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## RENTAL SCHOOL BUS CONTRACT

### 1. INTRODUCTION

This contract is entered into on the 10<sup>th</sup> day of November, 2015 by and between the Malverne Union Free School District ("District") and MJP Service Solutions, Inc. ("Contractor"), for the purpose of providing emergency school bus rentals to the District on as an-needed basis.

#### 1.1. CONTRACT PERIOD

The term of this contract will be effective from the date above in Paragraph 1 through the end of the current school year (June 30, 2016).

#### 1.2. EQUIPMENT TO BE LEASED

Upon request by District, Contractor shall provide one (1) forty four (44) passenger school bus with drivers for the time period requested at a cost of \$550.00 per day, per bus. *[Additional \$150.00 for after school pick-up]*

#### 1.3. VOLUME

District does not guarantee the Contractor any minimum or maximum amount of business during the term of this contract.

#### 1.4. RENTAL PAYMENT

Rental payments shall be payable within thirty (30) days of receipt of invoice.

### 2. SUBCONTRACTOR REQUIREMENTS

2.1 Contractor shall subcontract with Bus Company with availability ("Subcontractor") to provide the school buses.

2.2 All Subcontractors shall be consistent with and bound to terms and conditions of this Contract between Contractor and District.

2.3 Without limiting any of the other obligations or liabilities of Contractor, Contractor shall require each Subcontractor performing work under the Contractor, at the Subcontractor's own expense, to comply with all the terms and conditions of the contract between Contractor and District including, but not limited to, bus maintenance, etc.

2.4 Contractor shall be solely responsible for scheduling and coordinating the work of subcontractors performing or furnishing any of the equipment related to services to be provided hereunder.

- 2.5 Contractor shall be responsible for all communications with District. Subcontractors shall communicate with District through Contractor.
- 2.6 Without limiting any of the other obligations or liabilities of Contractor, Contractor shall require each Subcontractor performing work under Contractor, at the Subcontractor's own expense, to maintain during the term of the Contract, the same stipulated minimum insurance required herein. Contractor shall obtain and provide to District certificates of insurance from each Subcontractor as noted in Section 11, Paragraph 3.

### **3. CONTRACTOR RESPONSIBILITIES AND REPRESENTATIONS**

Contractor warrants the following:

- 3.1 That all school buses provided under this contract are properly licensed and registered, have been properly maintained, are in sound and safe condition and are free of any known faults or defects that would affect their safe operation under normal use.
- 3.2 That all buses and equipment necessary to fulfill this contract (including first aid kits, reflectors, fire extinguisher, mirrors and radios) are clean, in good working order, and conform with proper standards of the industry and/or applicable NYSDOT requirements for school buses.
- 3.3 That it shall cause to make repairs to all rented vehicles as required, within a reasonable period of time or replace the vehicle with an equivalent piece of equipment.
- 3.4 That each vehicle will be inspected by both parties and a sketch sheet filled out detailing any physical damage existing on the vehicle at the time of initial pick-up.
- 3.5 That all of the services to be performed by the bus company under or pursuant to this contract shall be of the standard and quality which prevail among similar businesses and organizations of superior knowledge and skill engaged in providing similar services under the same or similar circumstances.
- 3.6 That Contractor has all necessary corporate power and has received all necessary corporate approvals to execute and deliver this contract, and the individual executing the contract on behalf of Contractor has been duly authorized to act for and bind the company.

### **4. INDEPENDENT CONTRACTOR**

Contractor recognizes that it is engaged as an independent contractor and covenants and agrees that it shall conduct itself consistent with such status, that it will neither hold itself

out as nor claim to be an officer, partner, employee or agent of District by reason hereof, and that it will not by reason hereof make any claim, demand or application to or for any right or privilege applicable to an officer, employee or agent of District.

5. **TERMINATION**

Either party shall have the right to terminate this agreement without cause at any time giving sixty (60) days notice in writing to the other party. Upon notice of cancellation Contractor shall be required to fulfill all outstanding obligations for scheduled buses or reimburse District for any difference in cost for securing substitute equipment resulting in a higher expense to District.

6. **COMPLIANCE WITH LAW**

Contractor warrants that all laws, rules and regulations of duly constituted authorities having jurisdiction over its activities shall be complied with by the Contractor and its subcontractors.

7. **LIMITATION OF LIABILITIES**

Except for the obligation of District to pay Contractor pursuant to the terms of this contract, District shall have no liability to Contractor or to anyone claiming through or under Contractor by reason of the execution or performance of this contract.

8. **INDEMNIFICATION**

To the fullest extent permitted by law, contractor shall and does hereby agree to indemnify, protect, defend with counsel approved by district, and hold harmless District and its respective board members, officers, directors, attorneys, employees, representatives and agents (collectively "indemnitees") from and against all damages, losses, liens, causes of action, suits, judgments, expenses (including reasonable attorney's fees), and other claims of any natures, kind, or descriptions (collectively "claims") by any person or entity, arising out of, caused by, or resulting from contractor's performance under this agreement and which are caused in whole or in part by any negligent act, negligent omission or willful misconduct of contractor, anyone directly or indirectly employed by contractor, or anyone for whose acts contractor may be liable. The provisions of this section shall not be construed to eliminate or reduce any other indemnification or right which any indemnitee has by law. The indemnities contained herein shall survive the termination of this contract for any reason whatsoever.

9. **INSURANCE**

District hereby warrants that it possess adequate insurance that covers personal injury and property damage.

10. **RECORDS**

Contractor agrees to keep accurate records of financial or working processes and any records relative to the performance of this Agreement. Contractor further agrees that such books and records shall be subject to inspection and audit by any person designated by District at all reasonable times during business hours.

Contractor shall retain all books, records, and other documents concerning performance of this Agreement for at least three (3) years after termination of this Agreement or final payment under it. Contractor shall, upon request of District, allow District to have full access to, and the right to examine, any of such documents during such period and the period the Agreement is in effect.

## **11. GENERAL PROVISIONS**

### **11.1 ASSIGNMENT**

This contract is a personal service contract for the services of Contractor, and Contractor's interest in this contract, duties hereunder and fees due hereunder may not be subcontracted, assigned or delegated to any party without the prior written approval of District and any attempt to do so shall be void and of no effect.

### **11.2 ENTIRE AGREEMENT; MODIFICATIONS**

This contract supersedes all prior agreements, written or oral, between Contractor and District and shall constitute the entire agreement and understanding between the parties with respect to the subject matter hereof. That this contract and each of its provisions shall be binding upon the parties and may not be waived, modified, amended or altered except by a writing signed by District and Contractor. In the event any form of Contractor's is made a part of this Contract, the terms and conditions of this Contract shall prevail in the event of any inconsistency in terms.

### **11.3 FORCE MAJEURE**

Neither party hereto shall be liable or responsible to the other for any loss or damage or for any delays or failure to perform due to causes beyond its reasonable control including, but limited to, acts of God, strikes, epidemics, war, riots, flood, fire, sabotage, or any other circumstances of like character.

### **11.4 GOVERNING LAW**

This contract and all of the rights and obligations of the parties hereto and all of the terms and conditions hereof shall be construed, interpreted and applied in accordance with and governed by and enforced under the laws of the State of New York.

### **11.5 WAIVERS**

No delay or omission by either of the parties hereto in exercising any right or power accruing upon the non-compliance or failure of performance by the other party hereto of any of the provisions of this contract shall impair any such right or power or be construed to be a waiver thereof. A waiver by either of the parties hereto of any of the covenants, conditions or agreements hereof to be performed by the other party hereto shall not be construed to be a waiver of any subsequent breach thereof or of any other covenant, condition or agreement herein contained.

#### 11.6 BINDING EFFECT

This contract shall be binding upon and inure to the benefit of the parties hereto and their respective permitted assigns and successors

#### 11.7 SEVERABILITY

In case any provision hereof shall, for any reason, be held invalid or unenforceable in any respect, such invalidity or unenforceability shall not affect any other provision hereof, and this contract shall be construed as if such invalid or unenforceable provision had not been included herein.

#### 11.8 ENFORCEMENT

It is acknowledged and agreed that Contractor's services to District are unique, which gives Contractor a peculiar value to District and for the loss of which District cannot be reasonably or adequately compensated in damages; accordingly; Contractor acknowledges and agrees that a breach by Contractor of the provisions hereof will cause District irreparable injury and damage. Contractor, therefore, expressly agrees that District shall be entitled to injunctive and/or other equitable relief in any court of competent jurisdiction to prevent or otherwise restrain a breach of this contract, but only if District is not in breach of this Agreement.

#### 11.9 COUNTERPARTS

This contract may be executed in multiple identical counterparts, and each counterpart, when so executed and delivered, shall constitute an original instrument, and all such separate counterparts shall constitute one and the same instrument. Reproductions, facsimiles, and copies of the original signatures shall be binding as the executed original.

MJP Service Solutions, Inc.

Michelle Johnson  
Signature

Michelle Johnson  
Printed Name

President  
Title

November 9, 2015  
Date

Malverne Union Free School District

\_\_\_\_\_  
Signature

\_\_\_\_\_  
President, Board of Education

\_\_\_\_\_  
Date