

STATE OF NORTH CAROLINA

COUNTY OF CUMBERLAND

**FAYETTEVILLE STATE UNIVERSITY
TRANSPORTATION AGREEMENT**

THIS AGREEMENT, made and entered into this _____ day of _____ 20__, by and between _____ (hereinafter referred to as Contractor), and Fayetteville State University, Fayetteville, North Carolina 28301 (hereinafter referred to as FSU);

For and in consideration of the mutual promises set forth in this Agreement, the parties do mutually agree as follows:

1. Obligations of Contractor

a. Transporting of Students/Employees

Transportation of approximately _____ students and _____ employees to _____ with a return trip back to Fayetteville, North Carolina. Contractor shall be available to transport the students and adults to _____ no later than _____ am/pm on _____. Contractor shall pick up students and adults at _____ located on the FSU campus.

Return transportation to Fayetteville State University, Fayetteville, North Carolina shall occur no later than _____ am/pm on _____. Students and employees will be picked up at _____ no later than _____ am/pm.

b. Motor Coach/Driver Requirements

Contractor represents and warrants the following:

- Contractor (and any subcontractor) is in compliance with all laws, ordinances, codes, rules, regulations, and licensing requirements that are applicable to the conduct of its business, including those of Federal, State, and local agencies;
- Drivers are properly certified and licensed under the laws, rules and regulations of any authority having jurisdiction;

ALL CONTRACTS BINDING THE UNIVERSITY MUST BE REVIEWED BY THE OFFICE OF LEGAL AFFAIRS PRIOR TO SUBMISSION TO THE VICE CHANCELLOR FOR BUSINESS AND FINANCE. PLEASE ALLOW AT LEAST SEVEN (7) DAYS FOR LEGAL REVIEW.

Please initial approval below.

Division Budget Manager

FOAP

Vice Chancellor or Athletic Director

General Counsel

- Drivers have been subjected to criminal background checks, and in accordance with applicable law a drug screening has been conducted. Certifications that such checks and screenings have been completed must be submitted to Contractor prior transporting Contractor's students/employees;
- Motor coaches are able to transport at least 25-57 passengers per motor coach and transport any associated equipment/luggage for each individual group;
- Motor coaches are clean with a proper working climate control system and access to a working cellular telephone is available; and
- Restrooms are clean and recently serviced prior to each trip; and
- Motor coaches include the following standard equipment: functioning VCR, DVD, Wi Fi network, reading lights and extra outlet plugs.

2. **Obligations of FSU.** FSU agrees to pay Contractor _____ DOLLARS (\$ _____) for the services provided in Paragraph I above. FSU will make payment after invoice(s) have been approved by the Vice Chancellor for Business and Finance ("Vice Chancellor"). FSU will not pay for services in advance without the prior approval of the Vice Chancellor.

3. **Contract Administrator.** _____ in the department of _____ is designated as the Contract Administrator for FSU. The Contract Administrator shall be FSU's representative in connection with the Contractor's performance under this Agreement. FSU has complete discretion in replacing the Contract Administrator with another person of its choosing.

4. **Contractor's Supervisor.** _____ whose title is _____ is designated as the Contractor's Supervisor for the Contractor. The Contractor's Supervisor is fully authorized to act on behalf of the Contractor in connection with this Agreement.

5. **Substitution of Key Personnel.** The Contractor agrees that it has, or will secure at its own expense, all personnel required to perform the services set forth in this Agreement. The Contractor shall not substitute key personnel assigned to the performance of this Agreement without prior approval by the Contract Administrator. "Key personnel" is defined as the individual identified by name in this Agreement or in written communication from the Contractor.

The individual designated by the Contractor as key personnel for purposes of this Agreement is _____. The Contractor shall not assign, subcontract or otherwise transfer any interest in this Agreement without the prior written approval of the Contract Administrator.

6. **Subcontracting.** No sub-contracting of motor coaches from other companies is allowed unless there has been prior written approval from the University's Purchasing Director. Sub-contracted motor coaches must meet or exceed the same requirements as Contractor. All sub-contracted motor coaches will be subject to inspection by University personnel prior to travel.

7. **Termination.** FSU may terminate this Agreement at any time by giving fifteen (15) days notice in writing from FSU to the Contractor. If the Agreement is terminated by FSU as provided herein, the Contractor will be paid in an amount which bears the same ratio to the total compensation as Contractor covered by this agreement; or for each full day of services performed, less payment of compensation previously made.

Upon the entering of a judgment of bankruptcy or insolvency by or against Contractor, FSU may terminate this Agreement for cause.

FSU may terminate this Agreement immediately and without prior notice upon breach of this Agreement by the Contractor.

8. **Agreement Funding.** It is understood and agreed between the Contractor and FSU that payment of compensation specified in this agreement, its continuation or any renewal thereof, is dependent upon and subject to the allocation or appropriation of funds to the FSU for the purpose set forth in this agreement.
9. **Improper Payments.** The Contractor shall assume all risks attendant to any improper expenditure of funds under this Agreement. The Contractor shall refund to FSU any payment made pursuant to this Agreement if it is subsequently determined by audit that such payment was improper under any applicable law, regulation or procedure. The Contractor shall make such refunds within thirty (30) days after FSU notifies the Contractor in writing that a payment has been determined to be improper.
10. **Indemnity.** The Contractor shall indemnify and hold harmless FSU, its trustees, officers, agents, employees and assigns from and against all claims, losses, costs, damages, expenses, attorneys' fees and liability that any of them may sustain:
 - a. arising out of the Contractor's failure to comply with any applicable law, ordinance, regulation, or industry standard;
 - b. arising directly or indirectly out of the Contractor's performance or lack of performance of this Agreement; or
 - c. arising out of liens that are asserted relating to the Contractor's performance or lack of performance of this Agreement.
11. **Insurance Requirements.** The Contractor certifies that it currently has and agrees to maintain during its performance under this Agreement the following insurance from one or more insurance companies acceptable to FSU and authorized to do business in the State of North Carolina:
 - **COMMERCIAL GENERAL LIABILITY:** Policy must include contractual coverage. Policy minimums are five million dollars (\$5,000,000) per occurrence. FSU must be named as additional insured on the auto liability policy.
 - **AUTOMOBILE LIABILITY INSURANCE:** Policy must include contractual coverage. Policy minimums are five million dollars (\$5,000,000) per occurrence. Coverage must include the uninsured motorists/underinsured motorists' coverage.
 - **WORKERS COMPENSATION & EMPLOYER'S LIABILITY:** Contractor shall provide and maintain Workers Compensation insurance as required by the laws of North Carolina. This insurance will include employer's liability coverage with minimum limits of five hundred thousand (\$500,000) covering all contractor's employees who are engaged in any work under the scope of this contract. If any work is subcontracted, the successful contractor shall require the subcontractor to provide the same coverage for any of his employees engaged in any work under the contract.

The Contractor will furnish certificates of such insurance to FSU within fifteen (15) days of the execution of this Agreement. The certificate shall contain the provision that FSU be given 30 days' written notice of any intent to amend or terminate by either the Contractor or the insuring company. Failure to furnish insurance certificates or to maintain such insurance shall be a default under this Agreement and shall be grounds for immediate termination of this Agreement.

The Contractor will require all subcontractors to maintain the type and amount of insurance required of the Contractor pursuant to this Section 11 and to furnish to FSU a certificate of such insurance.

12. **Agreement Modifications.** This Agreement may be amended only by written amendment duly executed by both FSU and the Contractor.
13. **Relationship of Parties.** The Contractor is an independent Contractor and not an employee of FSU. The conduct and control of the work will lie solely with the Contractor. This Agreement shall not be construed as establishing a joint venture, partnership or any principal-agent relationship for any purpose between the Contractor and FSU. Employees of the Contractor shall remain subject to the exclusive control and supervision of the Contractor, which is solely responsible for their compensation.
14. **Advertisement.** The Contractor shall not use this Agreement in connection with any advertising without prior written approval by FSU.
15. **Nondiscrimination.** During the performance of this Agreement, the Contractor shall not discriminate or deny the Agreement's benefits to any person on the basis of religion, race, color, ethnic group identification, sex, age, physical or mental disability.
16. **Conflict of Interest.** The Contractor shall not permit any member of FSU or any of its employees or officers to obtain a personal or financial interest or benefit from the performance of this Agreement or to have any interest in any Agreement, subcontract or other agreement related to this contract, either for it or for those with whom it has family or business ties.
17. **Gratuities to FSU.** The right of the Contractor to proceed may be terminated by written notice if FSU determines that the Contractor, its agent or another representative offered or gave a gratuity to an official or employee of FSU in violation of policies of FSU or laws of the State of North Carolina.
18. **Kickbacks to Contractor.** The Contractor shall not permit any kickbacks or gratuities to be provided, directly or indirectly, to itself, its employees, subcontractors or subcontractors' employees for the purpose of improperly obtaining or rewarding favorable treatment in connection with a FSU Agreement or in connection with a subcontract relating to a FSU Agreement. When the Contractor has grounds to believe that a violation of this clause may have occurred, the Contractor shall promptly report to FSU in writing the possible violation.
19. **Monitoring and Evaluation.** The Contractor shall cooperate with FSU, or with any other person or agency as directed by FSU, in monitoring, inspecting, auditing or investigating activities related to this Agreement. The Contractor shall permit FSU to evaluate all activities conducted under this Agreement.
20. **Financial Responsibility.** The Contractor agrees that it is financially solvent and able to perform under this Agreement. If requested by FSU, the Contractor agrees to provide a copy of its latest audited annual financial statements or other financial statements as deemed acceptable by FSU's Finance Officer.
21. **Confidentiality of Student Information.** If, during the course of the Contractor's performance of this Agreement, the Contractor should obtain any information pertaining to the students' official records, the Contractor agrees that this Agreement shall not be construed by either party to

constitute a waiver of or to in any manner diminish the provisions for confidentiality of students' records.

22. **Enforceability.** This Agreement shall not be enforceable unless signed by the Vice Chancellor.
23. **Entire Agreement.** This Agreement constitutes and expresses the entire agreement and understanding between the parties concerning the subject matter of this Agreement. This document (including exhibits, if any), any purchase order used in connection with this Agreement and any other document expressly incorporated in this Agreement by reference supersede all prior and contemporaneous discussions, promises, representations, agreements and understandings relative to the subject matter of this Agreement.
24. **Governing Jurisdiction.** All matters, whether sounding in contract or tort relating to the validity, construction, interpretation and enforcement of this Agreement, will be determined in Cumberland County, North Carolina. North Carolina law will govern the interpretation and construction of this Agreement.

IN WITNESS WHEREOF, FSU and the Contractor have executed this Agreement on the day and year first written above.

CONTRACTOR

FSU

Signature of Authorized Representative

Yolanda Bonnette
Associate Vice Chancellor for Business
and Finance

Printed Name

Title