

AGREEMENT FOR THE TRANSPORTATION OF PUPILS

This **AGREEMENT FOR THE TRANSPORTATION OF PUPILS**, hereinafter referred to as the "AGREEMENT", is made and entered into this 19th day of June, 2017, by and between **PACIFIC PALISADES CHARTER HIGH SCHOOL** with a principal office located at 15777 Bowdoin Street, Pacific Palisades, CA 90272, hereinafter referred to as "DISTRICT", and **DURHAM SCHOOL SERVICES, L.P.**, a Delaware limited partnership, with its principal office located at 4300 Weaver Parkway, Warrenville, Illinois 60555, hereinafter referred to as "CONTRACTOR."

1. Scope of Services. CONTRACTOR shall provide pupil transportation services to DISTRICT which includes, but are not limited to, transporting students; providing equipment, storage and maintenance thereof; providing employees to perform such services; and administrative, supervisory and operational services required thereby ("Work") based on the assumptions and at the rates set forth on Schedule A.
2. Change in Scope of Services. The following provisions shall apply in the event of the applicable reduction in service:
  - a. This Agreement contemplates a minimum of 180 operating days per school year. If the actual number of operating days falls below 171 during any school year, then the parties agree to renegotiate in good faith the rates provided in the attached Schedule A if such renegotiation is requested by Contractor. If the parties cannot reach an agreement, Contractor may, at its option, continue to operate the Agreement at the original rates or terminate the Agreement upon Sixty (60) days' written notice. If the actual number of operating days falls below the contemplated minimum days and the District does not provide notice in advance of the end of the applicable school year making a renegotiation of rates impracticable, Contractor will invoice District and District agrees to pay a sum equal to fifty percent (50%) of the daily charges for each day work is canceled.
  - b. If District cancels any work due to inclement weather, such as, but not limited to, snow, ice, flood, extreme cold/extreme heat or for other safety reasons or other emergency situations, Contractor will invoice District and District agrees to pay a sum equal to fifty percent (50%) of the daily charges for each day work is canceled after the 3rd day.
  - c. If the average daily number of routes is reduced by five percent (5%) or more, then both parties agree to renegotiate in good faith the rates provided in Schedule A if such renegotiation is requested by Contractor. If the parties cannot reach an agreement, Contractor may, at its option, continue to operate the Agreement at the original rates or terminate the Agreement upon thirty (30) days' written notice.
3. Payment for Services. It is understood and agreed that DISTRICT requires CONTRACTOR to act as the DISTRICT'S independent contractor in transporting up to approximately 900 students at the DISTRICT'S expense to which CONTRACTOR agrees. The parents of each student agree to pay the DISTRICT for services at enrollment. The DISTRICT will pass on all payments to the CONTRACTOR. The DISTRICT agrees to pay any remaining portion to CONTRACTOR. The monthly total will fluctuate depending on the number of students being transported.  
Contractor to collect all payments, and manage the account receivables on behalf of the DISTRICT.

On or about the first business day of each month CONTRACTOR shall submit invoices to the DISTRICT for any services not paid for under this AGREEMENT by the parents. Payment for such services will be made in check, money order, or ACH or wire transfers within a reasonable time thereafter, on a Net-30 term. Payment by credit card is accepted but requires an increase in the invoiced amount of two and one-half percent (2.5%) to cover processing fees. In the event sums due and payable are not received within thirty (30) calendar days, a late charge of 1.5% per month of the outstanding balance will be assessed upon the account. In the event such sums are not received within sixty (60) days, service may be discontinued until such time as CONTRACTOR has received all sums due.

4. Adjustment of Rates.

a. The rates set forth in Schedule A shall be adjusted annually.

b. Notwithstanding any contrary statements in this Agreement or in any documents incorporated herein by reference, in the event any federal, state, local or other government body's statutes, laws, rules, or regulations impact CONTRACTOR's methods and/or costs in connection with the provision of services hereunder (e.g., changes in healthcare or other benefits requirements, changes in equipment requirements, changes in services requirements, changes in unemployment insurance benefit requirements, etc.), or DISTRICT'S ability to pay, during the term of the Agreement, CONTRACTOR, upon written notice to DISTRICT upon written request, may request a renegotiation of this Agreement which shall be conducted in good faith. Such renegotiations may include, without limitation, changes in rates, term, payment schedules, levels of service, and the types or number of vehicles to be used. Any modification to this Agreement resulting from such renegotiations shall become effective on a mutually agreed upon date. If the parties cannot come to an agreement, either party may terminate the AGREEMENT upon thirty (90) days' notice.

5. Term. The term of this AGREEMENT shall be for a period of one (1) years beginning August 1, 2017 through July 31, 2018. This AGREEMENT shall be renewable for additional terms of one (1) year, at the option and mutual written agreement of both parties, taking into consideration CONTRACTOR'S performance under this AGREEMENT and cost negotiations, and subject to applicable statutes and regulations.

6. Entire Agreement. This AGREEMENT contains all the terms and conditions agreed upon by the Parties and no other agreement, oral or otherwise, including DISTRICT's Request for Proposal, regarding the subject matter of this Contract, or any part thereof, shall have any validity or bind the Parties. The complete AGREEMENT consists of this AGREEMENT and the Proposal of CONTRACTOR, which is incorporated herein by reference. In the event of any conflict between the terms of this AGREEMENT and the Proposal, the terms of this AGREEMENT shall govern.

7. Permits and Licenses. CONTRACTOR, its employees, and its agents shall secure and maintain valid permits, licenses, and certifications as required by law for the execution of this AGREEMENT.

8. Insurance. CONTRACTOR shall maintain insurance as set forth below during this AGREEMENT period and shall furnish a certificate of insurance for General and Auto Liability coverage and for Workers' Compensation coverage. CONTRACTOR shall furnish new Certificates of Insurance for liability coverage and for Workers' Compensation coverage within thirty (30) days following the placement of new or renewed coverage. Certificates shall provide that a thirty (30) day prior notice of cancellation will be given to DISTRICT.

General and Auto Liability insurance shall be maintained to protect CONTRACTOR from any claims from damages for personal injury or death, and from damage to property, which may arise from operations of CONTRACTOR under this AGREEMENT. General and Auto Liability insurance shall each have a combined single limit of Five Million Dollars (\$5,000,000). Workers' Compensation

insurance shall be maintained as required by law and to protect CONTRACTOR from claims, which may arise from its operation under this AGREEMENT.

9. Hold Harmless Agreement. To the extent permissible by law, CONTRACTOR shall hold harmless and indemnify DISTRICT, its Governing Board, Officers, Agents, and Employees from every claim or demand which may be made by reason of any injury to person or damage to property sustained by any person, firm or corporation, to the extent that such injury or damage was caused by any negligent act or omission or willful misconduct of CONTRACTOR or of any person, firm, or corporation, directly or indirectly employed by CONTRACTOR upon or in connection with its performance under this AGREEMENT.  
To the extent permissible by law, DISTRICT shall hold harmless and indemnify CONTRACTOR, its Officers, Agents, and Employees from every claim or demand which may be made by reason of any injury to person or damage to property sustained by any person, firm or corporation, to the extent that such injury or damage was caused by any negligent act or omission or willful misconduct of DISTRICT or of any person, firm, or corporation, directly or indirectly employed by DISTRICT upon or in connection with its performance under this AGREEMENT.
10. Safety Program. CONTRACTOR shall provide formal safety instruction on a regular basis for all operating personnel assigned to this AGREEMENT.
11. Independent Contractor. While engaged in carrying out and complying with the terms and conditions of this AGREEMENT, CONTRACTOR is an independent contractor, and neither CONTRACTOR, its employees or its Agents shall be considered to be an Officer, Agent, or Employee of DISTRICT.
12. Assignments. CONTRACTOR may assign or transfer any of its rights, burdens, duties, or obligations under this AGREEMENT to its parent company, affiliates, subsidiaries, or related legal entities. CONTRACTOR will advise DISTRICT of such assignment or transfer.
13. Subcontracting. CONTRACTOR will not subcontract any of its rights, burdens, duties, or obligations under this AGREEMENT without the written consent of DISTRICT, except on a short term, interim basis in the event of an emergency. Consent shall not be unreasonably withheld.
14. Routing and Scheduling. Prior to the start of any service under this AGREEMENT, DISTRICT and CONTRACTOR shall cooperatively establish routes and schedules conforming to the needs of DISTRICT. If, at any time during the term of this AGREEMENT, it is determined by mutual consent that service may be improved by revisions to routing, scheduling, or bus assignment, DISTRICT and CONTRACTOR shall plan and institute such changes jointly. CONTRACTOR shall have sufficient notice to review such changes and evaluate the safety considerations. All routes, schedules, and bus stops shall be established by CONTRACTOR on such basis as may be determined by it to be most efficient, but shall be approved by DISTRICT and shall not be revised without mutual consent and authorization.
15. Contractor's Personnel. CONTRACTOR shall employ and assign for services under this AGREEMENT a sufficient number of regular and substitute drivers based on projected basic and supplementary transportation, taking into account driver absence rates. CONTRACTOR shall be solely responsible for hiring and discharging its employees. DISTRICT shall have the right to request removal of any of CONTRACTOR's employees from providing services under this AGREEMENT provided that such request is made in writing with the reasons set forth and provided that such request does not violate any laws against discrimination.
16. Record Keeping and Accident Reports. CONTRACTOR will be required to provide access to any and all operational records related to the provision of services under this AGREEMENT and kept in the ordinary course of business to DISTRICT within 10 days of DISTRICT's written request for such records. DISTRICT shall maintain the confidentiality of CONTRACTOR's records. All operational

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Pacific Palisades Charter High School  
Transportation Agreement

records, including, but not limited to audio, digital and video recordings are, and shall be, the exclusive property of CONTRACTOR.

CONTRACTOR to develop and maintain and to also provide on a monthly bases the following reporting:

- a. Parent payment collection and reconciliation records.
- b. Record related to late arrivals, behavior issues, incidents, accidents, etc.

All equipment involved in an accident shall be reported as defined by law. Accidents involving CONTRACTOR'S equipment or personnel while operating for DISTRICT shall also be reported to DISTRICT. If requested by DISTRICT, pupil injuries not involving acceleration, deceleration, or movement of the bus may also be reported to DISTRICT on forms provided by DISTRICT.

17. Equipment Requirements. All buses supplied under this AGREEMENT shall be approved school buses, as defined by applicable statutory or administrative codes within the state in which DISTRICT operates.
  - a. Regular preventive maintenance shall be practiced on all buses.
  - b. Spare buses, CONTRACTOR supplied, of appropriate sizes, and meeting all the above requirements, shall be located by CONTRACTOR at points close enough to DISTRICT so they may be substituted for regularly assigned buses, if needed, without delay.
18. Fuel. Fuel shall be paid for and provided by CONTRACTOR.
19. Termination of Agreement. If either Party refuses or fails to perform services as required as specified in this AGREEMENT, or any separable part thereof, the other Party may, without prejudice to any other right or remedy, serve written notification upon it of intention to terminate and, unless within sixty (60) days after service of such written notice of the condition or violation the party in breach shall cease and make satisfactory arrangements for the correction thereof, this AGREEMENT shall, upon the expiration of the sixty (60) days, cease and terminate.
20. Notices. Notices to either party to this AGREEMENT shall be in writing and shall be considered duly served and delivered if such notice is delivered by hand; mailed via the United States mail, certified, return receipt requested; or sent via overnight service. All notices shall be addressed to:

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| DISTRICT   | Pacific Palisades Charter High School<br>Attn: Transportation Dept.<br>15777 Bowdoin Street<br>Pacific Palisades, CA 90272                     |
| CONTRACTOR | Durham School Services, L.P.<br>Attn: Contract Administrator<br>4300 Weaver Parkway<br>Warrenville, Illinois 60555<br>Telephone: (630)821-5400 |
21. Discipline. CONTRACTOR will report serious or persistent misconduct on the part of students or drivers to the designated DISTRICT employee. DISTRICT shall then impose reasonable disciplinary measures upon the students in accordance with its discipline management program. DISTRICT will report serious or persistent misconduct on the part of the driver to the CONTRACTOR. CONTRACTOR shall then impose reasonable disciplinary measures upon the driver in accordance with its discipline management program.
22. Force Majeure. CONTRACTOR shall be excused from performance hereunder, and DISTRICT shall not be allowed to levy any damages or penalties, liquidated or otherwise during the time and to the extent that CONTRACTOR is prevented from performing in the customary manner by an act of God, fire, flood, war, riot, civil disturbance, state of emergency, terrorism, epidemic, quarantine, strike, lockout, labor dispute, oil or fuel shortage, freight embargo, rationing or unavailability of materials or products, loss of transportation facilities, commandeering of equipment, materials, products, plants, or facilities by the Government, or any other occurrence which is beyond the control of
23. Choice of Law. This AGREEMENT shall be governed by the laws of the State of California without regard to its conflict of laws principles.

- 24. Severability. In the event any provision of this AGREEMENT is determined to be illegal or void, the remainder of this AGREEMENT shall remain in full force and effect.
- 25. Amendments. Changes to this AGREEMENT may only be made by written amendment mutually agreed to by the parties.
- 26. Attorney's Fees. If any legal action is brought by either of the parties hereto, it is expressly agreed that the party in whose favor final judgment shall be entered shall be entitled to recover from the other party reasonable attorney's fees in addition to any other relief that may be awarded.
- 27. Execution by Facsimile or in Counterparts. The Parties may sign this AGREEMENT in counterparts such that their signatures may be on separate pages. A copy, facsimile or an original of this AGREEMENT, with all signatures appended together, shall be deemed a fully executed AGREEMENT. Signatures transmitted by facsimile or other electronic means shall be deemed original signatures.

IN WITNESS WHEREOF, the parties hereto have executed this AGREEMENT as of the date written above.

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

**PACIFIC PALISADES CHARTER HIGH SCHOOL**

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

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_  
Date: \_\_\_\_\_

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_  
Date: \_\_\_\_\_

#### SCHEDULE A

Pricing is based on a total of eighteen (18) routes. Final number of routes/buses to be determined by the number of students who register for the PCHS bus transportation program and the CONTRACTOR & DISTRICT'S mutual determination of the optimal routes for the number of buses needed based on registered and paid students.

Pricing is based on a 6 hour daily gate to gate per route minimum, to include 20 minutes of pre and post trip time.

Daily per route 6 hour rate - \$473.80, excess hourly rate - \$74.00  
Trip pricing - \$74.00 per hour with a two hour minimum

#### SCHEDULE B

Liquidated Damages shall be imposed upon the CONTRACTOR for any routes that are more than fifteen (15) minutes late past their scheduled arrival time in the amount of \$100 per bus per incident per operational day.