

## CONTRACT FOR PROFESSIONAL SERVICES

THIS CONTRACT made the 18<sup>th</sup> day of December, 2015, in the Territory of the Virgin Islands, by and between the Government of the Virgin Islands, **DEPARTMENT OF PROPERTY AND PROCUREMENT**, on behalf of the **DEPARTMENT OF EDUCATION**, 1834 Kongens Gade, St. Thomas, Virgin Islands (hereinafter referred to as "Government") and **ABRAMSON ENTERPRISES, INC.**, a Virgin Islands Corporation of 28-29 Hannah's Rest, Frederiksted, St. Croix, U.S. Virgin Islands (hereinafter as "Contractor").

### WITNESSETH:

**WHEREAS**, the Department of Education ("Department" or "DOE") is in need of the services of a Contractor to furnish pupil transportation for regular and special education schedule to and from the schools and other events and/or activities on the island of St. Croix; and

**WHEREAS**, the Commissioner of Education is authorized, pursuant to Act 2345, to contract for such services; see Title 17 Virgin Islands Code, Sections 101 and 102; and

**WHEREAS**, the Contractor represents that it is willing and capable of providing such services;

**NOW, THEREFORE**, in consideration of the mutual covenants herein contained, and intending to be legally bound by this written instrument, the parties hereto do covenant and agree as follows:

#### 1. SERVICES

The Contractor will provide the services described in Addendum I (Scope of Work) attached hereto and made a part of this Contract.

#### 2. TERM

The term of the Contract shall commence on September 1, 2015 and shall terminate on September 30, 2016.

#### 3. COMPENSATION

The Government, in consideration of the satisfactory performance of the services described in ADDENDUM I (Scope of Work), agrees to pay Contractor the sum not to exceed **Three Million, Five Hundred Ninety-Six Thousand, Three Hundred Two Dollars and Forty-Two Cents (\$3,596,302.42)** in accordance with the provisions set forth in Amendment No. 1 to Addendum II (Compensation) attached hereto and made a part of this Contract by reference.

#### 4. TRAVEL EXPENSES

In addition to the compensation for services as specified in Paragraph 3 above, the Government agrees to pay documented transportation, subsistence, lodging and other travel expenses, while in travel status, for trips which have been authorized in writing, in advance, by the

Government. These costs shall be advanced or reimbursed on the same basis as is applicable to non-contract employees of the Government, or as agreed to by an addendum to this Contract, however, said costs and expenses shall not exceed NOT APPLICABLE (\$N/A).

**5. RECORDS**

The Contractor, when applicable, will present documented precise records of miles, vehicles and personnel utilized under this contract.

**6. PROFESSIONAL STANDARDS**

The Contractor agrees to maintain the professional standards applicable to its profession and to consultants doing business in the United States Virgin Islands.

**7. DOCUMENTS, PRINTOUTS, ETC.**

All documents pertaining to this Contract including but not limited to: Trip Sheets, Pre and Post Daily Trip Inspection Sheets, Virgin Islands Police Motor Carrier Safety Inspection Reports, Weekly Maintenance Logs, School Bus Schedules, Copies of Vehicle Registrations, Copies of Vehicle Insurance Cards, Bus Conduct Reports (Incident Reports), Accident Reports, Criminal Background Records, Traffic Records, List of Names of Drivers, Copies of Individual Driver's Licenses, Special Education Logs, Quarterly Lists of Equipment on Buses and its Condition, written Correspondences from any source received regarding services provided under this contract. Recorded footage downloaded from the Government's recording devices shall become the property of the Government and shall be turned over to the Government as required during the contract period and/or at the termination of this Contract. Notwithstanding the above, any document that may be required by Territorial and/or Federal laws, guidelines, policies, procedures, rules and regulations, is required to be submitted forthwith upon request by the Government. The above-described materials shall not be used by Contractor or by any other person or entity except upon the written permission of the Government.

**8. LIABILITY OF OTHERS**

Nothing in this Contract shall be construed to impose any liability upon the Government to persons, firms, associations, or corporations engaged by Contractor as servants, agents, or independent contractors, or in any other capacity whatsoever, or make Government liable to any such persons, firms, associations or corporations for the acts, omissions, liabilities, obligations and taxes of Contractor of whatsoever nature including, but not limited to, unemployment insurance and social security taxes for Contractor, its servants, agents or independent contractors.

**9. ASSIGNMENT**

The Contractor shall not subcontract or assign any part of the services under this Contract without prior consent of the Government.

**10. INDEMNIFICATION**

The Contractor agrees to indemnify, defend and hold harmless Government from and against any and all loss, damage, liability, claims, demands, detriments, cost, charges and expense (including attorney's fees) and causes of action of whatsoever character which Government may

incur, sustain or be subjected to, arising out of or in any way connected to the services to be performed by Contractor, under this Contract and arising from any cause, except the sole negligence of Government.

**11. INDEPENDENT CONTRACTOR**

The Contractor shall perform this Contract as an independent Contractor and nothing herein contained shall be construed to be inconsistent with this relationship or status.

**12. GOVERNING LAW**

This Contract shall be governed by the laws of the United States Virgin Islands and jurisdiction shall remain in the United States Virgin Islands.

**13. WAIVERS AND AMENDMENTS**

No waiver, modification or amendment of any term, condition or provision of this Contract shall be valid or of any force or effect unless made in writing, signed by the parties hereto or their duly authorized representatives and specifying with particularity the nature and extent of such waiver, modification or amendment. Any such waiver, modification or amendment in any instance or instances shall in no event be construed to be a general waiver, modification or amendment of any of the terms, conditions or provisions of this Contract, but the same shall be strictly limited and restricted to the extent and occasion specified in such signed writing or writings.

**14. ENTIRE AGREEMENT**

This agreement constitutes the entire agreement of the parties relating to the subject matter addressed in this agreement. This agreement supersedes all prior communications, contracts, or agreements between the parties with respect to the subject matter addressed in this Agreement, whether written or oral.

**15. RIGHT TO WITHHOLD**

If work under this Contract is not performed in accordance with the terms hereof, Government will have the right to withhold out of any payment due to Contractor, such sums as Government may deem ample to protect it against loss or to assure payment of claims arising therefrom, and, at its option, Government may apply such sums in such manner as Government may deem proper to secure itself or to satisfy such claims. Government will immediately notify the Contractor in writing in the event that it elects to exercise its right to withhold.

No such withholding or application shall be made by Government if and while Contractor gives satisfactory assurance to Government that such claims will be paid by Contractor or its insurance carrier, if applicable in the event that such contests is not successful.

**16. CONDITION PRECEDENT**

This Contract is subject to the availability of funds appropriated for such purpose and to the approval of the Governor of the Virgin Islands.

**17. TERMINATION**

Either party shall have the right to terminate this Contract with cause on one hundred thirty (130) days written notice to the other party specifying the date of termination.

**18. PARTIAL TERMINATION**

The performance of work under this Contract may be terminated by the Government in part whenever the Government shall deem such termination advisable. This partial termination shall be effected by delivering to the Contractor a Notice of Partial Termination specifying the extent to which the term and/or duties under this Contract are terminated and the date upon which such termination becomes effective. The Contractor shall be entitled to receive payment for services provided to the date of termination, including payment for the period of the 130-day notice.

**19. NON-DISCRIMINATION**

No person shall be excluded from participating in, be denied the proceeds of, or be subject to discrimination in the performance of this Contract on account of race, creed, color, sex, religion, national origin, or disability.

**20. CONFLICT OF INTEREST**

- (a) Contractor covenants that it has no interest and will not acquire any interest, direct or indirect, which would conflict in any manner or degree with the performance of services required to be performed under this Contract.
- (b) Contractor further covenants that it is:
  - (1) not a territorial officer or employee (i.e., the Governor, Lieutenant Governor, member of the Legislature or any other elected territorial official; or an officer or employee of the legislative, executive or judicial branch of the Government or any agency, board, commission or independent instrumentality of the Government, whether compensated on a salary, fee or contractual basis); or
  - (2) a territorial officer or employee and as such, has:
    - i. familiarized itself with the provisions of Title 3, Chapter 37, Virgin Islands Code, pertaining to conflicts of interest, including the penalties provisions set forth in section 1108 thereof;
    - ii. not made, negotiated or influenced this contract in its official capacity; and
    - iii. no financial interest in this Contract as that term is defined in Section 1101(1) of said Code chapter.

**21. EFFECTIVE DATE**

The effective date of this Contract shall be the day of execution of the Contract by the Governor of the Virgin Islands

**22. NOTICE**

Any notice required to be given, by the terms of this Contract shall be deemed to have been given when the same is sent by certified mail, postage prepaid or personally delivered, addressed to the parties as follows:

GOVERNMENT: Randolph Bennett, Commissioner Designee  
Department of Property & Procurement  
Building # 1 Sub Base, 3<sup>rd</sup> Floor  
St. Thomas, Virgin Islands 00802

Sharon A. McCollum, PhD., Commissioner  
Department of Education  
No. 1834 Kongens Gade  
St. Thomas, Virgin Islands 00802

CONTRACTOR: Mr. Rupert R. Abramson, Jr Vice  
President  
ABRAMSON ENTERPRISES, INC.  
28-29 Hannah's Rest  
Frederiksted  
St. Croix, U.S. Virgin Islands 00841-0308

**23. LICENSURE**

The Contractor covenants that it has:

- (a) obtained all of the applicable licenses or permits, permanent, temporary or otherwise as required by Title 27 of the Virgin Islands Code; and
- (b) familiarized itself with the applicable provisions of Title 27 of the Virgin Islands Code pertaining to professions and occupations.

**24. FALSE CLAIMS**

The Contractor warrants that it shall not, with respect to this Contract, make or present any claim upon or against the Government of the Virgin Islands, or any officer, department, board, commission, or other agency thereof, knowing such claim to be false, fictitious or fraudulent. The Contractor acknowledges that making such a false, fictitious or fraudulent claim is an offense under Virgin Islands law.

**25. NOTICE OF FEDERAL FUNDING**

The Contractor acknowledges that this Contract is funded, in whole or in part, by federal funds. The Contractor warrants that it shall not, with respect to this Contract, make or present any claim knowing such claim to be false, fictitious or fraudulent. Contractor acknowledges that making such a false, fictitious, or fraudulent claim is a federal offense.

**26. DEBARMENT CERTIFICATION**

By execution of this Contract, the Contractor certifies that it is eligible to receive contract awards using federally appropriated funds and that it has not been suspended or debarred from entering into contracts with any federal agency. The contractor shall include this provision in each of its subcontracts hereunder and shall furnish it subcontractors with the current "LIST OF PARTIES EXCLUDED FROM FEDERAL PROCUREMENT OR NON-PROCUREMENT." In the event the contractor or subcontractor misrepresents its eligibility to receive contract awards using federal funds, the contractor or subcontractor agrees that it shall not be entitled to payment for any work performed under this contract or any subcontract and that the Contractor or subcontractor shall promptly reimburse the Government of the Virgin Islands for any progress payments heretofore made.

**27. LIABILITY INSURANCE**

The Contractor shall provide the Government with proof of General Liability Insurance coverage for the entire period of this Contract. The Contractor shall be insured under the Commercial General Liability Insurance policy in the minimum amount of **One Million Dollars and Zero Cents (\$1,000,000.00)** for each occurrence. The Contractor shall provide the Government with a Certificate of Liability Insurance and Declaration/Endorsement pages indicating the Government of the Virgin Islands is a certificate holder and an additional insured, and addressed the Government of the Virgin Islands, at the address for the Department of Education provided in paragraph 22 of this Contract. In the event that the Contractor's existing coverage will expire before the end of the term of this Contract, the Contractor shall provide a certificate of insurance for renewal of coverage within ten (10) days after the beginning of the new period of the insurance.

Additionally, the Contractor shall provide the Government with proof of Auto Insurance Policy for the entire period of this Contract. The Contractor shall ensure that each vehicle be insured under the Auto Insurance Policy for personal damage in the minimum amount of **Three Hundred Thousand Dollars and Zero Cents (\$300,000.00)** for each occurrence and shall submit the Schedule of Vehicles to the Government at the address provided in paragraph 22 for the Department of Education. The Contractor shall provide the Government with a Certificate of Liability Insurance addressed to the Government, and indicating the Government of the Virgin Islands as a certificate holder. In the event that the Contractor's existing coverage will expire before the end of the term of this Contract, the Contractor shall provide a certificate of insurance for renewal of coverage within ten (10) days after the beginning of the new period of the insurance. Both insurance policies shall be maintained with insurer(s) and in a form satisfactory to the Government.

Both insurance policies shall be maintained with insurer(s) and in a form satisfactory to the Government. The Contractor shall provide the Government with a copy of each relative insurance policy for the Government's review and record.

**28. SEVERABILITY**

If any of the provisions of this contract are determined to be invalid, such invalidity shall not affect or impair the validity of the other provisions, which shall be considered severable and shall remain in full force and effect.

**29. BILLING PROCEDURES and PAYMENT**

The Department will pay Contractor upon receipt of properly completed invoices. Such invoices must be submitted within ten (10) days after the end of the biweekly period for which services are invoiced. The invoices shall describe and document to the Department's satisfaction, and shall contain information, including but not limited to, the period of services covered by the invoice, description of the services performed, and the amount of fees in accordance with the compensation schedule in ADDENDUM II attached hereto, and Incorporated into this Contract.

Payment shall be considered timely if made by the Department within forty-five (45) days after receipt of properly completed invoices, and verification that the services invoiced were provided in accordance with the Contract and all applicable federal and local laws and regulations, including all applicable policies, rules and procedures pertaining to this Contract or the services provided hereunder. Payment shall be sent to the address designated by the Contractor. The Department may, at its sole discretion, withhold payments claimed by the Contractor for services rendered if the Contractor fails to satisfactorily comply with any term or condition of this Contract.

**30. OTHER PROVISIONS**

ADDENDUM I, ADDENDUM II, ATTACHMENT 1, ATTACHMENT 2, ATTACHMENT 3, ATTACHMENT 4 and the Contractor's ability documents are attached hereto, are made a part of this Contract, and are incorporated herein by reference. In the event of a conflict between the terms and conditions of the general provisions of this Contract as set out in paragraphs 1 through 30 of this Contract, and the terms and provisions of any Addendum or Attachment to this Contract, the terms and conditions of said general provisions of the Contract shall prevail.

IN WITNESS WHEREOF, the parties intending to be legally bound have hereunto set their hands on the day and year first above written.

WITNESSES:

**GOVERNMENT OF THE VIRGIN ISLANDS**

[Signature]

Sharon Ann McCollum 11/5/15

Sharon A. McCollum, Ph.D. Date  
Commissioner  
DEPARTMENT OF EDUCATION

[Signature]

[Signature] 12/16/15

Randolph Bennett Date  
Commissioner Designee  
DEPARTMENT OF PROPERTY AND PROCUREMENT

**CONTRACTOR**  
ABRAMSON ENTERPRISES, INC.

Edna V. Abramson

Rupert R. Abramson, Jr. 10/28/15

Rupert R. Abramson, Jr. Date  
Vice President

(Corporate Seal)

APPROVED:

[Signature]  
KENNETH E. MAPP  
GOVERNOR OF THE VIRGIN ISLANDS

12-15-15  
Date

APPROVED FOR LEGAL SUFFICIENCY DEPARTMENT OF JUSTICE:

[Signature] 12/16/15  
Date

Account Code No. \_\_\_\_\_

Purchase Order No. \_\_\_\_\_