

## CHARTER AGREEMENT

This **Charter Agreement** (hereafter “Charter” or “Agreement”) is entered into pursuant to U.C.A. §§53A-1a-503.5(1)(c) and 508, on this \_\_\_\_ day of \_\_\_\_\_ by and between the Utah State Charter School Board, (hereafter “SCSB” or the “Charter school authorizer,” pursuant to §53A-1a-501.3(3) or just “authorizer”), and \_\_\_\_\_ (the “Applicant(s)”) (collectively, the “Parties”) to operate the \_\_\_\_\_ (the “School”), a public Charter school under the Utah Charter Schools Act, U.C.A. §53A-1a-501, *et seq* (the “Act”).

### W I T N E S S E T H:

**WHEREAS**, the State of Utah (the “State”) enacted the Utah Charter School Act, (as amended, the “Act”) codified as U.C.A §53A-1a-501, *et seq.*, with the intent of serving the needs of free public education in both elementary and secondary schools; and

**WHEREAS**, under the Act duly authorized charter schools are deemed to be public schools subject to the leadership, supervision and regulation of the Utah State Board of Education (“SBE”); and

**WHEREAS**, pursuant to §53A-1a-505 of the Act, the SCSB has the authority and is recognized to be an “authorizer” otherwise empowered to approve applications to establish charter schools in the State of Utah and to enter into Charter Agreements pursuant to §53A-1a-508, with applicants setting forth the terms and conditions under which the charter school is to operate and be governed; and

**WHEREAS**, Applicant(s) submitted an application (together with addenda, the “Application”) for establishment of the Charter School pursuant to §53A-1a-504 of the Act; and

**WHEREAS**, the Application was approved by the SCSB on or before \_\_\_\_\_;

**WHEREAS**, the Parties hereto now enter into this Agreement, agreeing to be legally bound thereby, and to establishing meaningful benchmarking of performance and outcomes of the education process including developing as part of this Agreement clear, measurable performance standards and operational minimum standards which will be regularly reviewed by the charter school’s Governing Board and provided to the SCSB as provided herein for evaluative purposes.

**WHEREAS**, the School, through its Governing Board, may request technical assistance from the SCSB in any area, including curriculum matters and financial concerns, however, in no event is the Utah State Office of Education (“USOE”), the SBE, or the SCSB responsible for any financial or technical support other than the funding and technical assistance as expressly required by law, nor are they responsible for the outcome of any decisions the school makes based on such assistance;

**WHEREAS**, the Parties recognize and agree that the Legislature may amend the Act or any other governing statute and the SBE, or SCSB may promulgate rules and regulations which shall be binding on the Parties as to matters agreed to hereto and such amendments to statutes, rules, or regulations or new regulations shall automatically become part of this Agreement and amend or supersede anything that has otherwise been agreed to herein.

**NOW, THEREFORE**, in consideration of the mutual covenants, representations, warranties and agreements contained herein, the Parties hereby agree as follows:

### **SECTION 1. ESTABLISHMENT OF SCHOOL**

1.1 School. The SCSB, as an authorizer under U.C.A. §53A-1a-501.3(3) hereby authorizes Applicant to establish a charter school pursuant to the Act and this Charter Agreement.

1.2 Name. The name of the Charter School shall be \_\_\_\_\_ and is granted pursuant to the Application of \_\_\_\_\_ submitted on \_\_\_\_\_.

1.3 Opening Date. For purposes of this Agreement the opening date of the School shall be \_\_\_\_\_.

1.4 Target Location. The School will be established at \_\_\_\_\_ which location is material to its authorization. This location shall not be changed or amended unless specifically approved by SCSB which approval is in its sole discretion.

1.5 Charter Agreement. This Charter Agreement is a legally binding document and consists of this signed Agreement, the Application, which is incorporated herein by reference, submitted by the Applicant, and all applicable State and Federal statutes, regulations, and rules, as they may be amended from time to time. In addition, incorporated by reference are all SBE rules unless specifically waived. A copy of the SBE rules may be obtained at the following location:

Website: <http://www.rules.utah.gov/publicat/code/r277/r277.htm>  
Mail: Utah State Office of Education  
250 East 500 South  
P.O. Box 144200  
Salt Lake City, UT 84114-4200

For purposes of interpretation these governing authorities shall be construed consistently but in case of a conflict they shall be given precedence in the following order: first, State and Federal statutes, rules, and regulations; then the SBE rules; then this Agreement; and finally the Applicant's Application.

1.6 Compliance with Other Laws. The School, through its Governing Board, shall comply with all applicable federal laws and regulations, including, but not limited to, such laws and regulations governing employment, environment, disabilities, civil rights, children with special needs, transportation, and student records as applicable. The School through its Governing Board shall also comply with all applicable health and safety laws and regulations, whether federal, state, or local. Neither the SCSB nor the local board of education assumes the duty to oversee the operations of the School except as may otherwise be provided by law or separate contract. The SCSB shall monitor the School for compliance with applicable laws, rules, and regulations. Failure to comply with applicable laws and rules may result in corrective measures being taken by the SCSB as provided in statute, regulation, rule, or this Charter which may include termination of the Charter.

1.7 Other Policies. The USOE and the SBE or their designees are authorized to develop and implement additional policies necessary for administering Utah's charter schools program. Such new or additional policies shall be incorporated herein by reference with or without notice when they are enacted or promulgated.

1.8 Monitoring and Oversight. To permit the SCSB as the authorizer hereunder to fulfill its oversight function under the Act, U.C.A. §53A-1a-501.6(1)(b), and ensure that the School is in compliance with all applicable laws, regulations and the terms and conditions of this Charter, the School agrees to cooperate with all requests for reports, audits, formal and informal investigations, formal and informal visits and inspections of books and records of the School.

## **SECTION 2. OPERATION OF SCHOOL**

2.1 Mission/Vision Statement. The School shall be operated by the School's Governing Board, §53A-1a-503.5(1)(c) (hereafter "Governing Board"), pursuant to its mission or vision statement, or both, set forth in the Application:

[Insert School's Mission/Vision Statement]

2.2 Governance; Governing. The School shall be governed by a Governing Board. The Governing Board of the charter school shall have the authority to decide matters related to the operations of the school including budgeting, curriculum, and operating procedures, subject to the school's charter, and shall have final authority for the academic performance of the School. Nothing herein shall prevent the Governing Board from delegating decision-making authority for policy and operational decisions to officers, employees and agents of the School but ultimate responsibility for and oversight of any such delegated authority shall remain at all times with the Governing Board.

2.3 Compliance The board shall institute a compliance policy and program to insure compliance with the terms and conditions of this Agreement as well as compliance with all governing laws and regulations.

2.4. Public Entity. As authorized herein the School becomes a “public school within the state’s public education system.” U.C.A. §53A-1a-503.5(1)(a). As a public school under the Act the School is subject to all laws otherwise effecting such public schools, including but not limited to audits performed by the State Auditor’s Office, public records laws, including the Government Records Access and Management Act, U.C.A. §§ 63G-2-101 *et seq.* (hereafter “GRAMA”, the federal Family Educational Rights and Privacy Act, U.S.C. 20 § 1232g *et seq.* (“hereafter “FERPA”), the Utah Open and Public Meetings Act, U.C.A., §52-4-101 *et seq.*, and State procurement processes, U.C.A., §63G-6-101, *et seq.*

2.5 Board and School Transparency. The School’s Governing Board agrees to have on its website: an electronic copy of the school’s signed Charter Agreement, board bylaws, and articles of incorporation; the School’s governance structure, including names, qualifications, and individual contact information for all Governing Board members; the school’s student policy manual and annual school calendar; evidence of how the school performed compared to its school performance measures in its approved Charter Agreement; and timelines and processes for new student application and registration, as well as timelines and processes for students transferring from the charter school to another school.

2.6 Reporting. The School’s Governing Board shall submit such reports as required by state law and the SCSB. Failure to submit such reports may be grounds for termination of this Charter.

### **SECTION 3. PERSONNEL**

3.1 Discrimination. The School will not discriminate in program benefits, participation, employment, or treatment on the basis of race, color, religion or national origin, and will comply with the provisions of Title IX of the Education Amendments of 1972, 20 U.S.C. §1681 *et seq.*, prohibiting discrimination on the basis of gender.

3.2 Personnel Policies. The School shall make available to the SCSB and on its website in written form its hiring and personnel policies and procedures including the qualifications required by the School in the hiring of teachers, school administrators and other school employees as well as a description of staff responsibilities.

3.3 Licensed Employees. All employees who hold professional licenses issued by SBE are subject to the rules applicable to licensed professionals, and their licenses may be revoked based on any of the grounds consistent with state and federal law, and SBE rule. The School's Governing Board understands and agrees that it shall not employ in any capacity, or accept voluntary services from, any individual whose certificate or license has been suspended or revoked by the SBE or any other licensing board or agency on the grounds of unethical or immoral behavior, including improper sexual or physical conduct with children or students. Violation of this provision shall result in immediate termination of this Charter Agreement.

3.4 Criminal Background Checks. The School's Governing Board agrees to conduct thorough background checks on all of its employees and volunteers who may have significant unsupervised contact with students, consistent with state law. In addition, the SCSB or SBE may conduct criminal history checks on any School personnel or director or Governing Board member when it is deemed necessary to protect the financial integrity of the School or the health and safety of students or employees. Refusal by any individual to submit to a fingerprint check is grounds for termination of employment and/or termination of this Charter Agreement. The SCSB may consider the refusal of an individual to submit to a fingerprint check in determining whether: to grant final approval of the Charter Agreement; to recommend to the School's Governing Board that the individual be denied employment; or to terminate the School's Charter Agreement.

## **SECTION 4. SCHOOL FINANCIAL MATTERS**

4.1 Fiscal Management. The School's Governing Board shall comply with the same financial audits, audit procedures and audit requirements of all local school districts. The program, financial, and compliance audits may be conducted local by the authorizing entity or the Legislative Auditors Office. The School's Governing Board shall maintain all appropriate financial records of the School to facilitate necessary audits performed according to generally accept accounting principles. Generally accepted standards of fiscal management are those fiscal practices which result in a School's continued ability to meet the measures, metrics, and targets found in the established performance standards. The performance standards stated below will be considered binding in the absence of more restrictive standards entered into by the School as a result of any other agreement. Generally accepted standards of fiscal management will include but are not limited to practices outlined in statutes pertaining to the management of school district budgets.

4.2 Audits. The School shall retain an independent certified public accountant or certified public accounting firm licensed in the State to perform annually an audit of the

School's annual financial statements. The independent audit of the School's financial statements must be performed in accordance with generally accepted auditing standards and Government Auditing Standards issued by the Comptroller General of the United States, as well as any additional requirements and guidelines provided by the SCSB. The audited financial statements must be submitted to the SCSB by \_\_\_\_\_ of each year. In addition, and pursuant to the same timetable, the School must require its independent certified public accountant to issue a report on compliance with laws, regulations, contracts and grants and on internal controls over financial reporting, based on its audit of the financial statements. The School must submit this report to the SCSB together with a corrective plan addressing any weaknesses or problems identified in the planning and performance of the audit. The corrective plan must address each suggestion for consideration of management contained in the compliance report and include a timetable that identifies the date by which each corrective step will have been completed.

4.4 Fiscal Year. The fiscal year of the School shall begin on July 1 of each calendar year of the term of this Charter and shall end on June 30 of the subsequent calendar year.

4.5 Annual Budget and Cash Flow Projections. The School shall prepare and provide to the SCSB a copy of its annual budget and cash flow projection for each fiscal year by no later than March 30 of the immediately preceding fiscal year. In the event that the October 15 enrollment count or other budgetary changes differs in any material respect from the budget provided, the School shall provide a revised annual budget and cash flow projection for each fiscal year in which it provides instruction. The annual budget and cash flow projection shall be in such form and electronic format as prescribed and disseminated by the SCSB.

4.6 Insurance and Bonding

a. The School's Governing Board shall obtain and maintain insurance at a minimum in the following amounts:

- 1) General liability of two million dollars (\$2,000,000), and five hundred thousand dollars (\$500,000) per occurrence;
- 2) Employee dishonesty bond;
- 3) Workers' compensation: as specified by federal law;
- 4) Comprehensive/collision consistent with cash values of vehicles;
- 5) Liability insurance specific to the School's Governing Board's financial officer or treasurer or business administrator consistent with coverage designated in SBE rule.

b. SCSB and/or SBE shall be named as an additional insured under any and all insurance policies required by this section.

c. The provisions of Paragraph a. shall not preclude any School from obtaining liability insurance coverage in addition to or in excess of the requirements stated in this section.

d. Written proof and copies of required insurance policies shall be provided to the SCSB at least 90 days prior to the opening of school. The policies shall be maintained by the SCSB with this Agreement. The School's Governing Board shall provide the SCSB with certificates of insurance as provided herein annually.

## **SECTION 5, CHARTER REVIEW**

5.0 Reviews. In keeping with the requirements of U.C.A. §53A-1a-501.6(1)(b) the SCSB will perform at least an annual review (more often as the need arises) and evaluation of the performance of the School and hold the School accountable for its performance. To facilitate the annual or any other review the School shall maintain the necessary records to provide the following:

a. Annual Report. In keeping with its mission/vision statement the School will prepare a report setting forth its academic programs and the performance of the School for at least the preceding school year. The annual report shall be in such form as shall be prescribed by the SCSB and shall, at a minimum, address the mission, vision, goals and objectives of its programs as measured against a coherent performance framework and provide evidence of the school's compliance with applicable statutes and regulations. The School should be prepared to make such report available to parents or guardians of the students enrolled in the School.

b. Additional Documentation. The Governing Board of the School shall submit such additional documents as the SCSB shall request in support of the annual report, or any other report that it provides to SCSB.

c. Financial Reports. The School shall provide an annual financial report and such supporting documents as is provided in Section 4 and as the SCSB shall direct.

5.1 Review Process. The charter school review process will be guided by the following core questions:

- Is the School's academic quality as advertised and successful?
- Is the School's organizational and administrative quality viable, and sustainable?
- Is the School demonstrating good faith in following the terms of its Charter Agreement and all other applicable laws, regulations and rules?

5.2 Letter of Noncompliance/Probation/Termination of Charter. From any annual or other review or from any audit the SCSB may take any action it deems necessary to

bring the School into compliance with any statute, regulation, rule, the terms and conditions of this Charter, or to facilitate the School's accomplishment of its mission or vision. Depending on the circumstances and the severity of the failure of the School to comply, the SCSB may at least do one or all of the following:

a. Letter of Noncompliance. Issue a letter of noncompliance addressed to the Governing Board outlining deficiencies or areas of noncompliance and a timetable in which the that noncompliance will be remedied. The terms of the letter and the consequences associated with the warning will be those found in the letter.

b. Probation. In lieu of immediate termination of this Charter Agreement for a material breach thereof, the SCSB may place a School on probation for such period of time necessary for the School to be able to establish its ability to comply with all of the terms and conditions of this Charter and all controlling laws, regulations and rules. The SCSB will provide notice of such probation and the terms of that probation in a letter provided to the Governing Board.

c. Additional Actions. In addition to either a letter of noncompliance or probation and where the Charter School has not remedied deficiencies within the timeframes established by the SCSB, the SCSB may:

- 1) remove a Charter School director or financial officer, or their equivalent positions, and without consideration of the School's corporate formalities;
- 2) remove a governing board member, without consideration of the School's corporate formalities; or
- 3) appoint an interim director, who will replace or act in the place of the director, or mentor to work with the Charter School

d. Termination. SCSB may move to terminate this Charter for those reason provided in any other section in this Charter or on the following grounds:

- 1) Failure of the School or the School's Governing Board to meet all of the requirements and standards set forth in this Charter Agreement;
- 2) Failure of the School's Governing Board to meet generally accepted standards of fiscal management, including but not limited to general accepted accounting principles;
- 3) Failure to abide by any controlling or governing laws, regulations, or SBE rule;
- 4) Material breach of any of the terms, conditions, standards, or procedures set forth in this Charter Agreement;
- 5) Failure to meet the requirements for student performance under state or federal law or regulation.

- 6) Failure to attend orientation and training sessions designated by the SCSB.
- 7) Such other and further cause as may be shown.

The School's Governing Board may voluntarily terminate this Charter Agreement after the end of the spring semester or no later than June 30. In the case of any termination whether it is voluntary done by SCSB action and after the settlement of all outstanding obligation from the assets on hand, there is a presumption that the property of a School shall revert to the SCSB. A School may defeat the presumption of SCSB ownership with documentation that the School purchased the property with private funding, and may be requested to provide documentation that the School or its founders or directors were never reimbursed from public funds.

## **SECTION 6. OTHER COVENANTS AND WARRANTIES**

6.1 Compliance with Laws and Regulations. The School shall operate at all times in accordance with the Act and other applicable laws, rules and regulations and shall meet the same health and safety, civil rights, and student assessment requirements as are applicable to other public schools, except as otherwise set forth in the Act.

6.2 Nonsectarian Status. The School shall be nonsectarian in its programs, admissions policies, employment practices and all other operations. The School shall not be wholly or in part under the control or direction of any religious denomination.

6.5 Regulated Transactions and Relationships. Certain transactions and relationships are governed by statute, including U.C.A. §53A-1a-519, the School specifically agrees to regulate such transactions and relationships as provided therein.

## **SECTION 7. MISCELLANEOUS**

7.2 Indemnity. The School's Governing Board agrees to indemnify and hold harmless the USOE, SBE, SCSB, and local boards of education, their officers, agents, employees, successors and assigns from all claims, damages, losses and expenses, including attorney's fees, arising out of or resulting from any action of the School caused by any intentional or negligent act or omission of the School, its officers, agents, employees, and contractors.

7.3 Assignment. Assignment of this Charter Agreement or a significant part of the assets of the School, or any part of its operation, to another entity, related or not, is deemed an amendment and is effective only if the amendment is done pursuant to Section 7.4.

7.4 Amendment. This Agreement may be amended by the mutual agreement of the SCSB and the School's Governing Board. Any such amendment must be made in writing and signed by the appropriate representatives of the SCSB and the Governing Board. In the case

of any proposed amendment the School's Governing Board shall immediately submit in writing, to the SCSB and the local board of education in which the School is located, notice of any proposed changes to the Application or the representations or conditions contained in the original Application. The SCSB reserves the right to reject any proposed changes to this Charter Agreement once the Application and this Charter Agreement have been approved.

7.5 Status of Parties to Charter. This charter is not intended to create and shall not be interpreted to create employer-employee, contractor-subcontractor, or principal-agent relationships between or among any party or parties to this Agreement. "Parties," for purposes of this paragraph only, include the parties to this agreement as well as the SBE and the local board of education. No officers, employees, agents, or subcontractors of the School shall be considered officers, employees, agents, or subcontractors of the local board of education.

7.6 Notice. Any notice required or permitted under this Agreement shall be delivered by way of registered mail, return receipt requested as follows:

To School:

To SCSB:

7.7 Severability If any provision of this agreement is determined to be unenforceable or invalid for any reason, the remainder of this Agreement shall remain in effect, unless the charter is revoked or terminated. In addition, to the extent any portion of the Application, or the School's articles of incorporation or bylaws, violate any applicable state or federal law in the future, or are found by any court to be invalid, illegal or unenforceable, then such portion shall be severed, and the remaining portion shall remain in full force and effect until the School's Governing Board is able to change their application, articles of incorporation or bylaws to comply with such applicable law or court ruling.

7.8 Non-Endorsement: The School's Governing Board acknowledges that the granting of a Charter in no way represents or implies endorsement by the SCSB of any method of instruction, philosophy, practices, curriculum, or pedagogy used by the School or its agents; nor does this Agreement constitute a guarantee by the SCSB of the success of the School in providing a learning environment that shall improve student achievement.

7.9 Legislative Action. This Agreement and any amendments to it are subject to applicable state and federal laws, and shall be deemed amended to reflect applicable changes to those laws. Upon repeal of the statutes authorizing charter schools, this Charter Agreement is null and void.

7.10 Waiver. No waiver of any breach of this Charter shall be held as a waiver of any other or subsequent breach.

7.11 Governing Law. This Charter shall be governed by, subject to and construed under the laws of the State of Utah. Jurisdiction shall be deemed appropriate in any Court of competent jurisdiction in the State of Utah. Should any action be brought to enforce any provision of this agreement the substantially prevailing party shall be entitled to an award of its costs and attorneys fees.

7.11 Counterparts. This Agreement may be executed in two or more counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument. For purposes hereof, a facsimile copy of this Agreement, including the signature pages hereto, shall be deemed to be an original.

**STATE CHARTER SCHOOL BOARD**

\_\_\_\_\_  
Date

By:

Title:

**CHARTER SCHOOL**

\_\_\_\_\_  
Date

By:

President, Board :

Date of Board resolution: