the cost of the additional teachers that are needed during peak childcare hours and outside of normal business hours, and the childcare capacity that cannot otherwise be filled due to the irregularity of the Airport flexible schedules.
- B. <u>Airport Scholarship Program Subsidy</u>. In order to make childcare services more affordable for Airport-based Employees, for each month during the term of this Agreement, Palcare will directly charge Airport-based employees only the Family Contribution Amount as defined in Section 2. Consistent with the City Agreement, Palcare will invoice the County for a subsidy equal to (a) the regular Palcare tuition for all such family's children for such month, less (b) the amount of any CDE subsidy received by Palcare for such family's children for such month (if any), less (c) the applicable Family Contribution Amount (as defined in Section 2) for such month that such family is required to pay. City's subsidy amount for any given month is summarized by the following formula with respect to each Airport-based Employee:

City subsidy = Total regular tuition - CDE subsidy (if any) - Family Contribution Amount

If the Family Contribution Amount exceeds the total regular tuition amount, then the City

subsidy is zero.

- C. <u>Annual Registration Fees.</u> In order to increase the affordability of childcare services, Palcare will not charge annual registration fees to individual Airport-based employees. Instead, consistent with the City Agreement, Palcare will invoice the County for the Annual Registration Fees of each Airport-based Employee child, currently in the amount of \$300 per child. In the event Palcare changes the Annual Registration Fee, Palcare shall immediately give notice of the change to County and City.
- D. <u>Discounted Tuition (higher income families)</u>. In order to support the affordability of childcare services for higher income families, City will match a 5% tuition assistance subsidy provided by Palcare, for a total subsidy of 10%.
- E. <u>Lunch Program Support.</u> In order to support the provision of meals to enrolled children, consistent with the City Agreement, Palcare will invoice the County for up to six dollars and ninety-five cents (\$6.95) per enrolled Airport-based Employee child ages two and up per day. Lunch Program Support = \$6.95 x Airport-based Employee child over the age of two enrolled at Palcare x Days enrolled per billing period.
- F. Extended Hours Support. Palcare will support the provision of extended hours with a 15% premium for childcare professionals during extended hours, up to the maximums described below, so that childcare services will be available from Monday-Friday, 6am –11 pm and Saturdays 8am–4 pm.

	FY 2023	FY 2024	FY 2025	FY 2026	FY 2027
Maximum annual amount to support extended hours	\$12,908	\$26,257	\$28,111	\$30,096	\$32,221

G. Priority Enrollment. In order to assist with the availability of childcare services, Palcare will reserve 100 Full-time Equivalent spaces for immediate enrollment if a space is available in the appropriate childcare class, or if space is not available, for placement at the front of Palcare's waiting list. These Priority Enrollment slots shall go first to Airport-based employee children and second to County employee children if slots remain, and third to the general community. The annual fee for Priority Enrollment will be calculated considering a \$1,000 amount per Full-Time Equivalent space multiplied by the average number of Airport-based Employee children enrolled at Palcare during the final quarter of the preceding year with a 15% increase, per the following formula:

Annual Priority Enrollment Fee = \$1,000 x average number of Airport-based Employee children enrolled at Palcare during the final quarter of the preceding year x 1.15.

The Priority Enrollment Fee shall not exceed \$100,000 per year. This fee will be payable in equal quarterly increments.

The operative family monthly fee schedule shall be the current annual Family Fee Schedule, provided from time to time by the California Department of Education, Child Development Division under California Education Code sections 8263(f). For reference only, the current schedule is as follows.

Family Monthly Fee Schedule

California Department of Social Services – Effective: July 1, 2022
State enrollment cutoff = 85% of 2020 State Median Income (SMI) from CA DOF (2020 ACS)

Family Fee Schedule									
Monthly Part	Monthly Full- time Fee	Family Size 1 or 2	Family Size	Family Size 4	Family Size 5	Family Size 6	Family Size 7	Family Size 8 or more	
\$36	\$71	\$2,827	\$3,220	\$3,737	\$4,335	\$4,933		\$5,157	
\$44		\$2,898	\$3,300		\$4,443	\$5,056		\$5,286	
\$52	\$104		\$3,381		\$4,551	\$5,180		\$5,415	
\$61		\$3,039			\$4,660	\$5,303	\$5,423	\$5,544	
\$78					\$4,768			\$5,673	
\$88	\$175	\$3,181			\$4,877	\$5,550		\$5,801	
\$98	\$195	\$3,251			\$4,985			\$5,930	
\$108			\$3,783		\$5,093			\$6,059	
\$119		\$3,393	\$3,864		\$5,202			\$6,188	
\$130						\$6,043	\$6,180	\$6,317	
\$142		\$3,534			\$5,418	\$6,166	\$6,306	\$6,446	
\$153		\$3,605					\$6,432	\$6,575	
\$166		\$3,675				\$6,413		\$6,704	
\$178		\$3,746				\$6,536	\$6,684	\$6,833	
\$182		\$3,817	\$4,347				\$6,810	\$6,962	
\$185	\$369	\$3,887	\$4,427			\$6,783		\$7,091	
\$188						\$6,906	\$7,063	\$7,220	
\$192					\$6,177	\$7,030	\$7,189	\$7,348	
\$203						\$7,153	\$7,315	\$7,477	
\$207	\$413					\$7,276	\$7,441	\$7,606	
\$210		\$4,241				\$7,399			
\$214						\$7,523	\$7,693		
\$217						\$7,646			
\$221					\$6,827	\$7,769			
\$224	\$448				\$6,936				
\$228					\$7,044	\$8,016			
\$231						\$8,139	\$8,324		
\$235						\$8,263	\$8,450	\$8,638	
\$238						\$8,386			
\$242						\$8,509	\$8,702		
\$245							\$8,828		
\$252								\$9,282	
\$259	\$518					\$9,126			
\$266	\$532						\$9,585		
\$273						\$9,619	\$9,837		
\$280						\$9,866	\$10,089		
\$287	\$574						\$10,342		
\$291								\$10,700	
\$294							\$10,594		
\$298								\$10,958	

Based on 2020 American Community Survey (2020ACS)
Information provided by California Department of Finance, February 2022
California Department of Social Services
Jul-22