STUDENT TRANSPORTATION SERVICES AGREEMENT

THIS STUDENT TRANSPORTATION SERVICES AGREEMENT, (the “Agreement”) is entered into this ____ day of June, 2017 (the “Effective Date”) by and between the Board of Education (the “School Board”) of Rockford Public Schools, District 205 (the “School District” or “District”), an Illinois school district, whose address is 501 Seventh Street, Rockford, Illinois 61104, and First Student, Inc. (“Contractor”), a Delaware corporation, with its national headquarters at 600 Vine Street, Suite 1400, Cincinnati, Ohio 45202-5755, and its regional business offices located at 1823 Centre Point Circle, Suite A, Naperville, IL 60563. The School Board and Contractor shall each be referred to herein as a “Party” and collectively as the “Parties”.

RECITALS

WHEREAS, pursuant to Section 10-20.21 of the Illinois School Code, the School Board may enter into a contract for the transportation of pupils with the lowest responsible responsive bidder after due advertisement; and

WHEREAS, in order to ensure a competitive price for student transportation services, and to address some operational issues, the District Administration made the decision to seek competitive bids; and

WHEREAS, Bid Documents were sent to prospective bidders and advertised on March 3, 2017, and a mandatory pre-bid meeting was held on March 10, 2017; and

WHEREAS, on April 7, 2017, bids were publicly opened and read aloud at the District 205 Office at which time the District opened the only bid received from First Student, Inc.; and

WHEREAS, on May 9, 2017, the School Board declared that First Student, Inc. was the lowest responsible and responsive bidder to the request for student transportation services and authorized the Administration to enter into contract negotiations with First Student, Inc. consistent with the Bid Documents dated April 3, 2017 and as modified and corrected on April 26, 2017; and

WHEREAS, the Parties now desire to enter into this Agreement whereby Contractor agrees to provide the Student Transportation Services in accordance with the Contract Documents and the School District agrees to the obligations set forth therein.

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

1. DEFINITIONS.

The following terms shall have the following meanings where used in the Contract:

“Bid Documents” - the Advertisement for Bids, Bid Requirements, Bid Proposal Form, Bidder Certifications, Instructions to Bidders, Bid Specifications/Minimum Contract Requirements, Price Pages, and all attachments, exhibits, and amendments thereto.
“Board”, “Board of Education”, or “School Board” - the Board of Education of Rockford Public Schools, District 205.

“Field Trips & Charters” - bus trips to transport students from District schools to other venues within or out of the District.

“Contract” - the complete and integrated agreement between Contractor and the School Board and consisting of the Contract Documents.

“Contract Documents” - the Bid Documents, the Contractor’s Proposal, and this written Agreement between Contractor and the School Board, including any amendments and modifications, and any other documents reasonably required by the School District.

“Contractor” - First Student, Inc.

“District” or “School District” – Rockford Public Schools, District 205.

“Extended School Year” or “Summer School” - that period of time when classes are called into session after the regular closing of school and before the opening of the following school year.

“Midday Route” - at midday, the delivery of AM session students home and the pick-up of PM session students.

“Monitor” - an individual who rides on the bus with the driver to assist the students/driver as required.

“Price Pages” - that part of Contractor’s Proposal where it specified its pricing for the Student Transportation Services.

“Proposal” - the entirety of Contractor’s submittal, including without limitation the completed Proposal Form, Bidder Certifications, and Price Pages.

“Route” - a combination or series of bus runs and/or shuttle runs that make up a driver’s daily work package and includes the daily pick-up and delivery of a group of students on an assigned bus from home to school in the AM or from school to home in the PM. Regular Routes do not include Midday Routes.

“Run” - a sequence of bus stops where the bus begins at zero load and ends at zero load. A bus run terminates at a school or facility on an inbound run and begins at a school or facility on an outbound run.

“School Calendar” - the official calendar adopted by the Board of Education listing all attendance days, holidays, half days, etc. The School Calendar normally consists of 172 attendance days and 3 dry run days. Based upon weather or other conditions, the calendar may change/fluctuate from what was originally intended. The School District reserves the right to modify the School Calendar from year to year.
“State” - State of Illinois.

“Student Transportation Services” - the services required by the Contract Documents, including all personnel, vehicles, and equipment necessary to transport School District students to and from school each day on time and to such other places as designated from time to time by the School District.

2. **THE CONTRACT.**

(a) **Incorporation of Documents By Reference.**

The object of this Agreement is to formalize in one document the complete agreement between the Parties, and to do so by specifically incorporating by reference into this Agreement, the Bid Documents, Addenda, if any, the Proposal, and other related documents.

(b) **Order of Precedence.**

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

(i) This Agreement;

(ii) The Bid Documents and Addenda (If Any), attached hereto and labeled as Exhibit A; and

(iii) The Contractor’s Proposal (including the Proposal Form, Bidder Certifications, and Price Pages), attached hereto and labeled as Exhibit B.

The Contract Documents are intended to complement each other. Accordingly, the Contractor shall provide the Student Transportation Services in accordance with each and every part of the Contract Documents. To the extent that the terms and conditions of the Contract Documents are in conflict, said conflict shall be resolved in favor of the order of the Contract Documents, from (i) to (iii), listed above. 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.

(c) **Compliance with Public Act 95-241.**

Public Act 095-0241, signed into law on August 17, 2007, amended §10-22.34c of the School Code (105 ILCS 5/10-22.34c) and outlines additional requirements for school districts that choose to contract with a third party for non-instructional services (such as transportation) **currently performed by any employee or bargaining unit member.**

Contractor, at its sole expense, must take any action needed to comply with the requirements of 105 ILCS 5/10-22.34c, including without limitation: adjusting wages and benefits as needed; or providing any documentation or information needed. Said
actions by a Contractor shall be deemed to have been taken at the time of Contractor’s submission of its Bid and shall be incorporated into its Bid as if fully stated therein.

Contractor further agrees to defend, indemnify, and hold harmless the School District, its Board of Education, in their official and individual capacities, administrators, officers, employees, agents, contractors, successors and assignees, from and against any and all liabilities, damages, losses, expenses, demands, actions, causes of action, claims, suits, or judgments, including reasonable attorneys’ fees, as a result of Contractor’s failure to comply with the requirements of 105 ILCS 5/10-34c, if applicable.

(d) Compliance with Revenue Procedure 97-13.

The Parties intend that this Agreement and the Contract comply fully with Revenue Procedure 97-13 so as not to create a private business use of tax-exempt bond financed facilities. However, if the Internal Revenue Service (“IRS”) or any judicial, quasi-judicial, or administrative agency determines this Agreement or the Contract is not in compliance with Revenue Procedure 97-13, the Parties agree to take such action as is necessary to amend or otherwise make this Agreement and Contract in compliance with Revenue Procedure 97-13. Such action shall be deemed to have been taken at the time and effective date of this Agreement.

3. TERM.

The term of this Agreement shall commence on July 1, 2017 and continue through June 30, 2020, unless earlier terminated by either party as otherwise expressly permitted by this Contract. This Contract may be extended for two (2) additional one year periods upon written notice to the Contractor by the School District at least thirty (30) days prior to the expiration of the current term. The School District reserves the right to temporarily extend this Agreement for an additional ninety (90) calendar days from its original or any exercised option year expiration date without exercising a full option year for any reason and any and all pricing then in effect shall continue through the temporary extension period.

Notwithstanding the above, the School District’s obligation under this Agreement is contingent upon the availability of budgeted funds from which payment for the contract purposes can be made. No legal liability on the part of the School District for any payment may arise until funds are made available for this Agreement.

Further notwithstanding any other provision in this Agreement to the contrary, in the event that an order is issued by any administrative agency of the State of Illinois or by any court having jurisdiction prohibiting the School District from complying with its obligations under this Agreement, including but not limited to hiring a third party service to provide the Student Transportation Services described herein, then the School District shall have the option in its sole discretion to terminate this Agreement immediately or to elect to continue to operate the Student Transportation Services through the use of District personnel and receive a credit from Contractor to be applied towards the
compensation due to Contractor as outlined in the Price Pages in an amount equal to all costs of employing the District personnel to provide the Student Transportation Services.

4. **GENERAL SCOPE OF SERVICES.**

The Contractor shall transport the School District’s students to and from school on time each day when school is in session, and to such other places as designated from time to time by authorized School District personnel, in a safe, convenient, efficient, and cost effective manner and in conformance with the Contract Documents. Such services may include without limitation transportation to and from athletic and extra-curricular events, field trips, and educational or vocational facilities.

In addition, Contractor shall, at no additional cost to the School District, provide adequate personnel upon request during non-school hours to move buses while the School District removes snow and ice from its bus parking and storage facilities.

5. **FIELD TRIPS & CHARTERS.**

Contractor shall operate school buses on behalf of the School District for Field Trips & Charters. Contractor shall guarantee the School District the availability of sufficient drivers to satisfy School District requirements. However, the School District reserves the right to look to other available sources should the need exist.

6. **PERSONNEL.**

(a) **Adequate Personnel.**

The Contractor shall supply all personnel necessary to provide the Student Transportation Services on time, including without limitation adequate bus drivers, monitors, substitutes, supervisors, dispatchers, safety personnel, and office personnel. It is the School District’s expectation that buses arrive on the times indicated on the School Start Times 2017-18 Schedule – as these times are identified by the principals as required for school breakfast programs and for each subsequent year, the Start Times published for that year.

The Contractor shall provide a detailed explanation of the structure and chain of command and job descriptions for all proposed personnel. The Contractor shall provide the School District with resumes of the general manager/director, assistant manager/director, driver/safety supervisor(s), dispatchers, and other office personnel.

Office personnel, including but not limited to the general manager/director, assistant manager/director, driver/safety supervisor(s), and dispatchers, shall not drive a bus or be a monitor on a bus except in an emergency situation (e.g. to remove a bus from the scene of an accident). These positions are vital to providing safe, convenient, efficient, and cost effective Student Transportation Services, and should not be diminished by the lack of planning for an adequate number of bus drivers or monitors. The Contractor will provide the School District with information, as part of its monthly Transportation Report, of all office personnel who have driven a bus or been a monitor on a bus during the previous
month and the corresponding dates and times, routes, and reasons necessitating driving or monitoring.

(b) **Qualifications and Background Check.**

The Contractor shall employ only qualified and properly licensed employees who shall be required at all times to exercise the highest degree of care and to observe and comply with all laws, ordinances, rules and regulations pertaining to the operation of school buses. The Contractor shall provide qualified monitors for buses as requested by the School District. The School District shall have the right to request removal and/or reassignment of any driver or monitor at any time.

The Contractor shall ensure that a fingerprint-based criminal history records check is completed for all of Contractor’s employees pursuant to 105 ILCS 5/10-21.9 and 625 ILCS 5/6-106.1, and that all requirements of 625 ILCS 5/6-106.1 are met. The Contractor shall submit the following information to the District for all of Contractor’s employees at least 15 days prior to the first day of school each school year and before the first day of work for all new employees:

1. Legal name and home address;
2. Driver’s CDL number and school bus driver’s permit number;
3. Evidence that the employee has successfully passed drug and alcohol screening;
4. Evidence that the employee has successfully completed a fingerprint-based criminal history records check in accordance with 105 ILCS 5/10-21.9 and 625 ILCS 5/6-106.1 and that the employee is not listed on the Illinois Sex Offender Database or the Illinois Child Murderer and Violent Offender against Youth Database or otherwise disqualified from possessing a school bus driver permit pursuant to 625 ILCS 5/6-106.1; and
5. Bus route and number.

The Contractor shall keep such information current and notify the School District in writing when there are any changes to such information. Contractor employees, agents and principals and its consultants and consultant’s employees and agents who are found to have had convictions of the enumerated criminal or drug offenses listed herein or who appear in the noted databases shall not be permitted at any time to be present on school grounds. Contractor warrants that it shall immediately notify the District if a certified cleared employee is convicted of an enumerated offense or their name appears on any of the noted Databases. A violation of this Section is a material breach of this Agreement.

Contractor shall defend, indemnify, and hold the School District, its Board of Education, in their official and individual capacities, administrators, officers, employees, agents, and successors and assignees, harmless from and against any and all claims, counter-claims, suits, debts, demands, actions, judgments, liens, liabilities, costs, expenses, including attorneys’ fees and expert witness fees, arising out of or in connection with any violation of, or Contractor’s failure to comply with, the requirements of 105 ILCS 5/10-21.9 and
625 ILCS 5/6-106.1. Contractor shall be responsible for all costs and expenses associated with the above-required fingerprint-based criminal history records checks. 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 Illinois State Board of Education’s list of “registered educational personnel”.

(c) **Substitutes.**

Contractor shall ensure that enough substitutes are available to provide the Student Transportation Services on time each day, taking into consideration the number of runs and route combinations per day, weather forecasts, and previous absenteeism on certain days and at certain times of years. At least 15% of the Contractor’s total number of drivers shall be substitute drivers. Substitute drivers and monitors shall be familiar with the School District’s routes. Substitute drivers shall not be assigned permanent routes but will be used to cover other driver routes when a driver is absent. The District reserves the right to ask the Contractor to increase the number of substitute drivers if the need exists.

(d) **Safety Personnel.**

The Contractor shall provide adequate safety personnel, such as Safety Director, Road Supervisors, and Trainers to properly oversee the District’s operation.

(e) **District Personnel.**

The District reserves the right to assign District personnel to ride the bus to supervise student behavior or to provide assistance to students. If District personnel are assigned to ride a bus, the Contractor shall arrange to have the bus driver pick them up and drop them off if required by the District.

(f) **RBMA Personnel.**

Notwithstanding anything to the contrary in this Agreement, Contractor shall pay to the District such sums as necessary to cover the full expense to the District for employing the six (6) employees (i.e. pay and benefits) who are members of the RBMA set forth below until June 30, 2018. The employee positions are as follows:

(i) Three (3) field supervisors, who supervise discipline issues;

(ii) One (1) Field Trip supervisor, who also is a dispatcher;

(iii) One (1) driver trainer, who is also a dispatcher; and

(iv) One (1) dispatcher.
(g) **Nondiscrimination: Equal Employment Opportunity.**

Contractor shall comply with a policy of nondiscrimination and equal employment opportunity for all persons and shall take affirmative steps to provide equal opportunity for all persons. Contractor shall not discriminate against members of the public, any employee, or any applicant for employment because of race, color, religion, sex, national origin, ancestry, age, sex, marital status, order of protection status, disability, military status, sexual orientation, or unfavorable discharge from military service. Contractor shall comply with the Illinois Human Rights Act and all the regulations of the Illinois Department of Human Rights (the “Department”) as required for public contracts including the following:

1. Refrain from unlawful discrimination and discrimination based on citizenship status in employment and undertake affirmative action to assure equality of employment opportunity and eliminate the effects of past discrimination;

2. Comply with the procedures and requirements of the Department’s regulations concerning equal employment opportunities and affirmative action;

3. Provide such information, with respect to its employees and applicants for employment, and assistance as the Department may reasonably request;

4. Have written sexual harassment policies that shall include, at a minimum, the following information: (i) the illegality of sexual harassment; (ii) the definition of sexual harassment under State law; (iii) a description of sexual harassment, utilizing examples; (iv) Contractor’s internal complaint process including penalties; (v) the legal recourse, investigative and complaint process available through the Department and the Illinois Human Rights Commission (the “Commission”); (vi) directions on how to contact the Department and Commission; and (vii) protection against retaliation as provided by Section 6-101 of this Act. A copy of the policies shall be provided to the Department upon request.

(h) **Prevailing Rate of Wage.**

The Contractor shall comply with all statutes, both Federal and State, governing payment of wages to employees. The Contractor will pay the prevailing rate of wage in the Winnebago County, Illinois area for the particular type of labor, in accordance with State of Illinois Codes and the Illinois Department of Labor. Effective January 1, 1990, an amendment to the State of Illinois Prevailing Wage Act requires that if, during the course of work under this Agreement the Department of Labor revises the prevailing rate hourly wages to be paid under this Agreement for any trade or occupation, the School District will notify Contractor of the change in the prevailing rate of hourly wages. Contractor shall have the sole responsibility and duty to ensure that the revised prevailing rate of hourly wages is paid by Contractor to each worker to whom a revised rate is applicable. Revisions of the prevailing wage as set forth above shall not result in an increase in the contract pricing.
(i) **Other Requirements.**

All transportation personnel (including drivers) shall be required to wear a photo ID badge approved or issued by the District. The Contractor will work with the School District to develop an acceptable dress code for drivers and monitors. Acceptable standards would include, but are not limited to collared shirt or a vest.

The School District shall provide adequate office space, upon consultation with Contractor, at the School District facility located at 2000 Christina Street, Rockford, Illinois 61104 for the Contractor's supervisory personnel, including but not limited to dispatchers, supervisors, and management, at no additional cost to the Contractor.

7. **SERVICE QUALITY/ASSURANCE.**

It is recognized that service to the School District and its patrons is the essence of the Contract and to that end the Student Transportation Services provided by the Contractor shall be regularly monitored. The Contractor shall prepare and submit to the School District a monthly “Transportation Report”. This report shall outline specific levels of operation; number of buses, routes, runs, drivers, monitors, students transported, route miles, miles per gallon, number of accidents, late buses, on-time arrival percentage, student discipline referrals, complaints received and their reconciliation, as well as outline any service issues along with actions and recommendations.

On a quarterly basis, the Contractor shall submit to the School District the following reports: office staffing, on-time percentage, number of substitutes, safety drills and training.

At least twice per school year (during the second quarter and fourth quarter of the school year), the Contractor shall provide the School District with quality assurance surveys for the School District to send out to all buildings and families served. The School District and the Contractor shall jointly design such surveys. Such survey results will be shared by the School District with the Contractor and the Contractor shall make good faith efforts to improve survey results.

8. **COMMUNICATIONS.**

(a) **General Communications.**

Creating and maintaining good communications between the Contractor and the School District administration, parents, and students is vital to a safe, convenient, efficient, and cost effective student transportation operation. School District administrators, parents, and students should not have to learn about bus accidents, discipline issues on the bus, late buses, or other bus problems from a third party. Accordingly, the Contractor shall ensure that at all times the Contractor is providing Student Transportation Services the Contractor has a designated person or persons available who is responsible for communicating with School District administrators, parents, and students regarding transportation issues or concerns. Such person(s) shall be knowledgeable about District
routing and dispatching, transportation safety and laws, and District policies and procedures.

The Contractor shall notify the District administration, school administration, and parents prior to the first student attendance day each school year of the name, address, phone number, and email address of the designated person(s).

The designated communications person(s) shall greet administrators, parents, and students in a friendly, non-confrontational tone and seek to answer questions in a time sensitive manner. In addition, the designated communications person(s) shall be responsible for notifying School District administration, including school building administration, whenever required under the Contract.

(b) **Accidents.**

Should an accident ever occur, the Contractor shall immediately notify designated District personnel by multiple means, first by telephone and then by written report, giving all information known at the time. Notification required by this Section shall be deemed insufficient until the Contractor has verified that the designated District personnel have received actual direct notice of the accident. Voicemail shall not constitute sufficient notification of an accident. In addition, the Contractor shall promptly procure any necessary medical assistance and shall promptly notify local law enforcement as soon as possible following an accident and shall be available by phone. The Contractor shall submit to the School District, within 24 hours, a detailed written report of the accident with such information requested by the School District, which shall include but not be limited to a complete list of passengers and their seated location at the time of the accident and a copy of the accident report. The Contractor will notify parents of all students involved in the accident. The School District reserves the right to have that vehicle removed from further service pending an inspection by a mechanic or safety expert of the School District’s choice with the cost to be borne by the School District.

(c) **Late Buses.**

The safety and education of District students is a top priority of the District. Every minute a student is late to school is a minute the student could have received additional education. In addition, the District must comply with its responsibilities under the Individuals with Disabilities Education Act (“IDEA”) and state law with respect to the number of minutes it must educate students with disabilities each day.

It is the School District’s expectation that buses arrive on the times indicated on the School Start Times 2017-18 Schedule – as these times are identified by the principals as required for school breakfast programs and for each subsequent year, the Start Times published for that year. The Contractor shall notify the appropriate school administrators and designated District administrators whenever any bus is known or anticipated to be more than ten (10) minutes late in picking-up or dropping-off students at a school.

In addition, it is the School District’s further expectation that the Contractor pick-up and drop-off students at their designated bus stops on time each day. Families of District
students plan their work schedules and daily lives around scheduled pick-up and drop-off times. Accordingly, the Contractor shall notify the appropriate school administrators and designated District administrators whenever any bus is known or anticipated to be more than ten (10) minutes late in picking-up or dropping-off students at their designated bus stop. The Contractor shall ensure a system is in place requiring bus drivers to notify dispatch whenever they are more than ten (10) minutes late in picking-up or dropping-off students at their designated bus stop. The system shall provide for further notification by bus drivers to dispatch and the Contractor to the appropriate school administrators and designated District administrators whenever the bus becomes more than thirty (30) minutes late or longer from scheduled pick-up and drop-off times. The Contractor shall take further steps to mitigate late buses.

The Contractor shall provide to the School District a report each month, as part of its monthly Transportation report, of the buses that were late the preceding month by fifteen (15) minutes or more, the dates and times they were late, the amount of time they were late, and the steps being taken to mitigate them being late in the future.

(d) Other Reports.

Using the form provided by the District, the Contractor shall report to the District each month whether certain designated students ride the bus to and from school each day. The District intends to use this report for purposes of seeking Medicaid reimbursement, so it is vital the Contractor verifies the report is accurate.

The Contractor shall submit such other reports as may from time to time be requested by the School District. Such reports shall be on such forms as may be furnished or prescribed by the District. Records sufficient to confirm the accuracy of all such reports shall be kept by the Contractor and made available for inspection by the School District at all reasonable times for one (1) year after the submission of each report.

9. STUDENT DISCIPLINE.

All buses used by the Contractor to provide the Student Transportation Services shall be operated in a safe manner at all times, no exceptions. All bus drivers, monitors, and other personnel employed by the Contractor shall report all infractions on Student Bus Referral form and use said form to report the infractions. The Contractor shall ensure that all infractions are reported on the day they occur to the appropriate school administrator. The final decision with respect to all student discipline matters, including the suspension or expulsion of any student from transportation services shall rest with the School District.

Each driver shall handle all disciplinary matters in strict accordance with School District policy. In no case will a driver ever use corporal punishment or eject a student from a bus for misbehavior. All discipline problems shall be reported to the District in writing following completion of the route. Further procedures and regulations for the administration of discipline shall be established cooperatively between the School District and the Contractor.
All vandalism damages to the District’s equipment will be the responsibility of the Contractor; however, the District will assist the Contractor in receiving restitution for damaged equipment. The Contractor may, upon concurrence by the District, refuse to provide a student with transportation services until vandalism damages caused by such student are paid.

10. **SCHOOL BUSES, VEHICLES, AND EQUIPMENT.**

(a) **School District Buses.**

The current transportation fleet is comprised of a combination of approximately 261 buses, all of which are owned by the District. The Contractor is required to use buses owned by the District. Title to School District owned buses shall remain in the School District. The Contractor shall use School District buses only to provide the Student Transportation Services for the School District, unless agreed to in writing by the School District and allowed for by law.

(b) **Fuel.**

The School District shall purchase and supply all propane and/or diesel fuel to the Contractor necessary for the Contractor to provide the Student Transportation Services. The School District uses fuel tracking software to monitor fuel consumption for buses. The Contractor shall not use any fuel purchased or paid for by the School District for any purpose other than to operate the school buses used to perform the Student Transportation Services. Any damage caused by the Contractor, its employees or agents to the School District’s fueling station or equipment, or the fuel tracking system or its components shall be repaired/replaced at the Contractor’s sole cost and expense.

(c) **GPS.**

The prices included with this Agreement do not include modifications to buses if seat belts or GPS or other equipment (collectively, “equipment”) were included in the equipment provided for students under this Agreement. If District or any government agency shall at some time in the future mandate that Contractor provide GPS or seat belts for use in all vehicles (some School District buses already have seat belts), the parties shall negotiate in good faith alternative pricing and availability of vehicles to service District under this Agreement. In the event that District or any governmental agency imposes equipment requirements other than those set forth above on District’s vehicles during the term of this Agreement, which are specific requirements for the operation of this Agreement or immediate installation is required for continuing operation of the vehicles, the District shall be responsible for such equipment requirement.

(d) **Two-Way Radios.**

Contractor agrees that all buses shall be equipped with two-way radios. Contractor agrees to perform an inspection of all radios prior to the start of the school year to ensure proper performance. The District shall be responsible, at the District’s expense, to maintain the two-way radios in good operating condition.
11. **COMPENSATION, INVOICING, AND PAYMENT TERMS.**

(a) **Compensation.**

In consideration for providing the Student Transportation Services, the School District shall pay to the Contractor all sums due and calculated in accordance with the completed Price Pages provided in the Bid Documents (the "Price Pages") and submitted by the Contractor with its Bid. A copy of the Contractor's completed Price Pages is attached to this Agreement as Exhibit B.

All personnel expenses (including without limitation wages and benefits for drivers, monitors, management, and licensing expenses), and other expenses deemed necessary by Contractor to provide the Student Transportation Services are included within the costs specified on the Contractor's Price Pages.

Notwithstanding anything to the contrary in this Agreement, the Bid Documents, or the Price Pages, the Contractor shall refund and pay to the School District on June 30th of each year during the Term the difference between the cost per individual for health insurance for personnel providing the Student Transportation Services employed by Contractor and the cost per individual for health insurance if the personnel providing the Student Transportation Services employed by Contractor were employed instead by the School District. The parties agree to share the pertinent information related to health insurance costs no later than April 1st of each calendar year during the Term.

District may increase or decrease service levels to be provided by Contractor under this Agreement. However, where such changes impact by greater than 5% the service levels or equipment levels required of Contractor under the assumed routes, schedules, days of service, hours or miles, contained in the RFP, the parties shall adjust rates commensurately to cover increases or decreases in cost structure associated with such changes by District. Any rate adjustment shall be by mutual written agreement of the parties.

(b) **Invoices.**

The Contractor shall invoice the School District by the third (3rd) working day of each month for Student Transportation Services provided through the last day of the preceding month. Invoices shall be submitted to the Chief Financial Officer, District No. 205, 501 Seventh Street, Rockford, Illinois 61104. Late invoices will not be processed by the School District until the following month. All invoices shall be broken down by cost per bus per school day, and shall specify the type of route for each bus (e.g. regular education double route), additional costs (e.g. bus monitors), and such other information as may be required by the District to verify the invoice. The Contractor shall provide separate invoices for all transportation that is not part of the School District’s regular routes (e.g. Charter & Field Trips). Such invoices shall list the date of the trip, point of origin, destination, for who service was provided and the cost.
(c) **Additional Services.**

Before rendering any services outside the scope of the Student Transportation Services ("Additional Services"), Contractor must receive prior written approval from the designated School District official. Invoices for approved Additional Services shall include the date and times the Additional Services were completed, the type of Additional Services provided, the number of hours worked, and the name of the School District employee who authorized the Additional Services. 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 the Contractor’s Proposal.

(d) **Payments.**

After verification of an invoice, the School District shall pay the verified amount due to the Contractor following monthly Board approval in accordance with the Local Government Prompt Payment Act (50 ILCS 505/1 et seq.). Payment of any disputed items may be withheld by the School District until mutual agreement is reached between the Contractor and the District relative to the item or provision upon which the difference arises or until the matter is judicially resolved. Such suspension of payment shall not constitute a breach of the Contract by the School District. The School District may further withhold payments, if it is determined that the Contractor made a false certification in its Bid or has violated the Bidder Certifications by failing to carry out the requirements of the Illinois Drug-Free Workplace Act.

12. **ESCALATION.**

District and Contractor recognize that certain of Contractor’s costs are subject to change during the term of this Agreement. As such, District and Contractor have negotiated escalation amounts set forth in the Pricing Pages of the Bid Document.

In the event of unusual circumstances, such as changes in state or federal taxes, laws or specifications, increased insurance or surety premiums or any other condition which causes any of Contractor’s operating costs hereunder to increase at a rate in excess of any negotiated escalation, then the parties shall determine a reasonable and just amount to cover such increase, and rates of Contractor compensation set forth in Exhibit B shall be adjusted to reflect such increase.

13. **INSURANCE.**

The Contractor shall purchase from and maintain at its own expense during the term of the Contract, the insurance described in and in the amounts specified in the following subparagraphs and provide policy endorsements evidencing specific coverage of the types of insurance in the amounts specified below. Coverage shall be placed with a responsible company licensed to do business in the State of Illinois, and with a minimum insurance rating of A:VII as found in the current edition of AM Best’s Key Rating Guide. Each policy shall bear an endorsement precluding the cancellation or reduction of said policies without providing to the School District thirty (30) days prior notice thereof in
writing. In the event of such expiration or decrease, the School District may withhold money due and owing to Contractor, or which may become due and owing to Contractor, in an amount sufficient to obtain insurance to the levels required by this Section, and may then apply those funds for that purpose. The Contractor is responsible for all insurance deductibles and Self-Insured Retentions and the School District shall have no obligation to pay them.

During the term of this Agreement, Contractor shall maintain insurance at or above the limits specified in the following chart, and each such policy shall include the School District as an additional insured. Such policies shall cover any loss or liability that may be incurred by the School District, its board members, administrators, employees, staff members, agents, attorneys, and all other representatives, resulting from Contractor’s maintenance, operation, or use of a vehicle in performing the Student Transportation Services, or from Contractor’s performance of any other duty under the Agreement. Contractor shall furnish all such policies, with proper certification, to the School District upon execution of this Agreement.

The insurance required by this Section shall cover any loss or liability resulting from Contractor’s transportation of students to and/or from any interscholastic athletic or other interscholastic or school sponsored activity in a van, or any other vehicle designed to transport between not less than seven (7) and not more than fifteen (15) people, as provided in 105 ILCS 5/29-6.3.

The insurance required by this Section shall meet the minimum limits established in Section 12-707.0 I of the Illinois Vehicle Code, 625 ILCS 5/12-707.0 I, including a minimum of personal injury liability insurance in the amount of $1,000,000 for any one person in any one accident, and subject to the limit for one person, $5,000,000 for two or more persons injured by reason of the operation of the vehicle in any one accident.

The cost of all policies required by this Section shall be reflected in the Price Pages, and Contractor shall not be entitled to receive from the School District any additional compensation for any such insurance costs. At all times during the term of this Agreement, the Contractor and its independent contractors shall maintain, at their sole expense, insurance coverage for the Contractor, its employees, officers and independent contractors, as follows:

<table>
<thead>
<tr>
<th>INSURANCE TYPE</th>
<th>MINIMUM ACCEPTABLE LIMITS OF LIABILITY</th>
</tr>
</thead>
<tbody>
<tr>
<td>Workers Compensation</td>
<td>Statutory</td>
</tr>
<tr>
<td>Employers Liability</td>
<td></td>
</tr>
<tr>
<td>A. Each Accident</td>
<td>$1,000,000</td>
</tr>
<tr>
<td>B. Each Employee-disease</td>
<td>$1,000,000</td>
</tr>
<tr>
<td>C. Policy Aggregate-disease</td>
<td>$1,000,000</td>
</tr>
<tr>
<td><strong>Commercial General Liability</strong>**</td>
<td></td>
</tr>
<tr>
<td>A. Per Occurrence</td>
<td>$10,000,000</td>
</tr>
<tr>
<td>B. General Aggregate</td>
<td></td>
</tr>
<tr>
<td>1. General Aggregate – Property</td>
<td>$10,000,000</td>
</tr>
<tr>
<td>2. General Aggregate – Bodily Injury</td>
<td>$10,000,000</td>
</tr>
<tr>
<td>Comprehensive Auto Liability</td>
<td>$10,000,000,000 bodily injury and property damage combined</td>
</tr>
<tr>
<td>Coverage</td>
<td>Coverage Amount</td>
</tr>
<tr>
<td>----------------------------------------------</td>
<td>--------------------------------------</td>
</tr>
<tr>
<td>Uninsured Motorist Coverage</td>
<td>$150,000 per person, $500,000 aggregate</td>
</tr>
<tr>
<td>Fire Legal Liability (any one fire)</td>
<td>In an amount reasonably necessary to protect Contractor against loss of any or all vehicles, and or equipment used in performance of this Agreement.</td>
</tr>
<tr>
<td>General Umbrella Excess Liability</td>
<td>$10,000,000</td>
</tr>
<tr>
<td><strong>Business Auto Liability</strong>**</td>
<td>$10,000,000</td>
</tr>
</tbody>
</table>

**An Additional Insured Endorsement as well as endorsements for Waiver of Subrogation and Insurance is Primary and Non-Contributory to additional insured insurance coverage in addition to a Certificate of Insurance**

****Garage Liability (combines standard GL & Auto Liability) Garage Keepers Liability

If any policy or coverage is written as “claims made” then coverage must be maintained for four (4) years after termination of this Agreement. Notwithstanding the existence of required insurance, Contractor agrees it is responsible for injury and damage to persons and property including such damages as may exceed the limits set forth above, resulting from its own negligence and the negligence of its owners, employees, agents and representatives and further for the negligence of others under Contractor’s direction and control when arising from or in any way related to the bid and resulting contract and Contractor’s performance of its contract obligations.

All policies shall name the School District, its Board of Education, officers, employees, and agents as an additional insureds (the “Additional Insureds”), shall be primary to any insurance carried independently by such Additional Insureds, shall include a severability of interest clause with respect to claims, demands, suits, judgments, costs, charges, and expenses arising out of, or in connection with any loss, damage, or injury resulting from the negligence or other fault of the Contractor, Contractor’s Agents, representatives, and employees, and shall contain a waiver of subrogation in favor of the Additional Insureds.

The Contractor shall furnish the School District with a certificate or certificates of insurance showing that such insurance is in effect. The Contractor will provide written notice to the School District at least thirty (30) days prior to the cancellation, non-renewal, or reduction in the limits of liability endorsement, change in deductible per claim, or change in the limitations or exclusions of such insurance.

14. **INDEMNIFICATION.**

(a) **Indemnification by Contractor.**

To the fullest extent permitted by law, Contractor agrees to defend, indemnify, and hold harmless the School District, its Board of Education, in their official and individual capacities, administrators, officers, employees, agents, contractors, successors and assigns, from and against any and all liabilities, damages, losses, expenses, demands, actions, causes of action, claims, suits, or judgments, including reasonable attorneys’ fees, whether know or unknown, and whether based on a tort, contract, or another theory.
of recovery, including any and all claims based on personal injury, property damage, pain and suffering, emotional distress, wrongful death, and the Illinois Family Expense Act (750 ILCS 65-15) arising out of:

(1) Negligent acts or willful misconduct of Contractor, its officers, directors, employees, successors, assigns, contractors and agents;
(2) Any breach by Contractor of the terms of the Contract;
(3) Any violation or breach by the Contractor, its officers, directors, employees, successors, assigns, contractors and agents of any applicable Federal, State or local law, rule, regulation or ordinance; or
(4) Any breach of any representation or warranty by Contractor under the Contract. 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 obligations under this section shall not apply to the extent that such claim, loss, cost, expense or damage arises from or is caused by the negligence or willful misconduct of the School District, its Board of Education, its agents or employees.

(b) Indemnification by District.

To the fullest extent permitted by law, District agrees to defend, indemnify, and hold harmless the Contractor, its officers, employees, agents, contractors, successors and assigns, from and against any and all liabilities, damages, losses, expenses, demands, actions, causes of action, claims, suits, or judgments, including reasonable attorneys’ fees, whether known or unknown, and whether based on a tort, contract, or another theory of recovery, including any and all claims based on personal injury, property damage, pain and suffering, emotional distress, wrongful death, and the Illinois Family Expense Act (750 ILCS 65-15) arising out of:

(1) Gross or willful misconduct of District, is officers, directors, employees, successors, assigns, contractors and agents;
(2) Any breach by District of the terms of the Contract;
(3) Any violation or breach by the District, its officers, directors, employees, successors, assigns, contracts and agents of any applicable Federal, State or local law, rule, regulation or ordinance; or
(4) Any breach of any representation or warranty by District under the Contract. District agrees to notify Contractor by certified mail, return receipt requested, immediately upon actual knowledge of any claim, suit, action, or proceeding for which the Contractor may be entitled to indemnification under this Contract. This paragraph shall survive the expiration or earlier termination of this Contract.
Environmental Indemnification.

Throughout the Initial Term, or any Renewal Term of the 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, officers, employees, agents, contractors, successors and assigns, from and against all liabilities, damages, losses, expenses, demands, actions, causes of action, claims, suits, or judgments (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 Student 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 Illinois Natural Resources and Environmental Protection Act 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 the Contract.

15. PERFORMANCE BOND.

The Contractor shall furnish a Performance Bond guaranteeing the Contractor’s faithful performance of the Student Transportation Services for the duration of the Contract. The Performance Bond shall be in an amount equal to Fifty Percent (50%) of the amount of the Contract, shall be in such form and with a surety acceptable to the School District, and shall not include a limitations period shorter than that provided by Illinois law. The Performance Bond shall name the School District as primary co-obligee and shall be deemed to include the tenus listed with the Contract.
The Performance Bond shall be issued by a surety company or companies having a policyholders’ rating not lower than “A” and a financial rating not lower than “XII” in Best’s Insurance Guide (current edition), unless a lower rating is approved by the School District, in writing.

If at any time the School District shall become dissatisfied with any security or sureties then upon the Performance Bond, or for any reason such Bond ceases to be adequate security for District, the Contractor shall, within five (5) days after written notice from the School District, substitute an acceptable bond in such form and sum and signed by such other sureties as may be satisfactory to the District. No further payments shall be deemed due nor shall be made until the new sureties shall have qualified.

16. **BOARD POLICIES AND DISTRICT RULES.**

The Contractor shall at all times keep all bus drivers, monitors, supervisors and other employees informed of applicable Board of Education policies and School District rules and regulations governing the operation of school buses, the conduct of students, and methods and procedures for maintaining discipline. All transportation related discipline problems will be handled in conformance with District policies.

17. **SCHOOL CANCELLATIONS; EARLY DISMISSAL.**

In the event of inclement weather or for any reason school within the School District must be canceled, the School District shall notify Contractor prior to 5:00 a.m. on the day of such cancellation. If notice is given after 5:00 a.m., then one half (1/2) of daily rate shall be due Contractor for each bus driver unit affected. In the event that school must be dismissed early, the School District shall notify the Contractor as soon as possible before the dismissal. All decisions of the School District shall be final. The manager of Contractor shall advise the School District, of the readiness of their fleet and personnel and their ability to perform. Contractor will communicate with School District personnel regarding the condition of bus routes and the advisability of attempting to make basic runs during periods of heavy snow, fog, and/or ice storms.

18. **CONTINUITY OF ASSIGNMENTS.**

The District’s expectation is continuity of driver assignments to specific routes be maintained to greatest extent possible. Continuity of driver assignments allows drivers to know their routes and students better.

19. **SCHOOL BUS SAFETY PROGRAM.**

The Contractor shall, in collaboration with District Administration, provide and carry out a school bus safety program for all District students. The program will be provided by the Contractor and the District at all of the District schools and includes, but is not limited to, the following topics:

1. Danger zones around the bus and the proper way of approaching the bus;
(2) Pick-up and drop-off procedures;
(3) The proper way to board and exit the school bus;
(4) General riding behavior and requirements;
(5) Emergency situations and evacuation procedures;
(6) Duties of the bus driver and bus monitor;
(7) Hazards associated with getting to the bus stop (e.g. traffic, strangers, weather conditions) and safe choices to avoid hazards; and
(8) Appropriate behavior while waiting at the bus stop;

The Contractor will collaborate with the School District to develop pick-up and drop-off policies that conform to the expectations of the District. The program shall include the performance of the bus evacuation drills per State of Illinois regulations. The first bus evacuation drill for each school shall be scheduled and conducted by the Contractor no later than the end of October each year, except an evacuation drill for kindergarten students shall take place during the first week of each school year.

20. **STUDENT TRANSPORTATION SAFETY PROGRAM.**

The Contractor shall be responsible for implementing and maintaining a comprehensive student transportation safety program for its employees, aligned to the Illinois School Bus Driver Training Curriculum published by the Illinois State Board of Education. The program shall include, but is not limited to, the following topics:

(1) The roles and duties of bus drivers and monitors;
(2) Appropriate and inappropriate driver and monitor conduct while on the bus;
(3) Bus design and construction;
(4) Pre-trip and post-trip inspections;
(5) Safe operation of a school bus;
(6) Defensive driving techniques;
(7) Danger zones around the bus and the proper way of approaching the bus;
(8) Pick-up and drop-off procedures;
(9) Procedures for loading and unloading students;
(10) Student behavior management and discipline procedures;
(11) Professionalism;
(12) Responsibilities if there is an accident;
(13) Evacuation procedures;
(14) Expectations in an emergency;
(15) First aid and contact with blood-borne pathogens; and
(16) School bus security.

A summary of the safety program and copies of safety updates shall be provided to the School District for review. The Contractor will provide CDL and school bus permit raining to its drivers. The Contractor will annually provide a list of certified drivers to the School District indicating the type of training they have received. The School District may require a student identification process as part of this program.

21. **INSPECTION.**

Each bus driver shall complete a thorough inspection of the bus at the end of each run and immediately after the last drop off to make certain no student has fallen asleep between the seats or on the floor. The Contractor shall ensure each driver completes the inspections and keeps records documenting the inspections. At no time will Contractor permit unauthorized passengers on the bus.

22. **PROFESSIONAL ASSOCIATIONS.**

The Contractor or its local management shall belong and have access to professional associations related to school transportation such as NAPT (National Association of Pupil Transportation), IAPT (Illinois Association of Pupil Transportation), etc. and seek to obtain continuing education related to effective student transportation services. A training report shall be provided to the School District annually.

23. **ROUTING AND SCHEDULES.**

The District will provide detailed route/student information for school bus routes to the Contractor. The bus routes agreed upon by the School District and Contractor shall be followed exactly by the bus driver. Any suggested changes that are presented to a driver by a parent or member of the community will be referred to the District’s management personnel for a decision. Any change the driver feels should be made for convenience must be pre-approved by the District’s management personnel.

It is the School District’s expectation that buses arrive on the times indicated on the School Start Times 2017-18 Schedule – as these times are identified by the principals as required for school breakfast programs and for each subsequent year, the Start Times published for that year.

24. **COMPUTERIZED ROUTE SCHEDULING.**

The School District currently uses Trapeze as its routing software. The District owns and maintains this software. Bus routing services will be a collaborative effort between the School District and the Contractor, as set forth herein. Routing services are defined as providing routing software, designing bus routes, assigning riders, pairing or packaging bus routes, and/or optimizing accordingly.
It is expected that the Contractor will become familiar with the Trapeze Software and receive the necessary training to provide local support. Any training needed by Contractor from Trapeze will be conducted at the sole expense of the Contractor. It is expected that routing information will be communicated electronically to the Contractor.

All student data is confidential information and protected under applicable law including without limitation the Family Educational Rights and Privacy Act ("FERPA"), the Individuals with Disabilities Education Act ("IDEA"), and the Illinois School Student Records Act ("SSRA"). The Contractor shall ensure that no student data or information is disclosed, given, or sold to any third party by the Contractor. It is further understood that the map, student data and bus routes shall remain the property of the School District in the event that the Contract between Contractor and the District is terminated.

Whenever the ridership requirements or educational programs change to the degree that adjustment of existing routes is needed, the Contractor shall provide additional drivers or reduce drivers as may be required. These adjustments shall be furnished at the rates as set forth in Price Pages included in the Contractor’s Bid. Absolutely no increase or decrease in the number of buses utilized or services provided shall be made without prior approval from the School District. The effective date of any increase or decrease in transportation services shall be mutually agreed upon by the Contractor and the District.

The Contractor shall review and provide comments and suggested revisions to routes prior to any implementation. In addition, the Contractor will work with the School District to correct any errors or make adjustments to routes prior to any implementation. It is expected the Contractor will perform Dry Runs to ensure the route directions, timing, and efficiency is correct. In no case shall a driver perform his/her route in an unsafe manor as a result of incorrect route information.

25. **TIMELINESS; NONPERFORMANCE PENALTIES.**

Timeliness of route pick-ups and drop-offs is extremely important to the School District. Timeliness ensures consistency for the students, their parents, and the School District. Without prejudice to other rights or remedies it may have under the law or the Contract, the School District shall be entitled to impose the following penalties for timeliness issues or the Contractor’s failure to perform in accordance with the terms and conditions of the Contract:

1. Late AM drop-off at school program site not to exceed **$100 per occurrence**, at the discretion of the District’s Director of Transportation.

2. Late PM arrival at school site not to exceed **$100 per occurrence**, at the discretion of the District’s Director of Transportation.

3. Late pickup for activity and field trip bus route (athletics, field trips etc.) later than 15 minutes than scheduled departure time and/or late drop off for activity bus and field trip routes later than 15 minutes than scheduled arrival time not to exceed **$100 per occurrence**, at the discretion of the District’s Director of Transportation.
(4) No shows for extra-curricular/charter route = $250 per occurrence

(5) No service to or from a regularly scheduled route no daily bus route charge, not to exceed $100 per occurrence, at the discretion of the District’s Director of Transportation.

(6) Leaving a child on a bus after the Contractor has completed the last stop not to exceed $2,500 per occurrence and termination of employee, at the discretion of the District’s Director of Transportation.

(7) Responding to District emails and request for video review: It is necessary that the Contractor respond to all District email and requests for video review expeditiously. The District may impose liquidated damages in the amount of $50.00 per occurrence when the Contractor fails to respond via email within 24 hours to any complaint, question, or request sent to the Contractor by email from a District representative. At no charge to the District, Contractor shall provide any records requested by the District to comply with any Freedom of Information Act request received by the District.

(8) Failure to provide a properly licensed/approved bus driver = $150 per occurrence

(9) Office personnel or mechanic driving/monitoring a bus = $50 per person/day

(10) No service on any regularly scheduled route = rate x 125%/per day

(11) Combination Routes - When a regular route or portion of a regular route is temporarily combined, Contractor shall forfeit 75% of the rate for each route or routes affected

The District will attempt to assess the above penalties within a reasonable amount of time after designated District officials are made aware of the violations. However, failure of the District to invoke or assert the above penalties shall not operate as a waiver of any equitable or legal remedies the School District holds under law.

26. **TERMINATION.**

Without prejudice to any other rights or remedies it may have under the law or the Contract, the School District shall be entitled to terminate the Contract immediately upon the occurrence of any of the following events:

(1) The School District determines in its sole discretion Contractor has jeopardized the safety or health of any student or students;

(2) The School District is notified or discovers Contractor’s insurance or performance bond as required by the Contract has expired or lapsed;
(3) If it is determined the Contractor knowingly falsified information provided to the School District;

(4) If it is determined the Contractor offered substantial gifts or gratuities to a School District official, employee, or agent whether in their official capacity or not;

(5) The Contractor becomes insolvent or seeks the protection of U.S. Bankruptcy laws; or

(6) The Contractor has violated any other term or condition of the Contract and fails to remedy such violation or take substantial steps to remedy such violation after thirty (30) days prior written notice from the School District.

Termination of the contract shall not preclude the School District from pursuing any and all remedies available to it at law or at equity. Any termination by the School District, whether for default or otherwise, shall be without prejudice to any claims for damages or other rights of the School District against Contractor.

The School District shall have the right to audit all elements of any termination claim and Contractor shall make available to the School District on request all books, records, and papers relating thereto. The Contractor shall be paid only for the performance of work up to the date of termination if the School District exercises its right to terminate. The School District shall be entitled to recover its attorney fees and expenses in any successful action by the School District to enforce this Agreement.

The Contractor shall have the right to terminate the Contract if the District has violated any material term of this Agreement and fails to remedy such violation or take substantial steps to remedy such violation after thirty (30) days prior written notice from the School District.

27. **RIGHT TO PROVIDE STUDENT TRANSPORTATION SERVICES RESERVED.**

While the School District does not desire to become involved in the daily transportation operations of Contractor, should an event occur that would hinder Contractor from providing the Student Transportation Services contemplated herein, the School District reserves the right to provide the Student Transportation Services and pursue all options available to insure the education process continues.

28. **COMPLIANCE WITH LAWS AND REGULATIONS.**

During the entire term of the Contract, the Contractor and its employees shall comply with all Board policies, Federal, State, and local laws, statutes, ordinances, rules and regulations and all laws and regulations of the State of Illinois affecting or regulating the transportation of school children including but limited to the Illinois Vehicle Code, the School Code, and the rules and regulations of the Illinois State Board of Education and Illinois Secretary of State. Contractor shall regularly update its employees concerning
changes in the law affecting or relating to the provision of the Student Transportation Services.

29. **INDEPENDENT CONTRACTOR.**

During the term of the Contract, the Contractor will provide the Student Transportation Services as an independent contractor and not as an agent or employee of the District. Nothing contained in the Contract may be construed to create an employment arrangement between the Contractor and the District; create or constitute a joint venture, partnership, agency, franchise, lease, or any other arrangement other than as expressly granted in this Agreement. The Contractor is responsible for its own operation. The Contractor must exercise control over its employees, agents, representatives, subcontractors, and suppliers and is solely responsible for the verification of identity and employment eligibility, for the payment of any wages, salaries, or other remuneration of its employees, agents, representatives, subcontractors, and suppliers, and for the payment of any payroll taxes, contributions for unemployment or workers compensation, Social Security, pensions, or annuities that are imposed as a result of the employment of the Contractor’s employees, agents, representatives, subcontractors, and suppliers. The Contractor must not pledge credit, incur any obligation or liability, hire any employee, nor purchase any merchandise or services in the name of the District. Unless otherwise provided in this Agreement, all costs, charges, and expenses incurred in connection with the Contractor’s performance of this Agreement must be borne by the Contractor.

30. **FORCE MAJEURE.**

In the event the Contractor’s performance of the Contract is temporarily interrupted due to an act of God, civil disturbance, labor dispute or strike, government act, regulation or executive order, or for other cause not chargeable to the Contractor then, in lieu of any other remedy, the District shall have the right and option to take possession and control of all school buses, operating equipment, tools, supplies, parts and other items of property kept by Contractor in the District for the purpose of providing and furnishing its services under the Contract and to keep and use all such property for the duration of such interruption in order to provide the Student Transportation Services contemplated herein. During such time the District shall keep accurate accounts of the services performed by it as if performed pursuant to the Contract, and of all expenditures made by the District for such services. The District shall continue to pay to Contractor for the duration of such interruption, such amounts as would otherwise be due under the Contract, less the amounts of its expenditures and costs.

31. **UNKNOWN SITUATIONS.**

Throughout the term of the Contract, situations may arise which have not been addressed herein. Such situations shall be negotiated between Contractor and the School District in good faith and then become a part of the legal and binding contract between the two parties.

32. **FREEDOM OF INFORMATION ACT COMPLIANCE.**
The School District is required by law to comply with the provisions of the Freedom of Information Act, 5ILCS 140/1 et seq., as amended from time to time ("FOIA"). FOIA requires the School District to provide, if requested to do so by any person, copies of documents that may be in Contractor's possession and related to this Agreement. Contractor agrees to and shall provide to the School District copies and all such documents when directed to do so by the School District. All such documents shall be delivered to the School District's Legal Department NO LATER THAN five (5) working days after the date of the School District's direction to provide such documents. Failure of the Contractor to provide documents within said five (5) working days as provided above shall result in the assessment of any and all penalties, damages, and/or costs incurred by the School District to the Contractor which shall be paid immediately by the Contractor upon demand of the same by the District.

33. **RECORD-KEEPING.**

(a) Records. The Contractor shall establish and maintain a reasonable accounting system that enables the School District to readily identify Contractor's assets, expenses, costs of goods and use of funds related to this Agreement ("Records"). Such Records shall include, but not be limited to, accounting records, written policies and procedures; all paid vouchers, including those for out-of-pocket expenses, other reimbursement supported by invoices; ledgers; cancelled checks; deposit slips, bank statements; journals; original estimates; estimating work sheets; contract amendments and change order files; back-charge logs and supporting documentation; insurance documents, payroll documents; timesheets; memoranda; training records; and correspondence. In addition, without limiting the foregoing, Contractor shall maintain a record of training of its employees including the nature and extent of training, a record and copy of required employee licenses for operation of vehicles and equipment and shall produce such records upon demand by the School District.

(b) Retention. Notwithstanding any other provision in this Agreement to the contrary, the Contractor shall, at all times during its performance of this Agreement and for a period of three (3) years after the termination of the Agreement, maintain Records, together with all supporting or underlying documents and materials. Contractor shall upon written request by the School District at any time or times, whether during or after termination of the Agreement, and at Contractor's expense, produce the Records for inspection, copying and audit (including copies and extracts of records as required) by the School District. The Records shall be made available to the School District, upon three-day written notice, during normal business hours at Contractor's principal office if located in Rockford, Illinois or at such other location specified by the School District including the School District offices. Upon expiration of the retention period specified in this paragraph, prior to destruction of the Records, Contractor shall provide not less than thirty (30) days written notice of its intent to destroy any part or all of the Records, specifying the nature, character and extent of Records to be destroyed and the School District may at its discretion and expense obtain all Records or copies of Records intended to be destroyed. Contractor shall ensure the School
District's right to access and audit the Records in the possession of, created or maintained by Contractor and its agents and representatives. Contractor shall notify in writing its agents and representatives of the requirements of records, retention and audit as set forth in this Section. Any and all contracts or agreements between Contractor and any other party related to this Agreement shall expressly include the records retention and audit provisions of this Section.

(c) Audit. The School District and its authorized representatives shall have the right to audit, to examine, and to make copies of or extracts from all Records (in whatever form they may be kept, whether written, electronic, or other), including, but not limited to, those kept by Contractor, its agents and representatives. Cost of any examination or audit of Records conducted by the School District will be borne by the School District (excluding any cost to produce Records under Section (b) above), except where the examination or audit identifies overpricing or overcharges (of any nature) by the Contractor to the School District in excess of one-half of one percent (0.5%) of the total contract billings in which event the entire cost of the examination or audit shall be Contractor's cost and Contractor shall reimburse the School District for the total cost of the examination or audit. If the examination or audit reveals substantive findings of fraud, misrepresentation, or non-performance by Contractor, its employees, agents or representatives, Contractor shall pay all costs of the examination or audit; and if paid by the School District, reimburse the School District for all such costs. In the event Contractor fails to pay such costs within thirty (30) days of demand by the School District, the School District may offset any such costs unpaid by Contractor from any balance due Contractor by the School District or at the election of the School District proceed to collect such costs by any available means including litigation in which event the costs of collection including reasonable attorney's fees shall also be paid by Contractor.

(d) Records Ownership and Security. Contractor hereby acknowledges and agrees that all records, information and documents, whether in electronic or written form or otherwise, received by Contractor from the School District or otherwise obtained or received by the Contractor, its employees, agents and representatives during or in conjunction with performance of this Agreement and all records, whether in electronic or written form or otherwise, created by Contractor in performance of its obligations under the Agreement ("Records") shall be and remain owned by the School District. Contractor shall use all reasonable and timely means to protect and preserve all such records and to deliver the same to the School District upon demand. The Records are subject to access and examination by the School District and any federal agency with relevant responsibility for any federal grant funds providing funding for this Agreement. Contractor shall cooperate and produce the Records for inspection and examination by any governmental agency, including the School District, providing funding for the Agreement.

(e) Confidentiality. The Records and all documents and information received, accessed or observed by Contractor in performance of this Agreement shall be
and remain confidential. In the performance of its obligations under this Agreement Contractor may acquire access to certain information, including but not limited to, information concerning students and/or school personnel, and other confidential and/or proprietary information, including the Records (collectively, “Confidential Information”). Contractor will not, absent court order issued by a court of competent jurisdiction, without the prior written consent of the School District, and regarding student record information, without the express prior written consent of the parent/guardian, disclose, re-disclose or make available to anyone, at any time, either during Contractor’s engagement with the School District or following termination of this Agreement, for any reason whatsoever, any of the Confidential Information. The provisions of this Section shall survive the termination of this Agreement.

34. **ASSIGNMENT.**

The Contractor may not assign, subcontract, delegate or otherwise transfer this Agreement or any of its rights or obligations hereunder, nor may it contract with third parties to perform any of its obligations hereunder, without the School District’s prior written consent.

35. **NOTICES.**

All notices or communications required or permitted by the Contract Documents shall be in writing, unless otherwise expressly provided in the Contract Documents, and shall be considered delivered:

(1) Upon receipt, when personally delivered; or

(2) 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 in writing by either party:

**To the School District**

District No. 205  
Attn: Superintendent  
501 7th Street  
Rockford, IL 61104

**With copies to:**

District No. 205  
Attn: General Counsel  
501 7th Street  
Rockford, IL 61104

**To Contractor**

First Student, Inc.  
1823 Centre Point Circle, Suite A  
Naperville, IL 60563  
Attn: Senior Vice-President

**With a copy to:**

First Student  
600 Vine Street, Suite 1400  
Cincinnati, OH 45202  
Attn: General Counsel
and

Thomas J. Lester
Hinshaw & Culbertson LLP
100 Park Ave.
Rockford, IL 61101

36. **NO WAIVER.**

The failure of either Party to enforce at any time any of the provisions of this Agreement, or the failure to require at any time performance by the other Party of any of the provisions of this Agreement, 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.

37. **SEVERABILITY.**

If any provision or provisions of this Agreement 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.

38. **GOVERNING LAW.**

This Agreement shall be subject to and interpreted under the laws of the State of Illinois.

39. **ENTIRE AGREEMENT.**

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

IN WITNESS WHEREOF, the Parties have executed this Agreement on the date indicated above.

**ROCKFORD PUBLIC SCHOOLS,**
**DISTRICT 205**

By: ____________________________
    President, Board of Education

**FIRST STUDENT, INC.**

By: ____________________________
    Its:

**ATTEST:**

______________________________
    Secretary, Board of Education

**ATTEST:**

______________________________
    Its:
EXHIBIT A

BID PACKET
EXHIBIT B

CONTRACTOR PROPOSAL