

## TRANSPORTATION SERVICES AGREEMENT

THIS AGREEMENT ("Agreement") is made and entered into as of the \_\_\_\_\_ day of June 2024, by and between Homer Community Schools with principal offices at 212 South 3rd Street, Homer, NE 68030, (hereinafter called "District"), and First Student, Inc., with its principal place of business at 191 Rosa Parks Street, 8<sup>th</sup> Floor, Cincinnati, Ohio 45202 and local business offices for purposes of this Agreement at 323 W 39th St, South Sioux City, NE 68776 (hereinafter called "Contractor") (each a "Party" and collectively, the "Parties").

### WITNESSETH

WHEREAS District has selected Contractor to provide the student transportation services; 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 on July 1, 2024 and shall continue through June 30, 2027 ("Term") for 175 school days according to the school calendar. Except as otherwise provided herein, District agrees to compensate the Contractor at the rates specified in Exhibit A, which assume a total of 175 student transportation days.
- 1.2 This Agreement may be extended by mutual written agreement for up to two (2) additional one (1) to three (3) year periods 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 Contract Year. For purposes of this Agreement, the term "Contract Year" shall mean each one-year period commencing on July 1<sup>st</sup> and ending on June 30<sup>th</sup> during the Term of this Agreement.

#### SECTION 2: SCOPE OF SERVICES REQUIRED

- 2.1 Contractor shall, during the Term, provide transportation service as described herein.
- 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 vehicles and the number of spare buses will be adjusted accordingly. With notice to Contractor, District may increase or decrease service levels to be provided by Contractor under this Agreement. However, where such increases or decreases impact by greater than 5% the service levels or equipment levels required of Contractor under the assumed routes, schedules, days of service, hours or miles, or vehicle requirements contained in Exhibit A, Contractor shall be permitted to adjust rates proportionately to cover increases or decreases in cost structure associated with such changes by District.
- 2.3 Contractor shall have thirty (30) days following notice of such changes to make operational adjustments to meet District requirements.

- 2.4 District will use Contractor as District's sole and exclusive provider for all of District's home-to-school and Charter Transportation at rates set forth in Exhibit A. "Charter Transportation" shall mean the outsourced transportation of any and all persons to be transported for field trips, excursions, extracurricular, athletic, creative or academic activities, or any similar purpose.
- 2.5 District must notify Contractor in writing within forty-eight (48) hours of an incident of District's intent to assess liquidated damages. Contractor shall have thirty (30) days following such notice to cure the incident prior to the assessment of liquidated damages. District must bill Contractor for such liquidated damage within sixty (60) days of the incident if the violation has not been remedied. Under no circumstances may District withhold, deduct or offset compensation due to Contractor for purposes of collecting liquidated damages. Failure to either timely notify or bill Contractor shall relieve Contractor of its obligation to compensate liquidated damages for the particular incident.
- 2.6 Liquidated Damages/Missed Trip Charges: The Contractor shall report to the District, as soon as reasonably practicable, all missed or late trips. In the event that the Contractor is late performing a non-route trip, adjustments to the charge will be made. All charges against the Contractor shall be deducted from monthly Contract payments due to the Contractor under the Contract. Except when caused by conditions outside the Contractor's control such as passenger misconduct, mechanical issues, weather or Force Majeure, the Contractor will be charged late charges as follows:
- o 10-19 minutes late 25% of the total trip charge
  - o 20-44 minutes late 50% of the total trip charge
  - o 45 minutes or more 100% of the total trip charge
  - o Traffic safety violations will not be tolerated, and the District shall be reimbursed for the full amount of the trip, and a formal response shall be submitted to the superintendent of schools. This includes documented reports of unsafe driving.
- The late charges set forth herein are in addition to all other remedies that the District has in event of default.
- 2.7 Canceled Trips: The District shall notify the Contractor of canceled non-route trips not less than one (1) hour prior to the first scheduled pickup per trip. If the District fails to give the Contractor one (1) hour notification of canceled non-route trips, the District shall pay the Contractor the driver's actual time or minimum call-out time as outlined in Exhibit A.

### SECTION 3: COMPENSATION AND BILLING

- 3.1 In consideration for all services rendered hereunder, District shall pay to Contractor all sums due and owing for transportation services in accordance with the rates set forth in Exhibit A.
- 3.2 Contractor will submit to District a monthly statement of its services rendered during the prior month. District shall pay all undisputed amounts due to the Contractor the day following approval by the Board of Education at the next regular meeting of the Board held after receipt of the monthly statement.

If any portion of the billed service in the statement is disputed by District or the District seeks a revised invoice, District shall deliver written notice specifying the disputed amount or requested revisions to the Contractor within fifteen (15) business days of receipt of the statement by District. In the absence of District timely providing said written notice, District waives any right

to dispute said statement or reject the invoice in the future. All disputes shall be resolved pursuant to the Dispute Resolution clause of this Agreement.

In the event that District fails to make a payment on any sums due hereunder, and such sums remain unpaid for 30 days, Contractor shall be entitled to charge interest on unpaid amounts at the rate of the lesser of 1.5% per month or the maximum amount allowed by state law. In the event of repeated delinquency by District, Contractor shall have the right to request a deposit or payment bond from District before resuming service. Without limitation, Contractor shall be entitled to court costs, litigation expenses and attorneys' fees incurred in any attempt to collect unpaid amounts due under this Agreement.

#### 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 A.
- 4.2 In the event of unusual circumstances, such as changes in local, state, or federal taxes, laws or regulations, District directives or specifications, increased insurance or surety premiums, increased employee benefits or wages, or any other condition which causes any of Contractor's operating costs hereunder to increase at a rate in excess of any negotiated escalation, then the Parties shall determine a reasonable and proportionate amount to cover such increase, and rates of Contractor compensation set forth in Exhibit A shall be adjusted to reflect such increase. If the Parties do not agree to a rate increase, Contractor shall have the right to terminate this Agreement upon not less than thirty (30) days' notice.
- 4.3 In the event of a driver shortage in the local market, the Parties will negotiate in good faith to cover the cost of any incremental wage and benefit increase necessary to recruit and retain drivers as well as any additional travel and expense costs associated with using non-local drivers to alleviate the shortage.

#### SECTION 5: FACILITIES AND FUEL

- 5.1 Contractor shall purchase at its own cost including taxes all fuel required for the operation of buses hereunder. Fuel prices are assumed at \$3.00 per gallon. Should Contractor's cost of fuel exceed \$3.00 per gallon, District will reimburse Contractor the excess cost. Upon the written request of District, Contractor will provide documentation/itemized receipts substantiating its fuel costs.
- 5.2 Contractor shall provide parking, maintenance and administrative facilities needed to provide service under this Agreement.

#### SECTION 6: ROUTES AND SCHEDULES

- 6.1 Contractor shall be primarily responsible for planning all routes, stops and schedules. Contractor shall furnish District a complete route map on or before August 1<sup>st</sup> of each school year.

- 6.2 District shall furnish Contractor service dates with a list of student names and addresses at least forty-five (45) days prior to the start of each school year, from which Contractor will construct a complete route map.
- 6.3 Performance of the routing and other services under this Agreement may entail the disclosure of personally identifiable information from student education records protected by the Family Educational Rights and Privacy Act (FERPA) ("Student Information"). For the purposes of this Agreement, Contractor will be designated as a "school official" with "legitimate educational interests" in Student Information, as those terms have been defined under FERPA and its implementing regulations and will abide by the limitations and requirements imposed by 34 CFR 99.33(a) on District. To that end, any personally identifiable information, as that term is defined by FERPA, may be used by Contractor only for the purposes for which disclosure was made.
- 6.4 Notwithstanding the foregoing, 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 assist in republication of changes or other notification to those students whose service has been changed. Contractor shall consult with District regarding stops or portions of routes that Contractor considers to be a safety concern due to traffic patterns or configurations. If any stop or portion of a route remains unchanged by District after such discussions, and Contractor believes such stop or route presents an unacceptable safety risk to Contractor's property or students, Contractor may reject the stop or route portion and provide District with alternative designations by written notice. In those instances where District establishes the routes and schedules and/or makes any changes thereto, District will be responsible for and will defend, indemnify, and hold harmless Contractor for any and all loss, liability or costs alleged to have been caused or related to routing or scheduling.

## SECTION 7: RECORDS AND REPORTS

- 7.1 Contractor shall provide within thirty (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 by using the same degree of care used to protect its own confidential information.
- 7.2 Contractor shall maintain such records and submit such reports, as are deemed necessary by 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, by telephone and confirmed as soon as practicable in writing, of the occurrence of any incident involving student riders, or an 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.

- 7.4 If Contractor provides District with audio or video recordings or any other records that include private or personally identifiable information, District shall handle such records in accordance with applicable local, state, and federal law and shall hold harmless, indemnify, and defend Contractor for any failure to comply with applicable law.

## 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 the negligence or willful misconduct of Contractor, its agents, or employees 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; student upon student violence; routing or scheduling; or Contractor's good faith adherence to District's policies, procedures, or directives.
- 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 the negligence or willful misconduct of District, its agents, or employees 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.
- 8.3 Notwithstanding the foregoing, (a) each Party shall advise the other Party in writing of any claims, notices, or additional information received by it or of which it becomes aware for which such Party will seek indemnification hereunder, in such time and manner as not to impair or prejudice the ability of the indemnifying Party to defend such claims or investigate such notice, (b) each Party shall provide the indemnifying Party with the cooperation and assistance necessary to defend such claim requested by the indemnifying Party, and (c) neither Party shall settle or compromise any claim admitting the fault, liability, or negligence of the other Party without the other Party's prior written consent, which shall not be unreasonably withheld, conditioned or delayed. The obligations set forth in this paragraph shall survive the termination of this Agreement. As it applies to both Parties, nothing in this Agreement shall be construed to prevent or reduce the immunities from civil liability granted by applicable law.

## SECTION 9: INSURANCE

- 9.1 Contractor shall, at its expense, procure and keep in force during the entire term of this Agreement for claims arising under this Agreement, General Liability and Automobile Liability Insurance to protect Contractor, its drivers and other personnel. Contractor shall provide General Liability- including Bodily Injury, Property Damage, Personal Injury, and Advertising Injury with limits of \$2,000,000.00 each Occurrence/\$2,000,000.00 General Aggregate; Automobile Liability limits of \$2,000,000.00 combined single limit for bodily injury and damage to property for all owned, hired, and non-owned autos. Upon request, Contractor agrees to provide to District a certificate of insurance evidencing such coverage and designating District as an additional insured. but only with respect to liability for bodily injury, property damage, or

personal injury arising directly out of Contractor's negligent or willful acts or omissions. Insurers shall maintain a minimum A.M. Best's & Company rating of A. Upon request, 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 under which Contractor shall operate for this Agreement.

- 9.2 District will, at its own expense, procure and keep in force general liability insurance as is customary in the business including Bodily Injury, Property Damage, Advertising Injury and Personal Injury and at limits of not less than \$2,000,000.00. District will list Contractor as an additional insured and provide a certificate of insurance evidencing such coverage.

#### 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, cyber-attack, power or communications outage, picketing, strike, pandemic, epidemic, labor dispute, labor shortages, supply chain disruption, fuel shortage, governmental action or any other condition or cause beyond Contractor's control (each a "Force Majeure Event"), District shall excuse Contractor from performance under this Agreement for the duration of such Force Majeure Event.

#### SECTION 11: SCHOOL CLOSINGS OR CHANGES IN SCHEDULE

- 11.1 Whenever school is closed and student transportation is suspended for the day, for any reason, including, but not limited to, inclement weather, impassability of roads, facilities issues, or illness, District shall notify Contractor on each day of such closure in time for Contractor to suspend operations and provide sufficient notice to its workforce not to report to work. District shall compensate Contractor the full scheduled daily rate for days when District fails to provide such notice to Contractor; provided, however, this Section 11.1 only applies to closures that do not decrease the total number of student transportation days as set forth in Section 1.1. If a closure will decrease the total number of student transportation days set forth in Section 1.1, Contractor shall be compensated in accordance with Section 11.3.
- 11.2 If the regular school day schedule is changed resulting in late start, early dismissal or the cancellation of scheduled Charter Transportation, District shall notify Contractor in time for Contractor to adjust operations and adequately notify its workforce of the change. District shall compensate Contractor for all costs incurred due to failure to provide adequate notice. Notwithstanding the foregoing, in the event of circumstances which necessitate a schedule change, Contractor and District shall cooperate to facilitate orderly transportation of students in the most efficient manner possible under the circumstances presented.
- 11.3 If District suspends service for any reason, including, but not limited to, a Force Majeure Event as defined in this Agreement, and such suspension alters the total number of student transportation days set forth in Section 1.1, District shall compensate Contractor for all fixed costs associated with Contractor's performance of this Agreement from the first suspended/cancelled day through the end of the cancellation/suspension period. For purposes of this Agreement, fixed costs include but are not limited to costs associated with maintaining average employee wages and benefits, overall management and administration costs, facilities cost, fleet investment, maintenance, technology, insurance, and other ongoing operations costs.

## SECTION 12: SAFETY PROGRAM

- 12.1 Contractor shall be responsible for implementing, maintaining, and reviewing annually a comprehensive student transportation safety program.
- 12.2 Contractor's employees shall not be required to perform any medical functions for passengers, including but not limited to administering an Epi Pen.
- 12.3 Emergency Exit Drills: Contractor shall coordinate with the District to provide semiannual exit drills as required by law.
- 12.4 Safe Pupil Transportation Plan: Contractor shall comply with the District's Safe Pupil Transportation Plan and shall keep a copy of such plan on each bus operated by the Contractor under the Agreement. The District reserves the right to amend the Safe Pupil Transportation Plan as needed.

## 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 act as 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 designate management personnel who shall be responsible for coordination of the student transportation requirements of District and act as 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 ensure that its employees act professionally and appropriately around all students and District staff. Contractor shall not knowingly permit its drivers to smoke on the bus, or to violate any federal or state law related to the operation of a vehicle while intoxicated or under the influence of any prohibited substance.
- 14.3 Contractor shall be responsible for hiring and discharging personnel employed by Contractor to perform its obligations hereunder. However, District shall have the right to request that Contractor remove from service to District any driver, aide or monitor who, in District's sole discretion, is deemed unsuitable for the performance of transportation services for District; provided that District shall make such request in writing, state the reasons therefore, and include any supporting documentation, and provided further that such request does not violate applicable local, state or federal laws, rules or regulations. Unless prohibited by law, District shall indemnify, defend, and hold harmless Contractor from and against all claims, expenses,

or liabilities by or to a removed Contractor employee arising from the removal of that employee based on District's request.

- 14.4 Contractor shall provide drivers that are fully qualified, trained and licensed as required by the U.S. Department of Transportation (USDOT) and any applicable state law or regulation. Contractor agrees that each driver shall:
- 14.4.1 Possess a valid Commercial Drivers' License as required by the USDOT for school bus drivers or such other drivers' license or permit required for any smaller passenger vehicle.
  - 14.4.2 Be certified by a USDOT medical examiner as medically qualified as required by the USDOT under federal law. 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 required by applicable law.
  - 14.4.4 Prior to employment and periodically thereafter, to the extent required by law and/or by the USDOT under its mandatory drug and alcohol testing requirements for school bus drivers, undergo such drug and alcohol testing to verify that the driver is not engaged in any prohibited or unsafe vehicle operations. Any driver that fails a drug or alcohol test or refuses to take such test will be subject to immediate disqualification.

#### 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. Upon request, 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 or communicate with drivers without Contractor notice and approval.

#### SECTION 16: VEHICLES AND EQUIPMENT

- 16.1 All vehicles supplied by Contractor in performance of this Agreement shall meet or exceed the standards established by applicable law and regulation. Contractor shall maintain the vehicles supplied by Contractor and 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 thirteen (13) model years of age at the beginning of the school year, with an average fleet age of seven (7) years during the term of this Agreement. There shall be no extra charge for stand-by buses when used to replace regular route buses in regular route transportation. No spare bus shall exceed thirteen (13)



model years of age at the beginning of any school year during the Term. Contractor will purchase one (1) brand new bus in each of the first and third years of this Agreement.

- 16.3 All buses must be equipped with functional heating systems to ensure a comfortable environment during colder months.
- 16.4 Contractor shall provide radios, radio channels and network for all bus transportation provided under the Contract.
- 16.5 The prices included with this Agreement do not include seat belts on school buses. If District or any government agency shall during the term of this Agreement mandate that Contractor provide seat belts for use in school buses, the Parties shall negotiate in good faith alternative pricing and availability of vehicles to service District under this Agreement. If District or any governmental agency imposes additional equipment requirements on any of Contractor's vehicles during the term of this Agreement (including, but not limited to, new technology or equipment relating to safety or emissions standards), which are specific requirements for continued operation of the vehicles, Contractor and District shall negotiate price increases applicable to such equipment installation and any associated increase in vehicle maintenance costs.
- 16.6 Contractor agrees that all Contractor school buses shall be equipped with sufficient communications technology acceptable to the District to maintain communications while on route. Contractor agrees to perform an inspection of such equipment prior to the start of the school year and periodically thereafter to ensure proper performance. When an inspection reveals equipment malfunction, Contractor shall promptly repair or replace such equipment.
- 16.7 District shall reimburse the Contractor for all expenses related to public health mandates arising during the term that require operational or equipment changes to vehicles in the provision of transportation services.
- 16.8 District shall excuse Contractor from performance for service disruptions caused by vehicle or equipment supply chain delays. When available, Contractor shall utilize substitute equipment and vehicles conforming to applicable state standards without penalty to cover service for the duration of the disruption caused by supply chain delays.
- 16.9 District may direct Contractor to perform additional tasks not specifically described in the Scope of Services. Contractor may perform such assignments in accordance with an agreed upon schedule and level of effort. Costs associated with such assignments shall be invoiced to District at rates set forth in Exhibit A.
- 16.10 The Parties acknowledge that Contractor may be eligible to apply for certain funding opportunities to acquire vehicles and equipment used under this Agreement, including, but not limited to, federal or state grants to purchase electric vehicles and associated equipment. District hereby consents to Contractor's pursuit of such funding and agrees that Contractor shall be entitled to apply such funding as Contractor deems appropriate in its sole discretion.

## SECTION 17: PUPIL DISCIPLINE/VANDALISM

- 17.1 The ultimate responsibility and authority to suspend or expel any student from transportation services hereunder shall rest with District. Contractor's drivers are responsible only for such discipline as is required to operate Contractor's buses properly and safely. Each driver shall handle all disciplinary matters in strict accordance with District policy. In no case will a driver eject a student from a vehicle for misbehavior except in the event of an extreme emergency endangering the safety of other students or drivers and then only after radio notice to Contractor's terminal and to the student's building or school principal. In all cases of disciplinary ejection, the vehicle 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. District and Contractor will, in the event Contractor determines that a student poses a danger to himself/herself or other passengers, cooperate to provide a safe transportation environment prior to Contractor being required to transport such student. 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 student with transportation services until vandalism damages caused by such student are paid.

## SECTION 18: ASSIGNMENT

- 18.1 This Agreement shall not be assigned by the Parties hereto, without the written consent of District, which consent shall not be unreasonably withheld, conditioned or delayed; provided, however, that Contractor may, without approval, assign the Agreement to a parent company, subsidiary, related or affiliated company. Furthermore, a Contractor shall have the right to assign or otherwise transfer this Agreement in connection with a merger, acquisition, corporate reorganization, public stock offering, or sale of all or substantially all its assets.

## 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 or take steps to remedy the violation. If at the end of such 30-day default notice period, the Party notified has not remedied the purported violation or taken steps to do so, the non-defaulting Party may terminate this Agreement as follows: within ten (10) business days following the last day of the 30-day default notice period, the non-defaulting Party shall give the defaulting Party not less than thirty (30) business days' notice of termination. If the non-defaulting Party does not provide the notice of termination within ten (10) business days, the default notice shall be deemed rescinded.

- 19.2 District has the ability to cancel this Agreement effective at the end of any Contract Year on the failure of the state legislature or other applicable governmental entity 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 governmental funding deficiencies, District shall give written notice to Contractor on or before February 1 prior to the end of any Contract Year for services to be rendered in the following Contract Year. As the Contractor will make reasonable efforts to offset costs in the event of a termination, District shall reimburse the Contractor in full for costs incurred by Contractor as the result of such early termination, including, but not limited to, retrofit and redeployment of vehicles, contract close-out costs, facility/property related expenses associated with closure of property and sale as appropriate, and fueling infrastructure (including infrastructure for electric vehicles) and related costs, and all other associated termination costs. In the event that governmental funding is restored following a termination of this Agreement under this Section, the Contractor shall be entitled to a right of first refusal to provide continuing service to District under this Agreement.
- 19.3 Either Party may terminate this Agreement for convenience upon not less than sixty (60) days' prior written notice to the other Party.

## SECTION 20: DATA RIGHTS

- 20.1 District hereby grants to Contractor the right and license to (a) use, store, create derivative works from, sublicense, translate, format, distribute, and otherwise process Service Data as required in the performance of Contractor's obligations under this Agreement; (b) use Service Data to improve, enhance, and support the nature, quality and features of Contractor and Contractor affiliate products, software, and services; and (c) create and develop adaptations, analyses, derivatives, modifications, reports, and summaries of Service Data, provided that Contractor complies with applicable privacy law and the resulting materials do not contain personally identifiable information. All adaptations, analyses, derivatives, modifications, reports, and summaries of Service Data described in the foregoing subsection (c) shall be deemed to be Contractor data. "Service Data" means data collected by, provided to, or processed by Contractor, or input by or on behalf of District, through or in connection with District's use of the Services, including location and routing data generated by, collected by and/or transmitted through products installed in vehicles.

## SECTION 21: SURVIVAL

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

## SECTION 22: STATUS OF CONTRACTOR

- 22.1 Contractor shall be an independent contractor employed by District 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 this Agreement shall remain in full force and effect.

SECTION 24: MODIFICATION

24.1 Contractor and District may 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 the same in the United States mail, postage prepaid, registered, or certified mail.

Notices to District shall be addressed to:

Superintendent  
212 South 3rd Street,  
Homer, NE 68030

Notices to Contractor shall be addressed to:

John Billigmeier  
Senior Vice President  
10551 Barkley St. Suite 620  
Overland Park, KS 66212

With a copy to:

First Student, Inc.  
191 Rosa Parks Street, 8<sup>th</sup> Floor  
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, the Contractor shall comply with federal, state, and local laws, rules and regulations in providing transportation services described herein.

SECTION 28: DISPUTE RESOLUTION

28.1 The Parties shall negotiate in good faith to resolve any dispute that may arise under this Agreement. Disputes that cannot be resolved by negotiation within sixty (60) days of dispute shall be submitted to mediation using a mutually agreed upon mediator. In the absence of an agreement on a mediator, each Party shall select a temporary mediator and those mediators shall jointly select the permanent mediator. If mediation is not successful, the Parties may pursue their remedies as they choose. Nothing in this Agreement shall be deemed to prevent the Parties from agreeing in the future to submit a dispute to arbitration.

SECTION 29: PLACE OF CONTRACT/CONTROLLING LAW

29.1 This Agreement shall be governed, construed, and enforced in accordance with the laws of the State of Ohio, without regard to conflict of law principles. The Parties agree that any action at law or equity instituted against either Party to this Agreement must be commenced only in the Hamilton County, Ohio Common Pleas Court or the United States District Court for the Southern District of Ohio. District irrevocably consents to the personal jurisdiction of the state and federal courts of Ohio as set forth above.

SECTION 30: AUTHORITY

30.1 Both Parties warrant that they are properly authorized to enter into this Agreement.

SECTION 31: PUBLIC OBLIGATION

31.1 District acknowledges that this Agreement serves a public purpose and that any payments associated with this Agreement for the provision of any aspect of student transportation services promotes a public purpose and is for the public welfare.

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

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

\_\_\_\_\_  
Homer Community Schools

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

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

EXHIBIT A  
SCOPE OF TRANSPORTATION SERVICES  
RATES AND CONDITIONS

Description of Service	Unit	2024-25	2025-26	2026-27
Standard Bus	Per Day, Per Route-Round Trip	\$ 444.95	\$ 525.04	\$ 551.29
Activity Trips	Per Mile	\$ 3.55	\$ 4.18	\$ 4.39
Minimum Trip Charge	Per Trip	\$ 70.89	\$ 83.65	\$ 87.83
Sitting Time	Per Hour	\$ 29.61	\$ 34.94	\$ 36.69
Canceled Trip (without 24-hour notice) fee	Per trip	\$ 70.89	\$ 83.65	\$ 87.83
buses brought into district for activities	Per Mile	\$ 2.55	\$ 3.01	\$ 3.16
Bus Monitor	Per Hour	n/a	n/a	n/a

Above rates are based on 175 transportation days per school year.