

## SCHOOL BUS TRANSPORTATION SERVICES AGREEMENT

THIS AGREEMENT is made and entered into as of the 1st day of July 2010, by and between Penn Hills School District, with principal offices at 260 Aster Street, Pittsburgh, PA15235, (hereinafter called "District") and First Student, Inc., (hereinafter called "Contractor") with its national headquarters at 600 Vine St., Ste. 1400, Cincinnati, OH 45202 and local business offices located at 101 Old Frankstown Road, Pittsburgh, PA 15239.

### WITNESSETH

WHEREAS, District has selected Contractor to provide the pupil transportation services described herein; and

WHEREAS, Contractor desires to provide such transportation services,

NOW, THEREFORE, in consideration of the covenants hereinafter contained, the parties agree as follows:

#### SECTION 1: TERM

- 1.1 The term of this Agreement shall commence July 1, 2011 and shall continue through June 30, 2016. This Agreement may be extended by mutual written agreement, the negotiation process for each extension, including the negotiation of new economic terms, to occur on or before February 1st of the preceding school year. For purposes of this Agreement, the term "Contract Year" shall mean each one-year period commencing on July 1st during the term of this Agreement.

#### SECTION 2: SCOPE OF SERVICES REQUIRED

- 2.1 Contractor shall, during the term of this Agreement, supply and maintain such school buses (in quantity and capacity) and personnel as are required to fulfill District's needs for transportation services as described in Exhibit A ("Penn Hills School District Transportation RFP").
- 2.2 District and Contractor will consult on a regular basis concerning the Transportation requirements of District. In the event of increases or decreases in the number of students requiring Transportation, or in routes or schedules, the number of buses and the number of spare buses will be adjusted accordingly. However, where such increases or decreases materially impact the service levels or equipment levels required of Contractor under the assumed routes, schedules, and vehicle requirements contained in this RFP, Contractor and District shall in good faith renegotiate the rate of compensation to cover changes in overhead or any other costs.

### SECTION 3: COMPENSATION AND BILLING

- 3.1 In consideration for services rendered hereunder, District shall pay to Contractor all sums due and owing and calculated in accordance with the rates set forth in Exhibit B, as may be adjusted from time to time as provided herein.
- 3.2 Prior to the commencement of services in August, District and Contractor shall agree on an estimate of the total cost of services for the Contract Year. Adjustments for the addition or elimination of routes shall be made on a monthly basis as mutually agreed by District and Contractor. District shall pay Contractor on a Monthly basis for eleven (11) months a year at one-tenth (1/10) the yearly basis for the months of August, September, October, November, December, January, February, March and April each school year and one-twentieth (1/20) the yearly basis in May and June of each school year. See Schedule B. Payment is due on the first day of school in August, and thereafter the first day of each month beginning in September of each Contract Year.
- 3.3 Not later than the 15th working day after the end of each month during the term of this Agreement, Contractor will submit to District a statement of its services rendered during the prior month. These monthly statements will be used in June to provide an annual reconciliation of payments and services. Any adjustments required will be made as a credit or additional charge on June's monthly payment.

### SECTION 4: ESCALATION

- 4.1 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 Exhibit B.
- 4.2 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 the 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.

### SECTION 5: FUEL

- 5.1 Contractor shall purchase from the District, at a cost of \$2.00 per gallon inclusive of all applicable fuel taxes, all fuel required for the operation of buses hereunder for the duration of the contract. The District will assume all fuel costs in excess of the \$2.00 per gallon as provided in Section W Article 1 of Exhibit A.

- 5.2 District shall provide fuel storage and dispensing equipment at its current transportation facility located at 7035 Saltsburg Road, Penn Hills, PA 15235, unless alternate arrangements are agreed to by both parties.

#### SECTION 6: ROUTES AND SCHEDULES

- 6.1 District shall be primarily responsible for planning all routes, stops and schedules including communication of route information to parents and students.
- 6.2 District reserves the right to establish the routes and schedules to be followed and to make changes therein from time to time. District shall notify Contractor whenever changes are necessary in routes or time schedules, and Contractor shall make a reasonable effort to adjust its operations to incorporate such changes within five (5) business days after notice is received from District. In the event District changes routes or schedules once service has begun or been published, District will publish changes or make other notification to those patrons whose service has been changed. Contractor shall consult with District as to stops or portions of routes that Contractor considers to be a safety concern due to traffic patterns or configurations.

#### SECTION 7: RECORDS AND REPORTS

- 7.1 Contractor shall provide within 30 business days of any request, those reports and records which may be reasonably requested by District pertaining to students, routes, stops, mileage audits and other information having to do with daily operations. In reviewing Contractor's records, District shall protect the confidentiality of Contractor's proprietary or confidential information included in the data provided.
- 7.2 Contractor shall maintain such records and submit such reports, as are deemed necessary by the District and as negotiated between Contractor and District from time to time. All reports required by District shall be submitted on forms mutually agreed upon by both parties. Contractor will not be responsible for filing on behalf of District any state or regulatory reports concerning ridership or reimbursement.
- 7.3 Contractor shall immediately notify the Superintendent of Schools, or his or her designated representative, by telephone and confirmed as soon as practicable in writing, of the occurrence of any incident involving student riders, or a traffic violation or accident reportable by law that involves a vehicle with passengers that is being used to provide transportation services pursuant to this Agreement. Written notification shall contain a full and complete statement of all relative facts including police case number when available.

## SECTION 8: INDEMNIFICATION

- 8.1 Contractor agrees to indemnify, hold harmless and defend District, its governing board, officers, employees and agents from and against every claim or demand which may be made by any person, firm, or corporation, or any other entity arising from or caused by any act of neglect, default or omission of Contractor in the performance of this Agreement, except to the extent that such claim or demand arises from or is caused by the negligence or willful misconduct of District, its agents or employees.
- 8.2 District agrees to indemnify, hold harmless and defend Contractor, its directors, officers, employees and agents from and against every claim or demand which may be made by any person, firm, or corporation, or any other entity arising from or caused by any act of neglect, default or omission of District in the performance of this Agreement, except to the extent that such claim or demand arises from or is caused by the negligence or willful misconduct of Contractor, its agents or employees.

## SECTION 9: INSURANCE

- 9.1 Contractor shall, at its expense, procure and keep in force during the entire term of this Agreement, General Liability and Automobile Liability Insurance to protect Contractor, its drivers and other personnel. Contractor shall provide General Liability limits of not less than \$1,000,000.00 each occurrence and aggregate bodily injury and property damage and \$1,000,000.00 Personal Injury each occurrence and aggregate; Automobile Liability limits of not less than \$1,000,000.00 combined single limit for bodily injury and damage to property for all owned, hired and non-owned autos; and umbrella coverage of not less than \$5,000,000.00 in addition to the limits listed above, Contractor shall also maintain uninsured/underinsured motorist coverage and medical payments coverage to the extent required by law.
- 9.2 Contractor agrees to provide to District a certificate of insurance evidencing such coverage and designating District as an additional insured as its interest may appear for both the General and Automobile Liability programs, and reference to the hold harmless and indemnification provisions in this contract, such certificate to be provided by July 1st of each contract year, or on renewal of such policies. All insurance policies shall provide that no coverage shall be canceled except by thirty (30) days' written notice to Contractor and District. Insurer shall maintain a minimum A.M. Best's & Company rating of A or Contractor shall obtain insurance from a company mutually agreed upon between the Contractor and the District. Contractor shall provide District with a certificate of insurance as evidence of having statutory workers' compensation coverage at levels and in forms required by the laws in which Contractor shall operate for this Agreement.

## SECTION 10: FORCE MAJEURE

- 10.1 In the event Contractor is unable to provide the transportation services as specified in this Agreement because of any act of God, civil disturbance, fire, riot, war, terrorism, picketing, strike, labor dispute, labor shortages, governmental action or any other condition or cause beyond Contractor's control, District shall excuse Contractor from performance under this Agreement.

## SECTION 11: SCHOOL CLOSINGS OR CHANGES IN SCHEDULE

- 11.1 Whenever (a) inclement weather or impassability of roads occurs, (b) school is canceled or delayed, (c) the school day is scheduled for other than regular start or end times, or (d) school is dismissed early for any reason, District shall notify Contractor not later than 5:30 a.m. on the day of such cancellation or delay or not later than two (2) hours before early dismissal or the cancellation of Supplemental Transportation. If District does not notify Contractor by 5:30 a.m., District shall pay Contractor half the daily rate per bus for that day.
- 11.2 When inclement weather is expected, Contractor's manager or designee shall work cooperatively with District to assess the safety of roadways in the district. Contractor will report road conditions and other significant information to District's Superintendent or designee at an agreed upon time. Final decision regarding transportation during inclement weather will be made by the District.
- 11.3 Notwithstanding the foregoing, in the event of circumstances in the operation of any school which necessitate early dismissal for student health or safety reasons, the Contractor and District shall cooperate to facilitate orderly transportation of students in the most efficient manner possible in light of the circumstances presented.

## SECTION 12: SAFETY PROGRAM

- 12.1 Contractor shall be responsible for implementing, maintaining, and reviewing annually a comprehensive pupil transportation safety program.
- 12.2 Contractor's employees shall not be required to perform any medical functions for passengers unless otherwise required by law.

## SECTION 13: MANAGEMENT PERSONNEL

- 13.1 Contractor shall employ 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 will designate a crisis management contact person for emergency contact with District. Prior to the start of the school

year, Contractor shall inform District of the name(s), contact telephone number(s) and address(es) of such management personnel.

- 13.2 District shall employ management personnel who shall be responsible for coordination of the student transportation requirements of District to be furnished under this Agreement and who shall be District's liaison to Contractor. District will designate a crisis management contact person for emergency contact with Contractor. Prior to the start of the school year, District shall inform Contractor of the name(s), contact telephone number(s) and address(es) of such management personnel.

#### SECTION 14: OPERATIONS PERSONNEL/DRIVERS

- 14.1 Contractor shall employ a sufficient number of qualified drivers and support personnel to assure District of continuous, reliable, safe, and on time service.
- 14.2 Contractor shall take reasonable steps to prevent its employees from exposing any pupil to impropriety of word or conduct. Contractor shall not knowingly permit its drivers to smoke on the bus, to drink any intoxicating beverage, or to be under the influence of drugs or alcohol while operating any bus.
- 14.3 Contractor shall be responsible for hiring and discharging personnel employed by Contractor to perform its obligations hereunder; provided, however, that District shall have the right to request Contractor to remove from service to the District any employee who, in District's sole discretion, is deemed unsuitable for the performance of transportation services for District; and provided, further, that District shall make such request in writing, state the reasons therefore, that such request does not violate applicable laws against discrimination.
- 14.4 Contractor shall provide qualified driver/trainers and qualified drivers, trained and licensed in accordance applicable laws and the rules and regulations of District. Not less than sixty (60) days prior to the start of any school year, District shall advise Contractor of District's requirements for training or qualification for drivers or driver/trainers. Contractor will, to the extent such requirements do not conflict with state or federal laws, implement such requirements into its hiring and training programs for drivers servicing District's students. Contractor agrees that each driver shall:
- 14.4.1 Possess a valid license or permit issued by this State authorizing such person to operate a school bus.
- 14.4.2 Be certified by a duly licensed medical practitioner as medically qualified and free of medical or physical conditions, which, absent reasonable accommodation, would limit safe operation of a school bus. The physical

examination shall be conducted prior to employment and periodically thereafter.

- 14.4.3 Possess a satisfactory driving record and criminal history record, after review of such records prior to employment and periodically thereafter to the extent permitted or available by law.
- 14.4.4 Prior to employment and from time-to-time thereafter, to the extent permitted by law, undergo such tests as may reveal, within a reasonable degree of medical or scientific certainty, the presence or absence of drugs or controlled substances in the body and such tests as may clinically reveal alcoholism or alcohol abuse. Negative findings for such tests shall be a condition of employment.
- 14.4.5 Meet any other criteria required by law or by District's policies, rules or regulations.

#### SECTION 15: TRAINING REQUIREMENTS

- 15.1 Contractor shall provide thorough instruction to drivers in compliance with state and federal safety and operations guidelines and regulations. The District shall have the right to review course content.
- 15.2 Prior to the start of the school year, Contractor will provide time at one of its driver orientation sessions so that District administrators may address drivers assigned to work under this Agreement on matters relating to the expectations for student conduct and to familiarize drivers with members of the school administration. Such orientation will be at a time and place mutually agreed upon by Contractor and District. District may not distribute materials to drivers without Contractor approval.

#### SECTION 16: EQUIPMENT

- 16.1 All school buses supplied by Contractor in performance of this Agreement shall meet or exceed the standards established by the applicable laws and regulations. Contractor shall maintain the school buses used to provide transportation services under this Agreement in accordance with law and accepted industry maintenance standards.
- 16.2 No school bus supplied by Contractor will exceed 15 model years of age at the beginning of the contract year unless approved in writing by District. Vans provided will not exceed 10 model years at the beginning of the contract year. Spare vehicles may be older. Contractor agrees that if District has just cause and requests removal of a bus from its fleet, said bus will be removed. District shall make all such requests in writing to Contractor, and Contractor shall have a reasonable opportunity to review and respond to concerns advanced by District.

- 16.3 The prices included with this Agreement do not include modifications to vehicles or routes required if seat belts were included in the equipment provided for students under this Agreement. If District or any government agency shall at some time in the future specify or request that Contractor provide lap & shoulder style seat belts for use in vehicles providing Transportation under this Agreement, the parties shall negotiate in good faith, to mutual agreement, on alternative pricing and availability of vehicles to service District under this Agreement. In the event that District or any governmental agency imposes additional equipment requirements other than those set forth above on Contractor's vehicles during the term of this Agreement which are specific requirements for the operation of this contract or immediate installation is required for continuing operation of the vehicles, Contractor and District shall negotiate in good faith concerning price increases applicable to such equipment installation.
- 16.4 Contractor agrees that all vehicles 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.

#### SECTION 17: PUPIL DISCIPLINE/VANDALISM

- 17.1 The ultimate responsibility and authority to suspend or expel any pupil from transportation services hereunder shall rest with District. Contractor's drivers are responsible only for such discipline as is required to properly and safely operate Contractor's buses. Each driver shall handle all disciplinary matters in strict accordance with District policy. In no case will a driver eject a pupil from a bus for misbehavior except in the event of an extreme emergency endangering the safety of other pupils and then only after radio notice to Contractor's terminal and to the pupil's building or school principal. In all cases of disciplinary ejection, the bus shall remain at the approximate area of student discharge until authorities arrive on site and authorize it to proceed on route. All discipline problems shall be reported in writing by the next school day following completion of the route. The District and the Contractor will, in the event the contractor determines that a pupil poses a danger to himself/herself or other passengers, cooperate to provide a safe transportation environment prior to the Contractor being required to transport such pupil. Further procedures and regulations for the administration of discipline shall be established cooperatively between District and Contractor.
- 17.2 Vandalism, damage to Contractor's equipment or facilities shall be the responsibility of Contractor. District shall give Contractor reasonable assistance in obtaining restitution for damaged equipment or facilities where damage is determined to be caused by District students or personnel. Contractor may, with the written concurrence by District, refuse to provide a pupil with transportation services until vandalism damages caused by such pupil are paid.



## SECTION 18: ASSIGNMENT

- 18.1 This Agreement shall not be assigned by the parties hereto, without the written consent of the District, which consent shall not be unreasonably withheld or delayed. However, the Contractor may assign this Agreement if the assignment is made to a parent, subsidiary, related or affiliated company. At all times the parent, First Group America Inc., shall be ultimately responsible for performance under this Agreement.

## SECTION 19: TERMINATION

- 19.1 If either party violates any of the covenants or duties imposed upon it by this Agreement, such violation shall entitle the other party to terminate this Agreement in accordance with the following procedure: The non-defaulting party shall give the offending party thirty (30) days' written notice of default and the opportunity to remedy the violation. If at the end of such 30-day default notice period, the party notified has not remedied the purported violation, the non-defaulting party may terminate this Agreement as follows: on the first business day following the last day of the 30-day default notice period, the non-defaulting party shall give the defaulting party 15 days' notice of termination. If the non-defaulting party does not provide this 15-day notice of termination, the default notice shall be deemed rescinded.
- 19.2 District reserves the absolute right without cause to cancel this Agreement effective at the end of any Contract Year on the failure of the state legislature to provide adequate funding to allow District to provide transportation services to students within District. In the event District shall elect to terminate this Agreement due to state legislative funding deficiencies, District shall give written notice to Contractor on or before April 1 prior to the end of any Contract Year for services to be rendered in the following Contract Year. In the event state funding is restored following a termination of this Agreement under this Section, Contractor shall be entitled to a right of first refusal to provide continuing service to District under this Agreement.

## SECTION 20: LIQUIDATED DAMAGES

- 20.1 The District must notify the Contractor of any penalties assessed within thirty (30) days so that the Contractor has the opportunity to investigate the matter in order to either correct the cause of the penalty(ies) or to establish the Contractor did not cause the delays. If the District fails to alert the Contractor within thirty (30) days of any penalties, the penalties will be waived.
- 20.2 In the event the Contractor fails to comply with any of the requirements for the provision of drivers of vehicles, Contractor shall pay a penalty of \$50.00 for the route in question for each day of non-compliance.

20.3 The following may also warrant a penalty of \$50.00 per occurrence:

- a. A driver changing a route or stop without securing approval from the District, unless such change in route or stop is the result of an emergency, in which case notice and securing of approval shall be as soon as possible.
- b. a driver leaving a bus unattended with children on board.
- c. A driver failing to complete a run or being late for a run as a result of insufficient fuels.
- d. Contractor's failure to dispatch a vehicle or respond to a breakdown with a replacement vehicle within thirty (30) minutes of the designated dispatch time or breakdown if such breakdown occurs within the boundaries of the school district.
- e. Contractor's failure to notify the School District of any known problems which result in one or more buses being late in excess of fifteen (15) minutes.

#### SECTION 21: SURVIVAL

21.1 The mutual obligations described in Compensation and Billing, and Indemnification hereof shall survive the termination or expiration of the Agreement.

#### SECTION 22: STATUS OF CONTRACTOR

22.1 In the interpretation of this Agreement and the relations between Contractor and District, Contractor shall be construed as being an independent contractor employed to provide transportation services only. Neither Contractor nor any of its employees shall be held or deemed in any way to be an agent, employee or official of District. Contractor shall be responsible for, and hold District harmless from any liability for unemployment taxes or contributions, payroll taxes or other federal or state employment taxes.

#### SECTION 23: SEVERABILITY

23.1 In the event any provision specified herein is held or determined by a 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.

#### SECTION 24: EXTENSION AND MODIFICATION

24.1 Contractor and District may extend or otherwise modify the terms of this Agreement in whole or in part as circumstances may justify by mutual written agreement executed by the duly authorized representatives of the parties.

## SECTION 25: NOTICE TO PARTIES

- 25.1 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 to:

Richard Liberto, Director of Business Affairs  
Penn Hills School District  
260 Aster Street  
Pittsburgh, PA 15235

### Notices to Contractor shall be addressed to:

Phil Eades, Region Operations Manager  
First Student, Inc.  
150 S. 24th St.  
Pittsburgh PA 15203

### With a copy to:

FirstGroup America  
600 Vine Street  
Suite 1400  
Cincinnati, OH 45202  
Attention: General Counsel

- 25.2 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.

## SECTION 26: ENTIRE AGREEMENT

- 26.1 This Agreement sets forth the entire agreement between District and Contractor concerning the subject matter hereof. There are no representations, either oral or written, between District and Contractor other than those contained in this Agreement.

## SECTION 27: COMPLIANCE WITH THE LAW

- 27.1 Notwithstanding any contrary provision in this Agreement, Contractor shall comply with federal, state and local laws, rules and regulations in providing transportation services described herein.

SECTION 28: PLACE OF CONTRACT/CONTROLLING LAW

28.1 This Agreement shall be governed by the laws of the State of Pennsylvania. All references in this contract to the "state" shall mean the State of Pennsylvania. All regulations, laws and requirements of the state shall mean the regulations, laws or requirements of the State of Pennsylvania.

SECTION 29: AUTHORITY

29.1 Both parties warrant that they are properly authorized to enter into this Agreement.

IN WITNESS WHEREOF, the parties hereto have executed the Agreement the day and year first hereinabove written.

\_\_\_\_\_  
First Student, Inc.

By: \_\_\_\_\_  
Title: \_\_\_\_\_

Attest:

By: \_\_\_\_\_  
Title: \_\_\_\_\_

\_\_\_\_\_  
Penn Hills School District

By: \_\_\_\_\_  
Title: \_\_\_\_\_

Attest:

By: \_\_\_\_\_  
Title: \_\_\_\_\_

**SCHEDULE B**

**Payment Schedule for Transportation Contractors**

Contractors will be paid in eleven (11) installments for eleven (11) consecutive months beginning by the first day of school and by the first day of the month thereafter for the remaining months, except the final payment which will be made during the last week when classes are in session. Payments will be made as follows for the base contract each school year as follows:

August .....	10% of contract year
September .....	10% of contract year
October .....	10% of contract year
November .....	10% of contract year
December .....	10% of contract year
January .....	10% of contract year
February .....	10% of contract year
March .....	10% of contract year
April .....	10% of contract year
May .....	05% of contract year
June .....	05% of contract year

The final payment in June for the bas contract will be given to the contractor during the last week when classes are in session

Co-curricular trips will be paid separately based upon the timeliness of invoices submissions by the contractors to the Transportation Office.