

## **TRANSPORTATION CONTRACT**

This Transportation Contract for Services ("Contract" or "Agreement") is made effective as of July 31, 2018, by and between Explore! Community School (the "School") of 217 S. 10th St., Nashville, Tennessee 37207, and RLCL Acquisition, LLC d/b/a Gray Line Tennessee (the "Company" or the "Transporter") of 186 N. 1st Street, Nashville, Tennessee 37213.

### **DEFINITIONS.**

Client is defined as any entity who has hired Transporter to perform any service.

Route is defined as both the morning and afternoon trips of a set stop schedule. The route consists of two legs, the morning and afternoon leg of the set stop schedule.

Leg is defined as one half of a route where the route consists of a morning and afternoon trip.

**DESCRIPTION OF SERVICES.** Beginning on date of execution, RLCL Acquisition, LLC d/b/a Gray Line Tennessee will provide to the School the transportation services described in the attached Exhibit A (collectively, the "Services").

**PAYMENT.** Payment shall be made to RLCL Acquisition, LLC d/b/a Gray Line Tennessee, Nashville, Tennessee 37213. School agrees to pay in 10 monthly installment payments as laid out in Exhibit C, per month for 10 consecutive months which school is in session, August through May for each school year. Pricing is based off of 176 days of service. Should there be more than 176 days of service in the school year, each additional route will be billed at the nominal per route fee. Pricing will be affected in subsequent years by the terms defined below in "Renewal Option."

Payment is due by the 10<sup>th</sup> of the month following service. Any payment received after the 10<sup>th</sup> will incur a late fee equal to \$500 per day past the 10<sup>th</sup> of the month following service. This late fee will not be exceed \$5000 per instance of lateness. For example, if the Transporter receives payment on the 14<sup>th</sup> day following service, a late fee of \$2000 will be applied to the next month's invoice, but in no event would the late fee be higher than \$5000, even if the School pays on the 23<sup>rd</sup> of the month following service.

In addition to any other right or remedy provided by law, if the School fails to pay for the Services when due, RLCL Acquisition, LLC d/b/a Gray Line Tennessee has the option to treat such failure to pay as a material breach of this Contract, and may cancel this Contract and/or seek legal remedies.

**TERM.** This Contract will terminate on June 15<sup>th</sup>, 2021. Each year on June 15<sup>th</sup>, the pricing for all services will increase 4% from the prior year's pricing. Transporter will have the unilateral

option to terminate the contract at the end of any school year, provided notice in writing is delivered to School at least 60 days prior to the last day of School's "in-service" days.

**INSURANCE.** Transporter at Transporter's expense, shall maintain during the term of this Contract, commercial general liability and automobile liability insurance with \$5000,000 limit per occurrence and for personal injury and property damage, with \$1,000,000 minimum limits. Transporter shall provide School certificate of insurance naming School as Certificate Holder, evidencing the foregoing coverage prior to providing any services to Transporter under this Contract. Transporter shall provide that said insurance shall not be canceled or materially altered until at least thirty (30) days after written notice is received by School. The Transporter shall also maintain any insurance coverages required by any government body including workers compensation (if applicable) for the types of transportation and related services specified.

**CAMERAS AND OTHER STATE REQUIREMENTS.** Transporter at Transporter's expense, shall have cameras installed on each bus. Transporter at Transporter's expense will have Global Positioning System (GPS) equipment installed in Transporter's buses at Transporter's expense. Additionally, Transporter at Transporter's expense will follow all additional regulations and requirements, required by the State of Tennessee and any other governing body. Mechanical failures on camera or GPS equipment and temporary camera or GPS operational issues will not constitute a breach of this Agreement. With some reasonable suspicion of an incident which may require discipline, School has the ability to request video related to the cameras in buses used by the School for the date related to the request, and Transporter will make best efforts to comply with reasonable video requests within 48 hours.

**PERFORMANCE OF SERVICES.** Transporter agrees to meet School's distinct transit requirements agreed to by the parties from time to time after the effective date as confirmed by the School. Transporter further agrees to comply with all of School's reasonable transportation instructions communicated to Transporter by School, and to comply with all applicable provisions of any Federal, State and/or local law or ordinance and all lawful orders, rules and regulations issued thereunder including recent changes to PC 289 with respect to school buses. Transporter agrees that Transporter will perform its services under this Contract in accordance with the highest standards of industry. Transporter commits to thorough background checks on all drivers. All drivers are in a random drug and alcohol tested pool which tests drivers at random. Transporter's driver qualification program is known regionally as one of the most stringent qualification programs for any passenger bus operation. Services under this contract are for a number of loads of children to be picked up and delivered both morning and afternoon to and from the established stops and the School. This number of loads is noted in Exhibit A and Exhibit C. Should the number of students, the geographical location of these students, and/or the timing of the routes result in an increased need for buses than the projected vehicles, any additional expenses incurred in attaining or servicing more than the contemplated number of buses will be billed to the School on the next monthly invoice.

**ROUTING.** Upon execution of this agreement, Transporter will begin designing routes for the 2018-2019 school year. Transporter will contract with a third party routing software provider and

provide a certain level of access to school officials for the duration of the contract to portions of the software which are utilized. This access, unless changed by the provider itself, should allow School the ability to view and print routes. School will pay an annual routing fee of \$1,000 per year of the contract, due June 1<sup>st</sup> each year. Transporter will perform three "dry runs" prior to 8/1 of the year in service in order to tweak and improve routes prior to the beginning of the school year. School must make best efforts to comply with all information necessary for successful routing. School must submit complete student list to Transporter by June 1 each year for students to be routed for the following school year. Transporter will have base routes built by July 14<sup>th</sup> of that school year, and these base routes will be submitted to school. Additional labor required to re-route additional students submitted after June 1, will be billed at \$50/hr.

**EXCLUSIVE CONTROL.** Transporter shall have sole and exclusive control over the manner in which Transporter and its agents perform the transportation service provided for hereunder, and Transporter shall utilize such individuals as it may deem necessary in connection therewith, it being understood and agreed that such individuals shall be subject to discharge, discipline, and control solely and exclusively by Transporter. Transporter represents that it is entirely independent and that it is not substantially economically dependent upon School and there is no functional integration of the School's and the Transporters respective operations. Exclusive control includes that Transporter may determine that routes utilize satellite stops where multiple children meet to be picked up and delivered.

**HEALTH & SAFETY.** The Transporter is responsible to ensure each Transporter s employee/driver/worker receives orientation to his/her job duties, including specific safety requirements, prior to beginning the assignment. No Transporter employee/driver/worker will be assigned to operate a vehicle or instructed to perform duties for which they do not have the skill or training to perform safely.

**PROMPT SERVICE.** Transporter shall promptly and efficiently receive and transport passengers safely, within School's established schedules. Although, some infrequent incidents of lateness on occasion will not constitute grounds for breach. *De minimis* service complaints will not relieve the School from payment in full as contemplated in this Agreement.

**DISPATCHING.** Transporter will provide access to a dispatcher in office able to receive phone calls and answer questions from the School at least one hour prior to scheduled start times of the routes and one hour after the completion of the routes.

**ACCIDENT/INCIDENT REPORTING.** The Transporter will: a) immediately inform the school based operations leader(s) of the receiving school(s), the district transportation supervisor or designee of the district board of education providing the transportation following an accident which involves an injury, death, or property damage, b) complete and file an accident report and deliver it to the operations leader(s) of the receiving school(s) by the conclusion of the next working day, and c) deliver the report to the district transportation supervisor or designee of the district board of education providing the transportation after it is signed by the operations leader(s) of the receiving school(s). For other behavioral and other incidents, Transporter will fill out incident reporting forms and communicate the incident forms to School in a timely manner based on severity of the incident. Transporter will make best efforts to comply with the

timeline in this section, but failure to meet time constraints, will not in and of itself constitute a breach and/or waiver of any obligation of School in this agreement.

Transporter will comply with all regulations of the PC 289 law including the reporting requirements, the reporting phone number requirements as well as all other obligations of the law. School agrees to actively participate in compliance including timely responses and providing complaints via the complaint hotline. See Exhibit B for PC 289 procedures of compliance by contract.

**INDEMNITY.** Transporter hereby agrees to fully defend, indemnify and hold harmless School, as well as its affiliates, subsidiaries, officers, directors, agents, servants and employees, from and against any and all claims, demands, actions, liability, damages, costs or expenses (including without limitation any attorneys' fees), of whatever nature, arising as a direct or indirect result of (a) the negligent or intentional acts of Transporter or its agents, servants, or employees or (b) any breach of this Agreement by Transporter. School hereby agrees to fully defend, indemnify and hold harmless Transporter as well as its affiliates, subsidiaries, officers, directors, agents, servants and employees, from and against any and all claims, demands, actions, liability, damages, costs or expenses (including without limitation any attorneys' fees), of whatever nature, arising as a direct or indirect result of (a) the negligent or intentional acts of School or its agents, servants, or employees or (b) any breach of this Agreement by School.

**CONFIDENTIALITY.** RLCL Acquisition, LLC d/b/a Gray Line Tennessee, and its employees, agents, or representatives will not at any time or in any manner, either directly or indirectly, use for the personal benefit of RLCL Acquisition, LLC d/b/a Gray Line Tennessee, or divulge, disclose, or communicate in any manner, any information that is proprietary to the School. RLCL Acquisition, LLC d/b/a Gray Line Tennessee and its employees, agents, and representatives will protect such information and treat it as strictly confidential. This provision will continue to be effective after the termination of this Contract.

**DEFAULT.** The occurrence of any of the following shall constitute a material default under this Contract:

- a. The failure to make a required payment within five (5) business days of receipt of written notice of such overdue payment.
  
- b. The insolvency or bankruptcy of either party.
  
- c. The subjection of any of either party's property to any levy, seizure, general assignment for the benefit of creditors, application or sale for or by any creditor or government agency.
  
- d. The failure to make available or deliver the Services in the time and manner provided for in this Contract, but combining routes or running some routes late on a limited basis in order to pick up and deliver students to School will not constitute material default under the contract

**REMEDIES.** In addition to any and all other rights a party may have available according to law, if a party defaults by failing to substantially perform any provision, term or condition of this Contract (including without limitation the failure to make a monetary payment when due), the other party may terminate the Contract by providing written notice to the defaulting party. This notice shall describe with sufficient detail the nature of the default. The party receiving such notice shall have thirty days from the effective date of such notice to cure the default(s). Unless waived by a party providing notice, the failure to cure the default(s) within such time period shall result in the automatic termination of this Contract.

**FORCE MAJEURE.** If performance of this Contract or any obligation under this Contract is prevented, restricted, or interfered with by causes beyond either party's reasonable control ("Force Majeure"), and if the party unable to carry out its obligations gives the other party prompt written notice of such event, then the obligations of the party invoking this provision shall be suspended to the extent necessary by such event. The term Force Majeure shall include, without limitation, acts of God, fire, explosion, vandalism, storm or other similar occurrence, orders or acts of military or civil authority, or by national emergencies, insurrections, riots, or wars, or strikes, lock-outs, work stoppages, or other labor disputes, or supplier failures. The excused party shall use reasonable efforts under the circumstances to avoid or remove such causes of non-performance and shall proceed to perform with reasonable dispatch whenever such causes are removed or ceased. An act or omission shall be deemed within the reasonable control of a party if committed, omitted, or caused by such party, or its employees, officers, agents, or affiliates.

**ARBITRATION.** Any controversies or disputes arising out of or relating to this Contract shall be resolved by binding arbitration in accordance with the then-current Commercial Arbitration Rules of the American Arbitration Association. The parties shall select a mutually acceptable arbitrator knowledgeable about issues relating to the subject matter of this Contract. In the event the parties are unable to agree to such a selection, each party will select an arbitrator and the two arbitrators in turn shall select a third arbitrator, all three of whom shall preside jointly over the matter. The arbitration shall take place at a location that is reasonably centrally located between the parties, or otherwise mutually agreed upon by the parties. All documents, materials, and information in the possession of each party that are in any way relevant to the dispute shall be made available to the other party for review and copying no later than 30 days after the notice of arbitration is served. The arbitrator(s) shall not have the authority to modify any provision of this Contract or to award punitive damages. The arbitrator(s) shall have the power to issue mandatory orders and restraint orders in connection with the arbitration. The decision rendered by the arbitrator(s) shall be final and binding on the parties, and judgment may be entered in conformity with the decision in any court having jurisdiction. The agreement to arbitration shall be specifically enforceable under the prevailing arbitration law. During the continuance of any arbitration proceeding, the parties shall continue to perform their respective obligations under this Contract. The parties agree to arbitrate and thereby agree to waive any right to trial by judge or jury with respect to all disputes arising from or related to this Agreement. The location of the arbitration shall be Nashville, Tennessee. It is agreed that the arbitrator will have the power to decide any motions brought by any party to the arbitration, including discovery motions, motions

for summary judgment and/or adjudication and motions to dismiss and demurrers, prior to any arbitration hearing. Arbitration will be the sole, exclusive and final remedy for any dispute between the parties.

**ENTIRE AGREEMENT.** This Contract contains the entire agreement of the parties, and there are no other promises or conditions in any other agreement whether oral or written concerning the subject matter of this Contract. This Contract supersedes any prior written or oral agreements between the parties.

**SEVERABILITY.** If any provision of this Contract will be held to be invalid or unenforceable for any reason, the remaining provisions will continue to be valid and enforceable. If a court finds that any provision of this Contract is invalid or unenforceable, but that by limiting such provision it would become valid and enforceable, then such provision will be deemed to be written, construed, and enforced as so limited.

**AMENDMENT.** This Contract may be modified or amended in writing, if the writing is signed by the party obligated under the amendment.

**GOVERNING LAW.** This Contract shall be construed in accordance with the laws of the State of Tennessee.

**NOTICE.** Any notice or communication required or permitted under this Contract shall be sufficiently given if delivered in person or by certified mail, return receipt requested, to the address set forth in the opening paragraph or to such other address as one party may have furnished to the other in writing.

**WAIVER OF CONTRACTUAL RIGHT.** The failure of either party to enforce any provision of this Contract shall not be construed as a waiver or limitation of that party's right to subsequently enforce and compel strict compliance with every provision of this Contract.

**SIGNATURES.** This Contract shall be signed by Jon Driskell of Explore! Community School, and by Chuck Abbott, CEO, on behalf of RLCL Acquisition, LLC d/b/a Gray Line Tennessee.

School:

By: Jon Briskell

Transporter:  
RLCL Acquisition, LLC d/b/a Gray Line Tennessee

By: \_\_\_\_\_ Chuck Abbott CEO

## Exhibit A - Services

- 2 routes to convey all bus-riding students to and from established stops and the School
- 0 SPED Routes to convey SPED students to and from established stops and the School
- For 10 consecutive months August thru May in alignment with the School calendar each year
- Field trips – preferably booked at least one week in advance and may be limited by equipment and times
  - School bus: \$104 per hour in a school bus
    - One way transfer: \$300
  - Full sized coach:
    - \$140/hr or \$4.25 per mile, the greater of; or day rate of \$1450 or \$4.25 per mile, the greater of
    - One way transfers: \$500
  - Mini Bus:
    - \$125/hr
    - One way transfer: \$450
- Other pricing
  - Non ADA Vehicles: Nominal “per route” fee of \$385
  - ADA vehicles: Nominal “per route” fee of ~~\$390~~ \$364
  - Return trips to school or stops: \$50 per extra stop
  - Bus Monitor: \$93.60 per route or \$46.80 per leg
  - 4% increase in pricing on all products each year the contract is renewed

All prices are based on the School making best efforts to work cohesively with Transporter on parking buses on School property as well as working with Transporter on potentially combining routes or more than one route being executed with one vehicle in response to working conditions in order to get students to and from school.



EXHIBIT B

Transportation Policy for \_\_\_\_\_

- The name of the school's Transportation Supervisor is \_\_\_\_\_
- Any and all complaints regarding transportation can and must be reported through the phone number found on the back of every bus. If a report comes in from another source, charter school policy is to direct the source to that number to file an official report.
- Every morning by 10 am, the transportation company, Gray Line Tennessee, will report to school transportation supervisor a record of any call received related to their school, time received and bus reported within the last 24 hours.
  - Titled "Record of Complaint"
  - Date, time call received, bus involved
- By 10 am, transportation company, Gray Line Tennessee, will report to school transportation supervisor a complete "Preliminary Report" including time and date of receipt, summary of complaint, school bus driver involved, and any prior complaints or disciplinary actions taken against the driver. School Transportation Supervisor will issue this preliminary report to Director of Schools.
- Within 60 days, a final report will be issued by Transportation Company to Director of Schools and Transportation Supervisor that includes any findings and any action taken by transportation supervisor and any action taken by Transportation Company.
- Each school bus is equipped with the phone number for reporting complaints on the rear bumper.
- Each year, School will communicate to all students and parents via mail with information on how to report safety complaints to the number.
- All records will be kept by Gray Line Tennessee and will be available for schools and Transportation Supervisor to inspect for compliance. These records are available to inspect within 1 business day of request made via email to School Bus Manager. Such records include:
  - Bus Maintenance and Inspection records
  - Bus Driver credentials, including required background checks, and performance reviews
  - Driver training records
  - Complaints received and any records related to the investigation of those complaints.
- School agrees that the maintenance and collection of all of these records will be performed by Gray Line Tennessee as a third party, and that School will have access to all these records as explained in this Exhibit.

This policy will be amended to include actual phone number when updated. The current number on the vehicles and number for reporting complaints is (615) 921-7220.

\_\_\_\_\_  
School Representative

\_\_\_\_\_  
Gray Line

Exhibit C: Chart of Pricing

Type	# Routes	Route Rate	Days of Sch	Total Price	Monthly Paym
School Bus Service	2	385	176	\$135,520	\$13,552
SPED	0	364	176	\$0	\$0
Monitor for SPED	0	93.6	176	\$0	\$0
<b>Allocation</b>					
Explore Community School	2			\$135,520	\$13,552
					\$0
					\$0
	2				\$0