

SNOWGLOBE 2018 VENDOR AGREEMENT

DECEMBER 29, 2018- December 31, 2018

This Charter Provider Agreement (this "Agreement") is made and entered into as of November 6, 2018 (the "Effective Date"), by and between SnowGlobe, LLC ("SnowGlobe") and Morgan Hill Unified School District ("Vendor").

WHEREAS, SnowGlobe wishes to engage Vendor to provide services in connection with a transportation shuttle system between the Lake Tahoe Transit Center and Tahoe Community College for three days commencing December 29, 2018 and December 31, 2018, and Vendor wishes to accept such engagement.

NOW, THEREFORE, for good and valuable consideration, the receipt and sufficiency of which are acknowledged, the parties, duly authorized and intending to be legally bound, agree as follows:

1. Incorporation of Recitals. The above recitals are true and correct and are hereby incorporated into and shall constitute a part of this Agreement.

2. Service Period. This Agreement is effective as of the Effective Date and will end when the Service Period concludes, unless terminated earlier as provided in this Agreement. Vendor will provide the Services beginning on December 29, 2018 and continue through and including December 31, 2018.

3. Scope of Services. In general, Vendor shall provide bus equipment and related drivers, as further described in this Agreement (the "Services"). The Services, including without limitation, the number of buses and drivers, are to be provided by Vendor during the agreed upon schedule(s) for the agreed upon route(s). Vendor acknowledges and agrees that each bus provided hereunder is to be left at LTCC and drivers will be shuttled directly to their hotel at the end of each shift. Vendor agrees to inform each driver that CAN NOT under any circumstances park the bus at their hotel. Vendor shall be liable for any and all fees, damages, costs or other expenses incurred by SnowGlobe as a result of any of Vendor's drivers' violation of the foregoing. Vendor acknowledges and agrees that all buses must have iron chains.

4. Personnel.

(a) Vendor shall supply experienced personnel to provide the Services (the "Vendor Personnel") and shall maintain a sufficient number of drivers to successfully perform the Services. Vendor and the Vendor Personnel shall conform to the following standards:

- (i) Drivers shall operate all vehicles in a reasonable and prudent manner, with maximum regard at all times for the safety and welfare of the passengers being transported, and with full knowledge of and in compliance with local, state and federal laws and regulations governing the operation of motor vehicles upon all streets and highways.
- (ii) Each driver will be neat, clean, courteous, capable and reliable. All drivers will be knowledgeable about the service area as described and be able to travel assigned routes and make stops and schedules that are assigned. Vendor must carry iron tire chains and have the knowledge to install chains on the coach.
- (iii) All drivers must meet all the requirements of the United States Department of Transportation (USDOT) and the departments of transportation for the state and local governments of California. Each driver shall be duly licensed to operate a vehicle pursuant to laws of California or any other authority that may have jurisdiction over the licensing and approval of bus drivers. All Vendor Personnel shall be in good physical and mental condition and will have no criminal record or incidence of violent behavior. Each driver provided shall be available for a maximum use of fifteen (15) hours in one day, but no more than the ten (10) hours of actual driving time per day, regardless of the time period.

5. Hotel Rooms

SnowGlobe will provide lodging for Vendor's drivers for the Service Period. All persons will be required to stay two (2) drivers per room and will be assigned to persons of the same gender and company. Assignment of rooms will be managed by SnowGlobe. Vendor shall be responsible for all incidentals and damages to the hotel rooms.

6. Schedule of Work

Vendor will provide a shuttle service for the 2018 SnowGlobe Music Festival ("Event") attendees from December 29, 2018- December 31, 2018 during the agreed upon schedule(s). All drivers must be in South Lake Tahoe at the Lake Tahoe Community College at 11:00 a.m. Saturday, December 29, 2018 to participate in a dry-run walk through of the route, get their specific schedules, and understand communication expectations. Daily work schedules will not exceed 10 hours during the period of 1:00 p.m. to 2:00 a.m. Buses must be equipped with iron chains and drivers must be trained on the installation and removal of chains.

7. Pricing & Payment

Vendor will provide 25 buses at the price of \$875 a day. For the purpose of clarity, the December 31 day shall include shuttle services until 2:00 a.m on January 1, 2019.

SnowGlobe will remit payment based upon the following schedule:

50% December 1 and the execution of this Agreement;

25% by December 20, 2018;

and, provided (i) Vendor has satisfactorily completed the Services, as determined by SnowGlobe, and (ii) SnowGlobe has received an invoice from Vendor, 25% by January 7, 2019

Vendor acknowledges and agrees that payments may be delayed due to Vendor's failure to provide electronic payment information requested by SnowGlobe, Vendor's failure to send a completed 2018-2019 W9 and/or Vendor's failure to send invoice(s).

8. Cancellation Policy

SnowGlobe may terminate this Agreement without cause or penalty, upon at least seven (7) days' written notice to the Vendor. In addition, this Agreement may be terminated by either party for material breach by the other party. If Vendor is terminated due to a material breach of this Agreement, without limiting any other remedies available to SnowGlobe in law or equity, Vendor will be liable to SnowGlobe for all out of pocket expenses, costs and liabilities incurred as a result of such termination. If Vendor is terminated without cause (excluding termination due to a Force Majeure event) once the provision of Services has already begun, SnowGlobe shall pay Vendor the pro-rata share of the compensation otherwise due hereunder for the amount of the Services completed prior to termination. For the purpose of clarity, if Vendor fails to fully perform the Services, including without limitation the failure to deliver equipment, or the correct number of Vendor Personnel and/or unqualified Vendor Personnel, on any of the dates and/or times as described herein or otherwise agreed upon by the parties, it shall be considered a material breach of this Agreement.

Neither party hereto shall be deemed in default of its obligations hereunder if its performance under this Agreement and/or the Event is delayed, cancelled or becomes impossible or impractical by reason of any cause beyond such party's reasonable control including, without limitation, war, strike, weather, accident, act of God, civil unrest, epidemic, or act or order of any governmental authority (collectively, "Force Majeure"). Neither party will be deemed in default of its obligations hereunder if its performance under this Agreement is delayed, cancelled, impossible or impractical due to a Force Majeure, and SnowGlobe shall have the right to modify the Services, in whole or in part, due under this Agreement, change the date of Services (subject to Vendor's availability), and/or terminate this Agreement, without further obligation or liability, except as expressly provided herein. In the event that SnowGlobe terminates this Agreement (and therefore cancels all of the Services due under this Agreement) due to a Force Majeure event, SnowGlobe shall not remain responsible for payment of any portion of the Fee and Vendor shall be required to refund any portion of the Fee then paid. In the event that Vendor is unable complete all of the Services due to a Force Majeure event, but is able to partially complete the Services, SnowGlobe shall be only be required to pay the portion of the Fee corresponding to the Services that were completed. In the event of damage to Vendor's equipment and/or other property due to a Force Majeure, SnowGlobe shall not be liable for any damages, including without limitation, the cost of repairing or replacing such damaged equipment.

9. Insurance.

(a) Without limiting or qualifying Vendor's liabilities, obligations, or indemnities, the Vendor will obtain prior to commencing Services, at its sole cost and expense, the insurance coverages listed below. The insurance will contain a provision that it cannot be reduced or cancelled unless and until the insurance company notifies SnowGlobe thirty days prior as certificate holder. All insurance policies must be issued by an insurance carrier reasonably acceptable to SnowGlobe with a rating of A or better and authorized to do business in the State of CA. Upon request, Vendor will provide SnowGlobe with a full and complete copy of all the insurance policies required in this Agreement. Any third party that performs any services on behalf of Vendor must satisfy the same insurance requirements as provided in this section.

- (i) Commercial general liability insurance, including broad form contractual liability, personal injury liability, advertising liability, property damages liability and products/completed operations liability coverage with minimum limits of liability of \$1,000,000.00 each occurrence, and 2,000,000.00 general aggregate, \$1,000,000.00 products completed operations aggregate, and \$50,000.00 damage to rented premises.
- (ii) Umbrella or excess liability insurance with available coverage limits of not less than \$4,000,000.00 general aggregate and \$4,000,000.00 per occurrence.
- (iii) Auto liability insurance covering owned, non-owned and leased or hired vehicles with the minimum amounts of \$3,000,000.00 each accident.
- (iv) Employer Liability Insurance with available coverage limits of not less than \$1,000,000 per occurrence.

(b) Vendor will supply SnowGlobe with proof of the aforementioned insurance by providing SnowGlobe with a certificate of insurance and list SnowGlobe and Board Our Bus, LLC, and their respective officers, directors, members, managers, agents, vendors and employees as additional insureds. Vendor will provide SnowGlobe with properly executed certificates of insurance before Vendor provides any products or Services to SnowGlobe but in no event later than December 4, 2018. Further, coverage for the additional insureds shall apply on a primary non-contributory basis, for matters for which Vendor is responsible for under this Agreement, irrespective of any other insurance whether collectible or not. Vendor will also maintain workers compensation as required under applicable state law insurance during the dates they are performing Services hereunder, including coverage for Vendor Personnel, subcontractors, agents, temporary employees, and volunteers.

10. REPRESENTATIONS AND WARRANTIES. Vendor hereby represents and warrants that: (a) it has the full right and authority to enter into this Agreement, to furnish the Services contemplated herein upon the terms and conditions set forth herein, to grant the rights herein granted and is capable of furnishing the necessary qualified personnel, equipment, materials, and expertise to furnish the Services in a safe and professional manner; (b) it is not subject to any obligation or disability which will materially prevent or interfere with the full completion and performance of all the obligations and Services due hereunder; (c) it has not made and will not make any commitment or do any act in conflict with this Agreement or SnowGlobe's rights hereunder; (d) it agrees to comply with all applicable laws, statutes, ordinances, rules and regulations, as well as all local and regional governmental agencies in connection with its performance of Services; (e) it shall obtain, and maintain at all times, any and all necessary permits, licenses and approvals from appropriate authorities in order to fulfill its obligations hereunder; (g) any equipment is being provided by Vendor is, and will remain at all times, in good, safe and working order; (h) Vendor is a member in good standing of any union having jurisdiction over Vendor's Services hereunder; (i) the Vendor Personnel provided by Vendor are employees, temporary workers or contractors of Vendor, and will, at all times, be subject to the Vendor's sole and direct supervision, control and management, and Vendor is solely responsible for compensating all Vendor Personnel; (j) Vendor Personnel are qualified to perform the Services in accordance with SnowGlobe's expectations as to the quality of the Services to be performed hereunder; and (k) to the best of Vendor's knowledge after due inquiry, none of the Vendor Personnel have not been convicted of a felony in the previous seven (7) years, or, if they have, Vendor has (to the extent in accordance with laws) provided information to SnowGlobe regarding the nature, severity, and date of each such conviction.

11. INDEMNITY.

(A) VENDOR WILL INDEMNIFY, HOLD HARMLESS, AND DEFEND SNOWGLOBE AND THEIR OFFICERS, DIRECTORS, MEMBERS, MANAGERS, AGENTS, AND EMPLOYEES (COLLECTIVELY THE "SNOWGLOBE INDEMNIFIED PERSONS") FROM AND AGAINST ANY AND ALL ACTIONS, CLAIMS, DEMANDS, SUITS, DAMAGES, EXPENSES OR LIABILITIES, INCLUDING REASONABLE OUTSIDE ATTORNEYS' FEES AND EXPENSES (COLLECTIVELY "LOSSES"), AND INCLUDING CLAIMS FOR LOSS OF LIFE, PERSONAL INJURY AND/OR DAMAGE TO PROPERTY, RELATED TO OR ARISING DIRECTLY OR INDIRECTLY OUT OF: (A) ANY BREACH, ALLEGED BREACH OR INCONSISTANCY WITH ANY OF VENDOR'S REPRESENTATIONS, WARRANTIES, COVENANTS, AGREEMENTS AND/OR OBLIGATIONS UNDER THIS AGREEMENT; (B) THE NEGLIGENCE, ACTS OR OMISSIONS OF VENDOR AND/OR THE VENDOR PERSONNEL, WHETHER OR NOT SUCH NEGLIGENCE, ACT OR OMISSION IS WITHIN THE SCOPE OF THE EMPLOYMENT OR ENGAGEMENT OF SUCH PERSON OR ENTITY (INCLUDING OF ANY OF VENDOR'S OFFICERS, DIRECTORS, MEMBERS, MANAGERS, AGENTS AND EMPLOYEES); (C) AND/OR (D) OTHERWISE ARISING OUT OF ANY VENDOR PERSONNEL, EQUIPMENT, MATERIALS, OR PROPERTY PROVIDED BY OR DELIVERED BY VENDOR IN CONNECTION WITH THE SERVICES.

(B) SNOWGLOBE WILL INDEMNIFY, HOLD HARMLESS, AND DEFEND VENDOR AND ITS RESPECTIVE OFFICERS, DIRECTORS, MEMBERS, MANAGERS, AND EMPLOYEES (COLLECTIVELY THE "VENDOR INDEMNIFIED PERSONS") FROM AND AGAINST ANY AND ALL ACTIONS, CLAIMS, DEMANDS, SUITS, OR LIABILITY, INCLUDING REASONABLE OUTSIDE ATTORNEYS' FEES AND EXPENSES (COLLECTIVELY "LOSSES") ACTUALLY AND REASONABLY INCURRED BY A VENDOR INDEMNIFIED PERSON AS A RESULT OF A THIRD PARTY CLAIM TO THE EXTENT SUCH CLAIM ARISES OUT OF SNOWGLOBE'S MATERIAL BREACH IN THE PERFORMANCE OF ITS OBLIGATIONS UNDER THIS AGREEMENT.

12. Miscellaneous. This Agreement is to be governed and construed according to the laws of the State of California without regard to conflicts of law. If a controversy arises under this Agreement, or a dispute as to the existence, validity, construction, performance, nonperformance, breach, operation, continuance or termination of this Agreement, the parties agree to submit the dispute to binding arbitration in Los Angeles, California, conducted on a confidential basis. This Agreement is binding upon and inures to the benefit of the parties to this Agreement and their respective successors and assigns. Notwithstanding the preceding sentence, Vendor may not assign, by operation of law or otherwise, this Agreement or any of the rights, benefits or obligations under this Agreement, without SnowGlobe's prior written consent. Regardless of what anything else in this Agreement says, SnowGlobe's liability (if any) to Vendor will be limited to payments of amount due to Vendor under this Agreement. SnowGlobe shall not be liable to Vendor for any consequential, incidental, indirect or special damages, however caused and on any theory of liability, arising out of this Agreement. The rights and remedies provided in the Agreement are cumulative and are not exclusive of any rights or remedies that any party may otherwise have at law or in equity. If one or more provisions of this Agreement is found to be invalid, illegal, or unenforceable in any respect, such invalidity, illegality, or unenforceability will not affect any other provision of this Agreement, but such provision will be deemed deleted, and the deletion will not affect the validity of other provisions of this Agreement. The parties may execute this Agreement in any number of counterparts, each of which is deemed an original, but all of which together constitute one and the same instrument. This Agreement may be executed by facsimile, PDF, or other electronic signature.

13. Entire Agreement. This Agreement contains the entire agreement between the parties related to the subject matter herein and supersedes any other prior understandings, written or oral, between the parties with respect to this subject matter. THE PARTIES ACKNOWLEDGE AND AGREE THAT, IN ENTERING IN TO THIS AGREEMENT, THEY HAVE NOT IN ANY WAY RELIED UPON ANY ORAL OR WRITTEN AGREEMENTS, UNDERSTANDINGS, REPRESENTATIONS OR WARRANTIES, EXPRESS OR IMPLIED, NOT SPECIFICALLY SET FORTH IN THIS AGREEMENT. No variations, modifications, or changes in the Agreement are binding on any party to the Agreement unless set forth in a document duly executed by or on behalf of such parties.

In witness WHEREOF, the parties hereto have executed this Agreement as of the date first above:

SnowGlobe, LLC

Morgan Hill Unified School District

By: _____

By: _____

Name: _____

Name: Kirsten Perez

Title: _____

Title: Assistant Superintendent Business Services

Address:

Address: 15600 Concord Circle

Date:

Date: 11/13/18

E-Mail:

E-Mail: perezk@mhusd.org