

**ADDENDUM NUMBER THREE**

ANN ARBOR PUBLIC SCHOOLS, hereinafter referred to as “DISTRICT”, and DURHAM SCHOOL SERVICES, L.P., hereinafter referred to as “CONTRACTOR”, mutually agree to amend the existing AGREEMENT FOR THE TRANSPORTATION OF STUDENTS, dated June 25, 2015, hereinafter referred to as the “Agreement”, as stated below:

1. The Term of Agreement shall be extended for an additional five (5) years beginning July 1, 2020 through June 30, 2025.
2. Rates increases shall be as follows and as outlined in Exhibit A attached hereto:

| <u>Year</u> | <u>Rates</u>                                      |
|-------------|---|
| 2020-2021   | 0 % increase                                      |
| 2021-2022   | 0 % increase                                      |
| 2022-2023   | Increase will be based on the U. S. City Average, |
| 2023-2024   | Consumer Price Index, All Urban Consumers (CPI)   |
| 2024-2025   | for May, but not to exceed 2%.*                   |

\*If CPI reflects a negative number, rates will not be reduced.

3. Contractor agrees to purchase Global Positioning Systems (GPS) for all buses in District’s fleet at a cost of \$238,165. Contractor will be responsible for the installation of the GPS and District will pay monthly fees. District will own the GPS at the end of the five (5) year term.
4. Contractor will add a scholarship of \$20,000 annually during the term of the agreement.
5. Section 8 “Days of Service” shall be amended as follows:

This Agreement contemplates a minimum occurrence of daily routes operating 175 days per school year or at the days noted on the Exhibit A-2 Annualized Proposal Cost Projections Spreadsheet. If the actual number of routes or operating days falls below 175 during any school year, including days cancelled for inclement weather or other unforeseen circumstances, then the Contractor will invoice District and District agrees to pay a sum equal to 25% of the daily charges for Daily routes (to cover fixed costs) for each day the number of operating days falls below 175 days.

6. Section 10 (c) “Payments” of the Agreement shall be amended as follows:

Payment for transportation services will be made in check, money order, or ACH or wire transfers within a reasonable time after receipt of invoice, not to exceed thirty (30) calendar days, with the exception of the December 2020 invoice, which is due December 31 of that current school year. Payment by credit card is accepted but requires an increase in the invoiced amount of two and one-half percent (2.5%) to cover processing fees.

In the event sums due and payable are not received within thirty (30) calendar days, a late charge of 1.5% per month or the maximum percentage allowed by law, whichever is less, of the outstanding balance will be assessed upon the account.

In the event such sums are not received within sixty (60) days, service may be discontinued until such time as Contractor has received all sums due.

7. Section 24 "Force Majeure" of the Agreement shall be amended as follows:

Either party shall be excused from performance hereunder, and the other party shall not be allowed to levy any damages or penalties, liquidated or otherwise, during the time and to the extent that the party is prevented from performing in the customary manner by a force majeure event, including but not limited to an act of God, fire, flood, weather, war, riot, civil disturbance, state of emergency, terrorism, epidemic, pandemic, disease, quarantine, strike, lockout, labor dispute, oil or fuel shortage, freight embargo, rationing or unavailability of materials or products, loss of transportation facilities, commandeering of equipment, materials, products, plants, or facilities by the Government, government statute, order, or regulation, or any other occurrence which is beyond the reasonable control of the party. Notwithstanding any other provision of this Contract, District shall only pay Contractor for services actually rendered and shall not be required to pay Contractor for any services that are not rendered due to a force majeure event. District has the right to take over operation of the buses if Contractor is prevented from operating for the reasons described above, and may operate such buses with properly licensed school employees or other persons, as the District deems appropriate until Contractor is able to resume its regular operations. Prior to doing so, District will work with Contractor in good faith to support the continuation of services. Should the District take over operations, District shall continue to pay Contractor for the costs of the Global Positioning Systems purchased by Contractor pursuant to Paragraph 3 of Addendum 3, prorated for the duration of the force majeure event, but District shall not otherwise be obligated to pay Contractor to use the buses or other equipment. In case of a strike by District employees the Contractor will continue to provide services at the direction of the District.

8. The Agreement shall be amended by adding the following section:

34. WAGE PROTECTION. In the event market conditions dictate that employee wage increases are necessary; the Cooperative agrees to enter into negotiations with the Contractor to mitigate the financial impact of any increased wages on the Contractor. In the event the Cooperative and the Contractor cannot come to a mutual agreement, the Contractor has the right to terminate the Agreement. In the event the Cooperative and the Contractor cannot come to a mutual agreement, the Contractor has the right to terminate the Agreement at the end of any contract year. In no instance will the Contractor terminate the Agreement in the middle of the school year.

7. This Addendum is effective July 1, 2020 and is agreed to by the undersigned parties.

8. All other terms and conditions of the original Agreement remain the same.

**DURHAM SCHOOL SERVICES, L.P.**

By: Durham Holding II, L.L.C.,  
Its general partner

By: [Signature]  
Name: Gary L. Waits Jr.,  
Title: CEO Student Transportation  
Date: 6/30/2020

**ANN ARBOR PUBLIC SCHOOLS**

By: [Signature]  
Name: Manish Kume & Raj  
Title: Assistant Superintendent  
Date: 6-30-2020

**EXHIBIT "A" – PRICING PAGE**

| School District Owned Buses   |                          | 2020-21  | 2021-22  | 2023-23 | 2023-24 | 2024-25 |
|---|--------------------------|----------|----------|---------|---------|---------|
| Regular Transportation<br>(am/pm runs)                                      |                          | \$253.27 | \$253.27 | *       | *       | *       |
| Late Runs **  | Per Hour                 | \$25.32  | \$25.32  | *       | *       | *       |
| Daily Mid-Day Shuttles ***<br>(use Late Run Rate)                           |                          | \$44.31  | \$44.31  | *       | *       | *       |
| Special Needs Transportation  |                          | \$263.81 | \$263.81 | *       | *       | *       |
| Monitor   | Per Hour                 | \$21.42  | \$21.42  | *       | *       | *       |
|   | Min per day<br>(4 Hours) | \$85.69  | \$85.69  | *       | *       | *       |
| Athletic Trips  | Per Hour                 | \$35.32  | \$35.32  | *       | *       | *       |
|   | Min per<br>Trip          | \$70.64  | \$70.64  | *       | *       | *       |
| Off-Site Learning and Extra<br>Curricular                                   | Per Hour                 | \$35.32  | \$35.32  | *       | *       | *       |
|   | Min per<br>Trip          | \$70.64  | \$70.64  | *       | *       | *       |
| Additional Charge for Driver<br>Wage Increase Amendment<br>dated 12.2016    | Per Hour                 | \$5.30   | \$5.30   | *       | *       | *       |
| White Fleet Maintenance   | Per Hour                 | \$52.31  | \$52.31  | *       | *       | *       |
| Add'l Wage Increase<br>Compensation   | Per Hour                 | \$5.30   | \$5.30   | *       | *       | *       |
| Add-on Cost to district for<br>Student Ridership Tracking<br>System (Zpass) | Cost per<br>bus per day  | \$2.55   | \$2.55   | *       | *       | *       |

\*\* 70 days per year, not 175 days per year

\*\*\* Daily Mid-Day Shuttles will be billed per hour at the rate listed for Late Runs. The average rate per day is listed for Mid-Days.

## ANN ARBOR PUBLIC SCHOOLS

### PUPIL TRANSPORTATION SERVICES CONTRACT

THIS PUPIL TRANSPORTATION SERVICES CONTRACT, (the "Contract") entered into this 35<sup>th</sup> day of June, 2015 (the "Effective Date") by and between ANN ARBOR PUBLIC SCHOOLS ("School District"), a Michigan general powers school district, whose address is 2555 S. State St, Ann Arbor, Michigan 48104, and Durham School Services, L.P., a Delaware limited partnership whose address is 4300 Weaver Parkway, Warrenville, Illinois 60555 (hereafter the "Contractor") (each a "Party," collectively the "Parties").

#### RECITALS

- A. The School District issued a Request For Proposals for Pupil Transportation Services dated December 1, 2014 (the "RFP").
- B. The Contractor submitted a Proposal in response to the RFP dated January 6, 2015 (the "Proposal"), to provide all Pupil Transportation Services contemplated by the RFP.
- C. The parties now desire to enter into this Contract whereby Contractor agrees to supply all services necessary to fulfill the requirements set forth in the Request for Proposal and Contractor's Proposal and the School District agrees to its obligations set forth therein.

NOW, THEREFORE, in consideration of the foregoing and the mutual covenants set forth below, the Parties agree as follows:

#### 1. THE CONTRACT.

The object of this Contract is to formalize in one document the complete agreement between the Parties, whereby Contractor will supply all services necessary to fulfill the requirements set forth in the Request for Proposal and Contractor's accepted proposal, and the School District will pay Contractor for the same. This is accomplished by specifically incorporating by reference into this Contract, the RFP, Addenda to the RFP, if any, and the accepted Proposal.

#### 2. ORDER OF PRECEDENCE.

As noted above, the Contract Documents, include the following:

- (i) This Contract;
- (ii) Exhibit A to This Contract - Contractor's pricing forms (A-1) and Contractor's Annualized Proposal Cost Projections (A-2);
- (iii) Exhibit B to This Contract - Contractor's accepted Proposal, including each of the specific clarifications contained therein.
- (iv) Exhibit C to this Contract, the RFP and Addenda; and
- (v) Exhibit D to this Contract, Facility Lease Agreement

To the extent that the terms and conditions of the Contract Documents are in conflict, the terms and conditions shall be interpreted in the above-referenced order from (i) to (v). If the

matter in question is one to which the Contractor took express exception in Appendix A7 or the Clarifications of its Proposal, that exception shall take precedence over the RFP. Where there is no conflict between any of the terms and conditions contained in the Contract Documents, each of the Contract Documents shall have independent significance and be binding upon both parties. Any item not addressed in the RFP or Proposal submission shall become open to negotiation between the parties.

### 3. CONTRACT TERM.

The term of this Contract shall commence on July 1, 2015 and continue through June 30, 2018, with the option to renew for two one year additional terms, upon mutual agreement between, and in addition the parties may extend the Contract for additional terms, unless earlier terminated by either party as otherwise expressly permitted by this Contract.

### 4. RELATIONSHIP BETWEEN THE PARTIES.

It is expressly agreed between the parties that the Contractor will be considered an independent contractor under this Contract. Under no circumstances shall any of the employees of one party be deemed the employees of the other for any purpose. Contractor shall be responsible for all obligations of an employer with respect to its employees, including, but not limited to, payment of all taxes at the federal, state and local levels, arising out of Contractor's activities under this Contract. The School District will not withhold or pay any state, federal or local taxes on behalf of Contractor's employees.

This Contract shall not be construed as authority for either party to act as an agent for the other party or to make commitments of any kind for the account of, or on behalf of, the other party, except to the extent, and for the purposes, expressly provided for and set forth herein. No partnership or joint venture is created hereby.

Neither the Contractor nor its employees or agents shall be entitled to participate in any medical, dental, life or disability insurance plans maintained by the School District. No other rights/benefits typically arising out of an employee-employer relationship shall arise out of this Contract on behalf of Contractor, its employees or agents. Contractor will indemnify, defend and hold the School District harmless for any and all costs incurred, including actual attorney fees, in the event Contractor or any of its employees assert any such rights.

### 5. SCOPE OF WORK.

(a) The DISTRICT shall pay on a per-run, per-day basis, at the rates contained in Schedule A. In the event that the payroll cost for the driver including pre and post trip time incurs more time than the allotment below, an additional per hour charge will be incurred in ¼ hour increments, rounded up, of \$22.94 per hour (subject to annual rate increases).

(i) Regular Transportation (am/pm runs), includes Preschool, 5.33 hours.

(ii) Late Runs, 1.0 hours.

(iii) Daily Mid-Day Shuttles, 1.0 hours.

(iv) Special Education Transportation, 5.62 hours.

(v) Note for Late Runs or Daily Mid-Day Shuttles: "those Built into Normal Runs" when

contiguous to an AM/PM or part of an AM/PM will just be the additional time associated with the shuttle. For any late runs or Mid-days with a layover of less than 1 hour then the layover time will also be billed.

- (b) Athletic Trips/Off-Site Learning and Extra Curricular. Will be billed at a 2 hour minimum per bus per trip. In the event that the payroll cost for the driver including pre and post trip time incurs more time, an additional per hour charge will be incurred in ¼ hour increments, rounded up, of \$32.00 per hour (subject to annual rate increases). Tolls, parking or other costs, will be passed through directly to district.
- (c) Bus Monitors. Will be billed on a per hour basis with a four hour minimum per monitor per day. In the event that the payroll cost for the driver including pre and post trip time incurs more time, an additional per hour charge will be incurred in ¼ hour increments, rounded up, of \$19.40 per hour (subject to annual rate increases).
- (d) White Fleet Maintenance. If maintenance is requested by District for the white fleet, all costs for labor required for the maintenance and repair of the white fleet will be paid for by the District at the White Fleet Maintenance Hourly rate billed at \$47.36 per hour in ¼ hour increments subject to annual increases.
- (e) The Contractor shall, as requested by the District provide other transportation that may conflict with regular transportation service if that transportation does not require the Contractor to utilize more vehicles or personnel than the District has requested be dedicated to its transportation service.

All unit rates noted above shall be subject to 2.5% annual increases.

## 6. UNIT RATES.

The parties agree that the unit rates are based upon the volume of service, including conditions and route mileage, expressed in the information provided by the District to Contractor for preparation of the proposal submitted on January 6, 2015; specifically, the volume of service as noted on the Exhibit A-2 Annualized Proposal Cost Projections Spreadsheet.

## 7. ADJUSTMENT OF RATES.

The pricing is based on the volumes as noted on the Exhibit A-2 Annualized Proposal Cost Projections Spreadsheet. In the event that the District reduces the volume of routes, buses, monitor hours, or trips, Contractor requests the ability to renegotiate and revise the unit rates to cover the change in volume. This unit rate price change is necessary as overheads and fixed costs such as staff and mechanic pay and benefits, internet service, GPS cellular airtime, and various other expenses do not change. If, at any time during the term of this Contract, it is determined that a significant reduction/increase in service is to be instituted due to changes in school start/end times (bell schedules), mandated reduction/increase in routes, change in number of students or miles driven, or any other changes which significantly reduce or increase the existing service level(s) or Contractor's cost of operations, Contractor and District agree to negotiate an adjustment to the rate schedules. In the event that the District decides to keep excess district-owned buses causing a spare ratio greater than 20% then the Contractor shall charge an additional \$2,250 per excess bus per year.

In the event of a partial or full loss of the facility, of a change in law, rule, or regulation by any federal, state, local or other government body that materially impacts the Contractor's costs in connection with the provision of services hereunder (e.g., changes in minimum wages, minimum paid time off, changes in equipment requirements, changes such as changing from a five day week to a four day week, changes in unemployment insurance benefit requirements, etc.) during the term of the Agreement, Contractor, upon written notice to District, may request a renegotiation of this Contract which shall be conducted in good faith. Such renegotiations may include, without limitation, changes

in rates, term, payment schedules, levels of service, and the types or number of vehicles to be used. Any modification to this Contract resulting from such renegotiations shall become effective on a mutually agreed upon date.

8. DAYS OF SERVICE.

This Agreement contemplates a minimum occurrence of daily routes operating 175 days per school year or at the days noted on the Exhibit A-2 Annualized Proposal Cost Projections Spreadsheet. If the actual number of routes or operating days falls below 175 during any school year, including days cancelled for inclement weather or other unforeseen circumstances, then the Contractor will invoice District and District agrees to pay a sum equal to 100% of the daily charges for Daily routes (to cover fixed costs) for each day the number of operating days falls below 175 days.

9. PART-TIME EMPLOYEE HEALTH CARE.

In the event that the Contractor is required to provide coverage beyond the employee only Minimal Essential Coverage and/or health care contribution for part-time employees servicing the district pursuant to the PPACA, the additional cost of health care will be passed through directly to the school district for these additional benefits. Contractor reserves the right to adjust the health care plan offerings as a result of a future change or mandate related to the PPACA.

10. INVOICING AND PAYMENT TERMS

(a) Invoices.

Contractor shall invoice the School District in monthly installments for all Pupil Transportation Services rendered under the Contract Documents. Invoices shall itemize charges for labor, equipment and supplies. Invoices shall be submitted to:

Ann Arbor Public Schools,  
Attention: Marios Demetriou  
Assistant Superintendent for Finance Operations  
2555 S. State Street,  
Ann Arbor, MI 48104

(b) Additional Charges.

Before rendering any services outside the scope of the enumerated Pupil Transportation Services, Contractor must receive prior written approval from the School District. Invoices for approved Additional Services shall include the date and times the Additional Services were completed, the type of Additional Services performed, the number of hours worked, the name of the School District employee who authorized the Additional Services, and a copy of the written approval. Invoices for Additional Services shall be separate from the regular monthly invoice but shall be sent to the School District together with the regular monthly invoice. Charges for these Additional Services shall be in accordance with Exhibit B; the Contractor's accepted Proposal.

(c) Payments.

Payment of the undisputed amounts in each invoice shall be made within thirty (30) days of receipt of the invoice. The School District will issue one payment per month. Disputes regarding amounts contained in any invoice will be communicated to Contractor by the School District, in writing, within ten (10) business days of the receipt of the disputed invoice. Payments of disputed amounts will be delayed unless Contractor is able to resolve the matter to the School District's satisfaction within ten (10) business days prior to the payment due date. The School District will not be assessed any late payment penalties, fines or charges for disputed amounts not timely paid due to Contractor's failure to timely resolve the matter as set forth above. Payments by credit card is accepted but requires an increase in the invoiced amount of two and one-half percent (2.5%) to cover processing fees. In the event sums due and payable are not received within forty-five (45) calendar days, a late charge of 1.5% per month of the outstanding balance will be assessed upon the account. In the event such sums are not received within sixty (60) days, service may be discontinued until such time as Contractor has received all sums due.

11. EQUIPMENT.

- (a) The Contractor may utilize the School District's existing equipment at no cost to the Contractor in performing the Pupil Transportation Services. The Contractor shall submit a written request to the School District for the approval of any purchases of new equipment, which approval shall not be unreasonably withheld. The School District will issue payment directly for the School District approved equipment. Title to this new equipment shall remain with the School District, although the Contractor shall maintain and repair such newly purchased equipment. It is understood and agreed that the new equipment purchased shall not be used to replace equipment that is damaged due to the fault of Contractor. Contractor shall be responsible for all lost equipment or damage caused by the negligence of Contractor or its employees for any District owned equipment, excluding normal wear and tear. The inventory shall be updated as necessary to reflect any new equipment purchased.
- (b) The District shall provide the Contractor with a sufficient quantity of school buses and related vehicles for the Contractor to meet its obligations under this Agreement. The district shall maintain a quantity of spare buses equal to at least 20% of the amount of regular route buses serving the district. Contractor's pricing is based on operating 96 routes and utilizing 116 buses.
- (c) The District shall provide the Contractor with three other vehicles for use in on-road service and on-road emergencies that the Contractor will use to meet its obligations under this Agreement.
- (d) In the event that the district does not replace buses to achieve a seven year average age at the start of any school year, the parties agree to convene and negotiate in good faith an adjustment to the unit rates for contractor to provide additional maintenance labor to maintain the older buses.
- (e) The Contractor shall utilize the existing District owned two way radio system and base station. The District will be responsible for any recurring radio use fees, maintenance contract, repeater rentals, etc. for the radio system. All buses in the District's fleet are equipped with a two way radios. The District shall provide replacement radios as necessary. Furthermore, for any replacement District owned buses or Contractor-owned buses introduced and used to provide the Transportation Services the radio will be removed from the retiring District owned bus and transferred for use in the Contractor



bus. At the expiration or earlier termination of the Contract, all District owned buses servicing the District shall have equipment equal to that which is on those buses at the commencement of the Contract, which equipment shall be in good working order. The District warrants that the radio system is complaint with narrow band frequency requirements. Should the radio system require an upgrade to meet this requirement, the Contractor shall work closely with the school district to find the most cost effective means for the district to address any required upgrades.

- (f) The Contractor shall equip, at its sole cost and expense, all buses with a fully operational digital audio and video recording system, the one camera head Seon Trooper Camera system as provided in the Proposal, or a comparable system. The parties will mutually establish a schedule of equipment installations to comply with the terms of this provision on or before September 1, 2015. The Contractor shall maintain the entire video surveillance system, at its sole cost and expense. Furthermore, any replacement District owned buses or Contractor-owned buses introduced and used to provide the Transportation Services shall be equipped with the video surveillance system that will be removed from the retiring District owned bus and transferred for use in the Contractor bus.
- (g) The Contractor shall equip, at its sole cost and expense, all buses with a fully operational global positioning satellite (GPS) system and electronic vehicle inspection record systems (EVIR), as provided in the Proposal. The parties will mutually establish a schedule of equipment installations to comply with the terms of this provision on or before comply with the terms of this provision on or before September 1, 2015. The Contractor shall be responsible for all maintenance, repair, replacement, and operational costs associated with this system. Furthermore, any replacement District owned buses or Contractor-owned buses introduced and used to provide the Transportation Services shall be equipped with the global positioning satellite (GPS) system and electronic vehicle inspection record systems (EVIR) that will be removed from the retiring District owned bus and transferred for use in the Contractor bus.
- (h) At the direction of the District, the District shall permit the Contractor to use District owned buses to provide charter services for non-district functions for organizations in the community such as the Park District, City of Ann Arbor, Churches, etc. provided they do not interfere with the district operation.
- (i) The Contractor shall be permitted by the District to park up to six (6) Contractor owned buses at the Ann Arbor Transportation Facility. The buses shall be used by the Contractor for other transportation work/outside services. The Contractor owned buses shall not be fueled at the district facility and the Contractor shall procure its own fuel for these buses. The Contractor represents that it will not utilize any parts, supplies, oil or lubricants purchased by the District for Contractor owned buses. Upon request, the Contractor will promptly provide appropriate documentation that Contractor purchased such parts and supplies at its own cost.

## 12. VEHICLE MAINTENANCE

- (a) The Contractor shall maintain all District-owned buses and Contractor-owned buses serving the School District in a good and safe mechanical and operating condition. All such buses shall be maintained in a clean and sanitary condition and shall have good interior and exterior appearance. The Contractor shall maintain all buses in strict accordance with all State, Federal, and any other local government minimum standards for school buses, including but not limited to, the Pupil Transportation Act, Michigan Public Act 187 of 1990, as amended, MCL 257.1801 *et seq.* (the "Pupil Transportation Act"), and such additional requirements as set forth herein. The Contractor shall maintain the

buses so that their condition remains equal to or exceeds that condition recorded on the written inspection form provided to School District by the Contractor, normal wear and tear excepted. Mechanically, the buses shall be maintained in a condition approximating that set out by the original manufacturer and as necessary to pass all required school bus inspections. The Contractor shall only use "OEM Approved" replacement parts.

- (b) As clarified in the RFP Questions response from District, the maintenance labor for repair of the school bus fleet is included in the Cost per Route per Day.
- (c) If requested by the District, all costs for labor and parts required for the maintenance and repair of the white fleet will be paid for by the District. Necessary labor to maintain and repair the white fleet shall be reimbursed at the hourly rate set forth in contractor's Pricing Form (or ¼ hour fraction thereof) and parts will be reimbursed at cost.
- (d) The District will be responsible for all costs including labor, parts, rust/corrosion repairs, replacing tires that are near end of the minimum acceptable tread depth, in order to bring the district owned fleet to the Michigan State Police Inspection standards at the time of transition. Contractor will provide an inspection of the fleet in advance allowing the district to make the necessary repairs, otherwise Contractor will perform the repairs and pass along the labor and parts costs to the district. During the first 90 days following the first day of school in September, the district will be responsible for parts and/or labor on any district-owned or previously district-owned buses requiring repair beyond preventative maintenance. Total charges would be billed back to the district at cost. Contractor will charge District at a rate of \$47.36 per hour for labor plus the cost of parts or any outside repair expenses. Contractor shall have the benefit of all existing manufacture warranties and District warrants that it has maintained the vehicles and equipment in a manner consistent with the manufacturer warranties. It is specifically understood between the parties that District shall retain sole responsibility for all claims related to maintenance and repairs on District owned vehicles and equipment prior to Contractor taking control of the vehicles and equipment regardless of whether any defect or deviation was discovered by Contractor during the initial inspection.
- (e) Contractor will make every effort to meet the requirements to provide a certified mechanic when selecting candidates for the positions. The Contractor typically searches for highly skilled technicians with the certifications, however often highly desirable applicants do not have all of the certifications to meet this designation. In addition the testing and scoring for these certifications are limited and may not be timed in way to ensure the applicant can achieve the designation prior to be hiring. Therefore, the District shall provide one calendar year from the candidates date of hire to meet the certification requirement allowing a reasonable time to secure the designation.

### 13. PARTS AND OTHER CONSUMABLES.

- (a) Contractor shall procure all spare parts, other consumables, hand tools, supplies, materials and equipment or outside services for buses and white fleet as required under the Contract. The cost of such spare parts, other consumables, hand tools, supplies, materials and equipment or outside services for buses or white fleet shall be included on each invoice submitted by the Contractor and shall be charged at the actual price paid by the Contractor. Contractor shall have sole determination as to the parts, hand tools, supplies, materials and equipment or outside services and repairs necessary to perform repairs as needed. Contractor's invoicing shall provide adequate documentation to note parts, hand tools, supplies, materials, and equipment or outside repairs to repair defects or perform preventive maintenance and the applicable work order. If determined by the Contractor that any repairs, such as bodywork, engines or transmissions that cannot be repaired by our shop or if an outside specialty vendor is better suited to perform the services, or may

- perform them at a more cost effective price (i.e., glass replacement), the Contractor will utilize the outside vendor and invoice the district at cost.
- (b) Regarding any existing parts or other consumable inventory. The Contractor will conduct an inventory of the parts. Any and all spare parts and inventory which are mutually deemed to be obsolete will be properly disposed of by the District. Any and all spare parts and inventory which are mutually deemed useable by District and Contractor for the provisions of this Contract may be utilized by Contractor.
  - (c) All special equipment for students such as child safety seats, car seats, star safety seats, safety harnesses, safety vests, buckle guards, wheelchair tie-downs, etc. are to be considered parts.
  - (d) During the Contractor's initial inspection in May 2015, it was identified that there was equipment such as child safety seats and safety harnesses that were expired. The expense for 340 expired child safety seats and 150 safety harnesses is estimated to be \$82,000. The cost to replace the equipment will be paid for by the District. In the event the district does not provide replacement equipment, the Contractor will procure the equipment and invoice the district on a separate invoice. Any future expiration of district supplied safety equipment will be replaced with new equipment and invoiced to the district.
  - (e) During the Contractor's initial inspection in May 2015, it was identified that the current two-way radio system is in need of replacement. The system has been degrading and audio quality is poor contributing to challenges in communicating with bus drivers and responding to customer service inquiries. The two-way radio system is obsolete and parts are no longer available to improve the audio quality. The parties agree that the Contractor will coordinate replacement of the two-way radio system, handheld radios, and radios in the district owned buses. The expense to replace the system is estimated to be \$95,000. The Contractor will procure the replacement system and invoice the District on a separate invoice. The district will be responsible for any additional recurring radio fees or purchasing any further replacement equipment, etc. as earlier described in section 11 (e).

#### 14. FUEL.

Fuel shall be paid for and provided by District. The Contractor shall utilize the existing fuel system provided by the District. District shall be responsible for maintaining the fuel system, tanks, and pumps. If Contractor becomes responsible for the cost of fuel in the performance of this Agreement, then District shall reimburse Contractor for all fuel costs incurred by Contractor on District's behalf.

#### 15. ROUTING.

Contractor agrees to work in cooperation with the District to establish routes and schedules for the safety and convenience of students, maximizing efficiency, and so as to deliver students within a reasonable time prior to the beginning of the various school programs, and so as to return students to their respective stops within a reasonable time after the close of the programs. Contractor shall follow the guidelines provided for in this Contract and the District's Board of Education policies, procedures, and Administrative Guidelines. Contractor agrees to comply with necessary Individual Education Plan (IEP) and 504 plan transportation requirements. The Contractor will be advised of any transportation-related issues included in any student's IEP, where such information is relevant to the Pupil Transportation Services. The Contractor may request input into a student's IEP process where the conduct or needs of a student on a school bus may be a health or safety concern to that

student or other students.

If, at any time during the term of this Contract, it is determined that service may be improved by revisions to routing, scheduling, or bus assignment, District and Contractor shall plan and institute such changes jointly. Contractor shall have sufficient notice to review such changes and evaluate the safety considerations. All routes, schedules, and bus stops shall be developed by Contractor on such basis as may be determined by it to be most efficient. The District shall in good faith review the routes, schedules, and bus stops developed by the Contractor. Notwithstanding the foregoing, the District retains the right to reasonably reject the routes, schedules, and bus stops developed by the Contractor, so long as passenger safety is not compromised. Contractor shall perform the work diligently so as to assure adherence to the schedules and Contractor assumes responsibility for timely delivery of students to and from school programs contingent upon the limitations of the bell schedule; timing of loading, unloading, and departure from school grounds; general traffic conditions surrounding the schools; delays due to shuttle programs and transfer points; availability of equipment supplied by District; or other circumstances as directed by the District.

- (a) New School Year Routing. District must submit a tentative list of students to be transported by the Contractor by the end of the last week of May of each contract year so that the Contractor can develop routes by August 1 of each contract year for this group of students. A final list must be submitted to the Contractor by the end of the first full week of July of each contract year.

The Contractor shall make every effort to provide transportation services to students not included in the final list prior to the start of school or through the first two weeks of school following five full working days from the date the student's information is sent to the Contractor. If the Contractor is unable to provide transportation services to such students within five days, the Contractor shall provide the District with an explanation as to the reasons why the Contractor is unable to provide such transportation services and provide a timeline as to when services can reasonably commence. Contractor shall prepare a routing plan two weeks prior to the start of the school year of each contract year to be reviewed by the District and allowing for adequate time to complete dry runs and corrections. After approval of the recommended routing plan by the District, the Contractor shall prepare back-to-school transportation information containing applicable pick-up and drop off times, route numbers, etc. for all students at each school, including parochial schools and special needs departments by the end of the third week of August of each contract year. The District shall distribute this information to all students at least one week prior to the first day of classes each school year. The Contractor shall notify each student as to any subsequent change in time of pick-up or route, as approved by District, which will affect any student. The Contractor and the District shall mutually agree in writing on a method of notification to parents and students of scheduled pick-up times prior to the start of each school year and the costs for notification shall be borne by the District. All necessary continuing communications shall be consistent with the common practices of the District. The Contractor shall provide an updated routing plan during the first week of October in preparation for student count day.

- (b) On-going changes to routes. The District shall use its best efforts to provide the Contractor within a reasonable period of time notice of transportation change requests including but not limited to added students, deleted students, time changes, changes to students' transportation needs and equipment, etc. The District shall provide written notice via email of the requests. Contractor shall provide email confirmation of receipt of changes

and subsequent follow up to requestor prior to service implementation. Approved changes to established routes, schedules or stops shall be implemented by Contractor as soon as possible after request by District, or within five full working days following the written request, unless mutually agreed upon by all affected parties. In the event that changes cannot be made within the prescribed period, the Contractor will provide a detailed description as to why and the proposed action to remedy the issue as quickly as possible. The written explanation shall also include the expected timeline for completion.

The Contractor will work closely with the Director of Operations or other District administrators as appropriate to address concerns regarding bus routes or other operational matters. In all cases any complaints, concerns, or stop change requests that cannot be resolved by Contractor will be escalated to the Director of Operations or Assistant Superintendent for Finance & Operations for consideration and resolution.

#### 16. COMPUTERIZED ROUTING SOFTWARE.

The Contractor shall utilize the District supplied Versatrans computer routing system software (including Route Planning "RP", Triptracker, and e-Link) and use it in conjunction with the District's systems used to notify parents regarding transportation issues. The District shall ensure the existing software is able to accept data transfers from the District's current student information system. The District shall be responsible for any software upgrades to, and licensing fees or recurring fees for, the routing system, if required. If any change in the computer routing system is desired or required due to obsolescence, the parties agree to work cooperatively to find a cost effective means for the District to change the software.

In the event that the computer routing software must be housed on the district network, the District shall provide each of the Contractor's full time management staff assigned to the District, network access, computer hardware so they have full operational access to the computer routing software, which shall include, without limitation, a multi-function high speed and high capacity printer capable of printing large quantities of route information to be distributed to drivers and students, a color printer, and necessary supplies and high speed internet access. Any necessary equipment upgrades or additional equipment purchases necessary to operate the computer routing software shall be purchased by the District.

At the expiration or earlier termination of this Contract, the District shall be given all appropriate access to the most recent routes and accompanying routing database, and student data, and be able to use such system for its operations.

#### 17. CONFIDENTIALITY.

Contractor agrees that it shall observe the policies and directives of the District to preserve the confidentiality of student records and student record information, to the extent that Contractor (its employees and agents) are permitted to access student records or student record information protected by the Family Educational Rights and Privacy Act or the Individuals with Disabilities Education Act in the course of performing services under this Agreement.

#### 18. FINGERPRINTING AND BACKGROUND CHECKS.

The Contractor acknowledges and agrees that unless the School District notifies the Contractor that it is not subject to the provisions of Michigan Public Act 84 of 2006, as amended, the Contractor will have any and all of its agents, employees or representatives

who will be on any School District premises to carry out the Pupil Transportation Services contemplated by the Contract Documents, fingerprinted and subjected to criminal history and background checks through the Michigan State Police and Federal Bureau of Investigation, as detailed in Public Act 84 of 2006, as amended, prior to commencing any work under this Contract by presenting themselves, for proper fingerprinting and criminal backgrounds checks, as directed and requested by the School District, with the assistance of the Contractor, or provide written notification to the School District that Contractor or its employee(s) has previously completed fingerprinting and a criminal history and background check in connection with contracting or working for another school district, intermediate school district, public school academy or nonpublic school (each an "Agency") and consents to the sharing or transferring of the appropriate fingerprinting and criminal history background report from the other Agency. If Contractor wishes to receive a copy of any report, it shall have the employee provide written consent to the School District acknowledging its consent to provide Contractor with a copy of the report. Additionally, unless notified it is not subject to Michigan Public Act 84 of 2006, as amended, the Contractor represents and warrants to the School District that it will at all times during the Initial Term or any Renewal Term of this Contract be in compliance with the provisions of Michigan Public Act 84 of 2006, as amended, including, but not limited to, reporting to the School District within three (3) business days of when it, or any of its agents, employees or representatives who will be on School District premises to carry out the Pupil Transportation Services contemplated by the Contract Documents, is/are charged with a crime listed in Section 1535a(1) or 1539b(1) of the Revised School Code, being MCL 380.1535a(1) and 380.1539b(1), or a substantially similar law, and to immediately report to the School District if that person is subsequently convicted, plead guilty or plead no contest to that crime. To the extent caused by Contractor,, the Contractor shall indemnify, defend and hold the School District, its employees, Board of Education, and each member thereof, agents and consultants, harmless from and against any and all claims, counter-claims, suits, debts, demands, actions, judgments, liens, liabilities, costs, expenses, including actual attorneys fees and actual expert witness fees, arising out of or in connection with any violation of, or the Contractor's failure to comply with, the requirements of Michigan Public Act 84 of 2006, as amended, or this paragraph. The Contractor shall be responsible for all costs and expenses associated with the above-required fingerprinting and background checks. The Contractor shall supply all necessary data and information, as requested by the School District, to enable the School District to properly submit Contractor and its employees and agents for inclusion in the State of Michigan Department of Education's list of "registered educational personnel."

## 19. INSURANCE.

The Contractor shall maintain the following insurance in force at all times during the term of the Contract, with an 'A' rated Best insurance carrier acceptable to Ann Arbor Public Schools. The School District shall be named as an additional insured for at least the minimum limits listed below. Commercial General Liability and Commercial Vehicle Liability Insurance, as described herein, shall require an endorsement stating the following shall be Additional Insureds: Ann Arbor Public Schools, all elected and appointed officials, all employees and volunteers, all boards, commissions and/or authorities and board members, including employees and volunteers thereof.

### **Policy    Minimum Limits**

#### **(a) Workers Compensation Statutory**

- (b) Commercial General Liability
  - (1) Bodily Injury Liability
    - \$1,000,000 each person
    - \$1,000,000 each occurrence
    - \$2,000,000 aggregate
  - (2) Property Damage Liability
    - \$1,000,000 each occurrence
  - (3) Combined Single Limit - \$1,000,000 per occurrence/\$2,000,000 aggregate
- (c) Commercial Automobile Liability
  - (1) Bodily Injury Liability
    - \$1,000,000 each person
    - \$1,000,000 each occurrence
  - (2) Property Damage Liability
    - \$1,000,000 each occurrence
  - (3) Combined Single Limit - \$1,000,000 per occurrence/\$1,000,000 aggregate
- (d) Excess Umbrella Liability
  - Combined Single
  - \$10,000,000 each occurrence Limit Bodily Injury and/or
  - \$10,000,000 aggregate Property Damage
  - OR
  - Combined Bodily Injury and/or Property Damage: \$10,000,000 each Occurrence/aggregate

Note: Comprehensive Liability to include, but not limited to:

- i) Existence of busses or vehicles on Location;
- ii) Contractual obligations; subject to the policy's terms and conditions.

The policy shall provide that the insurance carrier must notify Ann Arbor Public Schools and the Contractor at least thirty (30) days prior to the expiration, termination of such insurance coverage. This coverage and limits are to be considered minimum requirements under the Contract and shall in no way limit the liability or obligations of the Contractor under the Contract.

The successful Contractor shall not commence operations under the Contract until the Contractor has obtained all insurance stated, above, all insurance has been reviewed by Ann Arbor Public Schools, and Certificates of such insurance have been made available to Ann Arbor Public Schools.

## 20. INDEMNIFICATION.

### (a) General Indemnification.

To the extent caused by Contractor, Contractor agrees to indemnify and hold harmless the School District, its Board of Education, in their official and individual capacities, administrators, employees, agents, contractors, successors and assignees, from and against any and all costs, expenses, damages, and liabilities. directly caused by Contractor's:

- (i) Negligent acts, or omissions, or willful misconduct of the Contractor, its officers,

- directors, employees, successors, assignees, contractors and agents;
- (ii) Any breach of the terms of this Contract by Contractor;
  - (iii) Any breach by Contractor of any applicable Federal, State or local law, rule, regulation or ordinance; or
  - (iv) Any breach of any representation or warranty by Contractor under this Contract. The Contractor agrees to notify the School District by certified mail, return receipt requested, immediately upon actual knowledge of any claim, suit, action, or proceeding for which the School District may be entitled to indemnification under this Contract. This paragraph shall survive the expiration or earlier termination of this Contract. Contractor's indemnification and hold harmless obligations under this Contract shall not apply to the extent any loss, damages, suits, penalties, costs, liabilities and expenses arise from or are caused by the negligence or willful misconduct of the School District, its agents or employees, passenger upon passenger violence and Contractor's good faith adherence to School District's directives and policies and procedures.

District shall obtain all required consent from students, parents, and District employees, and provide notification sufficient to all students, parents and District employees to constitute consent under any applicable state or local laws, federal law, or any other rule or regulation regarding use or distribution of the audio and video recordings. Except to the extent caused by the Contractor, its employees or agents, the Contractor shall not be liable for the School District's failure to obtain the proper student/parent authorizations or if the School District improperly uses the video surveillance footage.

(b) Environmental Indemnification.

Throughout the Initial Term, or any Renewal Term of this Contract, Contractor shall not permit itself or any third party to use, generate, handle, store or dispose of any Hazardous Substances in, on, under, upon or affecting any School District property in violation of any applicable law or regulation. Without limiting any other provisions of the Contract Documents, Contractor shall indemnify, defend and hold harmless the School District, its Board of Education, in their official and individual capacities, administrators, employees, agents, contractors, successors and assignees, from and against all liabilities, claims, losses, costs and expenses (specifically including, without limitation, attorneys', engineers', consultants' and experts' fees, costs and expenses) arising from (i) any breach of any representation or warranty made in this paragraph and/or (ii) environmental conditions or noncompliance with any applicable law or regulation that result, in the case of Contractor, from operations or Pupil Transportation Services in or

about any School District property by Contractor or its agents or employees. As used herein, the term "Hazardous Substances" shall mean (i) any hazardous or regulated substance as defined by all federal, state and local environmental laws,

including, but not limited to, Federal Water Pollution Control Act (33 USC 1251 et seq.) ("Clean Water Act"), the Resource Conservation & Recovery Act (42 USC 6901 et seq. ) ("RCRA"), Safe Drinking Water Act (42 USC 300f-j-26), Toxic Substances Control Act (15 USC 2601 et seq.), Clean Air Act (42 USC 7401 et seq.), the Comprehensive Environmental Response, Compensation and Liability Act (42 USC 9601 et seq.) ("CERCLA"), the Emergency Planning and Community Right to Know Act, 42 USC 11001 et seq. ("EPCRA"), the Michigan Natural Resources and Environmental



Protection Act (MCL 324.101 et seq.) the administrative rules and regulations promulgated under such statutes, or any other similar federal, state or local law or administrative rule or regulation of similar effect, each as amended and as in effect and as adopted as of the date of execution of this Lease, (ii) any other pollutant, contaminant, hazardous substance, solid waste, hazardous material, radioactive substance, toxic substance, noxious substance, hazardous waste, particulate matter, airborne or otherwise, chemical waste, medical waste, crude oil or any fraction thereof, radioactive waste, petroleum or petroleum-derived substance or waste, asbestos, PCBs, radon gas, all forms of natural gas, or any hazardous or toxic constituent of any of the foregoing, whether such substance is in liquid, solid or gaseous form, or (iii) any such substance the release, discharge or spill of which requires activity to achieve compliance with applicable law. This paragraph shall survive the expiration or earlier termination of this Contract.

(c) Pre-Existing Environmental Conditions.

School District will be responsible for and to the extent permissible by law, the School District agrees to indemnify, defend and hold Contractor harmless from any Environmental Conditions, as defined below, that existed on, in or under the Facility prior to when Contractor moves into the School District's Facility(ies) or to the extent caused by the School District, its agents, or other tenants of the Facility during the term of the Contract. Contractor will be responsible for and agrees to indemnify, defend and hold District harmless from any Environmental Conditions on, in or under the Facility only to the extent caused by Contractor during the term. Contractor may, at its sole expense, conduct a Phase I (and if necessary a Phase II) Environmental Site Assessment of the Facility before moving in, during the term and/or within a reasonable time thereafter. The term "Environmental Conditions" means conditions where hazardous materials as defined under applicable federal, state or local laws are present to the extent that any reporting, remediation or other action is required under any such federal, state or local laws. References to "laws" hereunder includes all regulations, guidelines and other requirements thereunder, as amended and supplemented from time-to-time.

21. ASSIGNMENT.

This Contract and any interest herein may not be assigned or transferred, in whole or in part, by either party without the prior written consent of the other party, and any assignment or transfer without such consent shall be null and void. However, Contractor may assign this Contract if the assignment is made to a parent, subsidiary, related or affiliated company.

22. NOTICES.

All notices or communications required or permitted as a part of this Contract shall be in writing, unless otherwise expressly provided in this Contract and shall be considered delivered:

- (a) Upon receipt, when personally delivered; or
- (b) Five (5) days after deposit in the U.S. Mail with proper postage (certified mail, return receipt requested).

Notices shall be provided at the following respective addresses, unless changed by either

party:

To the School District:

Ann Arbor Public Schools  
Attn: Marios Demetriou  
Assistant Superintendent for Finance & Operations  
2555 S. State  
Ann Arbor, MI 48104

To the Contractor:

Durham School Services, L.P.  
Attn: Contract Administrator  
4300 Weaver Parkway  
Warrenville, Illinois 60555

## 23. TERMINATION.

### (a) Right to Terminate on Breach.

Each party shall have, in addition to all other remedies available to it, the right to terminate this Contract immediately upon written notice to the other party that the other party has committed a material breach of any of its obligations herein and such material breach shall not have been cured or corrected within forty-five (45) days following written notice of the same.

If either party violates any of the covenants or duties imposed upon it by this Contract, but such violation does not constitute a material breach of the Contract, such violation shall nevertheless entitle the other party to terminate this Contract in accordance with the following procedure: The non-defaulting party shall give the offending party forty-five (45) days' written notice of default and the opportunity to remedy the violation. If at the end of such 45-day default notice period, the party notified has not remedied the purported violation, the non-defaulting party may terminate this Contract as follows: on the first business day following the last day of the 45-day default notice period, the non-defaulting party shall give the defaulting party 15 days' notice of termination. If the non-defaulting party does not provide this 15-day notice of termination, the default notice shall be deemed rescinded.

### (b) Events upon Termination.

Upon termination of this Contract by either party for breach or default of the other party, each party shall be entitled to exercise any other right, remedy or privilege which may be available to it under applicable law or proceed by appropriate court action to enforce the terms of the Contract or to recover damages for the breach of this Contract. Upon termination of this Contract, the Contractor shall immediately provide the School District with all current information and documentation regarding its service to the School District. Contractor shall immediately return all keys to the School District's designee.

In the event that this Contract is terminated during its term pursuant to this provision,

the District will pay Contractor for its services properly performed under this Agreement up to and including the effective date of termination. Any funds remitted by the District to Contractor in excess of the pro-rata charges for services performed by Contractor up to and including the effective date of termination will be returned to the District by Contractor. Any such amounts owed by either party to the other shall be paid within thirty (30) days of the effective date of termination of this Service Agreement.

#### 24. FORCE MAJEURE.

Contractor shall be excused from performance hereunder, and School District shall not be allowed to levy any damages or penalties, liquidated or otherwise, during the time and to the extent that Contractor is prevented from performing in the customary manner by an act of God, fire, flood, weather, war, riot, civil disturbance, state of emergency, terrorism, epidemic, quarantine, strike, lockout, labor dispute, oil or fuel shortage, freight embargo, rationing or unavailability of materials or products, loss of transportation facilities, commandeering of equipment, materials, products, plants, or facilities by the Government, or any other occurrence which is beyond the control of Contractor. District has the right to take over operation of the buses if Contractor is prevented from operating for the reasons described above, and may operate such buses with properly licensed school employees or other persons, as the District deems appropriate until Contractor is able to resume its regular operations. Prior to doing so, District will work with Contractor in good faith to support the continuation of services. Should the District take-over operations, District shall pay to Contractor for the use of such buses, the compensation which would be due in accordance with this Contract had Contractor operated such buses, less all expenses and costs incurred in securing the services of operating personnel and other such costs of operation; provided, however, that District's deduction of costs and expenses shall not exceed the difference between the total compensation paid to Contractor for such buses less Contractor's fixed costs of operation. If the District chooses to take over operations of District owned or Contractor owned vehicles or equipment, the District is required to provide insurance coverage as evidenced with a certificate of insurance equal to that required of Contractor in this Agreement. During such time as the District takes control of the buses, the District shall be responsible for all liabilities and damages resulting from the sole negligence, wrongful acts, breaches of this contract, laws, rules, regulations or ordinances; or, actions of its' employees, agents, or contractors utilizing the equipment during the Force Majeure event. In case of a strike by District employees the Contractor will continue to provide services at the direction of the District.

#### 25. MISCELLANEOUS.

- (a) This Agreement, the RFP and any other documents incorporated by reference, and the attachments attached hereto, and Contractor's proposal constitute the entire agreement between the parties regarding its subject matter and supersedes any prior or contemporaneous understandings or agreements with respect to the services contemplated.
- (b) Upon written request of the district on or before July 1<sup>st</sup> of each contract year, the Contractor shall supply a performance bond. The annual cost for the performance bond shall be calculated at \$4.90 per \$1,000 of annual revenue. Subject to annual increases. The contractor shall invoice the district for the performance bond upon receipt of the bond documents.
- (c) Regarding uniforms, Durham will provide shirts with company logo and safety vests for bus drivers and monitors.

- (d) Regarding Property Damage Protection as stated on page 34, item 6.17 of the RFP. The last paragraph will be revised to state the Contractor will cooperate fully with the District and appropriate authorities to address theft or unlawful activities while holding the individual responsible for losses, costs, etc.
- (e) Regarding absenteeism, the Contractor's daily route rate will not be reduced in the event of an absent employee as the cost of substitute employees are included in the rate.
- (f) In the event of non-appropriation of funds, the Contractor shall have first right of refusal to reinstate service under the terms and condition as set forth herein of this Agreement.
- (g) Contractor employees will not be required to administer medicine or medical procedures. Where applicable, an emergency medical plan will established by the District and Contractor will coordinate with emergency responders to address the emergency medical plan.
- (h) The Contractor's policies, programs and procedures included in the proposal were those in effect at the time. The Contractor reserves the right to revise our policies, programs and procedures over time.

## 26. RENEGOTIATION.

Throughout the term of this Agreement, situations may arise which have not been addressed herein. Such situations shall be negotiated between CONTRACTOR and DISRTICT, then becoming a part of the legal and binding contract between the two parties.

## 27. INSOLVENCY.

In the event the Contractor becomes insolvent or seeks the protection of the U.S. Bankruptcy Court, then at the School District's option, this Contract may be immediately terminated by the School District.

## 28. NO WAIVER.

The failure of either party to enforce at any time any of the provisions of this Contract, or the failure to require at any time performance by the other party of any of the provisions of this Contract, shall in no way be construed to be a present or future waiver of such provisions, nor in any way affect the ability of either party to enforce each and every such provision thereafter.

## 29. SEVERABILITY.

If any provision or provisions of this Contract shall be held invalid, illegal or unenforceable, the validity, legality and enforceability of the remaining provisions, shall not, in any way, be affected or impaired thereby and shall remain in full force and effect.

## 30. GOVERNING LAW.

This Contract shall be subject to and interpreted under the laws of the State of Michigan. The applicable law for any legal disputes arising out of this Contract shall be the law of the State of Michigan, and the forum and venue for any such disputes shall be based upon the presence of the Ann Arbor Public Schools in Washtenaw County, Michigan.

31. DISPUTE RESOLUTION.

The parties shall negotiate in good faith in an attempt to resolve any dispute that may arise under the Contract. Disputes that cannot be resolved by negotiation shall be submitted to mediation using a mutually agreed upon mediator. In the absence of an agreement on a mediator, each party shall select a temporary mediator and those mediators shall jointly select the permanent mediator. If mediation is not successful, the parties may pursue their remedies as they choose. Nothing in the Contract shall be deemed to prevent the parties from agreeing in the future to submit a dispute to arbitration.

32. FACILITY LEASE AGREEMENT.

Attached to this Agreement as Exhibit D is the Facility Lease Agreement by and between District and Contractor, which is of the same date as this Agreement and is incorporated into and made a part of this Agreement.

33. ENTIRE AGREEMENT.

This Contract, together with its attachments, constitutes the entire agreement between the parties, supersedes all previous agreements, written or oral, and there are no understandings, representations or warranties of any kind, express, implied or otherwise, not expressly set forth herein.

IN WITNESS WHEREOF the Parties have executed this Contract on the dates affixed next to their respective names.

Dated: 6-25-15, 2015

By:

ANN ARBOR PUBLIC SCHOOLS

Its:

Assistant Superintendent

Dated: 7/6/2015, 2015

By:

CONTRACTOR

Its:

President and CEO