



## AGENCY AGREEMENT

Cake4Kids' mission is to help foster kids and at-risk youth feel special at least one day a year, to raise their self-esteem, and to increase their chance of success in life knowing that people care for them. The primary method of mission delivery is by providing free birthday cakes or other baked goods ("**Baked Goods**") to foster care and at-risk youth who wouldn't otherwise have a treat for their birthday.

In consideration of the mutual promises made in this Agreement, the parties agree as follows:

1. Responsibility of Cake4Kids. Cake4Kids with the undersigned agency (the "**Agency**"), who are helping youth and families in need. Upon the request of the Agency, Cake4Kids shall, at no cost, provide and deliver Baked Goods to the Agency (the "**Services**").
2. Responsibility of Agency. Agency acknowledges and agrees that health, safety, welfare and supervision of youth are the sole responsibility of Agency. Agency agrees to ensure adult supervision of youth during delivery of the Services from Cake4Kids, if applicable. Agency hereby assumes full responsibility for (a) providing Cake4Kids with accurate information as to Baked Goods requested, including, without limitation, any applicable food allergies or other information to ensure the safe consumption of the Baked Goods provided hereunder (the "**Required Information**"); and (b) any risk of bodily injury or death arising out of or related to the inadequate or negligent provision of the Required Information.
3. Limitation of Liability.
  - a. TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW, IN NO EVENT SHALL EITHER PARTY BE LIABLE TO THE OTHER FOR ANY INCIDENTAL, INDIRECT, SPECIAL, EXEMPLARY DAMAGES, DAMAGES FOR LOSS OF BUSINESS PROFITS, LOSS OF BUSINESS INFORMATION, OR OTHER PECUNIARY LOSS ARISING OUT OF THE USE OF THE SERVICES, EVEN IF SUCH PARTY HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH LOSS OR DAMAGES. THE LIMITATIONS ON LIABILITY AND TYPES OF DAMAGES STATED IN THIS SECTION APPLY, REGARDLESS OF THE FORM OF ANY LAWSUIT OR CLAIM EITHER PARTY MAY BRING, WHETHER IN TORT, CONTRACT OR OTHERWISE, AND REGARDLESS OF WHETHER ANY LIMITED REMEDY PROVIDED IN THIS AGREEMENT FAILS OF ITS ESSENTIAL PURPOSE.

- b. EXCEPT FOR A PARTY'S INDEMNIFICATION OBLIGATIONS HEREUNDER, IN NO EVENT SHALL EITHER PARTY'S TOTAL, AGGREGATE LIABILITY TO THE OTHER PARTY OR TO ANY THIRD PARTY FOR ANY CLAIMS OR DAMAGES ARISING UNDER THIS AGREEMENT EXCEED \$100. CAKE4KIDS' TOTAL, AGGREGATE LIABILITY TO AGENCY OR TO ANY THIRD PARTY FOR ANY CLAIMS OR DAMAGES ARISING UNDER CAKE4KIDS' INDEMNIFICATION OBLIGATIONS SHALL NOT EXCEED \$5,000.

4. Indemnification.

- a. Agency agrees to indemnify, defend and hold harmless Cake4Kids, its directors, officers, employees, volunteers, agents, legal successors and assigns and defend any third party action or threat of action, claim, demand, cause of action, debt or liability, including reasonable attorneys' fees, to the extent such action is based upon a claim that arises out of: (i) Agency's breach of this Agreement; (ii) the negligence or willful misconduct of Agency; or (iii) the failure of Agency to provide the Required Information.
- b. Cake4Kids agrees to indemnify, defend and hold harmless Agency, its directors, officers, employees, volunteers, agents, legal successors and assigns and defend any third party action or threat of action, claim, demand, cause of action, debt or liability, including reasonable attorneys' fees, to the extent such action is based upon a claim that arises out of: (i) Cake4Kids' breach of this Agreement; or (ii) the negligence or willful misconduct of Cake4Kids.

5. Governing Law; Jurisdiction. This Agreement shall be governed, construed and enforced in accordance with the laws of the State of California, without giving effect to conflicts of law principles. All disputes arising under this Agreement shall be brought in the federal and state courts located in Monterey, California, as permitted by law, and each of the parties consents to the personal jurisdiction, service of process and venue of such courts.

6. Miscellaneous. This Agreement shall be binding upon and for the benefit of the parties hereto and their respective heirs, executors, administrators, successors and assigns. No provision of this Agreement may be waived, altered or amended, except by a written instrument signed by Cake4Kids and Agency. This Agreement constitutes the entire agreement between the parties concerning the matters set forth in this Agreement and no representations, warranties or inducements, express or implied, have been made by either party to the other except as set forth in this Agreement. If any provision of this Agreement is held invalid or illegal, such illegality shall not invalidate the whole of this Agreement, but rather the Agreement shall be construed as if it did not contain the illegal part, and the rights and obligations of the parties shall be construed and enforced accordingly. This Agreement may be executed in counterpart copies, all of which when taken together shall be deemed to constitute one and the same instrument.

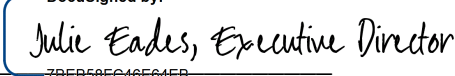
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- 7. Term and Termination: This Agreement shall become effective February 1, 2021 and shall terminate upon January 31, 2022 unless terminated earlier by either party. The term may be extended by amending this Agreement upon the written consent of both parties. Sections 3-6 shall survive the termination or expiration of this Agreement.

IN WITNESS WHEREOF, the parties have executed this Agreement as of the Effective Date set forth below.

Cake4Kids

Monterey County Department  
of Social Services

DocuSigned by:  
  
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 Julie Eades, Executive Director  
 12/14/2020 | 5:07 PM PST

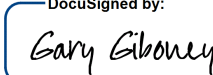
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 Lori A. Medina, Director

Approved as to form:

\_\_\_\_\_  
 Anne Brereton, County Counsel

\_\_\_\_\_  
 County Counsel  
 12/17/2020 | 11:47 AM PST

Approved as to fiscal provisions:

DocuSigned by:  
  
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 Auditor Controller  
 12/17/2020 | 12:04 PM PST

AGENCY ACKNOWLEDGES THAT AGENCY HAS CAREFULLY READ THIS AGREEMENT AND UNDERSTANDS AND AGREES TO ALL OF THE PROVISIONS SET FORTH IN THIS AGREEMENT.

Name of Agency:	Monterey County Department of Social Services Family and Children's Services
Address:	1000 S. Main St., Suite 206 Salinas, CA 93901
Agency Contact Name Email	Sara Sturtevant sturtevants@co.monterey.ca.us
Name of Authorized Agency Signatory	Lori A. Medina
Title of Authorized Agency Signatory:	Director, Department of Social Services
Authorized Agency Signature:	
Effective Date:	