

## SETTLEMENT AGREEMENT

This Settlement Agreement (“Agreement”) is entered into by and among the following parties: (I) Plaintiff-Relator Hector Peralta (“Relator”); (II) Defendants (i) Academy Bus, LLC, (ii) Academy Lines, LLC, (iii) Academy Express, LLC, (iv) No. 22 Hillside, LLC (incorrectly pled in the alternative as Number 22 Hillside Corporation) (collectively, the “Entity Defendants”), (v) Antonio Luna (“Luna”), (vi) Eddie Rosario (“Rosario”), (vii) Thomas Scullin (“Scullin”) and (viii) Frank DiPalma (“DiPalma”) (collectively, the “Individual Defendants,” and along with the Entity Defendants, “Defendants”); (III) Franmar Leasing LLC, Academy Bus LLC (Florida), Franmar Leasing South LLC, and Academy Services Inc. (collectively, the “Guarantors”), and (IV) the State of New Jersey, acting through the New Jersey Attorney General’s Office, Division of Law, and on behalf of New Jersey Transit (the “State”). Relator, Defendants, the Guarantors, and the State are hereinafter collectively, the “Parties.”

### RECITALS

A. The Entity Defendants, along with several affiliated entities, function as private bus companies. From at least between 2012 and 2021, No. 22 Hillside, LLC operated bus lines for New Jersey Transit’s Hudson and South Hudson Service areas, which primarily cover the heavily-populated Hudson County waterfront, including vital commuter routes to New York City to and from the Port Authority Bus Terminal.

B. The Individual Defendants have been employees of the Entity Defendants since at least 2012. Scullin is the Chief Operating Officer of the Entity Defendants; DiPalma is the controller and, since 2018, the Chief Financial Officer of the Entity Defendants; Rosario is a General Manager of No. 22 Hillside, LLC. Luna was, until August 2019, an Assistant Manager of No. 22 Hillside, LLC, and currently works part-time as a dispatcher for the Entity Defendants.

C. On March 3, 2017, pursuant to the qui tam provisions of the New Jersey False Claims Act, N.J.S.A. § 2A:32C-1 to 18 (“NJFCA”), Relator, a former Academy employee, filed a complaint under seal captioned State of New Jersey, ex rel. Peralta v. Academy Bus, LLC, et al. in Essex County Superior Court under Docket No. ESX-L-1669-17 (hereinafter, the “Civil Action”).

D. After Relator served his complaint on the Attorney General of New Jersey, the State commenced an investigation in connection with the allegations in the Relator’s complaint.

E. On November 16, 2020, the State intervened in this action and filed a Complaint in Intervention (the “Intervention Complaint”), making certain allegations against Defendants (hereinafter, the “Covered Conduct”).

F. The State contends that it has certain civil claims against Defendants under the NJFCA and the common law theory of unjust enrichment arising from the Covered Conduct. Defendants expressly deny any liability in connection with the Covered Conduct.

G. On January 20, 2021, Defendants Academy Bus, LLC, Academy Lines, LLC, and Academy Express, LLC filed a Motion to Dismiss Plaintiff’s Intervention Complaint for Failure to State a Claim in the Civil Action.

H. Following the State’s intervention, on January 7, 2021, Relator filed his Third Amended Complaint. On February 24, 2021, Defendants Academy Bus, LLC, Academy Lines, LLC, and Academy Express, LLC filed a Motion to Dismiss Relator’s Third Amended Complaint for Failure to State a Claim. On February 24, 2021, Defendants Scullin and DiPalma filed a Motion to Dismiss Relator’s Third Amended Complaint for Failure to State a Claim. On February 24, 2021, Defendants No. 22 Hillside, LLC, Antonio Luna, and Edward Rosario filed a Motion for Summary Judgment on the Relator’s Third Amended Complaint. Each motion is pending.

I. This Settlement Agreement is neither an admission of liability by Defendants nor a concession by the State or the Relator that their claims are not well-founded.

J. To avoid the delay, uncertainty, inconvenience and expense of protracted litigation of the above claims, and in consideration of the mutual promises and obligations set forth in this Settlement Agreement, the Parties agree and covenant as follows.

**TERMS AND CONDITIONS**

1. This Agreement is effective on the date of signature of the last signatory to the Agreement (“Effective Date”).

2. Defendants shall pay the amount of \$20,500,000.00 (“Settlement Amount”) to resolve the Civil Action.

3. Defendants shall make an initial payment of \$2,500,000.00 (“Initial Installment Payment”) on the Effective Date.

a. Of the Initial Installment Payment, Defendants shall pay \$750,000.00 in Relator’s NJFCA attorneys’ fees (the “Relator’s NJFCA Attorneys’ Fees”) to Relator’s counsel, Neil Mullin and Paula Dillon, by way of electronic funds transfer pursuant to written instructions provided by Relator’s counsel.

b. Defendants shall pay the remainder of the Initial Installment Payment (\$1,750,000.00) to the State by electronic funds transfer pursuant to written instructions to be provided by the State.

4. Thereafter, Defendants shall make nine (9) installment payments to the State in accordance with the schedule set forth in the table below (collectively, the “Installment Payments”).

<b>Timing of Installment Payments</b>	<b>Installment Payment Amount</b>	<b>Installment Payments</b>
On Effective Date	\$2,500,000	Initial Installment Payment
First anniversary	\$2,350,000	First Installment Payment
Second anniversary	\$2,350,000	Second Installment Payment
Third anniversary	\$2,100,000	Third Installment Payment
Fourth anniversary	\$2,100,000	Fourth Installment Payment
Fifth anniversary	\$2,600,000	Fifth Installment Payment

<b>Timing of Installment Payments</b>	<b>Installment Payment Amount</b>	<b>Installment Payments</b>
Sixth anniversary	\$2,500,000	Sixth Installment Payment
Seventh anniversary	\$2,000,000	Seventh Installment Payment
Eighth anniversary	\$1,000,000	Eighth Installment Payment
Ninth anniversary	\$1,000,000	Ninth Installment Payment
<b>TOTAL</b>	<b>\$20,500,000</b>	

5. Scullin, Rosario, and Luna shall be jointly and severally liable for contributions towards the Initial Installment Payment to the State in the respective amounts set forth below, which shall be paid on the Effective Date as part of, and not in excess of, the Initial Installment Payment, by electronic funds transfer pursuant to written instructions to be provided by the State. In exchange for the payment of the amounts set forth in this Settlement Agreement, Scullin, Rosario, and Luna will receive individual releases, as set forth in Paragraph 13 of this Agreement.

<b>Defendant</b>	<b>Contribution</b>
Thomas Scullin	\$150,000
Eddie Rosario	\$50,000
Antonio Luna	\$50,000

6. The Settlement Amount shall be guaranteed by the Guarantors: Franmar Leasing LLC, Academy Bus LLC (Florida), Franmar Leasing South LLC, and Academy Services Inc. Such guarantee shall be joint and several among the Guarantors. In addition, there shall be held in escrow springing guarantees of the Settlement Amount by certain Springing Guarantors, as set forth in a separate agreement between the State and those Springing Guarantors, annexed hereto as Exhibit A, which guarantees shall only become operative in the event the Entity Defendants or Guarantors fail to make a required payment and fail to cure such default after being given the notice and opportunity to cure provided for in Paragraph 7.

7. In the event of the failure by Defendants or the Guarantors to pay any portion of the Settlement Amount when due, the State shall provide written notice of the non-payment to Defendants and the Guarantors by (a) delivery in person, (b) a nationally recognized next-day courier service, or (c) first class, registered or certified mail, postage prepaid. Notice so given shall be effective upon (a) receipt, or (b) on the tenth day following mailing, whichever occurs first. Defendants and/or the Guarantors shall have the opportunity to pay the amount due within thirty (30) calendar days from the date of notice. If Defendants and/or the Guarantors fail to pay the amount due under this Agreement within thirty (30) calendar days from the date of notice of non-payment, then Defendants and/or the Guarantors shall be in default (“Default”). In the event of Default, within five (5) business days of such Default, the State, in its sole discretion which must be exercised reasonably, may declare or do any or all of the following:

- a. The State may declare the entire Settlement Amount, less any payments already made, immediately due and payable, with unpaid amounts bearing the rate of interest set forth in the New Jersey Court Rules beginning as of the date of Default until payment of the remaining Settlement Amount is made (“Settlement Acceleration Payment”),
- b. If Defendants and/or the Guarantors fail to make the Settlement Acceleration Payments within ninety (90) days of the Default, the State and Relator may then file an action against Defendants for the Settlement Acceleration Payment, plus interest accrued, via summary proceedings under R. 4:67-1 et seq.

8. In the event of a Default, as described in Paragraph 7, Defendants agree not to contest any action to enforce this Agreement or any other collection action undertaken by the State pursuant to this Paragraph, and Defendants agree to pay the State all reasonable costs of collection and enforcement of this Agreement, including attorneys’ fees and expenses, to the extent that such amounts would be recoverable by existing law.

9. Pursuant to N.J.S.A. 2A:32C-7(a), the State shall pay the Relator the sum of \$3,900,000.00 (“Relator’s Share”) in four (4) installments, according to the following payment schedule:

- a. The State shall pay Relator \$1,000,000.00 (the “Initial Relator Share Payment”) within twenty (20) days after the State’s receipt of its portion of the Defendants’ Initial Installment Payment.
- b. The State shall pay Relator \$967,000.00 within twenty (20) days after the State’s receipt of Defendants’ First Installment Payment.
- c. The State shall pay Relator \$967,000.00 within twenty (20) days after the State’s receipt of Defendants’ Second Installment Payment.
- d. The State shall pay Relator \$966,000.00 within twenty (20) days after the State’s receipt of Defendants’ Third Installment Payment.

10. The State shall pay the Relator’s Share to Relator’s counsel, Neil Mullin and Paula Dillon, in trust for Relator, by way of electronic funds transfer pursuant to written instructions provided by Relator’s counsel in accordance with the schedule set forth in Paragraph 9 above. Relator expressly understands and agrees that, pursuant to N.J.S.A. 2A:32C-7(f), the State is only liable to the Relator for a share of the funds actually recovered by the State that are being used to satisfy Defendants’ obligations pursuant to N.J.S.A. 2A:32C-7(a) under this Settlement Agreement.

11. With respect to any contract or agreement to operate New Jersey Transit bus lines, the Entity Defendants and/or any other entity affiliated with the Entity Defendants shall abide by the terms below (the “Other Terms”).

- a. Shall not engage in any violations of the NJFCA relating to any contract with New Jersey Transit, including their missed trip and miles and hours reporting and invoicing.

- b. Shall implement and share with New Jersey Transit within thirty (30) days of the Effective Date of the final Settlement Agreement, new written policies and procedures to ensure accurate reporting of missed trips and hours and miles on all contracts with New Jersey Transit, including training on accurate reporting, policies on maintenance of adequate records and databases, and adequate document retention policies.
- c. Shall create within thirty (30) days of the Effective Date of the final Settlement Agreement comprehensive written bus operator training policies that ensure the proper use of all provided equipment, including but not limited to proper use of and log-on to Clever Devices and other telematics, as well as the proper reporting of equipment malfunctions.
- d. Shall create and share with New Jersey Transit within thirty (30) days of the Effective Date of the final Settlement Agreement comprehensive written procedures that the Entity Defendants' Road Supervisors must employ to ensure conformity to contracted bus service rules and regulations, as well as driver adherence to specific routes and accident reporting. The Entity Defendants should retain all data sheet reports created by Entity Defendants' Road Supervisors while performing these functions, and make them available to New Jersey Transit upon request.
- e. Shall report to the Attorney General and New Jersey Transit within seven (7) days if any of the Defendants learn that any other Defendant or any of their employees or agents has engaged in any conduct to falsify any records of missed trips or miles and hours submitted to New Jersey Transit for payment or if any of their employees or agents responsible for submitting, preparing, or approving records of missed trips or miles and hours is arrested, indicted, convicted, or engaged in unethical or irregular business activity.
- f. Shall submit with each invoice for payment a personal certification from a Senior Vice President, Chief Financial Officer or such person's designee, of the Entity Defendant that attests to the accuracy of that submission, as well as the accuracy of the supporting Daily and Monthly Reports of Operation.
- g. Shall for three (3) years following the commencement of the first new contract with New Jersey Transit after the Effective Date of the final Settlement Agreement, engage an independent Integrity Oversight Monitor that is fully financed by the Entity Defendants and approved by New Jersey Transit to oversee the accuracy of its internal records of trip operations and the accuracy of invoices and missed trip and miles and hours reporting to New Jersey Transit for such new contract, as well as for any current contracts New Jersey Transit has with an Entity Defendant. Such monitor shall be in place prior to the commencement of the first new contract with New Jersey Transit after the Effective Date of the final Settlement Agreement, and with respect to any existing contracts, shall be in place within fourteen (14) days of the Effective

Date of the final Settlement Agreement. The monitor would be responsible for, among other things, the following duties:

- i. Monitor the Entity Defendants' internal controls, as they apply to the proper maintenance of records and accurate billing relating to any contract with New Jersey Transit. Particular emphasis shall be placed on assessing the design and effectiveness of the Entity Defendants' controls to prevent or detect any fraudulent reporting and invoicing in their New Jersey Transit contracts.
- ii. Ensure that accurate supporting documentation is submitted with invoices to New Jersey Transit.
- iii. Ensure that the Entity Defendants have a comprehensive policy against retaliation for those complaining of misconduct on the part of Defendants or their officers or employees.
- iv. Defendants agree to fully cooperate with the monitor by, among other things, providing the monitor with access to all records and documents, including the Entity Defendants' Line Run System or any later comparable database, and electronically stored information, solely concerning any current or future contract with New Jersey Transit.
- v. Defendants further agree to fully cooperate with the monitor by, among other things, permitting the monitor to make verbal and written reports to New Jersey Transit regarding the monitor's activities and Defendants' compliance with the terms of this Agreement.
- vi. Defendants agree that, without informing the Entity Defendants, the monitor shall inform the New Jersey Attorney General and New Jersey Transit of any suspected or actual criminal, unethical or irregular business activity by Defendants or their officers or employees.

12. Upon receipt by the State of the Initial Installment Payment and by Relator of the Initial Relator Share Payment, the State, Relator and Defendants shall promptly sign and file in the Civil Action a Joint Stipulation of Dismissal With Prejudice of the Civil Action stipulating to: (i) dismissal with prejudice of the Complaint in the Civil Action against all Defendants, and (ii) dismissal with prejudice of any counterclaims asserted by Defendants in the Civil Action. Such dismissals with prejudice are expressly understood to be in accordance with, and to the fullest extent permitted by the entire controversy doctrine and R. 4:30A. Such dismissals, however, shall not include and shall expressly preserve the Court's jurisdiction over Defendants' obligations to pay the Settlement Amount and the Attorneys' Fees and otherwise comply with the terms of this Agreement.

13. Subject to and conditioned upon the Defendants' full payment of the Initial Installment Payment, the State agrees to release the Entity Defendants, Scullin, Luna, and Rosario, and their parent corporations, subsidiaries, brother or sister corporations, divisions, current or former owners, affiliates, agents, directors, and the successors and assigns of any of them, from

any claim the State has or may have brought against Defendants in the Intervention Complaint for the Covered Conduct. This provision does not provide a release for Defendant DiPalma, however nothing about the absence of such release shall have any effect on the dismissal of all claims against Defendant DiPalma with prejudice in accordance with the above Paragraph 12.

14. Notwithstanding any term of this Agreement, the following potential claims of the State against Defendants are specifically reserved and not released:

- a. Any civil, criminal, or administrative liability arising under state or municipal tax laws;
- b. Any criminal liability, including but not limited to the criminal liability of individuals (including current or former directors, officers, employees, agents or shareholders);
- c. Any administrative liability other than liability arising from the Covered Conduct;
- d. Any civil liability that Defendants have or may have under any state or local statute, regulation, or rule for conduct other than the Covered Conduct;
- e. Any liability that Defendants have or may have to the State (or its agencies) for any conduct other than the Covered Conduct;
- f. Any liability to any local government (or agency thereof) for any conduct other than the Covered Conduct;
- g. Any liability based upon such obligations as are created by this Agreement;
- h. Any liability for express or implied warranty claims or other claims for defective or deficient products or services, including quality of goods and services not arising from the Covered Conduct;
- i. Any liability for failure to deliver goods or services due not arising from the Covered Conduct;
- j. Any liability for personal injury or property damage resulting from the Covered Conduct; and
- k. Any liability of individuals not released by the terms of this Agreement.

15. Subject to and conditioned upon the Defendants' timely payments of the full Settlement Amount and compliance with their obligations set forth herein, the State agrees to not make any application for debarment or suspension of the Entity Defendants based on the Covered Conduct.

16. Nothing in this Paragraph or any other provision of this Agreement constitutes an agreement by the State concerning the characterization of the Settlement Amount for purposes of the Internal Revenue laws, Title 26 of the United States Code, or New Jersey's revenue codes.

17. No portion of the Settlement Amount shall be dischargeable in bankruptcy as to the Defendants or the Guarantors. Defendants warrant that they have reviewed their financial situation, as well as the financial situation of the Guarantors, and that Defendants and the Guarantors are currently solvent within the meaning of 11 U.S.C. §§ 547(b)(3) and 548(a)(1)(B)(ii)(I), and shall remain solvent following payment to the State of the Settlement Amount. Further, the Parties warrant that, in evaluating whether to execute this Agreement, they (a) have intended that the mutual promises, covenants, and obligations set forth constitute a contemporaneous exchange for new value given to Defendants within the meaning of 11 U.S.C. § 547(c)(1), and (b) conclude that these mutual promises, covenants, and obligations do, in fact, constitute such a contemporaneous exchange. Further, the Parties warrant that the mutual promises, covenants, and obligations set forth herein are intended to and do, in fact, represent a reasonably equivalent exchange of value that is not intended to hinder, delay, or defraud any entity to which Defendants were or became indebted to on or after the date of the required transfers, within the meaning of 11 U.S.C. § 548(a)(1). If any claim is ever made upon the State for the repayment or return of any part of the Settlement Amount, and the State repays or returns all or part of said money or property by reason of (a) any judgment, decree or order of any court or administrative body of competent jurisdiction or (b) any settlement or compromise of any such claim between the State and such claimant, then in such event the State, at its sole option, may terminate the releases in this Agreement insofar as it affects the State and bring any civil and/or administrative claim, action, or proceeding against Defendants for the claims that would otherwise be covered by the releases provided above. Defendants agree that they shall not plead, argue, or otherwise raise any defenses under the theories of statute of limitations, laches, estoppel, or similar theories, to any such civil or administrative claims, actions, or proceedings that are brought by the State except to the extent such defenses were available on the Effective Date of the Agreement.

18. Relator and his heirs, successors, attorneys, agents, and assigns shall not object to this Agreement but agree and confirm that this Agreement is fair, adequate, and reasonable under all the circumstances pursuant to the New Jersey False Claims Act. Conditioned upon Relator's receipt of the Initial Relator Share Payment, Relator, for himself and for his heirs, successors, attorneys, agents, and assigns, release and forever discharge the State of New Jersey, its agencies, departments, officers, agents, and employees, from any claims arising from the filing of the Civil Action, or under the New Jersey False Claims Act in connection with the Covered Conduct, and from any claims to a share of the proceeds of this Agreement and/or the Civil Action.

19. Conditioned upon the State of New Jersey's receipt of the Initial Installment Payment in accordance with this Agreement, Relator, for himself and for his heirs, successors, attorneys, agents, and assigns, agree to release and forever discharge the Defendants, and their current and former parent corporations, direct and indirect subsidiaries, brother or sister corporations, divisions, current or former owners, affiliates, agents, servants, employees, officers, directors, and the successors and assigns of any of them, from any liability to the Relator arising out of the Civil Action except for Relator's False Claims Act retaliation and CEPA claims against



the Defendants currently pending in the Civil Action, which claims are not to be dismissed pursuant to this Agreement (“Reserved Employment Claims”). It is expressly understood and agreed that the Defendants are paying Relator’s NJFCA Attorneys’ Fees as set forth in Paragraph 3(a) and are thereby released from any further obligations as to those fees. It is expressly understood and agreed that Defendants are not released from any potential claim, defense, liability, or obligation for the Reserved Employment Claims, including all damages and attorneys’ fees associated with the CEPA claim, except that both Defendants and Relator reserve all rights to argue for or against all defenses recognized by law concerning any fee application made in connection with the Reserved Employment Claims.

20. In consideration of the releases provided for herein, Defendants, on their own behalf and on behalf of their current and former parent corporations, direct and indirect subsidiaries, brother or sister corporations, current or former owners, affiliates, agents, servants, employees, officers, directors, and the successors and assigns of any of them, release and forever discharge the Relator and any and all of his heirs, successors, attorneys, agents, and assigns, from any claims (including attorney’s fees, costs and expenses of every kind and however denominated) that the Defendants, together with their parent corporations, subsidiaries, affiliates, agents, servants, employees, officers, directors, and the successors and assigns of any of them have asserted, could have asserted, or may assert in the future against the Relator or his heirs, successors, attorneys, agents, and assigns related to the Covered Conduct or the Civil Action, or the investigation, filing or prosecution of either of them, except as it relates to the Reserved Employment Claims. It is expressly understood and agreed that Relator is not released from any potential claim, defense, liability, or obligation for the Reserved Employment Claims.

21. In consideration of the releases provided for herein, the Defendants, on their own behalf and on behalf of their current and former parent corporations, direct and indirect subsidiaries, brother or sister corporations, current or former owners, affiliates, agents, servants, employees, officers, directors, and the successors and assigns of any of them, release and forever discharge the State of New Jersey, its agencies, departments, officers, agents, and employees, from any claims (including attorneys’ fees, costs, and expenses of every kind and however denominated) which the Defendants asserted, could have asserted, or may assert in the future against the State of New Jersey, its agencies, departments, officers, agents, and employees, but only with respect to the Covered Conduct and the State of New Jersey’s investigation and prosecution thereof.

22. The Defendants agree to the following:

- a. Unallowable Costs Defined: All costs incurred by or on behalf of Defendants, their present or former officers, directors, employees, shareholders, and agents in connection with:
  - i. The Civil Action;
  - ii. The State’s civil investigation(s) of the matters included in the Covered Conduct;
  - iii. Defendants’ investigation, defense, and corrective actions undertaken in response to the State’s civil investigation in connection with the Civil Action (including attorneys’ fees);

- iv. The negotiation and performance of this Agreement;
- v. The payments Defendants make to the State and to the Relator or Relator's counsel pursuant to this Agreement;

are unallowable costs for government contracting purposes (hereinafter referred to as "Unallowable Costs").

- b. Future Treatment of Unallowable Costs: Defendants shall not charge such Unallowable Costs directly or indirectly to any contract with the State of New Jersey, and shall not cite such Unallowable Costs as the basis for any request for a price increase under any contract with the State of New Jersey or in which the State of New Jersey participates.

23. All communications and notices to be provided under this Agreement (other than notice pursuant to Paragraph 7 of this Agreement) may be provided by electronic transmission, United States mail or overnight delivery service. Notices made under this Agreement shall be directed as follows:

As to Relator:

Neil Mullin, Esq.  
Smith Mullin, P.C.  
240 Claremont Ave.  
Montclair, New Jersey 07042

Paula M. Dillon, Esq.  
Goldman, Davis, Krumholz & Dillon, P.C.  
Three University Plaza, Suite 410  
Hackensack, NJ 07601

As to Defendants:

Christopher S. Porrino, Esq.  
Lowenstein Sandler, LLP  
One Lowenstein Drive  
Roseland, New Jersey 07068

Gary Potters, Esq.  
Potters & Della Pietra LLP  
100 Passaic Ave.  
Fairfield, New Jersey 07004

Steven Menaker, Esq.  
Chasan Lamparello, Mallon & Cappuzzo  
300 Lighting Way, Ste, 200  
Secaucus, New Jersey 07094

As to the State:

Lara J. Fogel  
Deputy Attorney General  
Office of the Attorney General  
P.O. Box 45029-5029  
124 Halsey Street, 5th Floor  
Newark, New Jersey 07101

As to the Guarantors:

Christopher S. Porrino, Esq.  
Lowenstein Sandler, LLP  
One Lowenstein Drive  
Roseland, New Jersey 07068

24. The Parties warrant and represent that the undersigned counsel and any other signatories have the authority to enter into this Agreement on behalf of the party for whom they are designated signers, and that the Agreement as to all of its provisions is made freely, voluntarily, without any degree of duress or compulsion whatsoever and with full knowledge of its contents and consequences.

25. Except as expressly provided for in this Agreement, each Party to this Agreement will bear its own legal and other costs incurred in connection with the Civil Action, including the preparation and performance of this Agreement.

26. This Agreement shall be binding upon Defendants' successors, transferees, heirs, and assigns, as well as upon the Guarantors' successors, transferees, heirs, and assigns. For the avoidance of doubt, this Paragraph covers, but is not limited to, any entity that merges with, purchases, or otherwise acquires any of the Defendants or the Guarantors, in whole or in part.

27. Defendants and the Guarantors shall immediately give written notice of this Agreement to any successor in interest and shall simultaneously notify the undersigned counsel for the State that such notice has been given. This requirement shall be in addition to any other statutory or regulatory requirements arising from the transfer of ownership of any of the Defendants or Guarantors. In addition, the Parties agree that any successor agreement that Defendants or Guarantors enter into shall include a provision which states that (i) the purchaser is considered the successor; (ii) the purchaser had prior notice of this Agreement, including the Covered Conduct giving rise to this Agreement; and (iii) the purchaser has agreed to assume the unfulfilled obligations imposed by this Agreement. Prior to any merger or sale, Defendants and Guarantors shall provide the relevant successor-in-interest language to the State. The State shall have no fewer than ten (10) business days to review and provide its comments to Defendants and Guarantors regarding such language. If the State has notified Defendants and Guarantors that it is not reasonably satisfied that the successor-in-interest is sufficiently bound by this Agreement and Defendants and Guarantors proceed with the transaction without satisfying the State's interest, the State shall have fifteen (15) days from the date of the transaction closing to terminate the Agreement, which discretion shall not be exercised unreasonably.

28. This Agreement shall be binding on Relator's successors, transferees, heirs, and assigns.

29. This Agreement is governed by the laws of the State of New Jersey. The exclusive jurisdiction and venue for any dispute relating to this Agreement will be the Superior Court of the State of New Jersey, Essex County.

30. The Parties hereto acknowledge that this Agreement was the result of negotiation and discussion among the Parties. The Parties further acknowledge that this Agreement shall be deemed to have been jointly prepared and that no particular party is to be deemed the drafter or preparer of this Agreement. Accordingly, to the extent there should later prove to be ambiguities in the Agreement, the Parties agree that such ambiguity shall not be construed in favor of or against any particular Party to this Agreement.

31. This Agreement, as well as the separate agreement between the State and the Springing Guarantors annexed hereto as Exhibit A, constitute the entire agreement between the Parties, and supersedes any and all prior or contemporaneous agreements between the Parties. This Agreement may not be amended or modified in any respect except in writing and executed by the Parties.

32. This Agreement may be executed in counterparts, each of which constitutes an original and all of which constitute one and the same Agreement.

33. Electronic signatures shall constitute acceptable, binding signatures for purposes of this Agreement.

**IN WITNESS, ACCEPTANCE AND AGREEMENT WHEREOF, the Agreement is executed by the parties hereto.**

**FOR THE STATE OF NEW JERSEY**

ANDREW J. BRUCK  
ACTING ATTORNEY GENERAL OF NEW  
JERSEY

DATED: February 10, 2022

BY: *Lara J. Fogel*

Lara J. Fogel  
Kenneth S. Levine  
Eric J. Boden  
Dana Vasers  
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New Jersey Division of Law  
Department of Law & Public Safety  
124 Halsey Street, 5th Floor  
P.O. Box 45029  
Newark, New Jersey 07101

*Attorneys for the State of New Jersey*

**FOR THE ACADEMY ENTITY DEFENDANTS**

**ACADEMY BUS, LLC**

DATED: February 11, 2022

BY: *Francis Tedesco*  
Francis Tedesco

**ACADEMY EXPRESS, LLC**

DATED: February 11, 2022

BY: *Francis Tedesco*  
Francis Tedesco

**ACADEMY LINES, LLC**

DATED: February 11, 2022

BY: *Francis Tedesco*  
Francis Tedesco

**LOWENSTEIN SANDLER LLP**

DATED: February 11, 2022

BY: *Christopher S. Porrino*  
Christopher S. Porrino, Esq.  
One Lowenstein Drive  
Roseland, NJ 07068  
*Counsel for the Academy Entities*

**FOR THE HILLSIDE ENTITIES, EDDIE ROSARIO, AND ANTONIO LUNA**

**NO. 22 HILLSIDE, LLC**

DATED: February 11, 2022

BY: *Francis Tedesco*  
Francis Tedesco

**EDDIE ROSARIO**

DATED: February 11, 2022

BY: *Eddie Rosario*  
Eddie Rosario

**ANTONIO LUNA**

DATED: February 11, 2022

BY: *Antonio Luna*  
Antonio Luna

**CHASAN, LAMPARELLO, MALLON & CAPPUZZO**

DATED: February 11, 2022

BY: *Steven Menaker*  
Steven Menaker, Esq.  
300 Lighting Way  
Suite 200  
Secaucus, NJ 07094  
*Counsel for the Hillside Entities*

**FOR THOMAS SCULLIN AND FRANK DIPALMA**

**THOMAS SCULLIN**

DATED: February 11, 2022

BY: *Thomas Scullin*  
Thomas Scullin

**FRANK DIPALMA**

DATED: February 11, 2022

BY: *Frank DiPalma*  
Frank DiPalma

**POTTERS & DELLA PIETRA LLP**

DATED February 11, 2022

BY: *Gary Potters*  
Gary Potters, Esq.  
100 Passaic Ave  
Fairfield, NJ 07004  
*Counsel for Thomas Scullin and Frank DiPalma*



**FOR RELATOR**

**HECTOR PERALTA**

DATED: February 10, 2022

BY: *Hector Peralta*  
Hector Peralta

**SMITH MULLIN P.C.**

DATED February 10, 2022

BY: *Neil Mullin*  
Neil Mullin, Esq.  
240 Claremont Ave.  
Montclair, NJ 07042  
*Counsel for Relator*

**GOLDMAN, DAVIS, KRUMHOLZ & DILLON, P.C.**

DATED February 10, 2022

BY: *Paula M. Dillon*  
Paula M. Dillon, Esq.  
Three University Plaza, Suite 410  
Hackensack, NJ 07601  
*Counsel for Relator*

**FOR THE GUARANTORS**

**Franmar Leasing LLC**

DATED: February 11, 2022

BY: Francis Tedesco  
Francis Tedesco

**ACADEMY BUS LLC (Florida)**

DATED: February 11, 2022

BY: Francis Tedesco  
Francis Tedesco

**Franmar Leasing South LLC**

DATED: February 11, 2022

BY: Francis Tedesco  
Francis Tedesco

**Academy Services Inc.**

DATED: February 11, 2022

BY: Francis Tedesco  
Francis Tedesco

**LOWENSTEIN SANDLER LLP**

DATED: February 11, 2022

BY: Christopher S. Porrino  
Christopher S. Porrino, Esq.  
One Lowenstein Drive  
Roseland, NJ 07068  
*Counsel for the Guarantors*

## **EXHIBIT A - SPRINGING GUARANTY OF PAYMENT AND PERFORMANCE**

This Springing Guaranty of Payment and Performance (the “Springing Guaranty”) is entered into by and among the following parties: (I) Plaintiff-Relator Hector Peralta (“Relator”); (II) Jefferson Street Partners II, Franmar Properties of S. Florida, and Franmar Logistics, Inc. (collectively, the “Springing Guarantors”); and (III) the State of New Jersey, acting through the New Jersey Attorney General’s Office, Division of Law, and on behalf of New Jersey Transit (the “State”). The Springing Guaranty is given by Defendants<sup>1</sup> to and in favor of the State and Relator. Relator, the Springing Guarantors, and the State are hereinafter collectively, the “Springing Guaranty Parties.”

### **RECITALS**

A. This Springing Guaranty is attached as *Exhibit A* to the Settlement Agreement (“Settlement Agreement”) entered into among the parties listed therein in connection with a matter captioned State of New Jersey, ex rel. Peralta v. Academy Bus, LLC, et al. in Essex County Superior Court under Docket No. ESX-L-1669-17.

B. As a condition to entering into the Settlement Agreement, the State requires the Springing Guarantors to execute this Springing Guaranty.

C. Paragraph 6 of the Settlement Agreement contemplates a separate springing guaranty, to be held in escrow, with the Springing Guarantors, which guaranty shall only become operative in the event the Defendants or the Guarantors fail to make a required payment and fail to cure such default after being given the notice and opportunity to cure provided for in paragraph 7 of the Settlement Agreement.

D. The Springing Guaranty Parties intend in this Springing Guaranty to set forth the terms between and among them concerning such obligations, as referenced in Paragraph 6 of the Settlement Agreement.

E. For good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Springing Guaranty Parties hereby agree to the terms and conditions set forth below.

### **TERMS AND CONDITIONS**

1. This Springing Guaranty is effective on the date of signature of the last signatory hereof (“Effective Date of Springing Guaranty”).

2. In the event the Defendants or the Guarantors are in Default (as provided in Paragraph 7 of the Settlement Agreement), whether or not the State elects a Settlement

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<sup>1</sup> All capitalized terms used herein shall have the same meaning as those capitalized terms set forth in the attached Settlement Agreement.

Acceleration Payment, the Springing Guarantors shall step into the shoes of the Guarantors and shall be liable for the total amount due to the State immediately. The State may bring a summary proceeding against the Springing Guarantors under R. 4:67-1 et seq. according to the timetable set forth in Paragraph 7(b) of the Settlement Agreement for the Defendants and Guarantors. For purposes of clarity, the State may bring such a summary proceeding against Defendants, Guarantors and Springing Guarantors at the same time in accordance with paragraph 7(b) of the Settlement Agreement.

3. In the event of a Springing Guaranty Default, the Springing Guarantors agree not to contest any action to enforce this Springing Guaranty or any other collection action undertaken by the State pursuant to this Paragraph, and the Springing Guarantors agree to pay the State all reasonable costs of collection and enforcement of this Springing Guaranty, including attorneys' fees and expenses, to the extent that such amounts would be recoverable by existing law.

4. The Springing Guaranty shall be joint and several among the Springing Guarantors. The Springing Guarantors' obligations hereunder are independent of the obligations of the Defendants or Guarantors, and a separate action or actions may be brought and prosecuted against the Springing Guarantor(s) on any of their obligations set forth in the Settlement Agreement or hereunder.

5. Unless and until the triggering events of paragraph 2 of this Springing Guaranty shall occur, the Springing Guarantors shall have no liability or obligation in connection with either the Springing Guaranty or the Settlement Agreement.

6. All communications and notices to be provided under this Springing Guaranty (other than notice pursuant to paragraph 2 of this agreement) may be provided by electronic transmission, United States mail or overnight delivery service. All notices made under this agreement shall be directed in accordance with Section 23 of the Settlement Agreement, which is supplemented as follows:

As to Springing Guarantors:	Christopher S. Porrino, Esq. Lowenstein Sandler, LLP One Lowenstein Drive Roseland, New Jersey 07068
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7. The Springing Guaranty Parties repeat and incorporate by reference Section 24 through Section 33 of the of the Settlement Agreement as if set forth at length herein.

**IN WITNESS, ACCEPTANCE AND AGREEMENT WHEREOF, the Springing Guaranty is executed by the parties hereto.**

**FOR THE STATE OF NEW JERSEY**

ANDREW J. BRUCK  
ACTING ATTORNEY GENERAL OF NEW  
JERSEY

DATED: February 10, 2022

BY: *Lara J. Fogel*

Lara J. Fogel  
Kenneth S. Levine  
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*Attorneys for the State of New Jersey*

**FOR RELATOR**

**HECTOR PERALTA**

DATED: February 10, 2022

BY: *Hector Peralta*  
Hector Peralta

**SMITH MULLIN P.C.**

DATED February 10, 2022

BY: *Neil Mullin*  
Neil Mullin, Esq.  
240 Claremont Ave.  
Montclair, NJ 07042  
*Counsel for Relator*

**GOLDMAN, DAVIS, KRUMHOLZ & DILLON, P.C.**

DATED February 10, 2022

BY: *Paula M. Dillon*  
Paula M. Dillon, Esq.  
Three University Plaza, Suite 410  
Hackensack, NJ 07601  
*Counsel for Relator*

**FOR THE SPRINGING GUARANTORS**

**Jefferson Street Partners II**

DATED: February 11, 2022

BY: Francis Tedesco  
Francis Tedesco

**Franmar Properties of S. Florida**

DATED: February 11, 2022

BY: Francis Tedesco  
Francis Tedesco

**Franmar Logistics, Inc.**

DATED: February 11, 2022

BY: Francis Tedesco  
Francis Tedesco

**LOWENSTEIN SANDLER LLP**

DATED: February 11, 2022

BY: Christopher S. Porrino  
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One Lowenstein Drive  
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*Counsel for the Springing Guarantors*