

## **AGREEMENT**

**THIS AGREEMENT** is made and entered into as of this \_\_\_\_ day of \_\_\_\_\_, 2014, 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

**ACADEMY BUS, LLC**

**WEST PALM BEACH**

(hereinafter referred to as "VENDOR"),  
whose principal place of business is  
124 Via Florenza  
Palm Beach Gardens, FL 33418

**WHEREAS**, SBBC issued a Request for Proposal identified as RFP 14-045V – Motor Coach Transportation Services (hereinafter referred to as "RFP"), dated October 10, 2013 and amended by Addendum No. 1, dated October 23, 2013, Addendum No. 2, dated October 25, 2013 and Addendum No. 3, dated November 13, 2013 of which are incorporated by reference herein, for the purpose of receiving proposals for motor coach transportation services; and

**WHEREAS**, A proposal was submitted by Evergreen Trails, Inc, d/b/a Horizon Coach Lines of West Palm Beach in response to the RFP and this company was acquired by Academy Bus, LLC in January, 2014. VENDOR has agreed to the terms, conditions and specifications as provided in Evergreen Trails, Inc, d/b/a Horizon Coach Lines of West Palm Beach proposal. Evergreen Trails, Inc, d/b/a Horizon Coach Lines of West Palm Beach proposal is incorporated by reference herein; and

**WHEREAS**, SBBC is desirous of obtaining the services by VENDOR for providing extra-curricular transportation services to transport students, staff, chaperones, advisors, etc. to and from athletic and scholastic events, field trips and grad night.

**NOW, THEREFORE**, in consideration of the premises and of the 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 of Agreement.** Unless terminated earlier pursuant to Section 3.05 of this Agreement, the term of this Agreement shall commence on **June 1, 2014** and conclude on **June 30, 2017**. The term of the contract may, by mutual agreement between SBBC and VENDOR be extended of two additional one-year periods and, if needed, 180 days beyond the expiration date of the renewal period. Supply Management & Logistics Department, will, if considering renewing, request a letter to renew from VENDOR, prior to the end of the contract period. Any renewal period shall be approved by the Amendment to this Agreement.

2.02 **Priority of Documents.** In the event of a conflict between documents, the following priority of documents shall govern.

- First: This Agreement, then
- Second: Addendum No. 3, then;
- Third: Addendum No. 2, then;
- Fourth: Addendum No. 1, then;
- Fifth: RFP 14-045V – Motor Coach Transportation Services, then;
- Sixth: Proposal submitted in response to the RFP by VENDOR

2.03 **Specifications.** VENDOR agrees to perform and follow the specifications as described in **Attachment A**.

2.04 **Cost of Services.** SBBC shall pay VENDOR for services rendered under this Agreement in accordance with the following schedule:

- 2.04.1 Tri-County Area Motor Coach, Size 50-57 \$90/hr.
- 2.04.2 Tri-County Area Motor Coach, Size 58-61 \$95/hr.
- Note: Tri-County Area (Fort Lauderdale, Miami-Dade and Palm Beach Counties)  
Minimum total hours shall not exceed 4 hours
- 2.04.3 Outside Tri-County Area Motor Coach, Size 50- 57 \$90/hr.
- 2.04.4 Outside Tri-County Area Motor Coach, Size 58- 61 \$95/hr.
- Note: Outside Tri-County Area but within the State of Florida  
Minimum total hours shall not exceed 5 hours
- 2.04.5 Grad Night/Grad Bash Motor Coach, Size 50 – 57 \$2,850/Flat Rate
- 2.04.6 Grad Night/Grad Bash Motor Coach, Size 58 – 61 \$2,950/Flat Rate
- Departure times may vary per school. Assuming departure time is around 4:00 pm and return by 12:00 noon (next morning) via Florida Turnpike or I-95 (20 hours or less) Additional hours may be charged unless delay is caused by VENDOR (i.e. mechanical breakdown, etc.). Hourly rate to be used will be Outside Tri-County Area.
- 2.04.7 Daily Rate for Multiple Days/Overnight Stay Motor Coach, Size 50 – 57 \$1,000/Flat Rate
- 2.04.8 Daily Rate for Multiple Days/Overnight Stay Motor Coach, Size 58 – 61 \$1,000/Flat Rate
- Note: Multiple Days/Overnight Stays – SBBC will pay for driver's lodging & meal(s) as expensed. Extra driver is at the expense of VENDOR, including out-of-state trips.

## ARTICLE 2 – SPECIAL CONDITIONS

2.04.9 Coach trips over 250 miles (from pick-up point to final destination) list flat fee per mile which will be charged in addition to the daily rate. (Example: Trip is 256 miles. Flat Rate for a Motor Coach (50 – 57) is \$1,000. 6 miles x \$4.00 per mile = \$24.00 + \$1,000 = \$1,024 total cost)

Single Cost \$4.00 per mile.

2.05 M/WBE Participation. VENDOR will provide for M/WBE participation during its performance of services under this contract agreement by using Heavenly Charter, Inc. and as set forth in VENDOR's proposal.

2.06 Inspection of VENDOR's Records by SBBC. VENDOR 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 VENDOR'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 VENDOR or any of VENDOR's payees pursuant to this Agreement. VENDOR'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. VENDOR'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) \* VENDOR's Records Defined. For the purposes of this Agreement, the term "VENDOR'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 VENDOR'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 VENDOR pursuant to this Agreement.

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

## ARTICLE 2 – SPECIAL CONDITIONS

(d) Audit Site Conditions. SBBC's agent or its authorized representative shall have access to VENDOR'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 VENDOR 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 VENDOR'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 VENDOR in excess of two percent (2%) of the total billings under this Agreement, the actual cost of SBBC's audit shall be paid by VENDOR. If the audit discloses billings or charges to which VENDOR is not contractually entitled, VENDOR 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. VENDOR 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 VENDOR 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 VENDOR pursuant to this Agreement and such excluded costs shall become the liability of VENDOR.

(h) Inspector General Audits. VENDOR 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.

2.07 Notice. When any of the parties desire to give notice to the other, such notice must be in writing, sent by U.S. 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 this 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, Florida  
600 S.E. 3<sup>rd</sup> Avenue  
Fort Lauderdale, Florida 33301

With a Copy to: Director – Student Transportation & Fleet Services  
The School Board of Broward County, Florida  
3895 N.W. 10<sup>th</sup> Avenue  
Oakland Park, Florida 33309

## **ARTICLE 2 – SPECIAL CONDITIONS**

To VENDOR:

Anna Linley  
Academy Bus, LLC  
6575 Southern Boulevard  
West Palm Beach, Florida 33413

**2.08 Background Screening:** VENDOR agrees to comply with all requirements of Sections 1012.32 and 1012.465, Florida Statutes, and all of its personnel who (1) are to be 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 VENDOR or its personnel providing any services under the conditions described in the previous sentence. VENDOR shall 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 VENDOR and its personnel. The parties agree that the failure of VENDOR 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. VENDOR 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 VENDOR's failure to comply with the requirements of this Section or with Sections 1012.32 and 1012.465, Florida Statutes.

**2.09 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 employees' 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 VENDOR:** VENDOR 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 VENDOR, its agents, servants or employees; the equipment of VENDOR, its agents, servants or employees while such equipment is on premises owned or controlled by SBBC; or the negligence of VENDOR or the negligence of VENDOR'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 VENDOR, 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 VENDOR of its desire to terminate this Agreement. In the event of such termination, SBBC shall pay VENDOR 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.

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

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.** Pursuant to Section 119.0701, Florida Statutes, any party contracting with SBBC is required to (a) keep and maintain available for public inspection any records that pertain to services rendered under this Agreement; (b) provide the public with access to public records on the same terms and conditions that SBBC would provide such records and at a cost that does not exceed the cost provided in Chapter 119, Florida Statutes or otherwise provided by law; (c) ensure that public records that are exempt or confidential and exempt from public records disclosure requirements are not disclosed except as authorized by law; and (d) meet all requirements for retaining public records and transfer, at no cost, to SBBC all public records in that party's possession upon termination of its contract with SBBC and destroy any duplicate public records that are exempt or confidential and exempt from public records disclosure requirements. All of such party's records stored electronically must be provided to SBBC in a format that is compatible with SBBC's information technology systems. 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. Each party acknowledges that this Agreement and all attachments thereto are public records and do not constitute trade secrets.

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

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

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.** Attachment A is 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.



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

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 regarding 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)

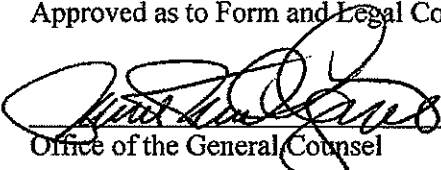
THE SCHOOL BOARD OF BROWARD  
COUNTY, FLORIDA

ATTEST:

By \_\_\_\_\_  
Patricia Good, Chair

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

Approved as to Form and Legal Content:

 02/10/14  
\_\_\_\_\_  
Office of the General Counsel

**FOR VENDOR**

(Corporate Seal)

ACADEMY BUS, LLC

ATTEST:

By Anne Linky

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

-or-  
Dorthea Moore  
Witness

[Signature]  
Witness

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

STATE OF Florida

COUNTY OF Miami - Dade

The foregoing instrument was acknowledged before me this 5<sup>th</sup> day of February, 2014 by Anne Linky of Academy Bus, LLC on behalf of the corporation/agency.  
Name of Person  
Name of Corporation or Agency

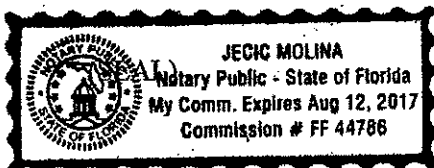
He/She is personally known to me or produced \_\_\_\_\_ as identification and did/did not first take an oath. \_\_\_\_\_  
Type of Identification

My Commission Expires:

[Signature]  
Signature - Notary Public

Jecic Molina  
Printed Name of Notary

FF 44786  
Notary's Commission No.



SPECIFICATIONS

1. **Coach Requirements** – All motor coaches used for transportation services under this Agreement shall meet the specifications and requirements of the U.S. Department of Transportation, Federal Motor Carrier Safety Administration.

During the term of this Agreement, VENDOR shall allow SBBC to inspect VENDOR's motor coaches for compliance with SBBC, State, and Federal standards for comfort, appearance and safety. Inspections will occur at a designated site determined by SBBC. Unannounced inspections may occur. Approval of any motor coach may be rescinded at any time, during the term of this contract, upon discovery of non-compliance to any requirement included in this Agreement.

2. **Federal and State Laws:** VENDOR's motor coaches must meet all Federal and State Laws and be registered as an intrastate common carrier. VENDOR shall possess all necessary and applicable licenses, permits and authority, required by Federal, State or Local Laws, for business operations, and the operation of motor coaches.
3. **Arrival:** VENDOR's motor coach(s) must be prompt and arrive at the required location/school on or before the specified time for the trip. VENDOR failing to perform as required by this Agreement, including no-show, partial or total, may be considered in default of their contract. VENDOR must be able to have motor coaches available as early as 8:00 am and travel as late as 10:00 pm. Failure to comply with this requirement shall result in default of contract.
4. **Capacity and Transport:** VENDOR shall not transport more students than the rated capacity for the vehicle being used. The front seat of the motor coach **cannot** be used to transport a student. VENDOR shall not transport any individual, not authorized by SBBC, in the same vehicle transporting SBBC students.
5. **Drivers:**
  - a) Drivers must have a good to excellent driving record; as verified by VENDOR, with a State of Florida license check. VENDOR shall not use drivers to fulfill contract requirements that have suspended or revoked driver licenses. VENDOR shall ensure that all drivers are trained before transporting students. VENDOR must ensure that all drivers are in compliance with the Omnibus Transportation Employee Training Act (OTETA) of 1991, or as amended.
  - b) VENDOR must be in strict compliance with the Omnibus Transportation Employee Testing Act of 1991, as amended, 49 CFR Part 40 (Drug and Alcohol Testing Procedures), 49 CFR Part 382 (Drug and Alcohol Testing Requirements), and 49 CFR 391 (Driver Qualifications). Furthermore, VENDOR must provide to SBBC's Pupil Transportation Department, written proof that VENDOR conducts drug and alcohol testing on their drivers. Failure to comply with applicable laws and regulations shall result in VENDOR being found in default of contract and removed from the approved Awardee list.
  - c) VENDOR shall ensure that all motor coach drivers are alert and capable of performing their assigned duties.
  - d) All drivers shall be neat and clean in their appearance. All drivers are required to dress in professional attire. Therefore, it is requested that drivers wear a shirt with a collar and casual dress pants or shorts. Jeans are not permitted.
  - e) All drivers employed by VENDOR must demonstrate the ability to verbally communicate effectively in English with those persons, students and staff with whom they come into contact.
  - f) Driver must drive in a careful and prudent manner, exercising at all times the highest degree of care, and observing and complying with all rules of the road and traffic regulations.
  - g) VENDOR shall be responsible to have their drivers, assigned to SBBC, receive a background screening in compliance with the Jessica Lunsford Act before the drivers are assigned trips (See General Condition 7.30 of the RFP). Drivers who have been convicted of any of the criminal offenses, stated on Attachment H of the RFP, are considered unacceptable, and must not be assigned trips for SBBC.

SPECIFICATIONS

- h) Drivers must wear an SBBC issued Photo Identification Badge at all times (See General Condition 7.30 of the RFP). **Failure to wear this ID Badge will result in cancellation of trip at VENDOR's expense.**
  - i) All drivers contracted under this Agreement are required to drive trips exactly as scheduled by SBBC. Drivers shall not alter or modify any trip without prior written approval by SBBC.
  - j) SBBC reserves the right, at any time, to approve or reject any driver. The decision of SBBC regarding qualifications, acceptance or rejection of any driver under this Agreement shall be final and binding on VENDOR.
  - k) Drivers shall comply with SBBC's procedures and practices in securing student passengers, car seats, travel chairs, crutches, walkers and orthopedic equipment at all times. Drivers shall comply with SBBC's procedures and practices for seating, supervision, and providing services to severely and physically handicapped children.
  - l) Drivers are prohibited from using cell phones (talking or texting) while transporting students.
6. **Communication:** All motor coaches shall be equipped with operable "Two-Way" Communication Device(s), capable of communicating with VENDOR from anywhere within the tri-county area and State of Florida.
  7. **Public Address System:** All motor coaches shall be equipped with an on-board public address system, capable of audible voice broadcast from the front of the motor coach and throughout the interior (passenger) compartment of the motor coach.
  8. **Convenience:** All motor coaches shall be air-conditioned. Some motor coaches should be wheel chair accessible. Proposer must indicate on its fleet inventory list which motor coaches are handicap accessible. If motor coaches have restrooms, they must be thoroughly cleaned and sanitized prior to providing transportation services to SBBC.
  9. **Entertainment:** All motor coaches should be equipped with DVD/VCR and television equipment for onboard entertainment.
  10. **Storage:** All motor coaches must have under motor coach storage/baggage compartments with locks.
  11. **Accidents:** VENDOR shall immediately notify SBBC, Pupil Transportation, by telephone of any accident/incident involving a motor coach while transporting students. VENDOR shall provide SBBC, Pupil Transportation, with an accident report that will be followed by a written investigative report, submitted to SBBC, at no cost within five (5) to ten (10) days from date of accident.
  12. **Cancellations:** VENDOR will accept cancellations made by SBBC, up to four days prior to the date of services, without incurring monetary penalties from VENDOR. VENDOR's scheduled services canceled by SBBC, less than four days prior to date of scheduled trip, will receive a penalty payment from SBBC of 10% of VENDOR's invoice amount or \$100.00, whichever is less. If the cancellation is a result of non-compliance to contract conditions or canceled by VENDOR, a default or non-compliance of VENDOR shall result in no payment for cancellation of trip. SBBC reserves the right to cancel trips, at any time, without incurring a penalty from VENDOR, as a result of Force Majeure (acts of nature).

**SPECIFICATIONS**

13. **Pricing/Billing:** Costs offered by VENDOR shall include, but not be limited to, all equipment, drivers, services, insurance, fuel charges and any other expenses required to fulfill the requirements of each trip. VENDOR shall be compensated at the applicable contracted price(s), as indicated on the price quotation sheet(s) offered and/or approved by SBBC. SBBC will not pay any additional cost(s) above VENDOR's bid price except for driver's lodging, meals and gratuity as stated in Specification 29. Failure to invoice correctly, by VENDOR, shall result in invoice returned to VENDOR for correction. VENDOR shall provide detailed data, including a quotation, for each trip to verify invoice amount. Each quotation must include: date, time of pick-up, address (pick-up and drop-off), driver's name, and applicable price(s) quoted. SBBC is not obligated to pay for services not invoiced within 90 days of service. Other than the cost(s) shown on the quotation, no other payment(s) or reimbursements shall be made to VENDOR from SBBC. SBBC reserves the right to adjust the invoice amount for services not rendered. Invoices must be billed as originally quoted, or as approved by SBBC. Invoices billed at a different rate or unit of measure shall be rejected and returned to VENDOR for correction. Invoices submitted with a "fuel surcharge" shall not be paid and will be returned to VENDOR for correction.

This contract is only for the cost of transportation services. This contract does not include student costs for park or ticket entries, meals, lodging, t-shirts and/or promotional items, etc.

14. **Payment:** All trips shall be paid after services are rendered. VENDOR will be allowed to collect a small security deposit, which will not exceed 10% of the total invoice amount prior to scheduled services. If, in the opinion of SBBC, VENDOR fails to satisfactorily perform the required services, the following actions will occur:
- a) SBBC reserves the right to assess appropriate damages and deduct said damages as specified herein for services in default, and pay the remaining balance due to VENDOR; and/or
  - b) SBBC has the right to withhold payments from VENDOR for non-compliant trip(s). Payments shall be withheld until VENDOR and SBBC reach an acceptable resolution to unsatisfactory issues encountered during trips. SBBC shall only pay full and final payments to VENDOR after full satisfactory service(s) have been rendered.
15. **Liquidated Damages:** For any liquidated damages identified herein, SBBC reserves the right to deduct such liquidated damages from the VENDOR's invoice. (See Item 23, Penalties) (Failure to perform/Liquidated Damages)
16. **Emergency Drills:** VENDOR should successfully perform evacuation drills for each and every trip, and to inform passengers of emergency exists for safe evacuations.
17. VENDOR shall immediately notify SBBC representative if any student does any of the following:
- a) Reports, alleges, or complains of injuries or sickness
  - b) Physically or sexually assaults, injures, alleges to have physically or sexually assaulted or injured VENDOR's employee or agent, or another student
18. **Inspection/Maintenance:** All motor coaches used for this Agreement must be routinely inspected and properly maintained, in accordance with routine maintenance standards. Prior to leaving VENDOR's facility, motor coaches must be thoroughly checked to ensure that air conditioning and all other comfort items are in working order and that there are no deficiencies that would compromise safety, comfort, or reliability.
19. **Mechanical Problems:** In the event of a mechanical malfunction or breakdown, VENDOR will be required to provide a replacement motor coach (of equal capacity and amenities as the troubled motor coach), allowing students to arrive at scheduled events with all services provided. The cost of the replacement vehicle, mechanical repairs or towing service will be the responsibility of VENDOR. If the mechanical problem results in students being lodged in a motel/hotel, the costs for meals and lodging, if required, shall be borne by VENDOR.

SPECIFICATIONS

20. **Confirmations:** When services are required, SBBC will contact Awardee(s) of its choice, and in turn, VENDOR must adhere to or provide the following within two business days of notification:
- a) SBBC will provide a SBBC quotation form to VENDOR with a detailed trip itinerary to include, but not be limited to, lodging (if required), number of students, and the number of motor coaches required.
  - b) VENDOR must charge the same cost of services that were included in VENDOR's original proposal or as approved by SBBC. No additional charges will be allowed except as stated in this Agreement. (Reference Item 13 – Pricing/Billing and Item 29 - Driver's Lodging, Meals and Gratuity)
  - c) VENDOR must confirm with school or requestor the type and number of motor coaches it will provide, to verify request.
  - d) Receipt of SBBC Purchase Order indicating required services will be binding on VENDOR.
  - e) If security deposit is required, ten percent (10) or less of the invoice amount will be provided to VENDOR by SBBC
21. **Subcontracting:** VENDOR shall not subcontract SBBC's requirements to another vendor that is not approved by SBBC.
22. **Levies:** There shall be no levy or special assessment charge for fuel allowed.
23. **Penalties (Failure to perform/Liquidated Damages):** The following will be assessed for penalties and liquidated damages under this contract:
- a) Breakdowns, failure to follow schedules, dispatching scheduling conflicts, or problems caused by drivers, which results in "no service" are considered failure to perform, which may result in assessing damages. As a result of this penalty, the invoice shall not be paid and any deposit shall be returned to SBBC in full.
  - b) **One hundred and fifty (\$150) dollars** per motor coach per day will be assessed for each instance which results in the following:
    - i) Failure to provide operable air conditioning; and/or
    - ii) Failure to provide requested operational video cassette/compact disc player and television monitor equipment, after acceptance of a highway motor coach trip as requested by SBBC;
    - iii) Failure to provide workable and clean on-board lavatories (if provided on motor coach);
    - iv) Failure to provide an adequate number of experienced motor coach drivers to provide trip coverage when "on-time" motor coach service is interrupted due to, but not limited to, mechanical breakdowns, accidents or driver absences;
    - v) Erratic driving (falling asleep, weaving or speeding in excess of speed limit)
    - vi) Late arrival or return to school (2+ hours)
  - c) **Fifty (\$50) Dollars** per motor coach per day may be assessed for each instance which results in the following:
    - i) Failure of availability and accessibility of dispatch staff for trip duration;
    - ii) Failure to notify school of substitute motor coach (one size motor coach for another size coach), or a combination of smaller capacity motor coach(es) for a larger capacity coach, or a larger capacity motor coach for a combination of a smaller capacity motor coach(es) without prior approval by school.
    - iii) Failure of the driver to know directions on how to arrive at the destination;
    - iv) Late arrival or return to school (1 hour – up to 2 hours)

SPECIFICATIONS

- d) Assessment of penalties and/or liquidated damages or other deductions required under this contract, shall in no way relieve VENDOR of its obligation to provide sufficient service, motor coaches or drivers, or in meeting any of the terms and conditions of this contract. Liquidated damage assessments may not be considered the final assessment (determination) of damages suffered by VENDOR's breach of contract.
  - e) There will be no penalties charged to VENDOR due to force majeure, if trip is non-compliant to Agreement's specifications.
24. **Uninterrupted "On-Time" Service:** VENDOR shall maintain sufficient quantities of motor coaches to provide field trip coverage with appropriate passenger capacities. Anticipated or unanticipated loss of motor coaches due to preventative maintenance, mechanical breakdowns, extraordinary assignments outside this contract, or any other factors shall not relieve VENDOR from its obligation to perform on this contract; penalties will apply for interrupted services. (See Specification 23)
  25. **Travel Agencies:** Licensed travel agencies may be used to coordinate travel packages (i.e. hotel, tickets, meal, etc.); however, schools, departments and centers will be required to utilize this contract only for motor coach service from one of the transportation service companies included on the approved list. TRAVEL AGENCIES MUST PAY THE MOTOR COACH TRANSPORTATION SERVICE DIRECTLY TO THE AWARDED VENDOR. NO THIRD PARTY INVOICING ALLOWED. SBBC will pay the Travel Agency for the travel package under a separate contract. **AWARDEE(S) WHO VIOLATES THIS POLICY SHALL BE FOUND IN DEFAULT OF THEIR CONTRACT.**
  26. **SBBC Motor Coach Transportation Quotation Form:** Schools are able to access a quote sheet located on the Supply Management & Logistics' website for their transportation needs to quickly process their field trips. **VENDOR shall not be allowed to provide an alternate quote sheet that changes the terms, conditions, specifications and prices included in VENDOR's original proposal.** Alternate terms and conditions shall not be honored. Schools, departments and centers are not allowed to sign any documents that will confirm their trip or change the requirements of the Agreement. SBBC's purchase order number provides confirmation that the trip will take place, and payment will be rendered.
  27. **Local Transportation:** VENDOR will be required to provide local transportation services at trip destination. Local transportation services include, but are not limited to, transportation services to and from restaurants, lodging locations, practices, events, or other trip-related events.
  28. **Directions:** VENDOR is required to furnish drivers with detailed accurate directions to all trip destinations and return. Drivers are to be aware of any road construction, road closures, and chart alternative routes that will avoid delays.
  29. **Driver's Lodging, Meals and Gratuity:** SBBC will reimburse VENDOR for driver's lodging, gratuities, and meals when staying overnight, at same motel/hotel as SBBC's group or an equivalent value motel/hotel nearby. SBBC shall only pay for the "exact cost" of the motel/hotel room and meals with no cost mark-ups. SBBC reserves the right to review the original invoice(s) from the hotel/motel and restaurant(s), prior to payment, to verify the exact costs charged to SBBC. Meals and lodging costs will follow the School Board Policy 3400 - Per Diem and Traveling Expenses.



## AGREEMENT

**THIS AGREEMENT** is made and entered into as of this \_\_\_\_ day of \_\_\_\_\_, 2014, 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

**J & A BUS SERVICES CORP.**

(hereinafter referred to as "VENDOR"),  
whose principal place of business is  
4591 S.W. 137<sup>th</sup> Court  
Miami, Florida 33175

**WHEREAS**, SBBC issued a Request for Proposal identified as RFP 14-045V – Motor Coach Transportation Services (hereinafter referred to as "RFP"), dated October 10, 2013 and amended by Addendum No. 1, dated October 23, 2013, Addendum No. 2, dated October 25, 2013 and Addendum No. 3, dated November 13, 2013 of which are incorporated by reference herein, for the purpose of receiving proposals for motor coach transportation services; and

**WHEREAS**, VENDOR submitted a proposal in response to the RFP and proposal is incorporated by reference herein; and

**WHEREAS**, SBBC is desirous of obtaining the services by VENDOR for providing extra-curricular transportation services to transport students, staff, chaperones, advisors, etc. to and from athletic and scholastic events, field trips and grad night; and

**NOW, THEREFORE**, in consideration of the premises and of the 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 of Agreement.** Unless terminated earlier pursuant to Section 3.05 of this Agreement, the term of this Agreement shall commence on **June 1, 2014** and conclude on **June 30, 2017**. The term of the contract may, by mutual agreement between SBBC and VENDOR be extended of two additional one-year periods and, if needed, 180 days beyond the expiration date of the renewal period. Supply Management & Logistics Department, will, if considering renewing, request a letter to renew from VENDOR, prior to the end of the contract period. Any renewal period shall be approved by the Amendment to this Agreement.

## **ARTICLE 2 – SPECIAL CONDITIONS**

2.02 **Priority of Documents.** In the event of a conflict between documents, the following priority of documents shall govern.

- First: This Agreement, then
- Second: Addendum No. 3, then;
- Third: Addendum No. 2, then;
- Fourth: Addendum No. 1, then;
- Fifth: RFP 14-045V – Motor Coach Transportation Services, then;
- Sixth: Proposal submitted in response to the RFP by VENDOR

2.03 **Specifications.** VENDOR agrees to perform and follow the specifications as described in Attachment A.

2.04 **Cost of Services.** SBBC shall pay VENDOR for services rendered under this Agreement in accordance with the following schedule:

2.04.1 Tri-County Area Motor Coach, Size 58-61 \$90/hr.  
Note: Tri-County Area (Fort Lauderdale, Miami-Dade and Palm Beach Counties)  
Minimum total hours shall not exceed 4 hours

2.04.2 Outside Tri-County Area Motor Coach, Size 58-61 \$95/hr.  
Note: Outside Tri-County Area but within the State of Florida  
Minimum total hours shall not exceed 5 hours

2.04.3 Grad Night/Grad Bash Motor Coach, Size 58 – 61 \$2,800/Flat Rate  
Departure times may vary per school. Assuming departure time is around 4:00 pm and return by 12:00 noon (next morning) via Florida Turnpike or I-95 (20 hours or less) Additional hours may be charged unless delay is caused by VENDOR (i.e. mechanical breakdown, etc.). Hourly rate to be used will be Outside Tri-County Area.

2.04.4 Daily Rate for Multiple Days/Overnight Stay Motor Coach, Size 58 – 61 \$1,000/Flat Rate  
Note: Multiple Days/Overnight Stays – SBBC will pay for driver's lodging & meal(s) as expensed. Extra driver is at the expense of VENDOR, including out-of-state trips.

2.04.5 Coach trips over 250 miles (from pick-up point to final destination) list flat fee per mile which will be charged in addition to the daily rate. (Example: Trip is 256 miles. Flat Rate for a Motor Coach (58 – 61) is \$1,000. 6 miles x \$2.75 per mile = \$16.50 + \$1,000 = \$1,016.50 total cost)

Single Cost \$2.75 per mile.

2.05 **M/WBE Participation.** VENDOR is a Certified MBE (Hispanic American) with SBBC, Certificate #7007-6919.

## ARTICLE 2 – SPECIAL CONDITIONS

2.06 Inspection of VENDOR's Records by SBBC. VENDOR 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 VENDOR'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 VENDOR or any of VENDOR's payees pursuant to this Agreement. VENDOR'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. VENDOR'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) VENDOR's Records Defined. For the purposes of this Agreement, the term "VENDOR'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 VENDOR'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 VENDOR pursuant to this Agreement.

(c) Notice of Inspection. SBBC's agent or its authorized representative shall provide VENDOR 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 VENDOR'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 VENDOR 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 VENDOR's claims for payment by SBBC.

## ARTICLE 2 – SPECIAL CONDITIONS

(f) Overcharges and Unauthorized Charges. If an audit conducted in accordance with this Section discloses overcharges or unauthorized charges to SBBC by VENDOR in excess of two percent (2%) of the total billings under this Agreement, the actual cost of SBBC's audit shall be paid by VENDOR. If the audit discloses billings or charges to which VENDOR is not contractually entitled, VENDOR 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. VENDOR 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 VENDOR 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 VENDOR pursuant to this Agreement and such excluded costs shall become the liability of VENDOR.

(h) Inspector General Audits. VENDOR 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.

**2.07 Notice.** When any of the parties desire to give notice to the other, such notice must be in writing, sent by U.S. 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 this paragraph. For the present, the Parties designate the following as the respective places for giving notice:

|                 |                                                                                                                                                                       |
|-----------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| To SBBC:        | Superintendent of Schools<br>The School Board of Broward County, Florida<br>600 S.E. 3 <sup>rd</sup> . Avenue<br>Fort Lauderdale, Florida 33301                       |
| With a Copy to: | Director – Student Transportation & Fleet Services<br>The School Board of Broward County, Florida<br>3895 N.W. 10 <sup>th</sup> Avenue<br>Oakland Park, Florida 33309 |
| To VENDOR:      | Jadirah Guerra, Operations Manager<br>J & A Bus Services, Corp.<br>4591 S.W. 137 <sup>th</sup> Court<br>Miami, Florida 33175                                          |
| With A Copy To: | Jose A. Cardenas, President<br>J & A Bus Services, Corp.<br>4591 S.W. 137 <sup>th</sup> Court<br>Miami, Florida 33175                                                 |

## **ARTICLE 2 – SPECIAL CONDITIONS**

2.08 **Background Screening:** VENDOR agrees to comply with all requirements of Sections 1012.32 and 1012.465, Florida Statutes, and all of its personnel who (1) are to be 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 VENDOR or its personnel providing any services under the conditions described in the previous sentence. VENDOR shall 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 VENDOR and its personnel. The parties agree that the failure of VENDOR 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. VENDOR 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 VENDOR's failure to comply with the requirements of this Section or with Sections 1012.32 and 1012.465, Florida Statutes.

2.09 **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 employees' 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 VENDOR: VENDOR 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 VENDOR, its agents, servants or employees; the equipment of VENDOR, its agents, servants or employees while such equipment is on premises owned or controlled by SBBC; or the negligence of VENDOR or the negligence of VENDOR'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 VENDOR, 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.

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

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 VENDOR of its desire to terminate this Agreement. In the event of such termination, SBBC shall pay VENDOR 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.

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

**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.** Pursuant to Section 119.0701, Florida Statutes, any party contracting with SBBC is required to (a) keep and maintain available for public inspection any records that pertain to services rendered under this Agreement; (b) provide the public with access to public records on the same terms and conditions that SBBC would provide such records and at a cost that does not exceed the cost provided in Chapter 119, Florida Statutes or otherwise provided by law; (c) ensure that public records that are exempt or confidential and exempt from public records disclosure requirements are not disclosed except as authorized by law; and (d) meet all requirements for retaining public records and transfer, at no cost, to SBBC all public records in that party's possession upon termination of its contract with SBBC and destroy any duplicate public records that are exempt or confidential and exempt from public records disclosure requirements. All of such party's records stored electronically must be provided to SBBC in a format that is compatible with SBBC's information technology systems. 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. Each party acknowledges that this Agreement and all attachments thereto are public records and do not constitute trade secrets.

**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.

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

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.** Attachment A is 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.



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

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 regarding 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)

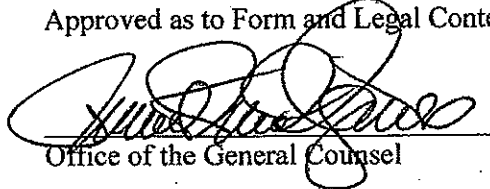
THE SCHOOL BOARD OF BROWARD  
COUNTY, FLORIDA

ATTEST:

By \_\_\_\_\_  
Patricia Good, Chair

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

Approved as to Form and Legal Content:

 01/16/14  
Office of the General Counsel

**FOR VENDOR**

(Corporate Seal)

ATTEST:

*Jadira Guerra*  
Jadira Guerra, Secretary  
-or-

J & A BUS SERVICES, CORP.

By *Jose A. Cardenas*  
Jose A. Cardenas, President.

\_\_\_\_\_  
Witness

\_\_\_\_\_  
Witness

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

STATE OF Florida

COUNTY OF Dade

The foregoing instrument was acknowledged before me this 13 day of January, 2014 by Jadira Guerra and Jose Cardenas of J & A BUS SERVICES, CORP.  
Name of Person  
Name of Corporation or Agency

He/She is personally known to me or produced FDC as identification and did/did not first take an oath. Type of Identification

My Commission Expires:

(SEAL)



Yaneisy Gueren  
Commission #EE849627  
Expires: Nov. 28, 2016  
BONDED THRU  
AAA NOTARY & SURETY BONDS

*Yaneisy Gueren*  
Signature -- Notary Public

Yaneisy Gueren  
Printed Name of Notary

#EE849627  
Notary's Commission No.

SPECIFICATIONS

1. **Coach Requirements** – All motor coaches used for transportation services under this Agreement shall meet the specifications and requirements of the U.S. Department of Transportation, Federal Motor Carrier Safety Administration.

During the term of this Agreement, VENDOR shall allow SBBC to inspect VENDOR's motor coaches for compliance with SBBC, State, and Federal standards for comfort, appearance and safety. Inspections will occur at a designated site determined by SBBC. Unannounced inspections may occur. Approval of any motor coach may be rescinded at any time, during the term of this contract, upon discovery of non-compliance to any requirement included in this Agreement.

2. **Federal and State Laws:** VENDOR's motor coaches must meet all Federal and State Laws and be registered as an intrastate common carrier. VENDOR shall possess all necessary and applicable licenses, permits and authority, required by Federal, State or Local Laws, for business operations, and the operation of motor coaches.
3. **Arrival:** VENDOR's motor coach(s) must be prompt and arrive at the required location/school on or before the specified time for the trip. VENDOR failing to perform as required by this Agreement, including no-show, partial or total, may be considered in default of their contract. VENDOR must be able to have motor coaches available as early as 8:00 am and travel as late as 10:00 pm. Failure to comply with this requirement shall result in default of contract.
4. **Capacity and Transport:** VENDOR shall not transport more students than the rated capacity for the vehicle being used. The front seat of the motor coach **cannot** be used to transport a student. VENDOR shall not transport any individual, not authorized by SBBC, in the same vehicle transporting SBBC students.
5. **Drivers:**
  - a) Drivers must have a good to excellent driving record, as verified by VENDOR, with a State of Florida license check. VENDOR shall not use drivers to fulfill contract requirements that have suspended or revoked driver licenses. VENDOR shall ensure that all drivers are trained before transporting students. VENDOR must ensure that all drivers are in compliance with the Omnibus Transportation Employee Training Act (OTETA) of 1991, or as amended.
  - b) VENDOR must be in strict compliance with the Omnibus Transportation Employee Testing Act of 1991, as amended, 49 CFR Part 40 (Drug and Alcohol Testing Procedures), 49 CFR Part 382 (Drug and Alcohol Testing Requirements), and 49 CFR 391 (Driver Qualifications). Furthermore, VENDOR must provide to SBBC's Pupil Transportation Department, written proof that VENDOR conducts drug and alcohol testing on their drivers. Failure to comply with applicable laws and regulations shall result in VENDOR being found in default of contract and removed from the approved Awardee list.
  - c) VENDOR shall ensure that all motor coach drivers are alert and capable of performing their assigned duties.
  - d) All drivers shall be neat and clean in their appearance. All drivers are required to dress in professional attire. Therefore, it is requested that drivers wear a shirt with a collar and casual dress pants or shorts. Jeans are not permitted.
  - e) All drivers employed by VENDOR must demonstrate the ability to verbally communicate effectively in English with those persons, students and staff with whom they come into contact.
  - f) Driver must drive in a careful and prudent manner, exercising at all times the highest degree of care, and observing and complying with all rules of the road and traffic regulations.
  - g) VENDOR shall be responsible to have their drivers, assigned to SBBC, receive a background screening in compliance with the Jessica Lunsford Act before the drivers are assigned trips (See General Condition 7.30 of the RFP). Drivers who have been convicted of any of the criminal offenses, stated on Attachment H of the RFP, are considered unacceptable, and must not be assigned trips for SBBC.

SPECIFICATIONS

- h) Drivers must wear an SBBC issued Photo Identification Badge at all times (See General Condition 7.30 of the RFP). **Failure to wear this ID Badge will result in cancellation of trip at VENDOR's expense.**
  - i) All drivers contracted under this Agreement are required to drive trips exactly as scheduled by SBBC. Drivers shall not alter or modify any trip without prior written approval by SBBC.
  - j) SBBC reserves the right, at any time, to approve or reject any driver. The decision of SBBC regarding qualifications, acceptance or rejection of any driver under this Agreement shall be final and binding on VENDOR.
  - k) Drivers shall comply with SBBC's procedures and practices in securing student passengers, car seats, travel chairs, crutches, walkers and orthopedic equipment at all times. Drivers shall comply with SBBC's procedures and practices for seating, supervision, and providing services to severely and physically handicapped children.
  - l) Drivers are prohibited from using cell phones (talking or texting) while transporting students.
6. **Communication:** All motor coaches shall be equipped with operable "Two-Way" Communication Device(s), capable of communicating with VENDOR from anywhere within the tri-county area and State of Florida.
7. **Public Address System:** All motor coaches shall be equipped with an on-board public address system, capable of audible voice broadcast from the front of the motor coach and throughout the interior (passenger) compartment of the motor coach.
8. **Convenience:** All motor coaches shall be air-conditioned. Some motor coaches should be wheel chair accessible. Proposer must indicate on its fleet inventory list which motor coaches are handicap accessible. If motor coaches have restrooms, they must be thoroughly cleaned and sanitized prior to providing transportation services to SBBC.
9. **Entertainment:** All motor coaches should be equipped with DVD/VCR and television equipment for onboard entertainment.
10. **Storage:** All motor coaches must have under motor coach storage/baggage compartments with locks.
11. **Accidents:** VENDOR shall immediately notify SBBC, Pupil Transportation, by telephone of any accident/incident involving a motor coach while transporting students. VENDOR shall provide SBBC, Pupil Transportation, with an accident report that will be followed by a written investigative report, submitted to SBBC, at no cost within five (5) to ten (10) days from date of accident.
12. **Cancellations:** VENDOR will accept cancellations made by SBBC, up to four days prior to the date of services, without incurring monetary penalties from VENDOR. VENDOR's scheduled services canceled by SBBC, less than four days prior to date of scheduled trip, will receive a penalty payment from SBBC of 10% of VENDOR's invoice amount or \$100.00, whichever is less. If the cancellation is a result of non-compliance to contract conditions or canceled by VENDOR, a default or non-compliance of VENDOR shall result in no payment for cancellation of trip. SBBC reserves the right to cancel trips, at any time, without incurring a penalty from VENDOR, as a result of Force Majeure (acts of nature).

SPECIFICATIONS

13. **Pricing/Billing:** Costs offered by VENDOR shall include, but not be limited to, all equipment, drivers, services, insurance, fuel charges and any other expenses required to fulfill the requirements of each trip. VENDOR shall be compensated at the applicable contracted price(s), as indicated on the price quotation sheet(s) offered and/or approved by SBBC. SBBC will not pay any additional cost(s) above VENDOR's bid price except for driver's lodging, meals and gratuity as stated in Specification 29. Failure to invoice correctly, by VENDOR, shall result in invoice returned to VENDOR for correction. VENDOR shall provide detailed data, including a quotation, for each trip to verify invoice amount. Each quotation must include: date, time of pick-up, address (pick-up and drop-off), driver's name, and applicable price(s) quoted. SBBC is not obligated to pay for services not invoiced within 90 days of service. Other than the cost(s) shown on the quotation, no other payment(s) or reimbursements shall be made to VENDOR from SBBC. SBBC reserves the right to adjust the invoice amount for services not rendered. Invoices must be billed as originally quoted, or as approved by SBBC. Invoices billed at a different rate or unit of measure shall be rejected and returned to VENDOR for correction. Invoices submitted with a "fuel surcharge" shall not be paid and will be returned to VENDOR for correction.

This contract is only for the cost of transportation services. This contract does not include student costs for park or ticket entries, meals, lodging, t-shirts and/or promotional items, etc.

14. **Payment:** All trips shall be paid after services are rendered. VENDOR will be allowed to collect a small security deposit, which will not exceed 10% of the total invoice amount prior to scheduled services. If, in the opinion of SBBC, VENDOR fails to satisfactorily perform the required services, the following actions will occur:
- a) SBBC reserves the right to assess appropriate damages and deduct said damages as specified herein for services in default, and pay the remaining balance due to VENDOR; and/or
  - b) SBBC has the right to withhold payments from VENDOR for non-compliant trip(s). Payments shall be withheld until VENDOR and SBBC reach an acceptable resolution to unsatisfactory issues encountered during trips. SBBC shall only pay full and final payments to VENDOR after full satisfactory service(s) have been rendered.
15. **Liquidated Damages:** For any liquidated damages identified herein, SBBC reserves the right to deduct such liquidated damages from the VENDOR's invoice. (See Item 23, Penalties) (Failure to perform/Liquidated Damages)
16. **Emergency Drills:** VENDOR should successfully perform evacuation drills for each and every trip, and to inform passengers of emergency exists for safe evacuations.
17. VENDOR shall immediately notify SBBC representative if any student does any of the following:
- a) Reports, alleges, or complains of injuries or sickness
  - b) Physically or sexually assaults, injures, alleges to have physically or sexually assaulted or injured VENDOR's employee or agent, or another student
18. **Inspection/Maintenance:** All motor coaches used for this Agreement must be routinely inspected and properly maintained, in accordance with routine maintenance standards. Prior to leaving VENDOR's facility, motor coaches must be thoroughly checked to ensure that air conditioning and all other comfort items are in working order and that there are no deficiencies that would compromise safety, comfort, or reliability.
19. **Mechanical Problems:** In the event of a mechanical malfunction or breakdown, VENDOR will be required to provide a replacement motor coach (of equal capacity and amenities as the troubled motor coach), allowing students to arrive at scheduled events with all services provided. The cost of the replacement vehicle, mechanical repairs or towing service will be the responsibility of VENDOR. If the mechanical problem results in students being lodged in a motel/hotel, the costs for meals and lodging, if required, shall be borne by VENDOR.

SPECIFICATIONS

20. **Confirmations:** When services are required, SBBC will contact Awardee(s) of its choice, and in turn, **VENDOR** must adhere to or provide the following within two business days of notification:
- a) SBBC will provide a SBBC quotation form to **VENDOR** with a detailed trip itinerary to include, but not be limited to, lodging (if required), number of students, and the number of motor coaches required.
  - b) **VENDOR** must charge the same cost of services that were included in **VENDOR**'s original proposal or as approved by SBBC. No additional charges will be allowed except as stated in this Agreement. (Reference Item 13 – Pricing/Billing and Item 29 - Driver's Lodging, Meals and Gratuity)
  - c) **VENDOR** must confirm with school or requestor the type and number of motor coaches it will provide, to verify request.
  - d) Receipt of SBBC Purchase Order indicating required services will be binding on **VENDOR**.
  - e) If security deposit is required, ten percent (10) or less of the invoice amount will be provided to **VENDOR** by SBBC
21. **Subcontracting:** **VENDOR** shall not subcontract SBBC's requirements to another vendor that is not approved by SBBC.
22. **Levies:** There shall be no levy or special assessment charge for fuel allowed.
23. **Penalties (Failure to perform/Liquidated Damages):** The following will be assessed for penalties and liquidated damages under this contract:
- a) Breakdowns, failure to follow schedules, dispatching scheduling conflicts, or problems caused by drivers, which results in "no service" are considered failure to perform, which may result in assessing damages. As a result of this penalty, the invoice shall not be paid and any deposit shall be returned to SBBC in full.
  - b) **One hundred and fifty (\$150) dollars** per motor coach per day will be assessed for each instance which results in the following:
    - i) Failure to provide operable air conditioning; and/or
    - ii) Failure to provide requested operational video cassette/compact disc player and television monitor equipment, after acceptance of a highway motor coach trip as requested by SBBC;
    - iii) Failure to provide workable and clean on-board lavatories (if provided on motor coach);
    - iv) Failure to provide an adequate number of experienced motor coach drivers to provide trip coverage when "on-time" motor coach service is interrupted due to, but not limited to, mechanical breakdowns, accidents or driver absences;
    - v) Erratic driving (falling asleep, weaving or speeding in excess of speed limit)
    - vi) Late arrival or return to school (2+ hours)
  - c) **Fifty (\$50) Dollars** per motor coach per day may be assessed for each instance which results in the following:
    - i) Failure of availability and accessibility of dispatch staff for trip duration;
    - ii) Failure to notify school of substitute motor coach (one size motor coach for another size coach), or a combination of smaller capacity motor coach(es) for a larger capacity coach, or a larger capacity motor coach for a combination of a smaller capacity motor coach(es) without prior approval by school.
    - iii) Failure of the driver to know directions on how to arrive at the destination;
    - iv) Late arrival or return to school (1 hour – up to 2 hours)

**SPECIFICATIONS**

- d) Assessment of penalties and/or liquidated damages or other deductions required under this contract, shall in no way relieve VENDOR of its obligation to provide sufficient service, motor coaches or drivers, or in meeting any of the terms and conditions of this contract. Liquidated damage assessments may not be considered the final assessment (determination) of damages suffered by VENDOR's breach of contract.
  - e) There will be no penalties charged to VENDOR due to force majeure, if trip is non-compliant to Agreement's specifications.
24. **Uninterrupted "On-Time" Service:** VENDOR shall maintain sufficient quantities of motor coaches to provide field trip coverage with appropriate passenger capacities. Anticipated or unanticipated loss of motor coaches due to preventative maintenance, mechanical breakdowns, extraordinary assignments outside this contract, or any other factors shall not relieve VENDOR from its obligation to perform on this contract; penalties will apply for interrupted services. (See Specification 23)
  25. **Travel Agencies:** Licensed travel agencies may be used to coordinate travel packages (i.e. hotel, tickets, meal, etc.); however, schools, departments and centers will be required to utilize this contract only for motor coach service from one of the transportation service companies included on the approved list. **TRAVEL AGENCIES MUST PAY THE MOTOR COACH TRANSPORTATION SERVICE DIRECTLY TO THE AWARDED VENDOR. NO THIRD PARTY INVOICING ALLOWED.** SBBC will pay the Travel Agency for the travel package under a separate contract. **AWARDEE(S) WHO VIOLATES THIS POLICY SHALL BE FOUND IN DEFAULT OF THEIR CONTRACT.**
  26. **SBBC Motor Coach Transportation Quotation Form:** Schools are able to access a quote sheet located on the Supply Management & Logistics' website for their transportation needs to quickly process their field trips. **VENDOR shall not be allowed to provide an alternate quote sheet that changes the terms, conditions, specifications and prices included in VENDOR's original proposal.** Alternate terms and conditions shall not be honored. Schools, departments and centers are not allowed to sign any documents that will confirm their trip or change the requirements of the Agreement. SBBC's purchase order number provides confirmation that the trip will take place, and payment will be rendered.
  27. **Local Transportation:** VENDOR will be required to provide local transportation services at trip destination. Local transportation services include, but are not limited to, transportation services to and from restaurants, lodging locations, practices, events, or other trip-related events.
  28. **Directions:** VENDOR is required to furnish drivers with detailed accurate directions to all trip destinations and return. Drivers are to be aware of any road construction, road closures, and chart alternative routes that will avoid delays.
  29. **Driver's Lodging, Meals and Gratuity:** SBBC will reimburse VENDOR for driver's lodging, gratuities, and meals when staying overnight, at same motel/hotel as SBBC's group or an equivalent value motel/hotel nearby. SBBC shall only pay for the "exact cost" of the motel/hotel room and meals with no cost mark-ups. SBBC reserves the right to review the original invoice(s) from the hotel/motel and restaurant(s), prior to payment, to verify the exact costs charged to SBBC. Meals and lodging costs will follow the School Board Policy 3400 - Per Diem and Traveling Expenses.



## AGREEMENT

THIS AGREEMENT is made and entered into as of this \_\_\_\_ day of \_\_\_\_\_, 2014, 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

**SAFEGUARD AMERICA, INC.  
D/B/A AMERICAS TRANSPORTATION**

(hereinafter referred to as "VENDOR"),  
whose principal place of business is  
3935 N.W. 26<sup>th</sup> Street  
Miami, Florida 33142

WHEREAS, SBBC issued a Request for Proposal identified as RFP 14-045V – Motor Coach Transportation Services (hereinafter referred to as "RFP"), dated October 10, 2013 and amended by Addendum No. 1, dated October 23, 2013, Addendum No. 2, dated October 25, 2013 and Addendum No. 3, dated November 13, 2013 of which are incorporated by reference herein, for the purpose of receiving proposals for motor coach transportation services; and

WHEREAS, VENDOR submitted a proposal in response to the RFP and proposal is incorporated by reference herein; and

WHEREAS, SBBC is desirous of obtaining the services by VENDOR for providing extra-curricular transportation services to transport students, staff, chaperones, advisors, etc. to and from athletic and scholastic events, field trips and grad night; and

NOW, THEREFORE, in consideration of the premises and of the 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 of Agreement.** Unless terminated earlier pursuant to Section 3.05 of this Agreement, the term of this Agreement shall commence on **June 1, 2014** and conclude on **June 30, 2017**. The term of the contract may, by mutual agreement between SBBC and VENDOR be extended of two additional one-year periods and, if needed, 180 days beyond the expiration date of the renewal period. Supply Management & Logistics Department, will, if considering renewing, request a letter to renew from VENDOR, prior to the end of the contract period. Any renewal period shall be approved by the Amendment to this Agreement.

## **ARTICLE 2 – SPECIAL CONDITIONS**

2.02 **Priority of Documents.** In the event of a conflict between documents, the following priority of documents shall govern.

- First: This Agreement, then
- Second: Addendum No. 3, then;
- Third: Addendum No. 2, then;
- Fourth: Addendum No. 1, then;
- Fifth: RFP 14-045V – Motor Coach Transportation Services, then;
- Sixth: Proposal submitted in response to the RFP by VENDOR

2.03 **Specifications.** VENDOR agrees to perform and follow the specifications as described in **Attachment A**.

2.04 **Cost of Services.** SBBC shall pay VENDOR for services rendered under this Agreement in accordance with the following schedule:

- |        |                 |                         |          |
|--------|-----------------|-------------------------|----------|
| 2.04.1 | Tri-County Area | Motor Coach, Size 47-49 | \$85/hr. |
| 2.04.2 | Tri-County Area | Motor Coach, Size 50-57 | \$85/hr. |
| 2.04.3 | Tri-County Area | Motor Coach, Size 58-61 | \$85/hr. |
- Note: Tri-County Area (Fort Lauderdale, Miami-Dade and Palm Beach Counties)  
Minimum total hours shall not exceed 4 hours

- |        |                         |                         |          |
|--------|-------------------------|-------------------------|----------|
| 2.04.4 | Outside Tri-County Area | Motor Coach, Size 47-49 | \$95/hr. |
| 2.04.5 | Outside Tri-County Area | Motor Coach, Size 50-57 | \$95/hr. |
| 2.04.6 | Outside Tri-County Area | Motor Coach, Size 58-61 | \$95/hr. |

Note: Outside Tri-County Area but within the State of Florida  
Minimum total hours shall not exceed 5 hours

- |        |                      |                           |                   |
|--------|----------------------|---------------------------|-------------------|
| 2.04.7 | Grad Night/Grad Bash | Motor Coach, Size 47 – 49 | \$2,800/Flat Rate |
| 2.04.8 | Grad Night/Grad Bash | Motor Coach, Size 50 – 57 | \$2,800/Flat Rate |
| 2.04.9 | Grad Night/Grad Bash | Motor Coach, Size 58 – 61 | \$2,800/Flat Rate |
- Departure times may vary per school. Assuming departure time is around 4:00 pm and return by 12:00 noon (next morning) via Florida Turnpike or I-95 (20 hours or less) Additional hours may be charged unless delay is caused by VENDOR (i.e. mechanical breakdown, etc.). Hourly rate to be used will be Outside Tri-County Area.

- |         |                                             |                           |                   |
|---------|---------------------------------------------|---------------------------|-------------------|
| 2.04.10 | Daily Rate for Multiple Days/Overnight Stay | Motor Coach, Size 47 – 49 | \$1,400/Flat Rate |
| 2.04.11 | Daily Rate for Multiple Days/Overnight Stay | Motor Coach, Size 50 – 57 | \$1,500/Flat Rate |
| 2.04.12 | Daily Rate for Multiple Days/Overnight Stay | Motor Coach, Size 58 – 61 | \$1,600/Flat Rate |

Note: Multiple Days/Overnight Stays – SBBC will pay for driver's lodging & meal(s) as expensed. Extra driver is at the expense of VENDOR, including out-of-state trips.

- 2.04.13 Coach trips over 250 miles (from pick-up point to final destination) list flat fee per mile which will be charged in addition to the daily rate. (Example: Trip is 256 miles. Flat Rate for a Motor Coach (50 – 57) is \$1,500. 6 miles x \$3.00 per mile = \$18.00 + \$1,500 = \$1,518 total cost)

Single Cost \$3.00 per mile.

## ARTICLE 2 – SPECIAL CONDITIONS

2.05 Inspection of VENDOR's Records by SBBC. VENDOR 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 VENDOR'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 VENDOR or any of VENDOR's payees pursuant to this Agreement. VENDOR'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. VENDOR'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) VENDOR's Records Defined. For the purposes of this Agreement, the term "VENDOR'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 VENDOR'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 VENDOR pursuant to this Agreement.

(c) Notice of Inspection. SBBC's agent or its authorized representative shall provide VENDOR 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 VENDOR'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 VENDOR 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 VENDOR's claims for payment by SBBC.

## ARTICLE 2 – SPECIAL CONDITIONS

(f) Overcharges and Unauthorized Charges. If an audit conducted in accordance with this Section discloses overcharges or unauthorized charges to SBBC by VENDOR in excess of two percent (2%) of the total billings under this Agreement, the actual cost of SBBC's audit shall be paid by VENDOR. If the audit discloses billings or charges to which VENDOR is not contractually entitled, VENDOR 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. VENDOR 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 VENDOR 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 VENDOR pursuant to this Agreement and such excluded costs shall become the liability of VENDOR.

(h) Inspector General Audits. VENDOR 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.

2.07 Notice. When any of the parties desire to give notice to the other, such notice must be in writing, sent by U.S. 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 this paragraph. For the present, the Parties designate the following as the respective places for giving notice:

|                 |                                                                                                                                                                       |
|-----------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| To SBBC:        | Superintendent of Schools<br>The School Board of Broward County, Florida<br>600 S.E. 3 <sup>rd</sup> . Avenue<br>Fort Lauderdale, Florida 33301                       |
| With a Copy to: | Director – Student Transportation & Fleet Services<br>The School Board of Broward County, Florida<br>3895 N.W. 10 <sup>th</sup> Avenue<br>Oakland Park, Florida 33309 |
| To VENDOR:      | Steven Masdeu<br>Safeguard America, Inc.<br>d/b/a Americas Transportation<br>3935 N.W. 26 <sup>th</sup> Street<br>Miami, Florida 33142                                |

## **ARTICLE 2 – SPECIAL CONDITIONS**

2.08 **Background Screening:** VENDOR agrees to comply with all requirements of Sections 1012.32 and 1012.465, Florida Statutes, and all of its personnel who (1) are to be 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 VENDOR or its personnel providing any services under the conditions described in the previous sentence. VENDOR shall 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 VENDOR and its personnel. The parties agree that the failure of VENDOR 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. VENDOR 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 VENDOR's failure to comply with the requirements of this Section or with Sections 1012.32 and 1012.465, Florida Statutes.

2.09 **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 employees' 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 VENDOR: VENDOR 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 VENDOR, its agents, servants or employees; the equipment of VENDOR, its agents, servants or employees while such equipment is on premises owned or controlled by SBBC; or the negligence of VENDOR or the negligence of VENDOR'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 VENDOR, 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.

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

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 VENDOR of its desire to terminate this Agreement. In the event of such termination, SBBC shall pay VENDOR 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.

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

**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.** Pursuant to Section 119.0701, Florida Statutes, any party contracting with SBBC is required to (a) keep and maintain available for public inspection any records that pertain to services rendered under this Agreement; (b) provide the public with access to public records on the same terms and conditions that SBBC would provide such records and at a cost that does not exceed the cost provided in Chapter 119, Florida Statutes or otherwise provided by law; (c) ensure that public records that are exempt or confidential and exempt from public records disclosure requirements are not disclosed except as authorized by law; and (d) meet all requirements for retaining public records and transfer, at no cost, to SBBC all public records in that party's possession upon termination of its contract with SBBC and destroy any duplicate public records that are exempt or confidential and exempt from public records disclosure requirements. All of such party's records stored electronically must be provided to SBBC in a format that is compatible with SBBC's information technology systems. 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. Each party acknowledges that this Agreement and all attachments thereto are public records and do not constitute trade secrets.

**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

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

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.** Attachment A is 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.



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

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 regarding 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)

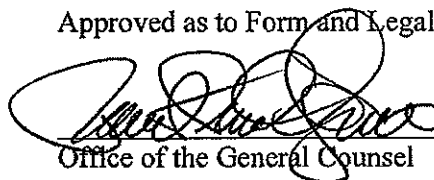
THE SCHOOL BOARD OF BROWARD  
COUNTY, FLORIDA

ATTEST:

By \_\_\_\_\_  
Patricia Good, Chair

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

Approved as to Form and Legal Content:

 a/17/14  
\_\_\_\_\_  
Office of the General Counsel

**FOR VENDOR**

(Corporate Seal)

SAFEGUARD AMERICA, INC.  
D/B/A AMERICAS TRANSPORTATION

ATTEST:

By [Signature]

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

-or-  
\_\_\_\_\_  
Witness

\_\_\_\_\_  
Witness

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

STATE OF FL

COUNTY OF Miami Dade

The foregoing instrument was acknowledged before me this 16 day of January, 2014 by Steven Hasden of Safeguard America Inc, on behalf of the corporation/agency.  
Name of Person  
Name of Corporation or Agency

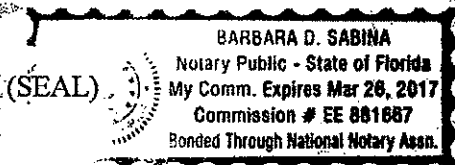
He/She is personally known to me or produced \_\_\_\_\_ as identification and did/did not first take an oath. \_\_\_\_\_  
Type of Identification

My Commission Expires: 03/26/2017

[Signature]  
Signature - Notary Public

Barbara D. Sabina  
Printed Name of Notary

EE 881687  
Notary's Commission No.



**SPECIFICATIONS**

1. **Coach Requirements** – All motor coaches used for transportation services under this Agreement shall meet the specifications and requirements of the U.S. Department of Transportation, Federal Motor Carrier Safety Administration.

During the term of this Agreement, VENDOR shall allow SBBC to inspect VENDOR's motor coaches for compliance with SBBC, State, and Federal standards for comfort, appearance and safety. Inspections will occur at a designated site determined by SBBC. Unannounced inspections may occur. Approval of any motor coach may be rescinded at any time, during the term of this contract, upon discovery of non-compliance to any requirement included in this Agreement.

2. **Federal and State Laws:** VENDOR's motor coaches must meet all Federal and State Laws and be registered as an intrastate common carrier. VENDOR shall possess all necessary and applicable licenses, permits and authority, required by Federal, State or Local Laws, for business operations, and the operation of motor coaches.
3. **Arrival:** VENDOR's motor coach(s) must be **prompt** and arrive at the required location/school on or before the specified time for the trip. VENDOR failing to perform as required by this Agreement, including no-show, partial or total, may be considered in default of their contract. VENDOR must be able to have motor coaches available as early as 8:00 am and travel as late as 10:00 pm. Failure to comply with this requirement shall result in default of contract.
4. **Capacity and Transport:** VENDOR shall not transport more students than the rated capacity for the vehicle being used. The front seat of the motor coach **cannot** be used to transport a student. VENDOR shall not transport any individual, not authorized by SBBC, in the same vehicle transporting SBBC students.
5. **Drivers:**
  - a) Drivers must have a good to excellent driving record, as verified by VENDOR, with a State of Florida license check. VENDOR shall not use drivers to fulfill contract requirements that have suspended or revoked driver licenses. VENDOR shall ensure that all drivers are trained before transporting students. VENDOR must ensure that all drivers are in compliance with the Omnibus Transportation Employee Training Act (OTETA) of 1991, or as amended.
  - b) VENDOR must be in strict compliance with the Omnibus Transportation Employee Testing Act of 1991, as amended, 49 CFR Part 40 (Drug and Alcohol Testing Procedures), 49 CFR Part 382 (Drug and Alcohol Testing Requirements), and 49 CFR 391 (Driver Qualifications). Furthermore, VENDOR must provide to SBBC's Pupil Transportation Department, written proof that VENDOR conducts drug and alcohol testing on their drivers. Failure to comply with applicable laws and regulations shall result in VENDOR being found in default of contract and removed from the approved Awardee list.
  - c) VENDOR shall ensure that all motor coach drivers are alert and capable of performing their assigned duties.
  - d) All drivers shall be neat and clean in their appearance. All drivers are required to dress in professional attire. Therefore, it is requested that drivers wear a shirt with a collar and casual dress pants or shorts. Jeans are not permitted.
  - e) All drivers employed by VENDOR must demonstrate the ability to verbally communicate effectively in English with those persons, students and staff with whom they come into contact.
  - f) Driver must drive in a careful and prudent manner, exercising at all times the highest degree of care, and observing and complying with all rules of the road and traffic regulations.
  - g) VENDOR shall be responsible to have their drivers, assigned to SBBC, receive a background screening in compliance with the Jessica Lunsford Act before the drivers are assigned trips (See General Condition 7.30 of the RFP). Drivers who have been convicted of any of the criminal offenses, stated on Attachment H of the RFP, are considered unacceptable, and must not be assigned trips for SBBC.

**SPECIFICATIONS**

- h) Drivers must wear an SBBC issued Photo Identification Badge at all times (See General Condition 7.30 of the RFP). **Failure to wear this ID Badge will result in cancellation of trip at VENDOR's expense.**
  - i) All drivers contracted under this Agreement are required to drive trips exactly as scheduled by SBBC. Drivers shall not alter or modify any trip without prior written approval by SBBC.
  - j) SBBC reserves the right, at any time, to approve or reject any driver. The decision of SBBC regarding qualifications, acceptance or rejection of any driver under this Agreement shall be final and binding on VENDOR.
  - k) Drivers shall comply with SBBC's procedures and practices in securing student passengers, car seats, travel chairs, crutches, walkers and orthopedic equipment at all times. Drivers shall comply with SBBC's procedures and practices for seating, supervision, and providing services to severely and physically handicapped children.
  - l) Drivers are prohibited from using cell phones (talking or texting) while transporting students.
6. **Communication:** All motor coaches shall be equipped with operable "Two-Way" Communication Device(s), capable of communicating with VENDOR from anywhere within the tri-county area and State of Florida.
  7. **Public Address System:** All motor coaches shall be equipped with an on-board public address system, capable of audible voice broadcast from the front of the motor coach and throughout the interior (passenger) compartment of the motor coach.
  8. **Convenience:** All motor coaches shall be air-conditioned. Some motor coaches should be wheel chair accessible. Proposer must indicate on its fleet inventory list which motor coaches are handicap accessible. If motor coaches have restrooms, they must be thoroughly cleaned and sanitized prior to providing transportation services to SBBC.
  9. **Entertainment:** All motor coaches should be equipped with DVD/VCR and television equipment for onboard entertainment.
  10. **Storage:** All motor coaches must have under motor coach storage/baggage compartments with locks.
  11. **Accidents:** VENDOR shall immediately notify SBBC, Pupil Transportation, by telephone of any accident/incident involving a motor coach while transporting students. VENDOR shall provide SBBC, Pupil Transportation, with an accident report that will be followed by a written investigative report, submitted to SBBC, at no cost within five (5) to ten (10) days from date of accident.
  12. **Cancellations:** VENDOR will accept cancellations made by SBBC, up to four days prior to the date of services, without incurring monetary penalties from VENDOR. VENDOR's scheduled services canceled by SBBC, less than four days prior to date of scheduled trip, will receive a penalty payment from SBBC of 10% of VENDOR's invoice amount or \$100.00, whichever is less. If the cancellation is a result of non-compliance to contract conditions or canceled by VENDOR, a default or non-compliance of VENDOR shall result in no payment for cancellation of trip. SBBC reserves the right to cancel trips, at any time, without incurring a penalty from VENDOR, as a result of Force Majeure (acts of nature).

**SPECIFICATIONS**

13. **Pricing/Billing:** Costs offered by VENDOR shall include, but not be limited to, all equipment, drivers, services, insurance, fuel charges and any other expenses required to fulfill the requirements of each trip. VENDOR shall be compensated at the applicable contracted price(s), as indicated on the price quotation sheet(s) offered and/or approved by SBBC. SBBC will not pay any additional cost(s) above VENDOR's bid price except for driver's lodging, meals and gratuity as stated in Specification 29. Failure to invoice correctly, by VENDOR, shall result in invoice returned to VENDOR for correction. VENDOR shall provide detailed data, including a quotation, for each trip to verify invoice amount. Each quotation must include: date, time of pick-up, address (pick-up and drop-off), driver's name, and applicable price(s) quoted. SBBC is not obligated to pay for services not invoiced within 90 days of service. Other than the cost(s) shown on the quotation, no other payment(s) or reimbursements shall be made to VENDOR from SBBC. SBBC reserves the right to adjust the invoice amount for services not rendered. Invoices must be billed as originally quoted, or as approved by SBBC. Invoices billed at a different rate or unit of measure shall be rejected and returned to VENDOR for correction. Invoices submitted with a "fuel surcharge" shall not be paid and will be returned to VENDOR for correction.

This contract is only for the cost of transportation services. **This contract does not include student costs for park or ticket entries, meals, lodging, t-shirts and/or promotional items, etc.**

14. **Payment:** All trips shall be paid **after** services are rendered. VENDOR will be allowed to collect a small security deposit, which will not exceed 10% of the total invoice amount prior to scheduled services. If, in the opinion of SBBC, VENDOR fails to satisfactorily perform the required services, the following actions will occur:
- a) SBBC reserves the right to assess appropriate damages and deduct said damages as specified herein for services in default, and pay the remaining balance due to VENDOR; and/or
  - b) SBBC has the right to withhold payments from VENDOR for non-compliant trip(s). Payments shall be withheld until VENDOR and SBBC reach an acceptable resolution to unsatisfactory issues encountered during trips. SBBC shall only pay full and final payments to VENDOR after full satisfactory service(s) have been rendered.
15. **Liquidated Damages:** For any liquidated damages identified herein, SBBC reserves the right to deduct such liquidated damages from the VENDOR's invoice. (See Item 23, Penalties) (Failure to perform/Liquidated Damages)
16. **Emergency Drills:** VENDOR should successfully perform evacuation drills for each and every trip, and to inform passengers of emergency exists for safe evacuations.
17. VENDOR shall immediately notify SBBC representative if any student does any of the following:
- a) Reports, alleges, or complains of injuries or sickness
  - b) Physically or sexually assaults, injures, alleges to have physically or sexually assaulted or injured VENDOR's employee or agent, or another student
18. **Inspection/Maintenance:** All motor coaches used for this Agreement must be routinely inspected and properly maintained, in accordance with routine maintenance standards. Prior to leaving VENDOR's facility, motor coaches must be thoroughly checked to ensure that air conditioning and all other comfort items are in working order and that there are no deficiencies that would compromise safety, comfort, or reliability.
19. **Mechanical Problems:** In the event of a mechanical malfunction or breakdown, VENDOR will be required to provide a replacement motor coach (of equal capacity and amenities as the troubled motor coach), allowing students to arrive at scheduled events with all services provided. The cost of the replacement vehicle, mechanical repairs or towing service will be the responsibility of VENDOR. If the mechanical problem results in students being lodged in a motel/hotel, the costs for meals and lodging, if required, shall be borne by VENDOR.

**SPECIFICATIONS**

20. **Confirmations:** When services are required, SBBC will contact Awardee(s) of its choice, and in turn, VENDOR must adhere to or provide the following within two business days of notification:
- a) SBBC will provide a SBBC quotation form to VENDOR with a detailed trip itinerary to include, but not be limited to, lodging (if required), number of students, and the number of motor coaches required.
  - b) VENDOR must charge the same cost of services that were included in VENDOR's original proposal or as approved by SBBC. No additional charges will be allowed except as stated in this Agreement. (Reference Item 13 – Pricing/Billing and Item 29 - Driver's Lodging, Meals and Gratuity)
  - c) VENDOR must confirm with school or requestor the type and number of motor coaches it will provide, to verify request.
  - d) Receipt of SBBC Purchase Order indicating required services will be binding on VENDOR.
  - e) If security deposit is required, ten percent (10) or less of the invoice amount will be provided to VENDOR by SBBC
21. **Subcontracting:** VENDOR shall not subcontract SBBC's requirements to another vendor that is not approved by SBBC.
22. **Levies:** There shall be no levy or special assessment charge for fuel allowed.
23. **Penalties (Failure to perform/Liquidated Damages):** The following will be assessed for penalties and liquidated damages under this contract:
- a) Breakdowns, failure to follow schedules, dispatching scheduling conflicts, or problems caused by drivers, which results in "no service" are considered failure to perform, which may result in assessing damages. As a result of this penalty, the invoice shall not be paid and any deposit shall be returned to SBBC in full.
  - b) **One hundred and fifty (\$150) dollars** per motor coach per day will be assessed for each instance which results in the following:
    - i) Failure to provide operable air conditioning; and/or
    - ii) Failure to provide requested operational video cassette/compact disc player and television monitor equipment, after acceptance of a highway motor coach trip as requested by SBBC;
    - iii) Failure to provide workable and clean on-board lavatories (if provided on motor coach);
    - iv) Failure to provide an adequate number of experienced motor coach drivers to provide trip coverage when "on-time" motor coach service is interrupted due to, but not limited to, mechanical breakdowns, accidents or driver absences;
    - v) Erratic driving (falling asleep, weaving or speeding in excess of speed limit)
    - vi) Late arrival or return to school (2+ hours)
  - c) **Fifty (\$50) Dollars** per motor coach per day may be assessed for each instance which results in the following:
    - i) Failure of availability and accessibility of dispatch staff for trip duration;
    - ii) Failure to notify school of substitute motor coach (one size motor coach for another size coach), or a combination of smaller capacity motor coach(es) for a larger capacity coach, or a larger capacity motor coach for a combination of a smaller capacity motor coach(es) without prior approval by school.
    - iii) Failure of the driver to know directions on how to arrive at the destination;
    - iv) Late arrival or return to school (1 hour – up to 2 hours)

**SPECIFICATIONS**

- d) Assessment of penalties and/or liquidated damages or other deductions required under this contract, shall in no way relieve VENDOR of its obligation to provide sufficient service, motor coaches or drivers, or in meeting any of the terms and conditions of this contract. Liquidated damage assessments may not be considered the final assessment (determination) of damages suffered by VENDOR's breach of contract.
  - e) There will be no penalties charged to VENDOR due to force majeure, if trip is non-compliant to Agreement's specifications.
24. **Uninterrupted "On-Time" Service:** VENDOR shall maintain sufficient quantities of motor coaches to provide field trip coverage with appropriate passenger capacities. Anticipated or unanticipated loss of motor coaches due to preventative maintenance, mechanical breakdowns, extraordinary assignments outside this contract, or any other factors shall not relieve VENDOR from its obligation to perform on this contract; penalties will apply for interrupted services. (See Specification 23)
  25. **Travel Agencies:** Licensed travel agencies may be used to coordinate travel packages (i.e. hotel, tickets, meal, etc.); however, schools, departments and centers will be required to utilize this contract only for motor coach service from one of the transportation service companies included on the approved list. **TRAVEL AGENCIES MUST PAY THE MOTOR COACH TRANSPORTATION SERVICE DIRECTLY TO THE AWARDED VENDOR. NO THIRD PARTY INVOICING ALLOWED.** SBBC will pay the Travel Agency for the travel package under a separate contract. **AWARDEE(S) WHO VIOLATES THIS POLICY SHALL BE FOUND IN DEFAULT OF THEIR CONTRACT.**
  26. **SBBC Motor Coach Transportation Quotation Form:** Schools are able to access a quote sheet located on the Supply Management & Logistics' website for their transportation needs to quickly process their field trips. **VENDOR shall not be allowed to provide an alternate quote sheet that changes the terms, conditions, specifications and prices included in VENDOR's original proposal.** Alternate terms and conditions shall not be honored. Schools, departments and centers are not allowed to sign any documents that will confirm their trip or change the requirements of the Agreement. SBBC's purchase order number provides confirmation that the trip will take place, and payment will be rendered.
  27. **Local Transportation:** VENDOR will be required to provide local transportation services at trip destination. Local transportation services include, but are not limited to, transportation services to and from restaurants, lodging locations, practices, events, or other trip-related events.
  28. **Directions:** VENDOR is required to furnish drivers with detailed accurate directions to all trip destinations and return. Drivers are to be aware of any road construction, road closures, and chart alternative routes that will avoid delays.
  29. **Driver's Lodging, Meals and Gratuity:** SBBC will reimburse VENDOR for driver's lodging, gratuities, and meals when staying overnight, at same motel/hotel as SBBC's group or an equivalent value motel/hotel nearby. SBBC shall only pay for the "exact cost" of the motel/hotel room and meals with no cost mark-ups. SBBC reserves the right to review the original invoice(s) from the hotel/motel and restaurant(s), prior to payment, to verify the exact costs charged to SBBC. Meals and lodging costs will follow the School Board Policy 3400 - Per Diem and Traveling Expenses.