

## AGREEMENT TO TRANSPORT PUPILS

THIS AGREEMENT is made and entered into at Craigmont, Idaho, as the fifth day of April, 2004, by and between JOINT SCHOOL DISTRICT #305, Lewis, Idaho, and Nezperce Counties, State of Idaho, ("District"), and Harlow's School Bus Service Inc. of MT ("Contractor").

### WITNESSETH:

WHEREAS, on or about second day of April 2004, the District accepted a bid proposal from contractor for the transportation of the School District's pupils; and

WHEREAS, the parties hereto desire by the execution hereof to state in a single document the duties and obligations of said parties with respect to the transportation of pupils in conformity with all state rules and regulations, local policies and all legal requirements.

NOW, THEREFORE, in consideration of the mutual promise, covenants and agreements herein contained, each party agrees as the follows:

#### 1.0 SCOPE OF AGREEMENT – The following shall be deemed to be part of this contract:

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

All of the above taken as a whole shall constitute the contract document ("Agreement"). Should there be any conflict between any of the above listed documents, this Agreement shall govern.

#### 2.0 TERM OF AGREEMENT

The term of this Agreement shall commence as of July 1, 2004 and shall expire on June 30, 2009, unless sooner terminated in accordance with the provisions of this Agreement. This Agreement may be extended as additional five (5) years, July 1, 2009 through June 30, 2014, upon mutual agreement by both parties. For purposes of this Agreement, the term "Initial Contract Year" shall mean the period between July 1, 2004, and June 30, 2009, and the term "Contract Year" shall mean each succeeding year commencing on July 1 during the term hereof, including extensions.

#### 3.0 SCOPE OF SERVICES REQUIRED:

Contractor shall, during the term of this Agreement, provide and maintain such number of school buses and such personnel as are required to fulfill District's requirements for Basic Transportation and Supplemental Transportation. For purposes of this Agreement, "Basic Transportation" means the safe and convenient transportation of any and all pupils designated by the district to be transported to and from school and a place at or reasonably near the pupil's home. Such transportation shall be provided for each and every day that school is convened and in accordance with the bus routes and schedules established by District.

For purposes of this agreement, "Supplement Transportation" means the safe and convenient transportation of all pupils or other authorized personnel designated by District on field trips, excursions, athletic activities or for any other purposes requested by District.

Contractor shall transport only those students designated by the Board of Trustees.

#### 4.0. COMPENSATION AND BILLING:

In consideration of services rendered under this agreement, District shall pay to Contractor all sums due and owing and calculated in accordance with the rates set forth in Exhibit "A", Contractor Compensation, which is attached hereto and incorporated herein and any adjustments as may be made in the course of fuel price or CPI adjustments as agreed to within this Agreement. After the end of each month during the term of its agreement, Contractor will submit to District a statement of its services rendered during the preceding month. Such statement will reflect any and all credits to which District may be entitled under any of the terms of this Agreement. After verification of the statement, District shall pay the verified amount due to the contractor on or before the twenty-fifth (25th) day following receipt of Contractor's statement.

#### 5.0 ROUTES AND SCHEDULES:

Contractor shall be primarily responsible for planning all routes, loading and unloading zones and schedules. Contractor shall work with District's Superintendent of schools or his designee (the "Superintendent") in planning the routes, loading and unloading zones and schedules and in otherwise performing Contractor's obligations under this Agreement. A description of each route shall be furnished to the Board prior to the start of each school year, together with a time schedule and the designated stops to be observed on each route.

District reserves the exclusive right to change the routes, loading and unloading zones and schedules. District also reserves the right to alter or add additional routes during the school year as well as to request a change in drivers. Under no circumstances shall contractor add, delete or change established routes without the prior consent of District, however, any of the routes may be eliminated or consolidated at the discretion of the board or its duly authorized agent to meet changed conditions. The board may, from time to time, establish regulations to be observed by contractor in connection with all details incidental to the operation of the routes, including start

times, bus stops, discipline on the buses, and any situations that may from time to time arise in the performance of the contract.

Contractor shall call to the attention of the District the presence of any natural or artificial objects on or near any bus route that may be hazardous to the safe operation of any school bus or to the safety of pupils. District and Contractor shall cooperate in establishing revised stops or routes as necessary to avoid such hazards.

District shall notify Contractor whenever changes are necessary in routes, time schedules and/or designated stops and Contractor shall make a reasonable effort to adjust its operation to incorporate such changes within three (3) business days after notice is received from District. Adjustments in the sums to be paid to contractor will be made for any increase or decrease in mileage resulting from a change, elimination, or consolidation of routes or additional services for school or school sponsored activities as provided in the specifications.

Unless otherwise agreed by the parties, departure times from the schools shall not be earlier than five (5) minutes after school's dismissal time. Daily schedules should be adhered to as closely as possible.

#### 5.1 Field Trips and Other School Sponsored Activities

Contractor agrees to provide transportation for field trips as may be authorized by the District. For field trips, the District will make every effort to contact Contractor at least fourteen (14) calendar days prior to the scheduled activity and request Contractor to provide equipment and personnel for the activity. In the event the Contractor does not have the required equipment and/or personnel available, the District may contract another transportation form and request services or find an alternate form of transportation.

#### 5.2 Cancellation of Scheduled Field Trips

The District shall have the option to cancel any scheduled field trip upon the District's notification to the Contractor. The District will pay the Contractor \$15.00 when field trips are not canceled one (1) hour before the scheduled time of student pick up.

#### 5.3 In Lieu of Transportation Payments

The District reserves the right to pay in-lieu of payments to parents when it is in the best interest of the District to do so and to cancel a bus route(s) in such circumstances if warranted.

#### 5.4 Reservation/Other Vehicles

The District reserves the right to use other vehicles to transport pupils for field trips or activities as circumstances warrant.

## 6.0 RECORD AND REPORTS

Contractor shall provide to Superintendent those reports, records as required by the Idaho Standards for School Buses and Operations Manual and information as may be necessary to comply with State law and District policies as they pertain to safety discipline and risk protection in the regular operation of the buses or which may be reasonably requested by District and necessary for proper payment for or evaluation of the transportation services provided to District. All such records shall be open to inspection by District or its representative during regular business hours in Contractor's office.

### 6.1 Driver Evaluations and Route Evaluations

The Contractor is responsible for completing Driver Evaluations and Route Evaluations as required. The District reserves the right to conduct a Driver and Route Evaluation at any time it deems necessary.

### 6.2 Invoices

Contractor shall provide invoices for all extra-curricular and field trips to the District. A copy of each monthly invoice shall include extra-curricular trips and field trips shall be provided to the District in a timely manner as part of monthly statements rendered to the District for payment

### 6.3 Hazards

The Contractor shall call to the attention of the District the presence of any natural or artificial objects on or near any bus routes as are, or may be hazardous to the safe operation of any school bus or to the safety of the pupils on any of them.

### 6.4 Breakdowns or Delays

Contractor shall provide a written report to the District of all breakdowns or delays by route or activity, date of occurrence, time, nature of the problem, place, problem, vehicle number, and if students were aboard not later than 24 hours from the time of the incident.

### 6.5 Report of Accident

Any accident involving student transportation shall be reported to the District as

soon as possible and not later than two (2) hours from the time of accident and shall include whether any fatalities or injuries occurred and a generalization of property damage. Follow-up accident reports shall be and periodically until all the pertinent facts have been reported to the District. A detailed written report must be submitted to the Board as soon thereafter as possible and not later than two (2) days after the date of the accident. The Contractor is required to report accidents to the state in accordance with the Idaho Standards for School Buses and Operations Manual. Time is of the essence in the performance of this Agreement.

#### 6.6 Period of Record Maintenance

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

#### 7.0. PUBLIC RELATIONS:

Contractor shall cooperate with the District to establish and maintain good public relations with the community and news media. The District reserves the right of prior approval of news media materials regarding pertinent matters affecting the transportation services of patrons of the District.

#### 8.0. EQUAL OPPORTUNITY:

Contractor will not unlawfully discriminated against any employee or applicant for employment because of race, creed, color, national origin, sex or age in accordance with School District Transportation Manual. Contractor will ensure that applicants are employed without regard to their race, creed, color, national origin, sex or age. Such action shall include, but not be limited to the following: employment, upgrading, demotion or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation and selection for training.

#### 9.0. PROVISION OF SCHOOL BUSES

##### 9.1 Number of Buses

Contractor shall provide buses in sufficient number to efficiently transport all pupils for whom District orders services. As District's enrollment increases or decreases, the number of buses utilized by Contractor shall be adjusted accordingly. For purposes of this Agreement, the term buses shall be deemed to include school buses and vans

modified to accommodate non-ambulatory performance of this agreement shall meet or exceed the standards established by the State Board of Education, State of Idaho, as set forth in the Idaho Standards for School Buses and Operations Manual and the District.

9.2. List of Buses

On or before August 15 of each Contract year, Contractor shall provide District a list of buses to be used in that Contract Year by manufacture year, bus number, student capacity and type of bus.

9.3. Age of Buses

Contract shall not utilize buses which exceed certain ages as determined by body manufacture date as provided below. No bus to be utilized by Contractor hereunder shall be older than fifteen (15) years as of July 1 of each contract year. The average age of all vehicles to be used by Contractor hereunder shall not exceed twelve (12) years. Any used equipment which Contractor proposes to bring into services under this agreement after July 1, 2004, shall not be more than ten (10) years of age at the time. Any used buses to be employed by Contractor hereunder must be approved by the State of Idaho.

9.4. Bus Capacity

Notwithstanding the manufacturer's rated passenger capacity of buses utilized by Contractor hereunder, Contractor shall observe and enforce on all such buses the following effective capacities:

GRADES	MANUFACTURER'S RATED PASSENGER CAPACITY				
	<u>88</u>	<u>71</u>	<u>65</u>	<u>48</u>	<u>20</u>
10-12	60	48	42	32	14
7-9	66	60	55	37	14
K-6	88	71	65	48	20

9.5. Radios All buses must be equipped with two-way radios and Contractor shall maintain a base station and dispatcher to monitor calls other than CB's.

9.6. Required Modification of Equipment. Any installation or modification of equipment required by a change in law or regulation shall be made by the Contractor and shall not require notification or prior approval by the District. The cost of such required installations or modifications shall be borne by the

Contractor.

- 9.7 Seat Belts, Car Seats, Harnesses. As required by the District, seat belts, car seats or harness restraints shall be provided for each special education passenger requiring such devices. It shall be the driver's responsibility to see that such seat belts, car seats, or restraints are properly adjusted and fastened as soon as the pupil occupies his seat and for the duration of the trip (including wheelchair pupils).
- 9.8 Handicap Equipment. The Contractor will provide buses, at the District's request and the Contractor's expense, with special handicap equipment to meet the needs of the District and which are in compliance with the requirements of the applicable District policies and Federal, State of Idaho, and State Board of Education's laws, rules, and regulations. All buses must also be equipped with body fluid kits.
- 9.9 Post Rules. The Contractor shall post the rules of behavior on all buses, subject to District approval and/or modification.

## 10.0 INSPECTION

The board reserves the right for its members or duly authorized agents to inspect any and all buses and their operation by riding as passengers or by other reasonable means. Dates and times of such inspections will not be posted in advance

The Contractor shall keep and maintain all buses in good operating, safe running, clean and sanitary condition. An annual inspection report in accordance with SDE requirements for each bus shall be made available to the District by way of a written report delivered by Contractor to the Board of Trustees at the Board Meeting prior to the opening of school for the year. In addition, inspections must be made of all buses at least once every sixty days with records of said inspections kept on file and made available to the Board of Trustees during the December and April regular meetings in the form of a transportation report given to the Board at those times.

- 10.1 Monitoring. The District shall be permitted to monitor the activities of the Contractor at any time to determine compliance with the terms of this agreement.

## 11.0 OPERATIONS PERSONNEL

Contractor and Contractor's drivers are required to comply with the laws of Idaho, rules and regulations of State Motor Vehicle Department, Public Utilities Commission and the State and local Boards of Education or any of them. Furthermore, all school bus drivers employed by the Contractor must submit to a criminal history background check pursuant to Idaho Code 33-130 and be in compliance with Idaho Code 33-1509.

### 11.1 Moral Character

Contractor shall not allow any person to drive a school bus whose behavior might expose any student to improper conduct, nor shall contractor allow any person to drive a school bus who is not, at the time, in a condition of mental and emotional stability, physically fit and qualified to perform such services , nor shall Contractor allow any person to drive a bus who is unable to pass any drug testing program adopted by the State of Idaho, State department of Education, District, or Contractor. Firearms, knives, and other weapons are prohibited on school buses. The Contractor may not employ a person who has been placed on a sex offender list as prohibited in IC-18-8301.

The driver of each school bus shall be responsible for the welfare and conduct of the pupils under his/her supervision in accordance with the state law and as set forth in the State department of Education and District Transportation handbooks . Contractor shall not allow or permit any school bus transporting pupils to be driven by any other person who does not have or possess the qualifications and requirements prescribed by section 33-1509, Idaho Code and other applicable regulations.

### 11.2 Substitute Drivers

Persons who may be employed as substitutes or standby drivers shall fully comply with all requirements pertaining to regular drivers.

### 11.3 Certificates

All drivers employed by the Contractor to provide service to the District must have and maintain valid Idaho permits to drive a bus and a commercial Driver's License.

### 11.4 Health Requirements

Each school bus driver employed by the Contractor to provide a service to the District shall be in good health and shall obtain a school bus driver's physical per State requirements

### 11.5 Timepiece

Contractor shall require that all buses be equipped with clocks so the driver can maintain established schedules.

### 11.6 Changes in Assignments

Drivers shall be permanently assigned to the same bus route whenever possible.



### 11.7 Pre-Employment Screening

Contractor shall develop and implement a pre-employment screening program for all candidates for employment who do not have proper experience driving a school bus and/or handling handicapped pupils. The screening program shall be designed to assist the Contractor in determining qualifications and suitability of candidates for assignment to school bus transportation services. The Contractor will at his/her expense conduct fingerprinting and background checks for drivers according to statute and advise the District of the results of such checks.

### 11.8 Driver In-Service Training/Safety Program

Contractor shall establish and maintain a safety program for drivers employed by Contractor. The Contractor will administer a satisfactory pre-service and in-service driver safety program which shall conform to the requirements of the State and the District. All new drivers shall complete the Idaho School Bus Drivers Development Series have ten (10) hours observation and behind the wheel training, pass all knowledge and skills tests contained in the training curriculum with a score of at least 80% and demonstrate driving proficiency before being allowed to drive a school bus loaded with students. Contractor shall supply the District with a schedule of safety programs and rosters of attendance. The District may also conduct special training sessions at one or more of the Contractor's regularly scheduled safety meetings or may provide the Contractor with curriculum materials required for Contractor to provide the special training. All school bus drivers transporting pupils shall be capable of communicating basic bus rules, disciplinary actions and emergency instructions.

Contractor shall have all experienced drivers complete at least four (4) hours refresher training each year before school begins in the fall. Training hours shall be topic specific as determined and developed by the Idaho Standards for School Buses and Operations Manual. In addition, the four (4) hours of instruction shall be held at evenly spaced intervals during the traditional school year using at a minimum thirty (30) minute training blocks .

Contractor shall instruct drivers regarding the rules and regulations applicable to safe driving on school grounds and shall ensure that Contractor's drivers exercise extreme caution at times when pupils are present on school grounds. Drivers and/or aides must supervise pupils on the grounds to ensure safe ingress and egress from school buses.

### 11.9 Evaluations

Drivers shall be evaluated at least once each year for the purpose of observing their driving practices with respect to safety, mechanical operation, conformance with laws, policies and regulations, adherence to established routes and schedules, handling of

pupils, and other factors inherent in the transportation of pupils.

#### 11.10 Drug and Alcohol Testing

The Contractor will at his/her expense conduct appropriate drug testing of drivers according to District policy and/or Contractor's policy and federal statute. The Contractor will at his/her expense conduct appropriate alcohol testing of drivers according to District policy and/or Contractor's policy and state and federal statute.

#### 11.11 Support Aides

The District will provide qualified and appropriate support aides to assist with the special needs of pupils or disciplinary needs when necessary or requested by the contractor.

#### 11.12 Driver Medical Training

The Contractor will at his/her expense provide drivers who are trained and carry American Red Cross Standard First Aid and Child and Adult CPR cards or equal. CPR and first aide cards will be renewed as required by the expiration date on the cards and a first aid refresher course will be given to drivers annually.

#### 11.13 Number of Drivers

The Contractor will employ a sufficient number of qualified drivers to provide route transportation and transportation for school activities athletic teams and field trips.

#### 11.14 Requested Release

The Contractor upon good cause shown, shall release from duty any driver not desirable when requested to do so by the District.

### 12.0 PREVENTIVE MAINTENANCE:

Contractor shall administer a satisfactory preventive maintenance program which shall conform to the requirements of the Idaho Standards for School Buses and Operations Manual and District Manual. The Board reserves the right for its members or duly authorized agents to inspect any and all buses and their preventative maintenance records.

### 13.0. PERMITS, LICENSE, LAWS AND REGULATIONS:

Contractor and all its employees or agents shall secure and maintain in force such licenses and permits as required by law for furnishing the services herein specified, and comply with and observe all provisions of the Idaho Motor Vehicle Code, Idaho Standards for School Buses and

Operations Manual and Rules, District Transportation policies and District directives relating to the transportation of pupils and District Bid proposal.

#### 14.0 INSURANCE:

Contractor shall, at all times, and its own expense procure and keep in full force and effect during the entire term of this agreement and any extensions thereof, public liability and property damage liability insurance protecting the District, its board, officers, employees and agents, and the Contractor, its drivers and other personnel. Said insurance policy or policies of insurance of insurance shall be issued by a company or companies licensed in the State of Idaho and shall be in a form approved by the District Each policy obtained by the contractor shall provide limits of liability of not less than five hundred thousand and no/100 dollars (\$500,000) for bodily injury to any one person and not less than three million and no/100 (\$3,000,000) for any one occurrence and of not less than five hundred thousand and no/100 dollars (\$500,000) for damages to property from any one occurrence. At no times shall the limits be less than the limits required by Idaho Code. The Contractor promises to provide annually to District a certificate of insurance evidencing the coverage required herein and naming the District as an insured under each of said policies. All insurance policies obtained hereunder shall provide that no coverage may be canceled without thirty (30) days written notice of said cancellation having first been given to the Contractor and the District. The District, and its trustees, officers, agents, and employees shall be included on said policy(ies) as additional named insured. The insurance policy(ies) shall include a clause stating that the District shall be notified in writing by the insurance company of any changes in coverage or cancellations not less than sixty (60) days prior to the effective date of such changes or cancellations. In addition, the policy(ies) referred to above shall contain an endorsement stating such insurance as is affordable by this policy for the District, and its trustees, officers, agents, and employees shall be primary, and any insurance carried by the District, its officers, agents, and employees shall be excess and non-contributory.

The Contractor shall, at all times, carry and pay the premiums on all workers compensation required in connection with its employees, and pay before delinquency all unemployment insurance premiums, withholding taxes of any kind and all employee and employer FICA taxes and all state and federal taxes required by state and federal laws. In addition the Contractor shall carry liability coverage in the amount of \$100,000 for all employees engaged in work under this Agreement, and in case any of its work is sublet, the Contractor shall require the subcontractor similarly to provide workers' compensation insurance for all the latter's employees. Any class of employee or employees not covered by the subcontractor's insurance shall be covered by the Contractor's insurance. In case any class of employees engaged in work under this Agreement is not protected under the workman's compensation statute, the Contractor shall provide or shall cause a subcontractor to provide adequate insurance for the protection of such employees not otherwise protected before subcontractor commences work.. The Contractor shall file with the District on or before August 10 of each contracted year, certificates evidencing such insurance protecting workers, and a 30 day notice shall be provided to the District before the cancellation or reduction of any policy of Contractor or subcontractor.

Additionally, should the Contractor violate or fail to comply with any of the foregoing, with the result that any penalty is imposed against the Contractor or the District, or there is a reduction of payment to District of any state transportation reimbursement, or of State Basic School Support, or any state of federal financial support or other aide of any kind, then the Contractor shall be liable to the District for any penalty charges or reimbursement reduction imposed upon the District, and shall compensate the District in full for any loss.

#### 15.0 PERFORMANCE BOND

On or before July 1 of each year during the term of this Agreement, Contractor shall furnish and maintain in full force and effect during the succeeding school year a performance bond issues by a surety acceptable to the District in an amount equal to the total amount of contractor's yearly contract as security for the faithful performance of Contractor's contract during the school year.

#### 16.0 PUPIL DISCIPLINE:

The ultimate responsibility and authority with respect to all disciplinary problems, suspensions or expulsions of any student for transportation services hereunder shall rest with the District. Contractor's drivers are responsible only for such discipline as is required to properly operate Contractor's buses. Each driver shall handle all the disciplinary matters in strict accordance with District policy. In no case will a driver eject a student from a bus for misbehavior except in the event of an extreme emergency endangering the safety or moral of other pupils. Incidents shall be reported in writing to the District following completion of the route. Further procedures and regulations for the administration of discipline shall be established cooperatively between District and Contractor.

Vandalism damages to Contractor's equipment of facilities shall be the responsibility of Contractor. However, District shall give Contractor all reasonable assistance in obtaining restitution for damaged equipment or facilities. Contractor may, upon concurrence by district, refuse to provide a student with transportation services until damages caused by such a student are paid.

The transportation of a student shall be deemed to have begun when the student prepares to board the school bus, and shall be deemed to have ended when a student has completed exiting the bus at the reasonable safe place in which to exit in view of the circumstances then prevailing.

#### 17.0 INCLEMENT WEATHER/SCHOOL CLOSINGS:

Contractor shall operate during inclement weather conditions unless routes are canceled by District. Contractor shall utilize appropriate equipment (including chains and snow tires) and train personnel to provide safe transportation during periods of inclement weather. Contractor shall cooperate with District in establishing alternate routes to be traveled during inclement weather. Contractor shall immediately notify District in the event of impending delay in

providing scheduled service as a result of inclement weather.

Whenever school is canceled, delayed or is dismissed early, District shall notify Contractor not later than 6:00 a.m. on the day of such cancellation or delay or not later than one (1) hour before dismissal.

The District shall not be obligated to pay for any services hereunder on those days when the schools and classes of the District are closed to ensure the health and safety of the pupils, or for any other lawful reason, provided that the District has notified the Contractor.

17.1 Changes in Departure Times for Activities.

The District reserves the right to change departure times of a bus transporting students to an activity in order to compensate for weather or changes in start times.

18.0. FORCE MAJEURE:

In the event Contractor is unable to provide the transportation services herein specified because of any act of God, civil disturbance, fire, riot, war, picketing, strike, labor dispute, governmental action, or any condition or cause beyond Contractor's control, District shall have the right to take over the operation of the buses Contractor has prevented from operating for the reasons described above, whether such buses are supplied by Contractor or District and may operate such buses with school employees or other persons as District may deem appropriate until Contractor is able to resume its regular operations. District shall pay Contractor for the use of such buses the compensation which would be due in accordance with this Agreement and Contractor operated such buses, less all expenses and costs reasonably incurred by district in securing the services of operating personnel and other such costs of operation.

19.0 MANAGEMENT PERSONNEL/SUPPORT STAFF:

Contractor shall employ and maintain within this State management personnel who shall be responsible for the efficient operation of the transportation services furnished hereunder and who shall be Contractor's liaison to District. Contractor shall inform District of the name(s) and address(es) of such management personnel. Management personnel shall be on duty at Contractor's facilities between the hours of 8:00 a.m. and 5:00 p.m. on days school is convened. Management personnel shall have the authority to manage the day-to-day affairs of Contractor's facilities.

Between the hours of 5:30 a.m. and 5:00 p.m. on school days and such additional times as reasonably requested by District, Contractor shall have on duty at its facilities, adequate support staff to provide safe and efficient services hereunder. For purposes of this paragraph 18, support staff shall include supervisory personnel, clerical help, driver-trainers, a dispatcher and maintenance personnel.

## 20.0 INDEMNIFICATION:

Contractor shall hold District, its governing board, officers, and employees harmless and does hereby indemnify District, its governing board, officers, and employees and promises to defend same from all claims or demands which arise out of any accident or injury of any kind to persons or property in connection with Contractor's performance of services hereunder arising from or caused by any act, neglect, default or omission of Contractor, its employees and agents.

## 21.0 PRICE ADJUSTMENTS

### 21.1 Base Rate

For purposes of this paragraph 21, the base rate shall be calculated as follows: During the Initial Contract Year and for each Contract Year following the Initial Contract Year, including Contract Years during any extension or renewal of the initial term hereof, the base price of taxed diesel fuel shall be adjusted to reflect the average price of three major jobbers in the Lewiston to Grangeville areas as of August 1 of each year.

### 21.2 Fuel Price Protection

Commencing on July 1 following the signing of this Agreement, and during each Contract Year, the District will compensate at the ratio of an additional \$.01 (one cent) in the rate per mile traveled under the terms of this Agreement:

For miles traveled using diesel powered buses for every five cents (\$.05) increase in the price of diesel over the Base Fuel Price for Diesel for that Contract Year.

For miles traveled using unleaded gasoline powered buses for every five cents (\$.05) increase in the price of unleaded gasoline over the Base Fuel Price for unleaded gasoline for that Contract Year.

Fuel Price Adjustments during any Contract Year will only be triggered if the price of fuel increases or decreases five cents per gallon from the Base Fuel Price established at the start of each Contract year and will be only for the miles traveled after the increase is effective.

Similarly, during each Contract Year, the Contractor will compensate the District by way of payment or reduction of Base Price for Adjusted Price, one cent (\$.01) per mile traveled for every five cents (\$.05) reduction in Fuel Price for either diesel or unleaded gasoline.

### 21.3 Similar Compensations:

The Fuel Price Adjustment shall not be subject to further adjustment based on the CPI-U nor shall they be considered as part of the "Base Price" for the next succeeding Contract Year.

#### 21.4 Rate Adjusted per CPI-U

The percent of increase (or decrease) in the Consumer Price Index - All Urban Consumer (CPI-U) published by The United State Department of Labor, Bureau of Labor Statistics for the prior twelve (12) months shall determine the percent of increase (or decrease) in all prices under the Agreement for the second year. The CPI-U for computational purposes shall commence on July 1 and end on June 30 of each Contract Year for the term of this Agreement. The same procedure (using the cumulative percentage (%) increases in the CPI-U from July 1, 2005 to June 30 immediately preceding the current year) will be followed to determine the new Base Price for the third, fourth, and fifth years of the Agreement.

#### 21.5 Adjustments

If at the time of the submission of any invoice the current applicable CPI-U or OBIS figures are not yet available, the parties shall make such adjustments as are necessary to conform to the terms of this Agreement immediately upon receipt of such information.

#### 22.0 EVENTS OF DEFAULT AND REMEDIES:

Any material failure of Contractor to comply fully with the terms and conditions of this Agreement, the rules and regulations of the Department of Education, the Idaho Standards for School Buses and Operations Manual, District Manual and/or laws of the United States, laws of the State of Idaho, or a determination by the District made in good faith and based upon the Contractor's overall performance that the Contractor is unfit, unqualified or unable to meet the pupil transportation needs of the District as required hereunder, shall be considered as an event of default. Upon the occurrence of any event of default, this agreement may be canceled in its entirety by District.

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

- Contractor becomes insolvent
- Contractor makes an assignment for the benefit of creditors
- A voluntary or involuntary petition in bankruptcy is filed by or against contractor
- Contractor fails to perform any schedule when notified to do so by the board.
- Contractor shall abandon the work;
- Contractor shall refuse to proceed with the work when and as directed by the board;

- Contractor shall without just cause reduce contractor's working force to a number that, if maintained would be insufficient, in the opinion of the board, to carry out the work in accordance with this agreement;
- Contractor shall sublet, assign, transfer, convey, or otherwise dispose of this agreement other than as specified in this agreement;
- A receiver or receivers are appointed to take charge of the property affairs of contractor;
- The board shall be of the opinion that contractor has willfully or in bad faith violated any of the provision of this agreement:
- Any applicable laws have been violated by contractor or contractor's agents, servant, or employees;
- Any vehicles provided by contractor are operated in a manner that imperils the safety of the passengers; or if
- Any vehicles provided by contractor do not meet State Standards and do not provide healthy environment for riders.

#### 22.1 Notice

In the event that the Contract or Contractor's agents or employees shall breach or fail to perform any of the terms of this Agreement, the District shall have the right to terminate this Agreement upon giving the Contractor written notice setting forth the nature of the alleged default or breach. The Contractor shall have not less than ten (10) days or more than thirty (30) days as specified in the notice of breach to remedy or substantially remedy said default or breach and in this event the Contractor shall continue as if no default or breach had occurred. In the event that the Contractor fails to remedy or substantially remedy the defaults of breach within said time period as specified in the notice of breach period, then the District, by majority vote of the Board, may terminate this Agreement and may at that time take such action as deemed appropriate against the Contractor in order to recover any losses or damages incurred.

The right to declare Contractor in default for any of the grounds specified or referred to in this section shall be exercised by sending Contractor a notice signed by the Chairman or Clerk of the Board, setting forth the ground or grounds on which each default is declared.

#### 22.2 Excess Cost

In the event of termination under this paragraph, the District shall secure the required services from another transportation Contractor and/or seek remedies as described in Section 19 of this Agreement. If the cost to the District exceeds the cost of providing the service pursuant to this Agreement, the excess cost shall be charged to and collected from the Contractor and/or Contractor's sureties, as the case may be. The foregoing provisions are in addition to and not limitation of any other rights, or remedies available to the District.



22.3 Termination on Account of Non-Appropriation of funds.

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

23.0 OPTION TO PURCHASE:

Upon cancellation or termination of this Agreement, and subject to the rights of the holder of valid and enforceable security interest in the buses, District shall have the right to purchase or lease from Contractor, and Contractor hereby agrees to sell or lease to District, any or all of regular service buses and spare buses which, as of a date thirty (30) days prior to the cancellation or termination of this Agreement, are being used by Contractor in the performance of this Agreement. Whether the District shall purchase or lease any or all of said buses or refuse to elect alternative will be determined by the District in its sole discretion.

The purchase price of the buses subject to District's option, shall be fair market value of said buses as of the date thirty (30) days prior to the cancellation or termination of this Agreement as determined by three (3) appraisers, one of whom shall be selected by the District, one of whom shall be selected by the Contractor and one of whom shall be selected by the two aforementioned appraisers. The cost of these appraisers shall be borne equally by the District and Contractor. The value of each vehicle subject to sale or lease shall be established by the majority vote of the three appraisers and such value shall then determine the purchase price.

In the event the District chooses to lease all or any of the buses subject to this Agreement, the amount of lease payment shall be determined by appraisers selected in the same manner as herein above provided and subject to the agreement of Contractor and District as to the duration of said lease.

The District may reject the appraiser's report as to the lease payment or purchase price within fifteen (15) days of receipt thereof, and such rejection shall work to forfeit District's right to lease or purchase in accordance with this Agreement.

In the event of a purchase or lease, the Contractor disclaims all warranties, express or implied, with respect to any buses purchased by District hereunder.

24.0 GOVERNING LAW:

In the performance of its obligations hereunder, Contractor agrees to comply with the laws of the State of Idaho, the rules and regulations of the Department of Law Enforcement affecting the transportation of pupils; rules and regulations of the Idaho Public utilities Commission governing the operation of school buses; the school transportation handbook of the District; and the Idaho Standards for School Buses and Operations Manual as approved by the State Board of Education as the same may be amended from time to time, all of which laws, rules and regulation are hereby incorporated herein by reference.

#### 25.0 UNLAWFUL PROVISIONS DEEMED STRICKEN

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

#### 26.0 ALL LEGAL PROVISIONS INCLUDED

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

#### 27.0 ASSIGNMENT:

The services contemplated under this Agreement are deemed to be in nature of personal services. This agreement shall neither be assigned or subcontracted by Contractor without prior written consent of District. The parties agree that assignment by Contractor of any sums due and owing Contractor under this Agreement shall constitute an assignment of the Agreement.

#### 28.0. STATUS OF CONTRACTOR:

Contractor shall be responsible for, defend, indemnify and hold District harmless from any claim and/or liability for unemployment taxes or other federal or state employment taxes, and workmen's compensation claims and premiums.

Contractor is and shall be at all time be deemed to be an independent Contractor and shall be wholly responsible for the manner in which it performs the services required of it by the terms of the Agreement. Nothing herein contained shall be construed as creating the relationship of employer and employee, principal and agent, between the District and Contractor or any of the Contractor's agents or employees. Contractor assumes exclusively the responsibility for the acts of its employees as they relate to the services to be provided during the course and scope of their employment. Contractor, its agents and employees shall not be entitled to any rights or privileges

of District employees and shall not be considered in any manner to be District employees. District shall be permitted to monitor the activities at any time to determine compliance with the terms of this Agreement.

29.0 TIME OF THE ESSENCE

Since the contract concerns a necessary public service, the provisions of the contract relating to the daily schedule and regulations that may be promulgated by the board are of the essence of the contract. Accordingly, contractor shall prosecute the work diligently to assure adherence to the schedules.

30.0 PLACE OF CONTRACT:

This Agreement shall be deemed to be made in and shall be construed in accordance with the laws of the State of Idaho. All references in this Agreement to "this State" shall mean the State of Idaho.

31.0 SAVINGS CLAUSE:

In the event any provision specified herein is held or determined by court of competent jurisdiction to be illegal, void or in contravention of any applicable law, the remainder of the Agreement shall remain in full force and effect.

32.0 NOTICES TO PARTIES:

All notices to be given by the parties to this Agreement shall be in writing and served by depositing same in the United States mail, postage prepaid, registered or certified mail.

Notices to District shall be addressed:

Mel Wiseman, Superintendent  
Highland School District #305  
PO Box 130  
Craigmont, ID 83523

Notices to contractor shall be addressed:

Harlow's School Bus Service  
PO Box 123  
Craigmont, Idaho 83523

Either District or Contractor may change its address of record for receipt of official notice by giving the other written notice of such change and any necessary mailing instructions.

### 33.0 ENTIRE AGREEMENT:

Except as provided in paragraph 23 herein, this Agreement and the exhibits incorporated herein by reference, set forth all of the covenants, promises, assurances, agreements, representations, conditions, warranties, statements and understandings between District and Contractor concerning the transportation services to be rendered hereunder. There are no representations, either oral or written, between District and Contractor other than those contained in this Agreement by reference or otherwise and the exhibits hereto. No modification of this Agreement shall be binding upon the parties unless evidenced by an agreement, in writing, signed by the duly authorized representatives of District and Contractor after the date hereof.

### 34.0 OTHER PROVISIONS

#### 34.1 Agreement Interpretation

Should any questions arise as to the meaning and intent of the Agreement, the matter shall be referred to the District and its Board who shall decide the true meaning and intent of the Agreement.

#### 34.2 Agreement of Parties

This Agreement constitutes the entire agreement of the parties. No other agreements, oral or written, pertaining to the performance under this Agreement, exists between the parties. This Agreement can be modified only by an agreement in writing, signed by both parties.

#### 34.3 Waiver

No waiver of a breach of any provision of the Agreement by the District shall constitute a waiver of any other breach of such provision. Failure of the District to enforce at any time, or from time to time, any provision of this Agreement shall not be construed as a continuing waiver thereof. The remedies herein reserved shall be supplemental to any other remedies in law or equity.

#### 34.3 Attorney Fees

If either party hereto becomes involved in litigation arising out of this Agreement or the performance thereof, the court in such litigation, or in separate suit, shall award reasonable costs and expenses including attorney fees to the prevailing party.


#### 34.4 Rationing and Allocation.

In the event of rationing of any product or commodity due to a national emergency, the Contractor shall not allocate any portion of the rationed product or commodity earned as a result of this Agreement to any other party without the express written approval of the

District. Should it become necessary to curtail Contractor's services, either in whole or in part, it shall be the sole and exclusive right of the District to direct the Contractor in any reduction in the service, including the elimination of routes and/or re-routing of existing routes.

IN WITNESS WHEREOF, the parties hereto have executed this agreement as of the day and year first herein above written.

For the Contractor:

A handwritten signature in black ink, consisting of several loops and a long horizontal stroke, positioned above a solid horizontal line.

HIGHLAND SCHOOL DISTRICT #305  
Lewis, Idaho and Nezperce Counties  
State of Idaho

A handwritten signature in black ink, appearing to read 'Ed Pentzer', positioned above a solid horizontal line.

Ed Pentzer, Chairman

ATTEST:

A handwritten signature in black ink, appearing to read 'Robert C. Strom', positioned above a solid horizontal line.

Robert C. Strom, Clerk  
Highland School District #305

## EXHIBIT A

### CONTRACTOR COMPENSATION

Basic Transportation per mile: A rate of \$2.15 per mile traveled by each bus used to provide basic transportation.

Supplemental Transportation:

- A. In-district field trips: For transportation of pupils from school on field trips or activity trips within the district, a rate of \$1.64 per mile. + \$6.25/hr from the time of departure from school until return.
  
- B. Out of district field trips: For transportation of pupils on field trips or activity trips beyond the boundaries of the district, a rate of \$1.85 per mile. + \$6.25/hr from the time of departure from school until return.

**Amendment to Contract**

IN WITNESS WHEREOF, the parties hereto have AMENDED THIS CONTRACT under section 16.0 Student Discipline as follows and shall become a part of the contract for the remainder of the term of the original contract date:

**16.0. PUPIL DISCIPLINE:**

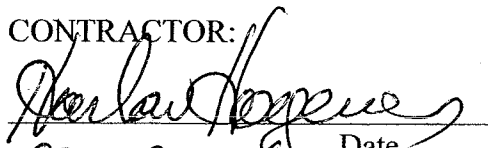
~~The ultimate responsibility and authority with respect to all disciplinary problems, suspensions or expulsions of any student for transportation services hereunder shall rest with the District. Contractor's drivers are responsible only for such discipline as is required to properly operate Contractor's buses. Each driver shall handle all the disciplinary matters in strict accordance with District policy.~~


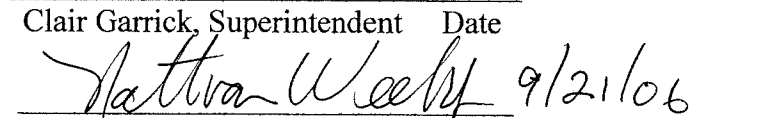
The Contractor and Contractor's drivers have the authority to make decisions concerning student discipline up to and including loss of riding privileges. The District shall support the actions of the Contractor and Contractor's drivers in order to maintain safe conditions while being transported.

In no case will a driver eject a student from a bus for misbehavior except in the event of an extreme emergency endangering the safety or moral of other pupils. Incidents shall be reported in writing to the District following completion of the route. Further procedures and regulations for the administration of discipline shall be established cooperatively between District and Contractor.

Vandalism damages to Contractor's equipment or facilities shall be the responsibility of Contractor. However, District shall give Contractor all reasonable assistance in obtaining restitution for damaged equipment or facilities. Contractor may, upon concurrence by district, refuse to provide a student with transportation services until damages caused by such a student are paid.

The transportation of a student shall be deemed to have begun when the student prepares to board the school bus, and shall be deemed to have ended when a student has completed exiting the bus at the reasonable safe place in which to exit in view of the circumstances then prevailing.

CONTRACTOR:  
  
Date 8-10-06

HIGHLAND SCHOOL DISTRICT #305:  
 9/21/2006  
Clair Garrick, Superintendent Date  
 9/21/06  
Nathan Weeks, Chairman Date





*Re: Harlow's*

8. **PAYMENT**

Routes shall be charged on a per day basis. This will be determined at the beginning of each Contract term by:

miles per day:	475
multiplied by :	\$2.60 (cost per mile)
divided by:	6 (total routes)
for a total of	\$205.83 per day

The per day payment rate of each subsequent year shall be determined on the basis of the escalation clause in the compensation of this Contract. The District shall pay each school fiscal year as follows:

The Contractor shall not be compensated for any school bus route that is not serviced on any school day on account of Contractors failure to service. In the case of the District's canceling a particular day's bus operation, the Contractor will be paid 50% of the regular rate.

The per day basis will be adjusted annually, starting with the second school year of any multi-year Contract. The annual adjustment, whether an increase or decrease, shall be made on the basis of the Annual Index for the calendar year preceding the year of change. This determination will be made in May or June of each year, after receiving the annual report of the Consumer Price Index for all Urban Consumers as prepared by the Federal Bureau of Labor Statistics.

