

**MODEL CONTRACT**

Agreement.....1

Recitals.....1

Scope of Contract.....1

Definitions.....2

Term.....3

General Understanding and Performance of Work.....3

Delegation of Authority .....3

Designation of Students .....3

School Closing .....3

Schedule Details.....4

Responsibility for Students.....4

Compliance with Laws and Regulations.....4

Payment.....5

Record Keeping .....6

Inspection .....6

Time of the Essence .....6

Assignment of Contract .....7

Failure of Operation.....7

Right to Declare Default .....7

Exercise of Right to Declare contractor in Default.....8

Board’s Rights After Termination .....8

Other Remedies.....8

Indemnification .....9

Report of Accident.....9

Titles of Paragraphs .....9

Unlawful Provisions Deemed Stricken.....9

All Legal Provisions Included .....10

Optional Sections.....10

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## **AGREEMENT**

This agreement is entered into on \_\_\_\_\_ [date], between the \_\_\_\_\_ Board of Education of \_\_\_\_\_ [designate school district] \_\_\_\_\_ County, Idaho, referred to as the board, and \_\_\_\_\_, of [address] \_\_\_\_\_, [City], \_\_\_\_\_ County, Idaho referred to as contractor.

## **RECITALS**

The board is interested in entering into a contract for the purpose of providing adequate transportation services for the school children of the \_\_\_\_\_ [district] in conformity with local policies and legal requirement for a period of \_\_\_\_\_ years.

Contractor has bid for the services sought by the board, and contractor's bid has been found by the board to be acceptable.

In consideration of the foregoing and for other valuable consideration, the board and contractor hereby mutually agree as follows:

## **SECTION ONE**

### **SCOPE OF CONTRACT**

The following shall be deemed to be part of this contract:

- a. The advertisement for bids;
- b. The bid by contractor;
- c. The performance bond;
- d. The notice of award;
- e. The agreements contained in this contract and recited;
- f. All provisions required by law to be inserted in this contract, whether actually inserted or not.

All of the above taken as a whole shall constitute the contract document.

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## **SECTION TWO**

### **DEFINITIONS**

The following words and expressions or pronouns used in substitute therefor, shall, wherever they appear in this contract, be construed as follows, unless a different meaning is clear from the context:

a. Arbitration shall mean the reference of any dispute concerning this agreement to a referee: the finding and award by the referee shall be binding on the parties.

b. Board shall mean the Board of Education of \_\_\_\_\_ [*district*] its duly authorized representative.

c. Contract or contract documents shall mean each of the various parts of the contract referred to in Section One, both as a whole and severally.

d. Contractor shall mean \_\_\_\_\_, whether operating as a corporation firm or individual, or any combination of same, and contractor's success of personal representatives, executors, administrators, and assigns, and any person, firm, or corporation who or which shall at any time be substituted in contractor's place.

e. Law or laws shall mean the Constitution of Idaho, the statutes of Idaho, and any ordinance, rule, or regulation having the force of law that is applicable to this contract.

f. Notice to the contractor shall mean written notice deposited in the United States mail addressed to contractor at \_\_\_\_\_ [*address*], \_\_\_\_\_ [*City*], County, \_\_\_\_\_ [*State*], or to such other address as may appear in an instrument executed by contractor for that purpose and delivered to the board as a change of address. Notice to the Board of Education means written notice delivered to the chairman of the board. Nothing contained in this agreement shall, however, be deemed to preclude or render inoperative the service of any notice, direction, or other communication on contractor personally, or if contractor is a corporation, on any officer or director of contractor.

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### **SECTION THREE**

#### **TERM**

This contract shall be effective from, \_\_\_\_\_ [date], to \_\_\_\_\_, [date], and shall continue for a total period of \_\_\_\_\_ years, and shall end on \_\_\_\_\_ [date], unless sooner terminated in accordance with the provisions of this contract.

### **SECTION FOUR**

#### **GENERAL UNDERSTANDING AND PERFORMANCE OF WORK**

Contractor shall perform the services and furnish the equipment and personnel as provided in the specifications, and shall do all things necessary or proper for the performance and completion of the work required by this contract, in the manner and at the times provided in the bid and specifications.

### **SECTION FIVE**

#### **DELEGATION OF AUTHORITY**

The board hereby delegates to contractor the necessary authority to supervise and control students on the buses operated by contractor while they are en route under such rules as are adopted by the board. However, this authorization shall not include the right to administer corporal punishment, nor the right to eject any offender under circumstances that may or are likely to result in injury or danger to the offender.

### **SECTION SIX**

#### **DESIGNATION OF STUDENTS**

Contractor shall transport only those students designated by the board.

### **SECTION SEVEN**

#### **SCHOOL CLOSING**

The board agrees to inform contractor as soon as reasonably possible when schools are to be closed because of weather or by reason of any other conditions that might arise.

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## **SECTION EIGHT**

### **SCHEDULE DETAILS**

A description of each route shall be furnished to contractor prior to the start of each school year, together with a time schedule and the designated stops to be observed on each route. Changes in the routes, time schedules, or designated stops may be made, and any of the routes may be eliminated or consolidated at the discretion of the board or its duly authorized agent to meet changed conditions. However, no change, elimination, or consolidation, except to meet unexpected or emergency situations, will be made until after contractor has been given an opportunity to confer with the board or its authorized representatives with respect to the change, elimination, or consolidation at least \_\_\_\_ days in advance of the change, elimination, or consolidation. Adjustments in the sums to be paid to contractor will be made for any increase or decrease in mileage resulting from a change, elimination, or consolidation of routes or additional services for high school or elementary school in the nature of school-sponsored activities, as provided in the specifications. The board may, from time to time, establish regulations to be observed by contractor in connection with all details incidental to the operation of the routes, including starting times, bus stops, discipline on the buses, and any situations that may from time to time arise in the performance of the contract.

## **SECTION NINE**

### **RESPONSIBILITY FOR STUDENTS**

Contractor shall be fully responsible for the care and supervision of students during their period of transportation. The transportation of a student shall be deemed to have begun when the student prepares to board the school bus, and shall be deemed to have ended when a student has completed alighting from the bus at a reasonably safe place in which to alight in view of the circumstances then prevailing.

## **SECTION TEN**

### **COMPLIANCE WITH LAWS AND REGULATIONS**

Contractor and contractor's drivers are required to comply with the laws of Idaho, and all regulations or requirements of the State Motor Vehicle Department, Public Utilities Commission, and the State and local Boards of Education or any of them. Furthermore, all school bus drivers employed by the contractor must submit to a criminal history background check pursuant to Idaho Code section 33-130.

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It is understood and agreed that the District is a government entity and this Agreement shall in no way or manner be construed so as to bind or obligate the District or the State of Idaho beyond the term of any particular appropriation of funds by the Idaho Legislature or the Congress of the United States as may from time to time exist. In the event the Idaho Legislature or the Congress fails, neglects or refuses to appropriate such funds as may be designated by and enable the District to continue the payment herein, this Agreement shall automatically be terminated and all future rights and liabilities of the parties hereto shall thereupon cease.

## **SECTION ELEVEN**

### **PAYMENT**

The payment clause must be included, but the exact terms may be determined by the parties. This clause should establish payment to the contractor based on routes and route mileage. Price escalator clauses may be included but must be proportional to an objectively determined index, such as the Consumer Price Index. Fuel escalator clauses may also be used at the discretion of the parties. However, the combination of a general price escalator term and a fuel escalator clause must be drafted carefully to protect against double compensation of the contractor.

#### **Sample Payment Schedule**

On or before the \_\_\_\_ day of each month of each school year covered by this contract, contractor shall submit to the board a bill that shall include a detailed account showing the mileage covered in each category of transportation furnished during the preceding month. On or before the day of the month in which the bill is submitted, the board agrees to pay contractor the contract price for those services that it shall find to have been rendered, computed on the following schedule:

<b>Category of Service</b>	<b>Estimated Miles per Month</b>	<b>Rate per Mile</b>

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## **SECTION TWELVE**

### **RECORD KEEPING**

The district shall have the right to audit, in such a manner and at all reasonable times as it deems appropriate, all activities of the Contractor arising in the course of its undertakings under this contract.

Fiscal Records:

- 1) The Contractor agrees to maintain books, records, documents, and other evidence of accounting procedures and practices, which sufficiently and properly reflect all direct and indirect costs of any nature expended in the performance of this Contract as required by the District.
- 2) The District or any of their duly authorized representatives shall have access to any of the Contractor's books, documents, or records which are directly pertinent to this specific Contract. Access to records includes the right to review, audit, inspect, and make excerpts and transcriptions.

Period of Maintenance:

- 1) The Contractor agrees to maintain all books, records, and other documents relevant to this Contract for three (3) years after final payment and any person duly authorized by the District shall have full access to and right to examine any of said materials during this period.
- 2) It is agreed that if an audit, litigation or other action involving records is initiated before the three (3) year period has expired, the records must be retained until all issues arising out of such actions are resolved, or until a three (3) year period has passed, whichever is later.

## **SECTION THIRTEEN**

### **INSPECTION**

The board reserves the right for its members or duly authorized agents to inspect any and all buses and their operation by riding as passengers or by other reasonable means.

## **SECTION FOURTEEN**

### **TIME OF THE ESSENCE**

Since the contract concerns a necessary public service, the provisions of the contract relating to the daily schedule and regulations that may be promulgated by the board are of the essence of the

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contract. Accordingly, contractor shall prosecute the work diligently to assure adherence to the schedules.

## **SECTION FIFTEEN**

### **ASSIGNMENT OF CONTRACT**

Contractor agrees not to assign this contract, or any interest in the contract, without the prior approval in writing of the board.

## **SECTION SIXTEEN**

### **FAILURE OF OPERATION**

In the event that contractor fails to operate any route because of the failure of equipment or personnel, the amount of payment for the route may be deducted from the following month's payment at the rate of \_\_\_\_\_ cents per mile.

## **SECTION SEVENTEEN**

### **RIGHT TO DECLARE DEFAULT**

In addition to any other rights the board may have, the board shall have the right to declare contractor in default if:

- a. Contractor becomes insolvent;
- b. Contractor makes an assignment for the benefit of creditors;
- c. A voluntary or involuntary petition in bankruptcy is filed by or against contractor;
- d. Contractor fails to perform any schedule when notified to do so by the board;
- e. Contractor shall abandon the work;
- f. Contractor shall refuse to proceed with the work when and as directed by the board;
- g. Contractor shall without just cause reduce contractor's working force to a number that, if maintained, would be insufficient, in the opinion of the board, to carry out the work in accordance with this agreement;
- h. Contractor shall sublet, assign, transfer, convey, or otherwise dispose of this agreement other than as specified in this agreement;

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- i. A receiver or receivers are appointed to take charge of the property or affairs of contractor;
- j. The board shall be of the opinion that contractor has willfully or in bad faith violated any of the provisions of this agreement;
- k. Any applicable laws have been violated by contractor or contractor's agents, servant, or employees;
- l. Any vehicles provided by contractor are operated in a manner that imperils the safety of the passengers; or if
- m. Any vehicles provided by contractor are not kept clean or in first class mechanical condition.

Before the board shall exercise its right to declare contractor in default, it shall give contractor an opportunity to be heard, on \_\_\_\_ days notice, at which hearing contractor may at contractor's expense, have a stenographer present, provided, however, that a copy of the stenographic notes, if any, shall be furnished to the board.

## **SECTION EIGHTEEN**

### **EXERCISE OF RIGHT TO DECLARE CONTRACTOR IN DEFAULT**

The right to declare contractor in default for any of the grounds specified or referred to in Section Eighteen shall be exercised by sending contractor a notice signed by the Chairman or Secretary of the board, setting forth the ground or grounds on which each default is declared.

## **SECTION NINETEEN**

### **BOARD'S RIGHTS AFTER TERMINATION**

After the termination of contractor's services for a default under this contract, the board may employ another contractor or contractors to complete the terms of this agreement, and hold contractor responsible for any extra or added expense, loans, or damages suffered by the board.

## **SECTION TWENTY**

### **OTHER REMEDIES**

The provisions outlined in this agreement as to the rights of the board after termination shall be in addition to any and all other legal or equitable remedies permissible under law.

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## **SECTION TWENTY-ONE**

### **INDEMNIFICATION**

Contractor will be required to indemnify the \_\_\_\_\_ *[district]* from any loss that it may sustain from any cause arising out of the performance or lack of performance of this agreement by contractor.

## **SECTION TWENTY-TWO**

### **REPORT OF ACCIDENT**

Any accident involving student transportation shall be reported to the district as soon as possible and not later than \_\_\_\_ [24] hours from the time of the accident. A detailed written report must be submitted to the board as soon thereafter as possible and not later than \_\_\_\_ days after the date of the accident.

## **SECTION TWENTY-THREE**

### **TITLES OF PARAGRAPHS**

The various titles to the paragraphs in this agreement are used solely for convenience and they shall not be used for the purpose of interpreting or construing any word, clause, paragraph, or subparagraph of this agreement.

## **SECTION TWENTY-FOUR**

### **UNLAWFUL PROVISIONS DEEMED STRICKEN**

All unlawful provisions of this agreement shall be deemed stricken from the agreement, and shall be of no effect. On the application of either party, the unlawful part shall be considered stricken without affecting the binding force of the remainder of the agreement.

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**SECTION TWENTY-FIVE**

**ALL LEGAL PROVISIONS INCLUDED**

It is the intention of the parties to this agreement that all legal provisions of law required to be inserted in the agreement shall be and are inserted in it. However, if by mistake or otherwise, some such provision is not inserted in the agreement, or is not inserted in proper form, then on the application of either party, the agreement shall be amended so as to strictly comply with the law without prejudice to the rights of either party under the agreement. This Agreement shall be governed and interpreted by the laws of the State of Idaho.

In witness whereof, the Board of Education of \_\_\_\_\_, \_\_\_\_\_  
County, Idaho, acting by \_\_\_\_\_ its Chairman, duly authorized, and  
contractor have set their signatures and seals at \_\_\_\_\_ [*designate  
place of execution*] the day and year first above written.

*[Signatures]*

*[Acknowledgment]*

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## **Optional Sections**

### **ADDITIONAL BUSES**

If additional buses become necessary over and above those provided as basic service, but only during the first \_\_\_ years of this contract, contractor shall furnish them and shall receive yearly additional remuneration of \_\_\_\_\_ Dollars (\$\_\_\_\_\_) for the first \_\_\_\_\_ miles; additional mileage will be compensated pursuant to the provisions for determination of additional route mileage contained in the bid of contractor.

### **ARBITRATION**

All disputes arising in connection with this agreement that are not settled by agreement between the parties shall be referred to \_\_\_\_\_, who will serve as referee. The finding and award by the referee shall be binding on the parties. Judgment on the award rendered may be entered in any court having jurisdiction, or application may be made to such court for judicial acceptance of the award or order of enforcement, as the case may be. In the event that either party refuses to submit the dispute to the referee, the parties shall be entitled to seek their remedy at law or in equity, as each party may elect.

### **BONDS**

On or before the \_\_\_\_\_ day of each year during the term of this contract, *[with the exception of the school year commencing on \_\_\_\_\_ [date], for which school year the performance bond has been delivered prior to the execution of this contract and is made a part of it]*, contractor shall furnish and maintain in full force and effect during the succeeding school year a performance bond in an amount equal to the total amount of contractor's yearly contract as security for the faithful performance of contractor's contract during the school year.