

**AGENDA REQUEST FORM**  
THE SCHOOL BOARD OF BROWARD COUNTY, FLORIDA

Meeting Date <div style="border: 1px solid black; padding: 2px; text-align: center;">07/24/12</div>	<div style="display: flex; justify-content: space-between;"> <div style="width:45%;"> Open Agenda  <input checked="" type="checkbox"/> Yes    <input type="checkbox"/> No </div> <div style="width:45%;"> Special Order Request  <input type="checkbox"/> Yes    <input checked="" type="checkbox"/> No </div> </div>	Agenda Item Number <div style="border: 1px solid black; padding: 2px; text-align: center;">EE-1</div>
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TITLE:	<b>Charter School Student Transportation Agreements</b>
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REQUESTED ACTION:	<p>Approve renewal of agreements between The School Board of Broward County, Florida, and Assistance Unlimited, Inc. d/b/a Central Charter School, Charter Schools USA Coral Springs, L.C. for the City of Coral Springs Charter School, Eagles' Nest Community Charter Schools, Inc., and Smart School, Inc., to provide student school bus transportation during the 2012-13 school year.</p>
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SUMMARY EXPLANATION AND BACKGROUND:	<p>These agreements will provide student school bus transportation for the students attending Central Charter School, City of Coral Springs Charter School, Eagles' Nest Elementary and Middle Charter Schools, Eagles Charter Academy, and Smart School Charter Middle on District school buses for the 2012-13 school year.</p> <p>Assistance Unlimited, Inc. d/b/a Central Charter School, Charter Schools USA Coral Springs, L.C., Eagles' Nest Community Charter Schools, Inc., and Smart School, Inc., will reimburse the District at the posted school reimbursement rate, currently set at \$44 per hour, for this service. The posted reimbursement rate is established annually, based on the District's previous fiscal year operational cost for school bus transportation. Notification of a change to the annual posted reimbursement rate is mailed to the designated contract administrator thirty days prior to the effective date. Future agreements will include a variable to account for the depreciation of the school bus, due to the additional bus usage attributable to providing this service.</p>
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These agreements have been reviewed and approved as to form and legal content by the Office of the General Counsel.

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|---------------------|---|
| SCHOOL BOARD GOALS: | <ul style="list-style-type: none"> <li><input type="checkbox"/> •Goal One: Raise achievement of all students to ensure graduation from high school and readiness for post-secondary education.</li> <li><input type="checkbox"/> •Goal Two: Improve the health and wellness of students and personnel.</li> <li><input type="checkbox"/> •Goal Three: Provide a safe and secure physical and technological environment for all students and employees.</li> <li><input type="checkbox"/> •Goal Four: Promote innovation which focuses on best practices and quality efforts that improve our best-in-class position.</li> <li><input type="checkbox"/> •Goal Five: Recruit, develop, retain, and recognize high performing and diverse faculty and personnel.</li> <li><input checked="" type="checkbox"/> •Goal Six: Build strong partnerships with family, business, community and government at the classroom, school, area, and district level.</li> <li><input type="checkbox"/> •Goal Seven: Ensure district's leadership as an environmental steward through innovative ecology and energy conservation programs.</li> </ul> |
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FINANCIAL IMPACT:	<p>Assistance Unlimited, Inc. d/b/a Central Charter School, Charter Schools USA Coral Springs, L.C., Eagles' Nest Community Charter Schools, Inc., and Smart School, Inc., will reimburse the District for the cost of this service as invoiced.</p>
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EXHIBITS: (List)	
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**Proposed Agreements**

<div style="border: 1px solid black; padding: 10px; text-align: center; font-weight: bold; font-size: 1.2em;">APPROVED</div> <div style="font-size: 0.8em;">(For Official School Board Records' Office Only)</div>	<div style="border: 1px solid black; padding: 5px;">SOURCE OF ADDITIONAL INFORMATION:</div> <div style="display: flex; justify-content: space-between; margin-top: 10px;"> <div style="width:60%;">Chester Tindall, Director</div> <div style="width:35%;">754-321-4400</div> </div> <div style="display: flex; justify-content: space-between; font-size: 0.7em; margin-top: 5px;"> <div>Name</div> <div>Phone</div> </div>
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**THE SCHOOL BOARD OF BROWARD COUNTY, FLORIDA**

Jeffrey S. Moquin

Task Assigned Chief of Staff

*Jeffrey S. Moquin*

Approved in Open Board Meeting on:

**JUL 24 2012**

By:  
Form #4189  
Revised 10/11  
RWR/JSM/CT:ak

*Cara Murray*

School Board Chair

## **STUDENT TRANSPORTATION AGREEMENT**

**THIS AGREEMENT** is made and entered into as of this 24<sup>th</sup> day of July, 2012, by and between

**THE SCHOOL BOARD OF BROWARD COUNTY, FLORIDA**

(hereinafter referred to as "SBBC"),  
a body corporate and political subdivision of the State of Florida,  
whose principal place of business is  
600 Southeast Third Avenue, Fort Lauderdale, Florida 33301

and

**ASSISTANCE UNLIMITED, INC.**

d/b/a Central Charter School  
(hereinafter referred to as "SCHOOL"),  
whose principal place of business is  
4515 North State Road 7  
Lauderdale Lakes, Florida 33319

WHEREAS, the SBBC owns and operates a fleet of vehicles for the transportation of pupils; and

WHEREAS, the SCHOOL has been granted a contract by SBBC to operate a charter school in Broward County, Florida pursuant to Section 1002.33, Florida Statutes; and

WHEREAS, the charter school contract provides that the SCHOOL may contract with SBBC for the provision to the charter school of additional services beyond those provided under the charter school contract; and

WHEREAS, the SCHOOL is desirous of obtaining transportation services from SBBC and SBBC is willing to provide such services

**NOW, THEREFORE,** in consideration of the premises and of mutual covenants contained herein and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the Parties hereby agree as follows:

### **ARTICLE 1 - RECITALS**

1.01 **Recitals.** The Parties agree that the foregoing recitals are true and correct and that such recitals are incorporated herein by reference.

## **ARTICLE 2 – SPECIAL CONDITIONS**

2.01 **Term.** Unless terminated earlier pursuant to Section 3.05 of this Agreement, the term of this Agreement shall commence on August 3, 2012 and conclude on August 2, 2013.

2.02 **Transportation Needs.** Prior to the execution of the Agreement, the two parties have discussed the transportation needs of the SCHOOL and the approximate number of school buses that may be made available to the SCHOOL. The SBBC agrees to:

- Assign bus routes that serve all eligible students attending Central Charter School located at 4515 N. SR 7 Lauderdale Lakes, FL 33319.
- Transport students that reside outside a two-mile limit of the school, but no farther than four miles from the school, in accordance with state regulations.

The SCHOOL agrees:

- That the SBBC reserves the right to determine the type and capacity of bus to be used for each route for the most effective utilization of available transportation resources during the term of this contract.
- To submit a detailed, written request to the SBBC Transportation Services Department in the event that it should become necessary to alter services during the term of the contract due to a new school location. Such request must be submitted thirty (30) days in advance of the need for the change. The request will be reviewed by the SBBC Transportation Services Department and a written acceptance or denial shall be rendered within the same thirty (30) day timeframe.

2.03. **Payment of Operation Cost by the SCHOOL** The SCHOOL agrees to fully reimburse the SBBC for the operating cost of school buses used by the SCHOOL during the term of this Agreement. The SCHOOL shall pay the SBBC'S posted school reimbursement rate for a minimum of four hours per day for each school bus route provided, which sum shall cover use, operational costs, and reimbursement for driver's hours and all other costs and expenses incurred by the SBBC in supplying the school bus transportation.

Invoices for services provided will be sent monthly by the Transportation Services Department. Payment is due within thirty days of the invoice date. Past due invoices will be sent for all invoices not paid within thirty days.

2.04 **School Opening and Closing Times** The SCHOOL agrees that SBBC reserves the right to set the opening and closing times of the school for the most effective utilization of available transportation resources during the term of this contract.

2.05 **Student Information** The SCHOOL agrees to ensure that all information for students requiring school bus transportation will be properly entered and maintained current in the SBBC TERMS student database during the term of this contract.

2.06 **Collection of Student Ridership Data** The SCHOOL agrees to coordinate the collection of the required student ridership data for transportation eligible students during each Florida Educational Finance Program (FEFP) survey period and forward the data to the SBBC Pupil Transportation Department for submission to the Department of Education (DOE).

2.07 **Safety** The SCHOOL agrees to:

- Provide supervision to conduct emergency school bus evacuation drills for all transported students during the first six weeks of each semester and maintain documentation of the drills at the school.
- Provide instruction in safe riding practices to all transported students during the first six weeks of the first semester of the school year.
- Provide adequate supervision in the school bus loading area at the school to insure student safety.

2.08 **Student Discipline** The SCHOOL agrees to take all necessary action to ensure that students provided with school bus transportation adhere to the SBBC Student Code of Conduct while riding the bus.

2.09 **Lack of Petroleum Products** It is further agreed that in the event petroleum products required to operate this Agreement, or part of this Agreement, become unavailable, the obligations of each party hereunder may be terminated by the SBBC upon no less than twenty-four (24) hours notice in writing to the SCHOOL. The SBBC shall be the final authority as to the availability of petroleum products.

2.10 **Bus Drivers Assigned by SBBC** When school vehicles are used by the SCHOOL, under no circumstances will the vehicle be driven by anyone other than bus drivers qualified, trained, certified, and assigned by the SBBC. School buses will be operated under the same rules, regulations, policies, and procedures as SBBC pupil transportation and governed accordingly. Drivers shall at all times be considered employees or agents of the SBBC.

2.11 **Damage to the Vehicles Paid by the SCHOOL** The SCHOOL agrees to pay for any damage to the school vehicles while such vehicles are under the SCHOOL'S use which damage is attributable directly to that use, and caused by the

SCHOOL, its' employees, or its' students. All accidents involving a school vehicle will be reported as provided by procedures now existent or required in the daily operation of the SBBC.

2.12 **Reporting of Incidents Involving Non Pupil Passenger** The SCHOOL agrees to report to the SBBC the nature and extent of any incidents resulting in property damage or personal injury to a passenger while boarding, riding in, or deboarding from such vehicle and indemnify and hold harmless the SBBC from any and all claims arising out of such incidents, to the fullest extent allowed by the Constitution and the laws of the state of Florida, if such injury or damage is caused by any act or omission of an employee of SCHOOL.

2.13 **Method of Reimbursement** Unless otherwise agreed upon by the parties in writing, the costs borne by the SBBC on behalf of the SCHOOL under this Agreement will be reimbursed as invoiced; and in a reimbursement period not to exceed thirty (30) days from presentment or receipt of the referenced invoice to the SCHOOL Contract Administrator.

2.14 **Geographic Limitations on the Use of School Vehicles** The SCHOOL will limit its use of school vehicles to and within the confines of the Tri-County area. Under no circumstances should the vehicle be taken outside of the geographical limits set forth in this paragraph.

2.15 **Passenger Load Limit** When the SCHOOL'S use of the school vehicle (s) is made, the passenger capacity transported shall not exceed the rated capacity of the said vehicle(s). Standees shall not be permitted at any time. The SCHOOL shall not use school vehicles for any purpose whatsoever outside of the use covered by this Agreement.

2.16 **Cancellation** The SCHOOL reserves the right to cancel any trips it deems necessary with at least twenty-four (24) hours notice prior to the scheduled trip at no charge. Otherwise, a trip canceled within the twenty-four (24) hour time frame will result in a \$180.00 cancellation fee.

2.17 **Contract Administrator and Contract Representative** The SCHOOL's Contract Administrator for this Agreement is Tonya Dix, Principal, or designee. The Contract Representative for the SBBC is the Director of Student Transportation and Fleet Services, 3831 Northwest 10th Avenue, Oakland Park, Florida 33309, or designee.

2.18 **Insurance** The SCHOOL agrees to maintain the following insurance coverage:

Comprehensive General Liability coverage with bodily injury limits of not less than \$1,000,000 per occurrence with combined single limit for bodily injury and property damage. The SBBC shall be named as an additional insured under the General Liability policy.

2.19 **Inspection of SCHOOL'S Records by SBBC.** SCHOOL shall establish and maintain books, records and documents (including electronic storage media) sufficient to reflect all income and expenditures of funds provided by SBBC under this Agreement. All SCHOOL'S Records, regardless of the form in which they are kept, shall be open to inspection and subject to audit, inspection, examination, evaluation and/or reproduction, during normal working hours, by SBBC's agent or its authorized representative to permit SBBC to evaluate, analyze and verify the satisfactory performance of the terms and conditions of this Agreement and to evaluate, analyze and verify any and all invoices, billings, payments and/or claims submitted by SCHOOL or any of SCHOOL'S payees pursuant to this Agreement. SCHOOL'S Records subject to examination shall include, without limitation, those records necessary to evaluate and verify direct and indirect costs (including overhead allocations) as they may apply to costs associated with this Agreement. SCHOOL'S Records subject to this section shall include any and all documents pertinent to the evaluation, analysis, verification and reconciliation of any and all expenditures under this Agreement without regard to funding sources.

(a) **SCHOOL'S Records Defined.** For the purposes of this Agreement, the term "SCHOOL'S Records" shall include, without limitation, accounting records, payroll time sheets, cancelled payroll checks, W-2 forms, written policies and procedures, computer records, disks and software, videos, photographs, executed subcontracts, subcontract files (including proposals of successful and unsuccessful bidders), original estimates, estimating worksheets, correspondence, change order files (including sufficient supporting documentation and documentation covering negotiated settlements), and any other supporting documents that would substantiate, reconcile or refute any charges and/or expenditures related to this Agreement.

(b) **Duration of Right to Inspect.** For the purpose of such audits, inspections, examinations, evaluations and/or reproductions, SBBC's agent or authorized representative shall have access to SCHOOL'S Records from the effective date of this Agreement, for the duration of the term of this Agreement, and until the later of five (5) years after the termination of this Agreement or five (5) years after the date of final payment by SBBC to SCHOOL pursuant to this Agreement.

(c) **Notice of Inspection.** SBBC's agent or its authorized representative shall provide SCHOOL reasonable advance notice (not to exceed two (2) weeks) of any intended audit, inspection, examination, evaluation and or reproduction.

(d) **Audit Site Conditions.** SBBC's agent or its authorized representative shall have access to SCHOOL'S facilities and to any and all records related to this Agreement, and shall be provided adequate and appropriate work space in order to exercise the rights permitted under this section.

(e) **Failure to Permit Inspection.** Failure by SCHOOL to permit audit, inspection, examination, evaluation and/or reproduction as permitted under this Section

shall constitute grounds for termination of this Agreement by SBBC for cause and shall be grounds for the denial of some or all of any SCHOOL'S claims for payment by SBBC.

(f) Overcharges and Unauthorized Charges. If an audit conducted in accordance with this Section discloses overcharges or unauthorized charges to SBBC by SCHOOL in excess of two percent (2%) of the total billings under this Agreement, the actual cost of SBBC's audit shall be paid by SCHOOL. If the audit discloses billings or charges to which SCHOOL is not contractually entitled, SCHOOL shall pay said sum to SBBC within twenty (20) days of receipt of written demand under otherwise agreed to in writing by both parties.

(g) Inspection of Subcontractor's Records. SCHOOL shall require any and all subcontractors, insurance agents and material suppliers (hereafter referred to as "Payees") providing services or goods with regard to this Agreement to comply with the requirements of this section by insertion of such requirements in any written subcontract. Failure by SCHOOL to include such requirements in any subcontract shall constitute grounds for termination of this Agreement by SBBC for cause and shall be grounds for the exclusion of some or all of any Payee's costs from amounts payable by SBBC to SCHOOL pursuant to this Agreement and such excluded costs shall become the liability of SCHOOL.

(h) Inspector General Audits. SCHOOL shall comply and cooperate immediately with any inspections, reviews, investigations, or audits deemed necessary by the Florida Office of the Inspector General or by any other state or federal officials.

2.20 Notice When any of the parties desire to give notice to the other, such notice must be in writing, sent by US Mail, postage prepaid, addressed to the party for whom it is intended at the place last specified; the place for giving notice shall remain such until it is changed by written notice in compliance with the provisions of the paragraph. For the present, the Parties designate the following as the respective places for giving notice:

To SBBC:	Superintendent of Schools The School Board of Broward County, FL 600 Southeast Third Avenue Fort Lauderdale, Florida 33301
With a Copy to:	Director of Student Transportation & Fleet Services The School Board of Broward County, FL 3831 NW 10 Avenue Fort Lauderdale, Florida 33309
To SCHOOL:	Assistance Unlimited, Inc. d/b/a Central Charter School Tonya Dix, Principal 4515 North State Road 7 Lauderdale Lakes, FL 33319

2.21 **Background Screening** SCHOOL agrees to comply with all requirements of Sections 1012.32 and 1012.465, Florida Statutes, and that SCHOOL and all of its personnel who (1) are permitted access to school grounds when students are present, (2) will have direct contact with students, or (3) have access or control of school funds will successfully complete the background screening required by the referenced statutes and meet the standards established by the statutes. This background screening will be conducted by SBBC in advance of SCHOOL or its personnel providing any services under the conditions described in the previous sentence. SCHOOL will bear the cost of acquiring the background screening required by Section 1012.32, Florida Statutes, and any fee imposed by the Florida Department of Law Enforcement to maintain the fingerprints provided with respect to SCHOOL and its personnel. The Parties agree that the failure of SCHOOL to perform any of the duties described in this section shall constitute a material breach of this Agreement entitling SBBC to terminate immediately with no further responsibilities or duties to perform under this Agreement. To the extent permitted by law, SCHOOL agrees to indemnify and hold harmless SBBC, its officers and employees from any liability in the form of physical or mental injury, death or property damage resulting in SCHOOL's failure to comply with the requirements of this section or Sections 1012.32 and 1012.465, Florida Statutes.

2.22 **Indemnification** This section shall survive the termination of all performance or obligations under this Agreement and shall be fully binding until such time as any proceeding brought on account of this Agreement is barred by any applicable statute of limitations.

A. By SBBC: SBBC agrees to be fully responsible up to the limits of Section 768.28, Florida Statutes, for its acts of negligence, or its agent's acts of negligence when acting within the scope of their employment and agrees to be liable for any damages resulting from said negligence.

B. By SCHOOL: SCHOOL agrees to indemnify, hold harmless and defend SBBC, its agents, servants and employees from any and all claims, judgments costs and expenses including, but not limited to, reasonable attorney's fees, reasonable investigative and discovery costs, court costs and all other sums which SBBC, its agents, servants and employees may pay or become obligated to pay on account of any, all and every claim or demand, or assertion of liability, or any claim or action founded thereon, arising or alleged to have arisen out of the products, goods or services furnished by SCHOOL, its agents, servants or employees; the equipment of SCHOOL, its agents, servants or employees while such equipment is on premises owned or controlled by SBBC; or the negligence of SCHOOL or the negligence of SCHOOL's agents when acting within the scope of their employment, whether such claims, judgments, costs and expenses be for damages, damage to property including SBBC's property, and injury or death of any person whether employed by SCHOOL, SBBC or otherwise.



### **ARTICLE 3 – GENERAL CONDITIONS**

3.01 **No Waiver of Sovereign Immunity** Nothing herein is intended to serve as a waiver of sovereign immunity by any agency or political subdivision to which sovereign immunity may be applicable or of any rights or limits to liability existing under Section 768.28, Florida Statutes. This section shall survive the termination of all performance or obligations under this Agreement and shall be fully binding until such time as any proceeding brought on account of this Agreement is barred by any applicable statute of limitations.

3.02 **No Third Party Beneficiaries** The parties expressly acknowledge that it is not their intent to create or confer any rights or obligations in or upon any third person or entity under this Agreement. None of the parties intend to directly or substantially benefit a third party by this Agreement. The parties agree that there are no third party beneficiaries to this Agreement and that no third party shall be entitled to assert a claim against any of the parties based upon this Agreement. Nothing herein shall be construed as consent by an agency or political subdivision of the State of Florida to be sued by third parties in any matter arising out of any contract.

3.03 **Independent Contractor** The parties to this agreement shall at all times be acting in the capacity of independent contractors and not as an officer, employee or agent of one another. Neither party or its respective agents, employees, subcontractors or assignees shall represent to others that it has the authority to bind the other party unless specifically authorized in writing to do so. No right to SBBC retirement, leave benefits or any other benefits of SBBC employees shall exist as a result of the performance of any duties or responsibilities under this Agreement. SBBC shall not be responsible for social security, withholding taxes, contributions to unemployment compensation funds or insurance for the other party or the other party's officers, employees, agents, subcontractors or assignees.

3.04 **Equal Opportunity Provision.** The parties agree that no person shall be subjected to discrimination because of age, race, color, disability, gender identity, gender expression marital status, national origin, religion, sex or sexual orientation in the performance of the parties' respective duties, responsibilities and obligations under this Agreement.

3.05 **Termination.** This Agreement may be canceled with or without cause by SBBC during the term hereof upon thirty (30) days written notice to the other parties of its desire to terminate this Agreement. In the event of such termination, SBBC shall pay the other party for all services rendered through the effective date of termination.

3.06 **Default.** The parties agree that, in the event that either party is in default of its obligations under this Agreement, the non-defaulting party shall provide to the defaulting party (30) days written notice to cure the default. However, in the event said default cannot be cured within said thirty (30) day period and the defaulting party is diligently attempting in good faith to cure same, the time period shall be reasonably

extended to allow the defaulting party additional cure time. Upon the occurrence of a default that is not cured during the applicable cure period, this Agreement may be terminated by the non-defaulting party upon thirty (30) days notice. This remedy is not intended to be exclusive of any other remedy, and each and every such remedy shall be cumulative and shall be in addition to every other remedy now or hereafter existing at law or in equity or by statute or otherwise. No single or partial exercise by any party of any right, power, or remedy hereunder shall preclude any other or future exercise thereof. Nothing in this section shall be construed to preclude termination for convenience pursuant to Section 3.05.

3.07 **Annual Appropriation.** The performance and obligations of SBBC under this Agreement shall be contingent upon an annual budgetary appropriation by its governing body. If SBBC does not allocate funds for the payment of services or products to be provided under this Agreement, this Agreement may be terminated by SBBC at the end of the period for which funds have been allocated. SBBC shall notify the other party at the earliest possible time before such termination. No penalty shall accrue to SBBC in the event this provision is exercised, and SBBC shall not be obligated or liable for any future payments due or any damages as a result of termination under this section.

3.08 **Excess Funds.** Any party receiving funds paid by SBBC under this Agreement agrees to promptly notify SBBC of any funds erroneously received from SBBC upon the discovery of such erroneous payment or overpayment. Any such excess funds shall be refunded to SBBC with interest calculated from the date of the erroneous payment or overpayment. Interest shall be calculated using the interest rate for judgments under Section 55.03, Florida Statutes, applicable at the time the erroneous payment or overpayment was made by SBBC.

3.09 **Public Records.** Each party shall maintain its own respective records and documents associated with this Agreement in accordance with the records retention requirements applicable to public records. Each party shall be responsible for compliance with any public documents request served upon it pursuant to Section 119.07, Florida Statutes, and any resultant award of attorney's fees for non-compliance with that law.

3.10 **Student Records:** Notwithstanding any provision to the contrary within this Agreement, any party contracting with SBBC under this Agreement shall fully comply with the requirements of Section 1002.22, Florida Statutes, or any other state or federal law or regulation regarding the confidentiality of student information and records. Each such party agrees, for itself, its officers, employees, agents, representatives, contractors or subcontractors, to fully indemnify and hold harmless SBBC and its officers and employees for any violation of this section, including, without limitation, defending SBBC and its officers and employees against any complaint, administrative or judicial proceeding, payment of any penalty imposed upon SBBC, or payment of any and all costs, damages, judgments or losses incurred by or imposed upon SBBC arising out of a breach of this covenant by the party, or an officer, employee, agent, representative, contractor, or sub-contractor of the party to the extent that the party or an officer, employee, agent, representative, contractor, or sub-contractor of the party shall either

intentionally or negligently violate the provisions of this section or of Section 1002.22, Florida Statutes. This section shall survive the termination of all performance or obligations under this Agreement and shall be fully binding until such time as any proceeding brought on account of this Agreement is barred by any applicable statute of limitations.

3.11 **Compliance with Laws** Each party shall comply with all applicable federal and state laws, codes, rules and regulations in performing its duties, responsibilities and obligations pursuant to this Agreement.

3.12 **Place of Performance** All obligations of SBBC under the terms of this Agreement are reasonably susceptible of being performed in Broward County, Florida and shall be payable and performable in Broward County, Florida.

3.13 **Governing Law and Venue** This Agreement shall be interpreted and construed in accordance with and governed by the laws of the State of Florida. Any controversies or legal problems arising out of this Agreement and any action involving the enforcement or interpretation of any rights hereunder shall be submitted to the jurisdiction of the State courts of the Seventeenth Judicial Circuit of Broward County, Florida.

3.14 **Entirety of Agreement** This document incorporates and includes all prior negotiations, correspondence, conversations, agreements and understandings applicable to the matters contained herein and the parties agree that there are no commitments, agreements or understandings concerning the subject matter of this Agreement that are not contained in this document. Accordingly, the parties agree that no deviation from the terms hereof shall be predicated upon any prior representations or agreements, whether oral or written.

3.15 **Binding Effect** This Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective successors and assigns.

3.16 **Assignment** Neither this Agreement or any interest herein may be assigned, transferred or encumbered by any party without the prior written consent of the other party. There shall be no partial assignments of this Agreement including, without limitation, the partial assignment of any right to receive payments from SBBC.

3.17 **Incorporation by Reference** Exhibits attached hereto and referenced herein shall be deemed to be incorporated into this Agreement by reference.

3.18 **Captions** The captions, section designations, section numbers, article numbers, titles and headings appearing in this Agreement are inserted only as a matter of convenience, have no substantive meaning, and in no way define, limit, construe or describe the scope or intent of such articles or sections of this Agreement, nor in any way effect this Agreement and shall not be construed to create a conflict with the provisions of this Agreement.

3.19 **Severability.** In the event that any one or more of the sections, paragraphs, sentences, clauses or provisions contained in this Agreement is held by a court of competent jurisdiction to be invalid, illegal, unlawful, unenforceable or void in any respect, such shall not affect the remaining portions of this Agreement and the same shall remain in full force and effect as if such invalid, illegal, unlawful, unenforceable or void sections, paragraphs, sentences, clauses or provisions had never been included herein.

3.20 **Preparation of Agreement**The parties acknowledge that they have sought and obtained whatever competent advice and counsel as was necessary for them to form a full and complete understanding of all rights and obligations herein and that the preparation of this Agreement has been their joint effort. The language agreed to herein expresses their mutual intent and the resulting document shall not, solely as a matter of judicial construction, be construed more severely against one of the parties than the other.

3.21 **Amendments.** No modification, amendment, or alteration in the terms or conditions contained herein shall be effective unless contained in a written document prepared with the same or similar formality as this Agreement and executed by each party hereto.

3.22 **Waiver.** The parties agree that each requirement, duty and obligation set forth herein is substantial and important to the formation of this Agreement and, therefore, is a material term hereof. Any party's failure to enforce any provision of this Agreement shall not be deemed a waiver of such provision or modification of this Agreement unless the waiver is in writing and signed by the party waiving such provision. A written waiver shall only be effective as to the specific instance for which it is obtained and shall not be deemed a continuing or future waiver.

3.23 **Force Majeure** Neither party shall be obligated to perform any duty, requirement or obligation under this Agreement if such performance is prevented by fire, hurricane, earthquake, explosion, wars, sabotage, accident, flood, acts of God, strikes, or other labor disputes, riot or civil commotions, or by reason of any other matter or condition beyond the control of either party, and which cannot be overcome by reasonable diligence and without unusual expense ("Force Majeure"). In no event shall a lack of funds on the part of either party be deemed Force Majeure.

3.24 **Survival.** All representations and warranties made herein, indemnification obligations, obligations to reimburse SBBC, obligations to maintain and allow inspection and audit of records and property, obligations to maintain the confidentiality of records, reporting requirements, and obligations to return public funds shall survive the termination of this Agreement.

3.25 **Authority.** Each person signing this Agreement on behalf of either party individually warrants that he or she has full legal power to execute this Agreement on behalf of the party for whom he or she is signing, and to bind and obligate such party with respect to all provisions contained in this Agreement.

IN WITNESS WHEREOF, the Parties hereto have made and executed this Agreement on the date first above written.

**FOR SBBC**

(Corporate Seal)

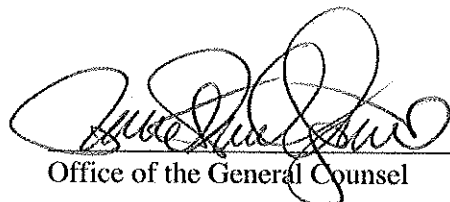
THE SCHOOL BOARD OF  
BROWARD COUNTY, FLORIDA

ATTEST:

By   
Ann Murray, Chair

  
Robert W. Runcie, Superintendent of Schools

Approved as to Form and Legal Content:

  
Office of the General Counsel

**FOR SCHOOL**

(Corporate Seal)

ASSISTANCE UNLIMITED, INC. D/B/A  
CENTRAL CHARTER SCHOOL

ATTEST:

\_\_\_\_\_, Secretary

By:

Rosa J. Lawson  
Name and Title - PRESIDENT/CEO

ROSA J. LAWSON  
Printed Name

or  
[Signature]  
Witness

Sharon Tolan  
Witness

**The Following Notarization is Required For Every Agreement Without Regard to Whether the SCHOOL Chose to Use a Secretary's Attestation or Two (2) Witnesses.**

STATE OF FLORIDA  
COUNTY OF BROWARD

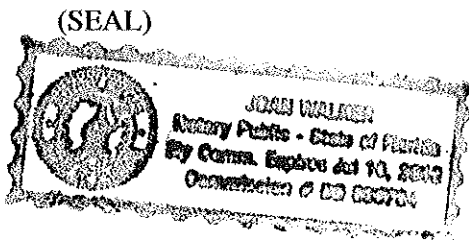
The foregoing instrument was acknowledged before me this 13 day of JUNE, 2012 by ROSA J. LAWSON of ASSISTANCE UNLIMITED, INC. D/B/A CENTRAL CHARTER SCHOOL, on behalf of the corporation/agency. He/She is personally known to me or produced \_\_\_\_\_ as identification and did/did not first take an oath.

My Commission Expires: 07/30/2012

[Signature]  
Signature - Notary Public

JOAN WALKER  
Printed Name of Notary

806784  
Notary's Commission No.



## **STUDENT TRANSPORTATION AGREEMENT**

**THIS AGREEMENT** is made and entered into as of this 24<sup>th</sup> day of July, 2012, by and between

**THE AGENCY BOARD OF BROWARD COUNTY, FLORIDA**

(hereinafter referred to as "SBBC"),  
a body corporate and political subdivision of the State of Florida,  
whose principal place of business is  
600 Southeast Third Avenue, Fort Lauderdale, Florida 33301

and

**CHARTER SCHOOLS USA CORAL SPRINGS, L.C.**

(hereinafter referred to as "AGENCY"),  
whose principal place of business is  
6245 North Federal Highway, 5<sup>th</sup> Floor  
Fort Lauderdale, FL 33308

WHEREAS, the SBBC owns and operates a fleet of vehicles for the transportation of pupils; and

WHEREAS, the AGENCY is the management company for the City of Coral Springs Charter School; and

WHEREAS, the City of Coral Springs Charter School has been granted a contract by SBBC to operate a charter school in Broward County, Florida pursuant to Section 1002.33, Florida Statutes; and

WHEREAS, the charter school contract provides that the City of Coral Springs Charter School may contract with SBBC for the provision to the charter school of additional services beyond those provided under the charter school contract; and

WHEREAS, the City of Coral Spring Charter School through the AGENCY is desirous of obtaining transportation services from SBBC and SBBC is willing to provide such services.

**NOW, THEREFORE**, in consideration of the premises and of mutual covenants contained herein and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the Parties hereby agree as follows:

### **ARTICLE 1 - RECITALS**

1.01 **Recitals.** The Parties agree that the foregoing recitals are true and correct and that such recitals are incorporated herein by reference.

## **ARTICLE 2 – SPECIAL CONDITIONS**

2.01 **Term.** Unless terminated earlier pursuant to Section 3.05 of this Agreement, the term of this Agreement shall commence on August 3, 2012 and conclude on August 2, 2013.

2.02 **Transportation Needs.** Prior to the execution of the Agreement, the two parties have discussed the transportation needs and the approximate number of school buses that may be made available to the City of Coral Springs Charter School. The SBBC agrees to:

- Assign bus routes that serve all eligible students attending the City of Coral Springs Charter School located at 3205 North University Drive, Coral Springs, FL 33065.
- Transport students that reside outside a two-mile limit of the AGENCY, but no farther than four miles from the school, in accordance with state regulations.

The AGENCY agrees:

- That the SBBC reserves the right to determine the type and capacity of bus to be used for each route for the most effective utilization of available transportation resources during the term of this contract.
- To submit a detailed, written request to the SBBC Transportation Services Department in the event that it should become necessary to alter services during the term of the contract due to a new school location. Such request must be submitted thirty (30) days in advance of the need for the change. The request will be reviewed by the SBBC Transportation Services Department and a written acceptance or denial shall be rendered within the same thirty (30) day timeframe.

2.03. **Payment of Operation Cost by the AGENCY** The AGENCY agrees to fully reimburse the SBBC for the operating cost of school buses used by the AGENCY during the term of this Agreement. The AGENCY shall pay the SBBC'S posted school reimbursement rate for a minimum of four hours per day for each school bus route provided, which sum shall cover use, operational costs, and reimbursement for driver's hours and all other costs and expenses incurred by the SBBC in supplying the school bus transportation.

Invoices for services provided will be sent monthly by the Transportation Services Department. Payment is due within thirty days of the invoice date. Past due invoices will be sent for all invoices not paid within thirty days.



2.04 **School Opening and Closing Times** The AGENCY agrees that SBBC reserves the right to set the opening and closing times of the school for the most effective utilization of available transportation resources during the term of this contract.

2.05 **Student Information** The AGENCY agrees to ensure that all information for students requiring school bus transportation will be properly entered and maintained current in the SBBC TERMS student database during the term of this contract.

2.06 **Collection of Student Ridership Data** The AGENCY agrees to coordinate the collection of the required student ridership data for transportation eligible students during each Florida Educational Finance Program (FEFP) survey period and forward the data to the SBBC Pupil Transportation Department for submission to the Department of Education (DOE).

2.07 **Safety** The AGENCY agrees to:

- Provide supervision to conduct emergency school bus evacuation drills for all transported students during the first six weeks of each semester and maintain documentation of the drills at the school.
- Provide instruction in safe riding practices to all transported students during the first six weeks of the first semester of the school year.
- Provide adequate supervision in the school bus loading area at the school to insure student safety.

2.08 **Student Discipline** The AGENCY agrees to take all necessary action to ensure that students provided with school bus transportation adhere to the SBBC Student Code of Conduct while riding the bus.

2.09 **Lack of Petroleum Products** It is further agreed that in the event petroleum products required to operate this Agreement, or part of this Agreement, become unavailable, the obligations of each party hereunder may be terminated by the SBBC upon no less than twenty-four (24) hours notice in writing to the AGENCY. The SBBC shall be the final authority as to the availability of petroleum products.

2.10 **Bus Drivers Assigned by SBBC** When school vehicles are used by the AGENCY, under no circumstances will the vehicle be driven by anyone other than bus drivers qualified, trained, certified, and assigned by the SBBC. School buses will be operated under the same rules, regulations, policies, and procedures as SBBC pupil transportation and governed accordingly. Drivers shall at all times be considered employees or agents of the SBBC.

2.11 **Damage to the Vehicles Paid by the AGENCY** The AGENCY agrees to pay for any damage to the school vehicles while such vehicles are under the AGENCY'S use which damage is attributable directly to that use, and caused by the

AGENCY, its' employees, or its' students. All accidents involving a school vehicle will be reported as provided by procedures now existent or required in the daily operation of the SBBC.

2.12 **Reporting of Incidents Involving Non Pupil Passengers** The AGENCY agrees to report to the SBBC the nature and extent of any incidents resulting in property damage or personal injury to a passenger while boarding, riding in, or debarking from such vehicle and indemnify and hold harmless the SBBC from any and all claims arising out of such incidents, to the fullest extent allowed by the Constitution and the laws of the state of Florida, if such injury or damage is caused by any act or omission of an employee of AGENCY.

2.13 **Method of Reimbursement** Unless otherwise agreed upon by the parties in writing, the costs borne by the SBBC on behalf of the AGENCY under this Agreement will be reimbursed as invoiced; and in a reimbursement period not to exceed thirty (30) days from presentment or receipt of the referenced invoice to the AGENCY Contract Administrator.

2.14 **Geographic Limitations on the Use of School Vehicles** The AGENCY will limit its use of school vehicles to and within the confines of the Tri-County area. Under no circumstances should the vehicle be taken outside of the geographical limits set forth in this paragraph.

2.15 **Passenger Load Limit** When the AGENCY'S use of the school vehicle (s) is made, the passenger capacity transported shall not exceed the rated capacity of the said vehicle(s). Standees shall not be permitted at any time. The AGENCY shall not use school vehicles for any purpose whatsoever outside of the use covered by this Agreement.

2.16 **Cancellation** The AGENCY reserves the right to cancel any trips it deems necessary with at least twenty-four (24) hours notice prior to the scheduled trip at no charge. Otherwise, a trip canceled within the twenty-four (24) hour time frame will result in a \$180.00 cancellation fee.

2.17 **Contract Administrator and Contract Representative** The AGENCY's Contract Administrator for this Agreement is Jennifer Westbrook, Senior Manager of School Operations, or designee. The Contract Representative for the SBBC is the Director of Student Transportation and Fleet Services, 3831 Northwest 10th Avenue, Oakland Park, Florida 33309, or designee.

2.18 **Insurance** The AGENCY agrees to maintain the following insurance coverage:

Comprehensive General Liability coverage with bodily injury limits of not less than \$1,000,000 per occurrence with combined single limit for bodily

injury and property damage. The SBBC shall be named as an additional insured under the General Liability policy.

2.19 **Inspection of AGENCY'S Records by SBBC.** AGENCY shall establish and maintain books, records and documents (including electronic storage media) sufficient to reflect all income and expenditures of funds provided by SBBC under this Agreement. All AGENCY'S Records, regardless of the form in which they are kept, shall be open to inspection and subject to audit, inspection, examination, evaluation and/or reproduction, during normal working hours, by SBBC's agent or its authorized representative to permit SBBC to evaluate, analyze and verify the satisfactory performance of the terms and conditions of this Agreement and to evaluate, analyze and verify any and all invoices, billings, payments and/or claims submitted by AGENCY or any of AGENCY'S payees pursuant to this Agreement. AGENCY'S Records subject to examination shall include, without limitation, those records necessary to evaluate and verify direct and indirect costs (including overhead allocations) as they may apply to costs associated with this Agreement. AGENCY'S Records subject to this section shall include any and all documents pertinent to the evaluation, analysis, verification and reconciliation of any and all expenditures under this Agreement without regard to funding sources.

(a) **AGENCY'S Records Defined.** For the purposes of this Agreement, the term "AGENCY'S Records" shall include, without limitation, accounting records, payroll time sheets, cancelled payroll checks, W-2 forms, written policies and procedures, computer records, disks and software, videos, photographs, executed subcontracts, subcontract files (including proposals of successful and unsuccessful bidders), original estimates, estimating worksheets, correspondence, change order files (including sufficient supporting documentation and documentation covering negotiated settlements), and any other supporting documents that would substantiate, reconcile or refute any charges and/or expenditures related to this Agreement.

(b) **Duration of Right to Inspect.** For the purpose of such audits, inspections, examinations, evaluations and/or reproductions, SBBC's agent or authorized representative shall have access to AGENCY'S Records from the effective date of this Agreement, for the duration of the term of this Agreement, and until the later of five (5) years after the termination of this Agreement or five (5) years after the date of final payment by SBBC to AGENCY pursuant to this Agreement.

(c) **Notice of Inspection.** SBBC's agent or its authorized representative shall provide AGENCY reasonable advance notice (not to exceed two (2) weeks) of any intended audit, inspection, examination, evaluation and or reproduction.

(d) **Audit Site Conditions.** SBBC's agent or its authorized representative shall have access to AGENCY'S facilities and to any and all records related to this Agreement, and shall be provided adequate and appropriate work space in order to exercise the rights permitted under this section.

(e) Failure to Permit Inspection. Failure by AGENCY to permit audit, inspection, examination, evaluation and/or reproduction as permitted under this Section shall constitute grounds for termination of this Agreement by SBBC for cause and shall be grounds for the denial of some or all of any AGENCY'S claims for payment by SBBC.

(f) Overcharges and Unauthorized Charges. If an audit conducted in accordance with this Section discloses overcharges or unauthorized charges to SBBC by AGENCY in excess of two percent (2%) of the total billings under this Agreement, the actual cost of SBBC's audit shall be paid by AGENCY. If the audit discloses billings or charges to which AGENCY is not contractually entitled, AGENCY shall pay said sum to SBBC within twenty (20) days of receipt of written demand under otherwise agreed to in writing by both parties.

(g) Inspection of Subcontractor's Records. AGENCY shall require any and all subcontractors, insurance agents and material suppliers (hereafter referred to as "Payees") providing services or goods with regard to this Agreement to comply with the requirements of this section by insertion of such requirements in any written subcontract. Failure by AGENCY to include such requirements in any subcontract shall constitute grounds for termination of this Agreement by SBBC for cause and shall be grounds for the exclusion of some or all of any Payee's costs from amounts payable by SBBC to AGENCY pursuant to this Agreement and such excluded costs shall become the liability of AGENCY.

(h) Inspector General Audits. AGENCY shall comply and cooperate immediately with any inspections, reviews, investigations, or audits deemed necessary by the Florida Office of the Inspector General or by any other state or federal officials.

2.20 Notice When any of the parties desire to give notice to the other, such notice must be in writing, sent by US Mail, postage prepaid, addressed to the party for whom it is intended at the place last specified; the place for giving notice shall remain such until it is changed by written notice in compliance with the provisions of the paragraph. For the present, the Parties designate the following as the respective places for giving notice:

To SBBC: Superintendent of Schools  
The School Board of Broward County, FL  
600 Southeast Third Avenue  
Fort Lauderdale, Florida 33301

With a Copy to: Director of Student Transportation & Fleet Services  
The School Board of Broward County, FL  
3831 NW 10 Avenue  
Fort Lauderdale, Florida 33309

To AGENCY: Charter Schools USA  
Jennifer Westbook, Sr. Manager of School Operations  
6245 North Federal Highway, 5<sup>th</sup> Floor  
Fort Lauderdale, Florida 33308

With a Copy to: City of Coral Springs Charter School  
Gary Springer, Principal  
3205 North University Drive  
Coral Springs, FL 33065

2.21 **Background Screening** AGENCY agrees to comply with all requirements of Sections 1012.32 and 1012.465, Florida Statutes, and that AGENCY and all of its personnel who (1) are permitted access to AGENCY grounds when students are present, (2) will have direct contact with students, or (3) have access or control of AGENCY funds will successfully complete the background screening required by the referenced statutes and meet the standards established by the statutes. This background screening will be conducted by SBBC in advance of AGENCY or its personnel providing any services under the conditions described in the previous sentence. AGENCY will bear the cost of acquiring the background screening required by Section 1012.32, Florida Statutes, and any fee imposed by the Florida Department of Law Enforcement to maintain the fingerprints provided with respect to AGENCY and its personnel. The Parties agree that the failure of AGENCY to perform any of the duties described in this section shall constitute a material breach of this Agreement entitling SBBC to terminate immediately with no further responsibilities or duties to perform under this Agreement. To the extent permitted by law, AGENCY agrees to indemnify and hold harmless SBBC, its officers and employees from any liability in the form of physical or mental injury, death or property damage resulting in AGENCY's failure to comply with the requirements of this section or Sections 1012.32 and 1012.465, Florida Statutes.

2.22 **Indemnification** This section shall survive the termination of all performance or obligations under this Agreement and shall be fully binding until such time as any proceeding brought on account of this Agreement is barred by any applicable statute of limitations.

A. By SBBC: SBBC agrees to be fully responsible up to the limits of Section 768.28, Florida Statutes, for its acts of negligence, or its agent's acts of negligence when acting within the scope of their employment and agrees to be liable for any damages resulting from said negligence.

B. By AGENCY: AGENCY agrees to indemnify, hold harmless and defend SBBC, its agents, servants and employees from any and all claims, judgments costs and expenses including, but not limited to, reasonable attorney's fees, reasonable investigative and discovery costs, court costs and all other sums which SBBC, its agents, servants and employees may pay or become obligated to pay on account of any, all and every claim or demand, or assertion of liability, or any claim or action founded thereon, arising or alleged to have arisen out of the products, goods or services furnished by

AGENCY, its agents, servants or employees; the equipment of AGENCY, its agents, servants or employees while such equipment is on premises owned or controlled by SBBC; or the negligence of AGENCY or the negligence of AGENCY's agents when acting within the scope of their employment, whether such claims, judgments, costs and expenses be for damages, damage to property including SBBC's property, and injury or death of any person whether employed by AGENCY, SBBC or otherwise.

### **ARTICLE 3 – GENERAL CONDITIONS**

3.01 **No Waiver of Sovereign Immunity.** Nothing herein is intended to serve as a waiver of sovereign immunity by any agency or political subdivision to which sovereign immunity may be applicable or of any rights or limits to liability existing under Section 768.28, Florida Statutes. This section shall survive the termination of all performance or obligations under this Agreement and shall be fully binding until such time as any proceeding brought on account of this Agreement is barred by any applicable statute of limitations.

3.02 **No Third Party Beneficiaries.** The parties expressly acknowledge that it is not their intent to create or confer any rights or obligations in or upon any third person or entity under this Agreement. None of the parties intend to directly or substantially benefit a third party by this Agreement. The parties agree that there are no third party beneficiaries to this Agreement and that no third party shall be entitled to assert a claim against any of the parties based upon this Agreement. Nothing herein shall be construed as consent by an agency or political subdivision of the State of Florida to be sued by third parties in any matter arising out of any contract.

3.03 **Independent Contractor.** The parties to this agreement shall at all times be acting in the capacity of independent contractors and not as an officer, employee or agent of one another. Neither party or its respective agents, employees, subcontractors or assignees shall represent to others that it has the authority to bind the other party unless specifically authorized in writing to do so. No right to SBBC retirement, leave benefits or any other benefits of SBBC employees shall exist as a result of the performance of any duties or responsibilities under this Agreement. SBBC shall not be responsible for social security, withholding taxes, contributions to unemployment compensation funds or insurance for the other party or the other party's officers, employees, agents, subcontractors or assignees.

3.04 **Equal Opportunity Provision.** The parties agree that no person shall be subjected to discrimination because of age, race, color, disability, gender identity, gender expression marital status, national origin, religion, sex or sexual orientation in the performance of the parties' respective duties, responsibilities and obligations under this Agreement.

3.05 **Termination.** This Agreement may be canceled with or without cause by SBBC during the term hereof upon thirty (30) days written notice to the other parties of its desire to terminate this Agreement. In the event of such termination, SBBC

shall pay the other party for all services rendered through the effective date of termination.

3.06 **Default.** The parties agree that, in the event that either party is in default of its obligations under this Agreement, the non-defaulting party shall provide to the defaulting party (30) days written notice to cure the default. However, in the event said default cannot be cured within said thirty (30) day period and the defaulting party is diligently attempting in good faith to cure same, the time period shall be reasonably extended to allow the defaulting party additional cure time. Upon the occurrence of a default that is not cured during the applicable cure period, this Agreement may be terminated by the non-defaulting party upon thirty (30) days notice. This remedy is not intended to be exclusive of any other remedy, and each and every such remedy shall be cumulative and shall be in addition to every other remedy now or hereafter existing at law or in equity or by statute or otherwise. No single or partial exercise by any party of any right, power, or remedy hereunder shall preclude any other or future exercise thereof. Nothing in this section shall be construed to preclude termination for convenience pursuant to Section 3.05.

3.07 **Annual Appropriation.** The performance and obligations of SBBC under this Agreement shall be contingent upon an annual budgetary appropriation by its governing body. If SBBC does not allocate funds for the payment of services or products to be provided under this Agreement, this Agreement may be terminated by SBBC at the end of the period for which funds have been allocated. SBBC shall notify the other party at the earliest possible time before such termination. No penalty shall accrue to SBBC in the event this provision is exercised, and SBBC shall not be obligated or liable for any future payments due or any damages as a result of termination under this section.

3.08 **Excess Funds.** Any party receiving funds paid by SBBC under this Agreement agrees to promptly notify SBBC of any funds erroneously received from SBBC upon the discovery of such erroneous payment or overpayment. Any such excess funds shall be refunded to SBBC with interest calculated from the date of the erroneous payment or overpayment. Interest shall be calculated using the interest rate for judgments under Section 55.03, Florida Statutes, applicable at the time the erroneous payment or overpayment was made by SBBC.

3.09 **Public Records.** Each party shall maintain its own respective records and documents associated with this Agreement in accordance with the records retention requirements applicable to public records. Each party shall be responsible for compliance with any public documents request served upon it pursuant to Section 119.07, Florida Statutes, and any resultant award of attorney's fees for non-compliance with that law.

3.10 **Student Records:** Notwithstanding any provision to the contrary within this Agreement, any party contracting with SBBC under this Agreement shall fully comply with the requirements of Section 1002.22, Florida Statutes, or any other state or federal law or regulation regarding the confidentiality of student information and records. Each such party agrees, for itself, its officers, employees, agents, representatives, contractors or subcontractors, to fully indemnify and hold harmless SBBC and its officers

and employees for any violation of this section, including, without limitation, defending SBBC and its officers and employees against any complaint, administrative or judicial proceeding, payment of any penalty imposed upon SBBC, or payment of any and all costs, damages, judgments or losses incurred by or imposed upon SBBC arising out of a breach of this covenant by the party, or an officer, employee, agent, representative, contractor, or sub-contractor of the party to the extent that the party or an officer, employee, agent, representative, contractor, or sub-contractor of the party shall either intentionally or negligently violate the provisions of this section or of Section 1002.22, Florida Statutes. This section shall survive the termination of all performance or obligations under this Agreement and shall be fully binding until such time as any proceeding brought on account of this Agreement is barred by any applicable statute of limitations.

3.11 **Compliance with Laws.** Each party shall comply with all applicable federal and state laws, codes, rules and regulations in performing its duties, responsibilities and obligations pursuant to this Agreement.

3.12 **Place of Performance.** All obligations of SBBC under the terms of this Agreement are reasonably susceptible of being performed in Broward County, Florida and shall be payable and performable in Broward County, Florida.

3.13 **Governing Law and Venue.** This Agreement shall be interpreted and construed in accordance with and governed by the laws of the State of Florida. Any controversies or legal problems arising out of this Agreement and any action involving the enforcement or interpretation of any rights hereunder shall be submitted to the jurisdiction of the State courts of the Seventeenth Judicial Circuit of Broward County, Florida.

3.14 **Entirety of Agreement.** This document incorporates and includes all prior negotiations, correspondence, conversations, agreements and understandings applicable to the matters contained herein and the parties agree that there are no commitments, agreements or understandings concerning the subject matter of this Agreement that are not contained in this document. Accordingly, the parties agree that no deviation from the terms hereof shall be predicated upon any prior representations or agreements, whether oral or written.

3.15 **Binding Effect.** This Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective successors and assigns.

3.16 **Assignment.** Neither this Agreement or any interest herein may be assigned, transferred or encumbered by any party without the prior written consent of the other party. There shall be no partial assignments of this Agreement including, without limitation, the partial assignment of any right to receive payments from SBBC.

3.17 **Incorporation by Reference.** Exhibits attached hereto and referenced herein shall be deemed to be incorporated into this Agreement by reference.



3.18 **Captions.** The captions, section designations, section numbers, article numbers, titles and headings appearing in this Agreement are inserted only as a matter of convenience, have no substantive meaning, and in no way define, limit, construe or describe the scope or intent of such articles or sections of this Agreement, nor in any way effect this Agreement and shall not be construed to create a conflict with the provisions of this Agreement.

3.19 **Severability.** In the event that any one or more of the sections, paragraphs, sentences, clauses or provisions contained in this Agreement is held by a court of competent jurisdiction to be invalid, illegal, unlawful, unenforceable or void in any respect, such shall not affect the remaining portions of this Agreement and the same shall remain in full force and effect as if such invalid, illegal, unlawful, unenforceable or void sections, paragraphs, sentences, clauses or provisions had never been included herein.

3.20 **Preparation of Agreement.** The parties acknowledge that they have sought and obtained whatever competent advice and counsel as was necessary for them to form a full and complete understanding of all rights and obligations herein and that the preparation of this Agreement has been their joint effort. The language agreed to herein expresses their mutual intent and the resulting document shall not, solely as a matter of judicial construction, be construed more severely against one of the parties than the other.

3.21 **Amendments.** No modification, amendment, or alteration in the terms or conditions contained herein shall be effective unless contained in a written document prepared with the same or similar formality as this Agreement and executed by each party hereto.

3.22 **Waiver.** The parties agree that each requirement, duty and obligation set forth herein is substantial and important to the formation of this Agreement and, therefore, is a material term hereof. Any party's failure to enforce any provision of this Agreement shall not be deemed a waiver of such provision or modification of this Agreement unless the waiver is in writing and signed by the party waiving such provision. A written waiver shall only be effective as to the specific instance for which it is obtained and shall not be deemed a continuing or future waiver.

3.23 **Force Majeure.** Neither party shall be obligated to perform any duty, requirement or obligation under this Agreement if such performance is prevented by fire, hurricane, earthquake, explosion, wars, sabotage, accident, flood, acts of God, strikes, or other labor disputes, riot or civil commotions, or by reason of any other matter or condition beyond the control of either party, and which cannot be overcome by reasonable diligence and without unusual expense ("Force Majeure"). In no event shall a lack of funds on the part of either party be deemed Force Majeure.

3.24 **Survival.** All representations and warranties made herein, indemnification obligations, obligations to reimburse SBBC, obligations to maintain and allow inspection and audit of records and property, obligations to maintain the confidentiality of records, reporting requirements, and obligations to return public funds shall survive the termination of this Agreement.

3.25 Authority. Each person signing this Agreement on behalf of either party individually warrants that he or she has full legal power to execute this Agreement on behalf of the party for whom he or she is signing, and to bind and obligate such party with respect to all provisions contained in this Agreement.

IN WITNESS WHEREOF, the Parties hereto have made and executed this Agreement on the date first above written.

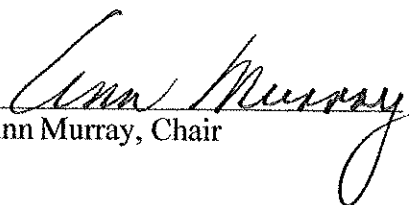
**FOR SBBC**

(Corporate Seal)

THE SCHOOL BOARD OF  
BROWARD COUNTY, FLORIDA

ATTEST:

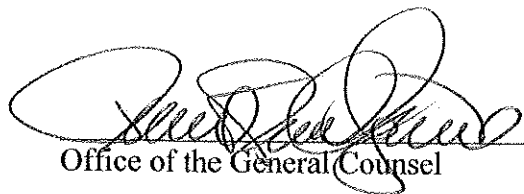
By

  
Ann Murray, Chair



Robert W. Runcie, Superintendent of Schools

Approved as to Form and Legal Content:

  
Office of the General Counsel

**FOR AGENCY**

(Corporate Seal)

**CHARTER SCHOOLS USA CORAL SPRINGS, L.C.**

ATTEST:

\_\_\_\_\_, Secretary

By:

\_\_\_\_\_  
Name and Title

Richard Garcia  
Printed Name

-or-

Kristina Pace  
Witness

[Signature]  
Witness

**The Following Notarization is Required For Every Agreement Without Regard to Whether the AGENCY Chose to Use a Secretary's Attestation or Two (2) Witnesses.**

STATE OF FLORIDA

COUNTY OF Broward

The foregoing instrument was acknowledged before me this 29th day of May 2012 by Richard Garcia of Charter Schools USA Coral Springs, L.C., on behalf of the corporation/agency. He/She is personally known to me or produced as identification and did/did not first take an oath.

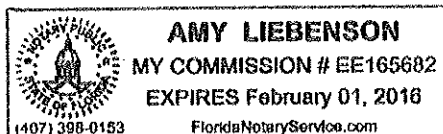
My Commission Expires: 2/1/2016

[Signature]  
Signature - Notary Public

(SEAL)

Amy Liebensohn  
Printed Name of Notary

EE1105682  
Notary's Commission No.



## **STUDENT TRANSPORTATION AGREEMENT**

**THIS AGREEMENT** is made and entered into as of this 24<sup>th</sup> day of July, 2012, by and between

**THE SCHOOL BOARD OF BROWARD COUNTY, FLORIDA**

(hereinafter referred to as "SBBC"),

a body corporate and political subdivision of the State of Florida,

whose principal place of business is

600 Southeast Third Avenue, Fort Lauderdale, Florida 33301

and

**EAGLES' NEST COMMUNITY CHARTER SCHOOLS, INC.**

(hereinafter referred to as "SCHOOL"),

whose principal address is

201 North University Drive

Coral Springs, FL 33071

WHEREAS, the SBBC owns and operates a fleet of vehicles for the transportation of pupils; and

WHEREAS, the SCHOOL has been granted a contract by SBBC to operate a charter school in Broward County, Florida pursuant to Section 1002.33, Florida Statutes; and

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- Assign bus routes that serve all eligible students attending Eagles' Nest Elementary and Eagles' Nest Middle located at 201 North University Drive in Coral Springs, FL.
- Transport students that reside outside a two-mile limit of the school, but no farther than four miles from the school, in accordance with state regulations.

The SCHOOL agrees:

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2.07 **Safety** The SCHOOL agrees to:

- Provide supervision to conduct emergency school bus evacuation drills for all transported students during the first six weeks of each semester and maintain documentation of the drills at the school.
- Provide instruction in safe riding practices to all transported students during the first six weeks of the first semester of the school year.
- Provide adequate supervision in the school bus loading area at the school to insure student safety.

2.08 **Student Discipline** The SCHOOL agrees to take all necessary action to ensure that students provided with school bus transportation adhere to the SBBC Student Code of Conduct while riding the bus.

2.09 **Lack of Petroleum Products** It is further agreed that in the event petroleum products required to operate this Agreement, or part of this Agreement, become unavailable, the obligations of each party hereunder may be terminated by the SBBC upon no less than twenty-four (24) hours notice in writing to the SCHOOL. The SBBC shall be the final authority as to the availability of petroleum products.

2.10 **Bus Drivers Assigned by SBBC** When school vehicles are used by the SCHOOL, under no circumstances will the vehicle be driven by anyone other than bus drivers qualified, trained, certified, and assigned by the SBBC. School buses will be operated under the same rules, regulations, policies, and procedures as SBBC pupil transportation and governed accordingly. Drivers shall at all times be considered employees or agents of the SBBC.

2.11 **Damage to the Vehicles Paid by the SCHOOL** The SCHOOL agrees to pay for any damage to the school vehicles while such vehicles are under the SCHOOL'S use which damage is attributable directly to that use, and caused by the SCHOOL, its' employees, or its' students. All accidents involving a school vehicle will be reported as provided by procedures now existent or required in the daily operation of the SBBC.

2.12 **Reporting of Incidents Involving Non Pupil Passengers** The SCHOOL agrees to report to the SBBC the nature and extent of any incidents resulting in property damage or personal injury to a passenger while boarding, riding in, or debarking from such vehicle and indemnify and hold harmless the SBBC from any and all claims arising out of such incidents, to the fullest extent allowed by the Constitution and the laws of the state of Florida, if such injury or damage is caused by any act or omission of an employee of SCHOOL.

2.13 **Method of Reimbursement** Unless otherwise agreed upon by the parties in writing, the costs borne by the SBBC on behalf of the SCHOOL under this Agreement will be reimbursed as invoiced; and in a reimbursement period not to exceed thirty (30) days from presentment or receipt of the referenced invoice to the SCHOOL Contract Administrator.

2.14 **Geographic Limitations on the Use of School Vehicles** The SCHOOL will limit its use of school vehicles to and within the confines of the Tri-County area. Under no circumstances should the vehicle be taken outside of the geographical limits set forth in this paragraph.

2.15 **Passenger Load Limit** When the SCHOOL'S use of the school vehicle (s) is made, the passenger capacity transported shall not exceed the rated capacity of the said vehicle(s). Standees shall not be permitted at any time. The SCHOOL shall not use school vehicles for any purpose whatsoever outside of the use covered by this Agreement.

2.16 **Cancellation** The SCHOOL reserves the right to cancel any trips it deems necessary with at least twenty-four (24) hours notice prior to the scheduled trip at no charge. Otherwise, a trip canceled within the twenty-four (24) hour time frame will result in a \$180.00 cancellation fee.

2.17 **Contract Administrator and Contract Representative** The SCHOOL's Contract Administrator for this Agreement is Ardonnis Lumpkin, Consultant to the Board, or designee. The Contract Representative for the SBBC is the Director of Student Transportation and Fleet Services, 3831 Northwest 10th Avenue, Oakland Park, Florida 33309, or designee.

2.18 **Insurance** The SCHOOL agrees to maintain the following insurance coverage:

Comprehensive General Liability coverage with bodily injury limits of not less than \$1,000,000 per occurrence with combined single limit for bodily injury and property damage. The SBBC shall be named as an additional insured under the General Liability policy.

2.19 **Inspection of SCHOOL'S Records by SBBC.** SCHOOL shall establish and maintain books, records and documents (including electronic storage media) sufficient to reflect all income and expenditures of funds provided by SBBC under this Agreement. All SCHOOL'S Records, regardless of the form in which they are kept, shall be open to inspection and subject to audit, inspection, examination, evaluation and/or reproduction, during normal working hours, by SBBC's agent or its authorized representative to permit SBBC to evaluate, analyze and verify the satisfactory performance of the terms and conditions of this Agreement and to evaluate, analyze and verify any and all invoices, billings, payments and/or claims submitted by SCHOOL or any of SCHOOL'S payees pursuant to this Agreement. SCHOOL'S Records subject to examination shall include, without limitation, those records necessary to evaluate and verify direct and indirect costs (including overhead allocations) as they may apply to costs associated with this Agreement. SCHOOL'S Records subject to this section shall include any and all documents pertinent to the evaluation, analysis, verification and reconciliation of any and all expenditures under this Agreement without regard to funding sources.

(a) **SCHOOL'S Records Defined.** For the purposes of this Agreement, the term "SCHOOL'S Records" shall include, without limitation, accounting records, payroll time sheets, cancelled payroll checks, W-2 forms, written policies and procedures, computer records, disks and software, videos, photographs, executed subcontracts, subcontract files (including proposals of successful and unsuccessful bidders), original estimates, estimating worksheets, correspondence, change order files (including sufficient supporting documentation and documentation covering negotiated settlements), and any other supporting documents that would substantiate, reconcile or refute any charges and/or expenditures related to this Agreement.

(b) **Duration of Right to Inspect.** For the purpose of such audits, inspections, examinations, evaluations and/or reproductions, SBBC's agent or authorized representative shall have access to SCHOOL'S Records from the effective date of this Agreement, for the duration of the term of this Agreement, and until the later of five (5) years after the termination of this Agreement or five (5) years after the date of final payment by SBBC to SCHOOL pursuant to this Agreement.

(c) **Notice of Inspection.** SBBC's agent or its authorized representative shall provide SCHOOL reasonable advance notice (not to exceed two (2) weeks) of any intended audit, inspection, examination, evaluation and or reproduction.

(d) **Audit Site Conditions.** SBBC's agent or its authorized representative shall have access to SCHOOL'S facilities and to any and all records related to this Agreement, and shall be provided adequate and appropriate work space in order to exercise the rights permitted under this section.

(e) **Failure to Permit Inspection.** Failure by SCHOOL to permit audit, inspection, examination, evaluation and/or reproduction as permitted under this Section



shall constitute grounds for termination of this Agreement by SBBC for cause and shall be grounds for the denial of some or all of any SCHOOL'S claims for payment by SBBC.

(f) Overcharges and Unauthorized Charges. If an audit conducted in accordance with this Section discloses overcharges or unauthorized charges to SBBC by SCHOOL in excess of two percent (2%) of the total billings under this Agreement, the actual cost of SBBC's audit shall be paid by SCHOOL. If the audit discloses billings or charges to which SCHOOL is not contractually entitled, SCHOOL shall pay said sum to SBBC within twenty (20) days of receipt of written demand under otherwise agreed to in writing by both parties.

(g) Inspection of Subcontractor's Records. SCHOOL shall require any and all subcontractors, insurance agents and material suppliers (hereafter referred to as "Payees") providing services or goods with regard to this Agreement to comply with the requirements of this section by insertion of such requirements in any written subcontract. Failure by SCHOOL to include such requirements in any subcontract shall constitute grounds for termination of this Agreement by SBBC for cause and shall be grounds for the exclusion of some or all of any Payee's costs from amounts payable by SBBC to SCHOOL pursuant to this Agreement and such excluded costs shall become the liability of SCHOOL.

(h) Inspector General Audits. SCHOOL shall comply and cooperate immediately with any inspections, reviews, investigations, or audits deemed necessary by the Florida Office of the Inspector General or by any other state or federal officials.

2.20 Notice When any of the parties desire to give notice to the other, such notice must be in writing, sent by US Mail, postage prepaid, addressed to the party for whom it is intended at the place last specified; the place for giving notice shall remain such until it is changed by written notice in compliance with the provisions of the paragraph. For the present, the Parties designate the following as the respective places for giving notice:

To SBBC: Superintendent of Schools  
The School Board of Broward County, FL  
600 Southeast Third Avenue  
Fort Lauderdale, Florida 33301

With a Copy to: Director of Student Transportation & Fleet Services  
The School Board of Broward County, FL  
3831 NW 10 Avenue  
Fort Lauderdale, Florida 33309

To SCHOOL: Eagles' Nest Community Charter Schools, Inc.  
Ardonnis Lumpkin, Consultant to the Board  
201 North University Drive  
Coral Springs, FL 33071

2.21 **Background Screening** SCHOOL agrees to comply with all requirements of Sections 1012.32 and 1012.465, Florida Statutes, and that SCHOOL and all of its personnel who (1) are permitted access to school grounds when students are present, (2) will have direct contact with students, or (3) have access or control of school funds will successfully complete the background screening required by the referenced statutes and meet the standards established by the statutes. This background screening will be conducted by SBBC in advance of SCHOOL or its personnel providing any services under the conditions described in the previous sentence. SCHOOL will bear the cost of acquiring the background screening required by Section 1012.32, Florida Statutes, and any fee imposed by the Florida Department of Law Enforcement to maintain the fingerprints provided with respect to SCHOOL and its personnel. The Parties agree that the failure of SCHOOL to perform any of the duties described in this section shall constitute a material breach of this Agreement entitling SBBC to terminate immediately with no further responsibilities or duties to perform under this Agreement. To the extent permitted by law, SCHOOL agrees to indemnify and hold harmless SBBC, its officers and employees from any liability in the form of physical or mental injury, death or property damage resulting in SCHOOL's failure to comply with the requirements of this section or Sections 1012.32 and 1012.465, Florida Statutes.

2.22 **Indemnification** This section shall survive the termination of all performance or obligations under this Agreement and shall be fully binding until such time as any proceeding brought on account of this Agreement is barred by any applicable statute of limitations.

A. By SBBC: SBBC agrees to be fully responsible up to the limits of Section 768.28, Florida Statutes, for its acts of negligence, or its agent's acts of negligence when acting within the scope of their employment and agrees to be liable for any damages resulting from said negligence.

B. By SCHOOL: SCHOOL agrees to indemnify, hold harmless and defend SBBC, its agents, servants and employees from any and all claims, judgments costs and expenses including, but not limited to, reasonable attorney's fees, reasonable investigative and discovery costs, court costs and all other sums which SBBC, its agents, servants and employees may pay or become obligated to pay on account of any, all and every claim or demand, or assertion of liability, or any claim or action founded thereon, arising or alleged to have arisen out of the products, goods or services furnished by SCHOOL, its agents, servants or employees; the equipment of SCHOOL, its agents, servants or employees while such equipment is on premises owned or controlled by SBBC; or the negligence of SCHOOL or the negligence of SCHOOL's agents when acting within the scope of their employment, whether such claims, judgments, costs and expenses be for damages, damage to property including SBBC's property, and injury or death of any person whether employed by SCHOOL, SBBC or otherwise.

### **ARTICLE 3 – GENERAL CONDITIONS**

3.01 **No Waiver of Sovereign Immunity.** Nothing herein is intended to serve as a waiver of sovereign immunity by any agency or political subdivision to which sovereign immunity may be applicable or of any rights or limits to liability existing under Section 768.28, Florida Statutes. This section shall survive the termination of all performance or obligations under this Agreement and shall be fully binding until such time as any proceeding brought on account of this Agreement is barred by any applicable statute of limitations.

3.02 **No Third Party Beneficiaries.** The parties expressly acknowledge that it is not their intent to create or confer any rights or obligations in or upon any third person or entity under this Agreement. None of the parties intend to directly or substantially benefit a third party by this Agreement. The parties agree that there are no third party beneficiaries to this Agreement and that no third party shall be entitled to assert a claim against any of the parties based upon this Agreement. Nothing herein shall be construed as consent by an agency or political subdivision of the State of Florida to be sued by third parties in any matter arising out of any contract.

3.03 **Independent Contractor.** The parties to this agreement shall at all times be acting in the capacity of independent contractors and not as an officer, employee or agent of one another. Neither party or its respective agents, employees, subcontractors or assignees shall represent to others that it has the authority to bind the other party unless specifically authorized in writing to do so. No right to SBBC retirement, leave benefits or any other benefits of SBBC employees shall exist as a result of the performance of any duties or responsibilities under this Agreement. SBBC shall not be responsible for social security, withholding taxes, contributions to unemployment compensation funds or insurance for the other party or the other party's officers, employees, agents, subcontractors or assignees.

3.04 **Equal Opportunity Provision.** The parties agree that no person shall be subjected to discrimination because of age, race, color, disability, gender identity, gender expression marital status, national origin, religion, sex or sexual orientation in the performance of the parties' respective duties, responsibilities and obligations under this Agreement.

3.05 **Termination.** This Agreement may be canceled with or without cause by SBBC during the term hereof upon thirty (30) days written notice to the other parties of its desire to terminate this Agreement. In the event of such termination, SBBC shall pay the other party for all services rendered through the effective date of termination.

3.06 **Default.** The parties agree that, in the event that either party is in default of its obligations under this Agreement, the non-defaulting party shall provide to the defaulting party (30) days written notice to cure the default. However, in the event said default cannot be cured within said thirty (30) day period and the defaulting party is diligently attempting in good faith to cure same, the time period shall be reasonably

extended to allow the defaulting party additional cure time. Upon the occurrence of a default that is not cured during the applicable cure period, this Agreement may be terminated by the non-defaulting party upon thirty (30) days notice. This remedy is not intended to be exclusive of any other remedy, and each and every such remedy shall be cumulative and shall be in addition to every other remedy now or hereafter existing at law or in equity or by statute or otherwise. No single or partial exercise by any party of any right, power, or remedy hereunder shall preclude any other or future exercise thereof. Nothing in this section shall be construed to preclude termination for convenience pursuant to Section 3.05.

3.07 **Annual Appropriation.** The performance and obligations of SBBC under this Agreement shall be contingent upon an annual budgetary appropriation by its governing body. If SBBC does not allocate funds for the payment of services or products to be provided under this Agreement, this Agreement may be terminated by SBBC at the end of the period for which funds have been allocated. SBBC shall notify the other party at the earliest possible time before such termination. No penalty shall accrue to SBBC in the event this provision is exercised, and SBBC shall not be obligated or liable for any future payments due or any damages as a result of termination under this section.

3.08 **Excess Funds.** Any party receiving funds paid by SBBC under this Agreement agrees to promptly notify SBBC of any funds erroneously received from SBBC upon the discovery of such erroneous payment or overpayment. Any such excess funds shall be refunded to SBBC with interest calculated from the date of the erroneous payment or overpayment. Interest shall be calculated using the interest rate for judgments under Section 55.03, Florida Statutes, applicable at the time the erroneous payment or overpayment was made by SBBC.

3.09 **Public Records.** Each party shall maintain its own respective records and documents associated with this Agreement in accordance with the records retention requirements applicable to public records. Each party shall be responsible for compliance with any public documents request served upon it pursuant to Section 119.07, Florida Statutes, and any resultant award of attorney's fees for non-compliance with that law.

3.10 **Student Records:** Notwithstanding any provision to the contrary within this Agreement, any party contracting with SBBC under this Agreement shall fully comply with the requirements of Section 1002.22, Florida Statutes, or any other state or federal law or regulation regarding the confidentiality of student information and records. Each such party agrees, for itself, its officers, employees, agents, representatives, contractors or subcontractors, to fully indemnify and hold harmless SBBC and its officers and employees for any violation of this section, including, without limitation, defending SBBC and its officers and employees against any complaint, administrative or judicial proceeding, payment of any penalty imposed upon SBBC, or payment of any and all costs, damages, judgments or losses incurred by or imposed upon SBBC arising out of a breach of this covenant by the party, or an officer, employee, agent, representative, contractor, or sub-contractor of the party to the extent that the party or an officer, employee, agent, representative, contractor, or sub-contractor of the party shall either

intentionally or negligently violate the provisions of this section or of Section 1002.22, Florida Statutes. This section shall survive the termination of all performance or obligations under this Agreement and shall be fully binding until such time as any proceeding brought on account of this Agreement is barred by any applicable statute of limitations.

3.11 **Compliance with Laws.** Each party shall comply with all applicable federal and state laws, codes, rules and regulations in performing its duties, responsibilities and obligations pursuant to this Agreement.

3.12 **Place of Performance.** All obligations of SBBC under the terms of this Agreement are reasonably susceptible of being performed in Broward County, Florida and shall be payable and performable in Broward County, Florida.

3.13 **Governing Law and Venue.** This Agreement shall be interpreted and construed in accordance with and governed by the laws of the State of Florida. Any controversies or legal problems arising out of this Agreement and any action involving the enforcement or interpretation of any rights hereunder shall be submitted to the jurisdiction of the State courts of the Seventeenth Judicial Circuit of Broward County, Florida.

3.14 **Entirety of Agreement.** This document incorporates and includes all prior negotiations, correspondence, conversations, agreements and understandings applicable to the matters contained herein and the parties agree that there are no commitments, agreements or understandings concerning the subject matter of this Agreement that are not contained in this document. Accordingly, the parties agree that no deviation from the terms hereof shall be predicated upon any prior representations or agreements, whether oral or written.

3.15 **Binding Effect.** This Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective successors and assigns.

3.16 **Assignment.** Neither this Agreement or any interest herein may be assigned, transferred or encumbered by any party without the prior written consent of the other party. There shall be no partial assignments of this Agreement including, without limitation, the partial assignment of any right to receive payments from SBBC.

3.17 **Incorporation by Reference.** Exhibits attached hereto and referenced herein shall be deemed to be incorporated into this Agreement by reference.

3.18 **Captions.** The captions, section designations, section numbers, article numbers, titles and headings appearing in this Agreement are inserted only as a matter of convenience, have no substantive meaning, and in no way define, limit, construe or describe the scope or intent of such articles or sections of this Agreement, nor in any way effect this Agreement and shall not be construed to create a conflict with the provisions of this Agreement.

3.19 **Severability.** In the event that any one or more of the sections, paragraphs, sentences, clauses or provisions contained in this Agreement is held by a court of competent jurisdiction to be invalid, illegal, unlawful, unenforceable or void in any respect, such shall not affect the remaining portions of this Agreement and the same shall remain in full force and effect as if such invalid, illegal, unlawful, unenforceable or void sections, paragraphs, sentences, clauses or provisions had never been included herein.

3.20 **Preparation of Agreement.** The parties acknowledge that they have sought and obtained whatever competent advice and counsel as was necessary for them to form a full and complete understanding of all rights and obligations herein and that the preparation of this Agreement has been their joint effort. The language agreed to herein expresses their mutual intent and the resulting document shall not, solely as a matter of judicial construction, be construed more severely against one of the parties than the other.

3.21 **Amendments.** No modification, amendment, or alteration in the terms or conditions contained herein shall be effective unless contained in a written document prepared with the same or similar formality as this Agreement and executed by each party hereto.

3.22 **Waiver.** The parties agree that each requirement, duty and obligation set forth herein is substantial and important to the formation of this Agreement and, therefore, is a material term hereof. Any party's failure to enforce any provision of this Agreement shall not be deemed a waiver of such provision or modification of this Agreement unless the waiver is in writing and signed by the party waiving such provision. A written waiver shall only be effective as to the specific instance for which it is obtained and shall not be deemed a continuing or future waiver.

3.23 **Force Majeure.** Neither party shall be obligated to perform any duty, requirement or obligation under this Agreement if such performance is prevented by fire, hurricane, earthquake, explosion, wars, sabotage, accident, flood, acts of God, strikes, or other labor disputes, riot or civil commotions, or by reason of any other matter or condition beyond the control of either party, and which cannot be overcome by reasonable diligence and without unusual expense ("Force Majeure"). In no event shall a lack of funds on the part of either party be deemed Force Majeure.

3.24 **Survival.** All representations and warranties made herein, indemnification obligations, obligations to reimburse SBBC, obligations to maintain and allow inspection and audit of records and property, obligations to maintain the confidentiality of records, reporting requirements, and obligations to return public funds shall survive the termination of this Agreement.

3.25 **Authority.** Each person signing this Agreement on behalf of either party individually warrants that he or she has full legal power to execute this Agreement on behalf of the party for whom he or she is signing, and to bind and obligate such party with respect to all provisions contained in this Agreement.

IN WITNESS WHEREOF, the Parties hereto have made and executed this Agreement on the date first above written.

**FOR SBBC**

(Corporate Seal)

THE SCHOOL BOARD OF  
BROWARD COUNTY, FLORIDA

ATTEST:

By Ann Murray  
Ann Murray, Chair

Robert W. Runcie  
Robert W. Runcie, Superintendent of Schools

Approved as to Form and Legal Content:

[Signature]  
Office of the General Counsel

**FOR SCHOOL**

(Corporate Seal)

EAGLES' NEST COMMUNITY CHARTER SCHOOLS, INC.

ATTEST:

\_\_\_\_\_, Secretary

By:

[Signature] consentant to the  
Name and Title Board

Ardannis Lumpkin  
Printed Name

[Signature]  
Witness

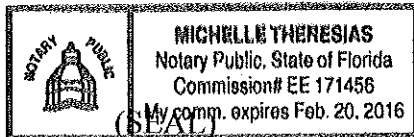
[Signature]  
Witness

**The Following Notarization is Required For Every Agreement Without Regard to Whether the SCHOOL Chose to Use a Secretary's Attestation or Two (2) Witnesses.**

STATE OF FLORIDA  
COUNTY OF Broward

The foregoing instrument was acknowledged before me this 18 day of June, 2012 by Ardannis M Lumpkin of EAGLES' NEST COMMUNITY CHARTER SCHOOLS, INC., on behalf of the corporation/agency. He/She is personally known to me or produced FL-State ID as identification and did/did not first take an oath.

My Commission Expires:



[Signature]  
Signature -- Notary Public

Michelle Theresias  
Printed Name of Notary

EE 171456  
Notary's Commission No.



## **STUDENT TRANSPORTATION AGREEMENT**

**THIS AGREEMENT** is made and entered into as of this 24<sup>th</sup> day of July, 2012, by and between

**THE SCHOOL BOARD OF BROWARD COUNTY, FLORIDA**  
(hereinafter referred to as "SBBC"),  
a body corporate and political subdivision of the State of Florida,  
whose principal place of business is  
600 Southeast Third Avenue, Fort Lauderdale, Florida 33301

and

**SMART SCHOOL, INC.**  
(hereinafter referred to as "SCHOOL"),  
whose principal place of business is  
3020 NW 33 Avenue  
Lauderdale Lakes, FL 33311

WHEREAS, the SBBC owns and operates a fleet of vehicles for the transportation of pupils; and

WHEREAS, the SCHOOL has been granted a contract by SBBC to operate a charter school in Broward County, Florida pursuant to Section 1002.33, Florida Statutes; and

WHEREAS, the charter school contract provides that the SCHOOL may contract with SBBC for the provision to the charter school of additional services beyond those provided under the charter school contract; and

WHEREAS, the SCHOOL is desirous of obtaining transportation services from SBBC and SBBC is willing to provide such services.

**NOW, THEREFORE**, in consideration of the premises and of mutual covenants contained herein and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the Parties hereby agree as follows:

### **ARTICLE 1 - RECITALS**

1.01 **Recitals.** The Parties agree that the foregoing recitals are true and correct and that such recitals are incorporated herein by reference.

## **ARTICLE 2 – SPECIAL CONDITIONS**

2.01 **Term.** Unless terminated earlier pursuant to Section 3.05 of this Agreement, the term of this Agreement shall commence on August 3, 2012 and conclude on August 2, 2013.

2.02 **Transportation Needs.** Prior to the execution of the Agreement, the two parties have discussed the transportation needs of the SCHOOL and the approximate number of school buses that may be made available to the SCHOOL. The SBBC agrees to:

- Assign bus routes that serve all eligible students attending Eagles Charter Academy and Smart School Charter Middle, both located at 3020 NW 33<sup>rd</sup> Avenue in Lauderdale Lakes, FL 33311.
- Transport students that reside outside a two-mile limit of the school, but no farther than four miles from the school, in accordance with state regulations.
- Schedule A.M. bus routes to arrive at the school within a thirty (30) minute window prior to bell time and P.M. buses to depart from the school within a thirty (30) minute window after dismissal bell time.
- Provide field trip transportation in accordance with SBBC guidelines.

The SCHOOL agrees:

- That the SBBC reserves the right to determine the type and capacity of bus to be used for each route for the most effective utilization of available transportation resources during the term of this contract.
- To submit a detailed, written request to the SBBC Transportation Services Department in the event that it should become necessary to alter services during the term of the contract due to a new school location. Such request must be submitted thirty (30) days in advance of the need for the change. The request will be reviewed by the SBBC Transportation Services Department and a written acceptance or denial shall be rendered within the same thirty (30) day timeframe.

2.03. **Payment of Operation Cost by the SCHOOL** The SCHOOL agrees to fully reimburse the SBBC for the operating cost of school buses used by the SCHOOL during the term of this Agreement. The SCHOOL shall pay the SBBC'S posted school reimbursement rate for a minimum of four hours per day for each school bus route provided, which sum shall cover use, operational costs, and reimbursement for driver's hours and all other costs and expenses incurred by the SBBC in supplying the school bus transportation.

Invoices for services provided will be sent monthly by the Transportation Services Department. Payment is due within thirty days of the invoice date. Past due invoices will be sent for all invoices not paid within thirty days.

2.04 **School Opening and Closing Times** The SCHOOL agrees that SBBC reserves the right to set the opening and closing times of the school for the most effective utilization of available transportation resources during the term of this contract.

2.05 **Student Information** The SCHOOL agrees to ensure that all information for students requiring school bus transportation will be properly entered and maintained current in the SBBC TERMS student database during the term of this contract.

2.06 **Collection of Student Ridership Data** The SCHOOL agrees to coordinate the collection of the required student ridership data for transportation eligible students during each Florida Educational Finance Program (FEFP) survey period and forward the data to the SBBC Pupil Transportation Department for submission to the Department of Education (DOE).

2.07 **Safety** The SCHOOL agrees to:

- Provide supervision to conduct emergency school bus evacuation drills for all transported students during the first six weeks of each semester and maintain documentation of the drills at the school.
- Provide instruction in safe riding practices to all transported students during the first six weeks of the first semester of the school year.
- Provide adequate supervision in the school bus loading area at the school to insure student safety.

2.08 **Student Discipline** The SCHOOL agrees to take all necessary action to ensure that students provided with school bus transportation adhere to the SBBC Student Code of Conduct while riding the bus.

2.09 **Lack of Petroleum Products** It is further agreed that in the event petroleum products required to operate this Agreement, or part of this Agreement, become unavailable, the obligations of each party hereunder may be terminated by the SBBC upon no less than twenty-four (24) hours notice in writing to the SCHOOL. The SBBC shall be the final authority as to the availability of petroleum products.

2.10 **Bus Drivers Assigned by SBBC** When school vehicles are used by the SCHOOL, under no circumstances will the vehicle be driven by anyone other than bus drivers qualified, trained, certified, and assigned by the SBBC. School buses will be operated under the same rules, regulations, policies, and procedures as SBBC pupil transportation and governed accordingly. Drivers shall at all times be considered employees or agents of the SBBC.

2.11 **Damage to the Vehicles Paid by the SCHOOL** The SCHOOL agrees to pay for any damage to the school vehicles while such vehicles are under the SCHOOL'S use which damage is attributable directly to that use, and caused by the SCHOOL, its' employees, or its' students. All accidents involving a school vehicle will be reported as provided by procedures now existent or required in the daily operation of the SBBC.

2.12 **Reporting of Incidents Involving Non Pupil Passengers** The SCHOOL agrees to report to the SBBC the nature and extent of any incidents resulting in property damage or personal injury to a passenger while boarding, riding in, or deboarding from such vehicle and indemnify and hold harmless the SBBC from any and all claims arising out of such incidents, to the fullest extent allowed by the Constitution and the laws of the state of Florida, if such injury or damage is caused by any act or omission of an employee of SCHOOL.

2.13 **Method of Reimbursement** Unless otherwise agreed upon by the parties in writing, the costs borne by the SBBC on behalf of the SCHOOL under this Agreement will be reimbursed as invoiced; and in a reimbursement period not to exceed thirty (30) days from presentment or receipt of the referenced invoice to the SCHOOL Contract Administrator.

2.14 **Geographic Limitations on the Use of School Vehicles** The SCHOOL will limit its use of school vehicles to and within the confines of the Tri-County area. Under no circumstances should the vehicle be taken outside of the geographical limits set forth in this paragraph.

2.15 **Passenger Load Limit** When the SCHOOL'S use of the school vehicle (s) is made, the passenger capacity transported shall not exceed the rated capacity of the said vehicle(s). Standees shall not be permitted at any time. The SCHOOL shall not use school vehicles for any purpose whatsoever outside of the use covered by this Agreement.

2.16 **Cancellation** The SCHOOL reserves the right to cancel any trips it deems necessary with at least twenty-four (24) hours notice prior to the scheduled trip at no charge. Otherwise, a trip canceled within the twenty-four (24) hour time frame will result in a \$180.00 cancellation fee.

2.17 **Contract Administrator and Contract Representative** The SCHOOL's Contract Administrator for this Agreement is Stan Klein, Operations Manager, or designee. The Contract Representative for the SBBC is the Director of Student Transportation and Fleet Services, 3831 Northwest 10th Avenue, Oakland Park, Florida 33309, or designee.

2.18 **Insurance** The SCHOOL agrees to maintain the following insurance coverage:

Comprehensive General Liability coverage with bodily injury limits of not less than \$1,000,000 per occurrence with combined single limit for bodily injury and property damage. The SBBC shall be named as an additional insured under the General Liability policy.

2.19 **Inspection of SCHOOL'S Records by SBBC.** SCHOOL shall establish and maintain books, records and documents (including electronic storage media) sufficient to reflect all income and expenditures of funds provided by SBBC under this Agreement. All SCHOOL'S Records, regardless of the form in which they are kept, shall be open to inspection and subject to audit, inspection, examination, evaluation and/or reproduction, during normal working hours, by SBBC's agent or its authorized representative to permit SBBC to evaluate, analyze and verify the satisfactory performance of the terms and conditions of this Agreement and to evaluate, analyze and verify any and all invoices, billings, payments and/or claims submitted by SCHOOL or any of SCHOOL'S payees pursuant to this Agreement. SCHOOL'S Records subject to examination shall include, without limitation, those records necessary to evaluate and verify direct and indirect costs (including overhead allocations) as they may apply to costs associated with this Agreement. SCHOOL'S Records subject to this section shall include any and all documents pertinent to the evaluation, analysis, verification and reconciliation of any and all expenditures under this Agreement without regard to funding sources.

(a) **SCHOOL'S Records Defined.** For the purposes of this Agreement, the term "SCHOOL'S Records" shall include, without limitation, accounting records, payroll time sheets, cancelled payroll checks, W-2 forms, written policies and procedures, computer records, disks and software, videos, photographs, executed subcontracts, subcontract files (including proposals of successful and unsuccessful bidders), original estimates, estimating worksheets, correspondence, change order files (including sufficient supporting documentation and documentation covering negotiated settlements), and any other supporting documents that would substantiate, reconcile or refute any charges and/or expenditures related to this Agreement.

(b) **Duration of Right to Inspect.** For the purpose of such audits, inspections, examinations, evaluations and/or reproductions, SBBC's agent or authorized representative shall have access to SCHOOL'S Records from the effective date of this Agreement, for the duration of the term of this Agreement, and until the later of five (5) years after the termination of this Agreement or five (5) years after the date of final payment by SBBC to SCHOOL pursuant to this Agreement.

(c) **Notice of Inspection.** SBBC's agent or its authorized representative shall provide SCHOOL reasonable advance notice (not to exceed two (2) weeks) of any intended audit, inspection, examination, evaluation and or reproduction.

(d) **Audit Site Conditions.** SBBC's agent or its authorized representative shall have access to SCHOOL'S facilities and to any and all records related to this Agreement,

and shall be provided adequate and appropriate work space in order to exercise the rights permitted under this section.

(e) Failure to Permit Inspection. Failure by SCHOOL to permit audit, inspection, examination, evaluation and/or reproduction as permitted under this Section shall constitute grounds for termination of this Agreement by SBBC for cause and shall be grounds for the denial of some or all of any SCHOOL'S claims for payment by SBBC.

(f) Overcharges and Unauthorized Charges. If an audit conducted in accordance with this Section discloses overcharges or unauthorized charges to SBBC by SCHOOL in excess of two percent (2%) of the total billings under this Agreement, the actual cost of SBBC's audit shall be paid by SCHOOL. If the audit discloses billings or charges to which SCHOOL is not contractually entitled, SCHOOL shall pay said sum to SBBC within twenty (20) days of receipt of written demand under otherwise agreed to in writing by both parties.

(g) Inspection of Subcontractor's Records. SCHOOL shall require any and all subcontractors, insurance agents and material suppliers (hereafter referred to as "Payees") providing services or goods with regard to this Agreement to comply with the requirements of this section by insertion of such requirements in any written subcontract. Failure by SCHOOL to include such requirements in any subcontract shall constitute grounds for termination of this Agreement by SBBC for cause and shall be grounds for the exclusion of some or all of any Payee's costs from amounts payable by SBBC to SCHOOL pursuant to this Agreement and such excluded costs shall become the liability of SCHOOL.

(h) Inspector General Audits. SCHOOL shall comply and cooperate immediately with any inspections, reviews, investigations, or audits deemed necessary by the Florida Office of the Inspector General or by any other state or federal officials.

2.20 Notice When any of the parties desire to give notice to the other, such notice must be in writing, sent by US Mail, postage prepaid, addressed to the party for whom it is intended at the place last specified; the place for giving notice shall remain such until it is changed by written notice in compliance with the provisions of the paragraph. For the present, the Parties designate the following as the respective places for giving notice:

To SBBC: Superintendent of Schools  
The School Board of Broward County, FL  
600 Southeast Third Avenue  
Fort Lauderdale, Florida 33301

With a Copy to: Director of Student Transportation & Fleet Services  
The School Board of Broward County, FL  
3831 NW 10 Avenue  
Fort Lauderdale, Florida 33309

To SCHOOL: Smart School, Inc.  
Stan Klein, Operations Manager  
3020 NW 33 Avenue  
Lauderdale Lakes, FL 33311

2.21 **Background Screening** SCHOOL agrees to comply with all requirements of Sections 1012.32 and 1012.465, Florida Statutes, and that SCHOOL and all of its personnel who (1) are permitted access to school grounds when students are present, (2) will have direct contact with students, or (3) have access or control of school funds will successfully complete the background screening required by the referenced statutes and meet the standards established by the statutes. This background screening will be conducted by SBBC in advance of SCHOOL or its personnel providing any services under the conditions described in the previous sentence. SCHOOL will bear the cost of acquiring the background screening required by Section 1012.32, Florida Statutes, and any fee imposed by the Florida Department of Law Enforcement to maintain the fingerprints provided with respect to SCHOOL and its personnel. The Parties agree that the failure of SCHOOL to perform any of the duties described in this section shall constitute a material breach of this Agreement entitling SBBC to terminate immediately with no further responsibilities or duties to perform under this Agreement. To the extent permitted by law, SCHOOL agrees to indemnify and hold harmless SBBC, its officers and employees from any liability in the form of physical or mental injury, death or property damage resulting in SCHOOL's failure to comply with the requirements of this section or Sections 1012.32 and 1012.465, Florida Statutes.

2.22 **Indemnification** This section shall survive the termination of all performance or obligations under this Agreement and shall be fully binding until such time as any proceeding brought on account of this Agreement is barred by any applicable statute of limitations.

A. By SBBC: SBBC agrees to be fully responsible up to the limits of Section 768.28, Florida Statutes, for its acts of negligence, or its agent's acts of negligence when acting within the scope of their employment and agrees to be liable for any damages resulting from said negligence.

B. By SCHOOL: SCHOOL agrees to indemnify, hold harmless and defend SBBC, its agents, servants and employees from any and all claims, judgments costs and expenses including, but not limited to, reasonable attorney's fees, reasonable investigative and discovery costs, court costs and all other sums which SBBC, its agents, servants and employees may pay or become obligated to pay on account of any, all and every claim or demand, or assertion of liability, or any claim or action founded thereon, arising or alleged to have arisen out of the products, goods or services furnished by SCHOOL, its agents, servants or employees; the equipment of SCHOOL, its agents, servants or employees while such equipment is on premises owned or controlled by SBBC; or the negligence of SCHOOL or the negligence of SCHOOL's agents when acting within the scope of their employment, whether such claims, judgments, costs and

expenses be for damages, damage to property including SBBC's property, and injury or death of any person whether employed by SCHOOL, SBBC or otherwise.

### **ARTICLE 3 – GENERAL CONDITIONS**

3.01 **No Waiver of Sovereign Immunity.** Nothing herein is intended to serve as a waiver of sovereign immunity by any agency or political subdivision to which sovereign immunity may be applicable or of any rights or limits to liability existing under Section 768.28, Florida Statutes. This section shall survive the termination of all performance or obligations under this Agreement and shall be fully binding until such time as any proceeding brought on account of this Agreement is barred by any applicable statute of limitations.

3.02 **No Third Party Beneficiaries.** The parties expressly acknowledge that it is not their intent to create or confer any rights or obligations in or upon any third person or entity under this Agreement. None of the parties intend to directly or substantially benefit a third party by this Agreement. The parties agree that there are no third party beneficiaries to this Agreement and that no third party shall be entitled to assert a claim against any of the parties based upon this Agreement. Nothing herein shall be construed as consent by an agency or political subdivision of the State of Florida to be sued by third parties in any matter arising out of any contract.

3.03 **Independent Contractor.** The parties to this agreement shall at all times be acting in the capacity of independent contractors and not as an officer, employee or agent of one another. Neither party or its respective agents, employees, subcontractors or assignees shall represent to others that it has the authority to bind the other party unless specifically authorized in writing to do so. No right to SBBC retirement, leave benefits or any other benefits of SBBC employees shall exist as a result of the performance of any duties or responsibilities under this Agreement. SBBC shall not be responsible for social security, withholding taxes, contributions to unemployment compensation funds or insurance for the other party or the other party's officers, employees, agents, subcontractors or assignees.

3.04 **Equal Opportunity Provision.** The parties agree that no person shall be subjected to discrimination because of age, race, color, disability, gender identity, gender expression marital status, national origin, religion, sex or sexual orientation in the performance of the parties' respective duties, responsibilities and obligations under this Agreement.

3.05 **Termination.** This Agreement may be canceled with or without cause by SBBC during the term hereof upon thirty (30) days written notice to the other parties of its desire to terminate this Agreement. In the event of such termination, SBBC shall pay the other party for all services rendered through the effective date of termination.

3.06 **Default.** The parties agree that, in the event that either party is in default of its obligations under this Agreement, the non-defaulting party shall provide to



the defaulting party (30) days written notice to cure the default. However, in the event said default cannot be cured within said thirty (30) day period and the defaulting party is diligently attempting in good faith to cure same, the time period shall be reasonably extended to allow the defaulting party additional cure time. Upon the occurrence of a default that is not cured during the applicable cure period, this Agreement may be terminated by the non-defaulting party upon thirty (30) days notice. This remedy is not intended to be exclusive of any other remedy, and each and every such remedy shall be cumulative and shall be in addition to every other remedy now or hereafter existing at law or in equity or by statute or otherwise. No single or partial exercise by any party of any right, power, or remedy hereunder shall preclude any other or future exercise thereof. Nothing in this section shall be construed to preclude termination for convenience pursuant to Section 3.05.

3.07 **Annual Appropriation.** The performance and obligations of SBBC under this Agreement shall be contingent upon an annual budgetary appropriation by its governing body. If SBBC does not allocate funds for the payment of services or products to be provided under this Agreement, this Agreement may be terminated by SBBC at the end of the period for which funds have been allocated. SBBC shall notify the other party at the earliest possible time before such termination. No penalty shall accrue to SBBC in the event this provision is exercised, and SBBC shall not be obligated or liable for any future payments due or any damages as a result of termination under this section.

3.08 **Excess Funds.** Any party receiving funds paid by SBBC under this Agreement agrees to promptly notify SBBC of any funds erroneously received from SBBC upon the discovery of such erroneous payment or overpayment. Any such excess funds shall be refunded to SBBC with interest calculated from the date of the erroneous payment or overpayment. Interest shall be calculated using the interest rate for judgments under Section 55.03, Florida Statutes, applicable at the time the erroneous payment or overpayment was made by SBBC.

3.09 **Public Records.** Each party shall maintain its own respective records and documents associated with this Agreement in accordance with the records retention requirements applicable to public records. Each party shall be responsible for compliance with any public documents request served upon it pursuant to Section 119.07, Florida Statutes, and any resultant award of attorney's fees for non-compliance with that law.

3.10 **Student Records:** Notwithstanding any provision to the contrary within this Agreement, any party contracting with SBBC under this Agreement shall fully comply with the requirements of Section 1002.22, Florida Statutes, or any other state or federal law or regulation regarding the confidentiality of student information and records. Each such party agrees, for itself, its officers, employees, agents, representatives, contractors or subcontractors, to fully indemnify and hold harmless SBBC and its officers and employees for any violation of this section, including, without limitation, defending SBBC and its officers and employees against any complaint, administrative or judicial proceeding, payment of any penalty imposed upon SBBC, or payment of any and all costs, damages, judgments or losses incurred by or imposed upon SBBC arising out of a

breach of this covenant by the party, or an officer, employee, agent, representative, contractor, or sub-contractor of the party to the extent that the party or an officer, employee, agent, representative, contractor, or sub-contractor of the party shall either intentionally or negligently violate the provisions of this section or of Section 1002.22, Florida Statutes. This section shall survive the termination of all performance or obligations under this Agreement and shall be fully binding until such time as any proceeding brought on account of this Agreement is barred by any applicable statute of limitations.

3.11 **Compliance with Laws.** Each party shall comply with all applicable federal and state laws, codes, rules and regulations in performing its duties, responsibilities and obligations pursuant to this Agreement.

3.12 **Place of Performance.** All obligations of SBBC under the terms of this Agreement are reasonably susceptible of being performed in Broward County, Florida and shall be payable and performable in Broward County, Florida.

3.13 **Governing Law and Venue.** This Agreement shall be interpreted and construed in accordance with and governed by the laws of the State of Florida. Any controversies or legal problems arising out of this Agreement and any action involving the enforcement or interpretation of any rights hereunder shall be submitted to the jurisdiction of the State courts of the Seventeenth Judicial Circuit of Broward County, Florida.

3.14 **Entirety of Agreement.** This document incorporates and includes all prior negotiations, correspondence, conversations, agreements and understandings applicable to the matters contained herein and the parties agree that there are no commitments, agreements or understandings concerning the subject matter of this Agreement that are not contained in this document. Accordingly, the parties agree that no deviation from the terms hereof shall be predicated upon any prior representations or agreements, whether oral or written.

3.15 **Binding Effect.** This Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective successors and assigns.

3.16 **Assignment.** Neither this Agreement or any interest herein may be assigned, transferred or encumbered by any party without the prior written consent of the other party. There shall be no partial assignments of this Agreement including, without limitation, the partial assignment of any right to receive payments from SBBC.

3.17 **Incorporation by Reference.** Exhibits attached hereto and referenced herein shall be deemed to be incorporated into this Agreement by reference.

3.18 **Captions.** The captions, section designations, section numbers, article numbers, titles and headings appearing in this Agreement are inserted only as a matter of convenience, have no substantive meaning, and in no way define, limit, construe or describe the scope or intent of such articles or sections of this Agreement, nor in any way

effect this Agreement and shall not be construed to create a conflict with the provisions of this Agreement.

3.19 **Severability**. In the event that any one or more of the sections, paragraphs, sentences, clauses or provisions contained in this Agreement is held by a court of competent jurisdiction to be invalid, illegal, unlawful, unenforceable or void in any respect, such shall not affect the remaining portions of this Agreement and the same shall remain in full force and effect as if such invalid, illegal, unlawful, unenforceable or void sections, paragraphs, sentences, clauses or provisions had never been included herein.

3.20 **Preparation of Agreement**. The parties acknowledge that they have sought and obtained whatever competent advice and counsel as was necessary for them to form a full and complete understanding of all rights and obligations herein and that the preparation of this Agreement has been their joint effort. The language agreed to herein expresses their mutual intent and the resulting document shall not, solely as a matter of judicial construction, be construed more severely against one of the parties than the other.

3.21 **Amendments**. No modification, amendment, or alteration in the terms or conditions contained herein shall be effective unless contained in a written document prepared with the same or similar formality as this Agreement and executed by each party hereto.

3.22 **Waiver**. The parties agree that each requirement, duty and obligation set forth herein is substantial and important to the formation of this Agreement and, therefore, is a material term hereof. Any party's failure to enforce any provision of this Agreement shall not be deemed a waiver of such provision or modification of this Agreement unless the waiver is in writing and signed by the party waiving such provision. A written waiver shall only be effective as to the specific instance for which it is obtained and shall not be deemed a continuing or future waiver.

3.23 **Force Majeure**. Neither party shall be obligated to perform any duty, requirement or obligation under this Agreement if such performance is prevented by fire, hurricane, earthquake, explosion, wars, sabotage, accident, flood, acts of God, strikes, or other labor disputes, riot or civil commotions, or by reason of any other matter or condition beyond the control of either party, and which cannot be overcome by reasonable diligence and without unusual expense ("Force Majeure"). In no event shall a lack of funds on the part of either party be deemed Force Majeure.

3.24 **Survival**. All representations and warranties made herein, indemnification obligations, obligations to reimburse SBBC, obligations to maintain and allow inspection and audit of records and property, obligations to maintain the confidentiality of records, reporting requirements, and obligations to return public funds shall survive the termination of this Agreement.

3.25 **Authority**. Each person signing this Agreement on behalf of either party individually warrants that he or she has full legal power to execute this Agreement on behalf of the party for whom he or she is signing, and to bind and obligate such party with respect to all provisions contained in this Agreement.

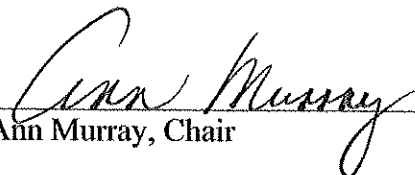
IN WITNESS WHEREOF, the Parties hereto have made and executed this Agreement on the date first above written.

**FOR SBBC**

(Corporate Seal)

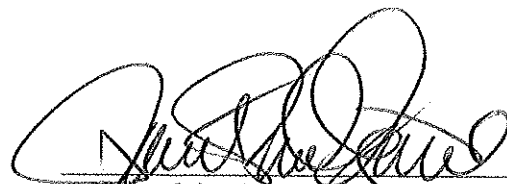
THE SCHOOL BOARD OF  
BROWARD COUNTY, FLORIDA

ATTEST:

By   
Ann Murray, Chair

  
Robert W. Runcie, Superintendent of Schools

Approved as to Form and Legal Content:

  
Office of the General Counsel

**FOR SCHOOL**

(Corporate Seal)

SMART SCHOOL, INC.

ATTEST:

Sandra McCarthy  
Secretary

By:

Edward Miller  
Name and Title

Edward Miller  
Printed Name

-or-

JL Ly  
Witness

\_\_\_\_\_  
Witness

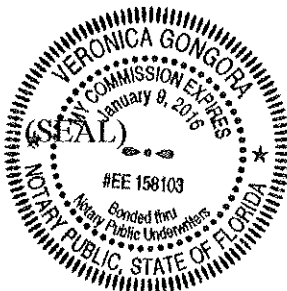
**The Following Notarization is Required For Every Agreement Without Regard to Whether the SCHOOL Chose to Use a Secretary's Attestation or Two (2) Witnesses.**

STATE OF FLORIDA

COUNTY OF BROWARD

The foregoing instrument was acknowledged before me this 12 day of JUNE 2012 by Edward Miller of SMART SCHOOL, INC., on behalf of the corporation/agency. (He/She is personally known to me or produced as identification and did/did not first take an oath.

My Commission Expires:



Veronica Gongora  
Signature -- Notary Public

VERONICA Gongora  
Printed Name of Notary

EE 158103  
Notary's Commission No.