

## CHARTER SCHOOL RENEWAL CONTRACT

THIS CHARTER SCHOOL RENEWAL CONTRACT ("Contract"), dated this 13th day of June, 2006, to be effective as of July 1, 2006, is made and entered by and between the BOULDER VALLEY SCHOOL DISTRICT RE-2 ("School District") and SUMMIT MIDDLE CHARTER SCHOOL, INC., a Colorado non-profit corporation ("Summit"), by its Board of Directors.

### RECITALS

WHEREAS, the Colorado General Assembly has enacted the Charter Schools Act ("Act"), C.R.S. §§ 22-30.5-101 et seq., for certain purposes as enumerated in § 22-30.5-102(2) and (3); and

WHEREAS, on October 12, 1995, the School District and Summit Middle School Program Charter School entered into a Charter School Contract ("Original Contract"); and

WHEREAS, on December 11, 2001, the School District and Summit entered into a Charter School Renewal Contract for a term commencing July 1, 2001, through June 30, 2006 ("First Renewal Contract"); and

WHEREAS, on November 30, 2005, Summit timely filed an application for renewal of its Charter ("Renewal Application") for a five-year term commencing July 1, 2006, through June 30, 2011; and

WHEREAS, Summit has achieved pupil performance standards, responsibly managed its funds, and met all other goals, objectives, content standards, applicable federal requirements and other terms of the First Renewal Contract; and

WHEREAS, on January 10, 2006, and January 24, 2006, the Board of Education of the School District ("Board") considered the Renewal Application, found that renewal of the charter was in the best interests of the students, the School District, and the community and, therefore, conditionally approved the renewal of the charter subject to the negotiation of an acceptable charter school contract.

NOW, THEREFORE, in consideration of the foregoing Recitals and their mutual covenants, the parties agree as follows:

### AGREEMENT

1.0 Mission Statement. The mission statement contained in the Mission Statement Section of the Renewal Application (Part I, §1) is accepted by the School District.

1.1 School District Policies, Regulations, and Procedures. Whenever this Contract refers to compliance by Summit with School District policies, regulations, and/or

procedures, compliance shall mean compliance with those in existence as of June 13, 2006, unless waived as provided herein. Compliance by Summit with future School District policies, regulations, and/or procedures shall be subject to the provisions of Sections 5.4.1 and 8.7.3, below.

2.0 Goals, Objectives, and Pupil Performance Standards. The goals and objectives set forth in the Goals and Objectives Section of the Renewal Application are accepted by the School District, subject to the conditions and amendments contained in this Contract.

2.1 Student Attendance, Conduct, and Discipline. Summit has adopted its own set of written policies that have been approved by the School District, as referenced in Section 8.8 below. Summit shall comply with and enforce all future Board-approved policies and regulations concerning student attendance, standards of conduct, and discipline, subject to the provisions of Section 8.7.3.

2.1.1 Summit has adopted its own written attendance policy and has been granted a waiver from the School District's policy, so long as the policy is in compliance with Colorado's compulsory attendance laws, including, without limitation, required hours of planned teacher-student instruction and teacher-student contact and the distinction made between excused and unexcused absences.

2.1.2 Summit has adopted and may amend its own set of written policies concerning student conduct and student discipline and has been granted a waiver from corresponding School District policies, so long as all of its policies continue to be in compliance with applicable federal and state laws. Unless services are purchased from the School District, any general education services required by law to be provided to suspended or expelled students shall be the sole responsibility of Summit. Any special education and related services required by law to be provided to suspended or expelled students shall be the responsibility of the School District as a result of Summit's payment for those services as provided in this Contract.

2.2 Student Welfare and Safety. Summit shall comply with all Board-approved policies and regulations, and comply with all applicable federal and state laws, concerning student welfare, safety, and health, including, without limitation, Board policies and laws addressing the reporting of child abuse, accident prevention and disaster response, the adoption and implementation of a safe school plan as required by C.R.S. § 22-32-109.1(2), and any state regulations governing the operation of school facilities.

2.3 Accountability and Accreditation. Summit shall comply with the educational accountability provisions of Colorado law as amended from time to time, including without limitation the Educational Accountability Act of 1971, C.R.S. §§ 22-7-101 *et seq.* ("Accountability Act"); the Educational Reform Act, C.R.S. §§ 22-7-401 *et seq.*; the School Accountability Reporting Act, C.R.S. §§ 22-7-601 *et seq.*; the Educational Accreditation Act of 1998, C.R.S. §§ 22-11-101 *et seq.* ("Accreditation Act"); the Colorado State Board of Education Accreditation Rules, 1 CCR 301-1; and the School District's Accreditation Contract with the Colorado State Board of Education ("State Board"), as amended from time to time. Summit shall provide an annual accountability report to the School District on or before October 15 of

each year (or such other date as may apply to other School District schools of the same level) that will include, but not be limited to, a School Improvement Plan, parent surveys evaluating Summit in its delivery of educational services, and an analysis of student testing results on the CSAP examination and any other assessments required by state law.

2.3.1 Summit shall maintain a rating of average or above, as demonstrated on the school accountability report issued by the state or shall demonstrate longitudinal progress of students on CSAP as measured by School District assessments. If Summit receives a rating of low or below on the school accountability report issued by the state for two consecutive years following the commencement of the term of this Contract, the Board may deem that such ratings constitute a material breach of this Contract, entitling the Board to seek appropriate relief, including termination or revocation or non-renewal of the Contract.

2.3.2 Summit agrees to comply with the applicable provisions of the federal No Child Left Behind Act, 20 U.S.C. §§ 6301 et seq., as amended, and its implementing regulations ("NCLB") as applied to charter schools in Colorado.

2.4 Use of Constitutional One Percent Funding. Attached as Exhibit A is Summit's written plan, required by C.R.S. § 22-30.5-105(2)(b)(I), specifying how it will use the one percent increase in the statewide base per pupil funding, provided by Section 17 of Article IX of the Colorado Constitution, to raise student achievement. By May 1 of each year of this Contract, Summit shall review such plan and, if changes are made, shall submit such changes for review and approval by the School District.

3.0 Community Support. The Board finds that sufficient support exists for the renewal of Summit as a charter school.

4.0 Statement of Need. [This section intentionally left blank.]

5.0 Educational Program, Pupil Performance Standards, and Curriculum. The educational program, pupil performance standards, and curriculum referred to in the Curriculum and Plan for Evaluating Pupil Performance Sections of the Renewal Application (Part II, §§ 3 and 5, respectively) are hereby accepted, unless modified in this Contract.

5.1 Curriculum. The Summit curriculum, as described in the Renewal Application is approved, subject to implementation by Summit of its instructional programs as outlined in its Renewal Application.

5.1.1 Summit shall have the authority and responsibility of refining the design and implementation of its educational program, subject to the conditions of this Contract, in a manner that is consistent with state law, including, without limitation, requirements regarding content standards. By June 30th of each year, Summit will provide to the Board an annual report that will include, among other things, a summary of its yearly curriculum plan for the ensuing school year, course descriptions, and articulation of the curriculum with high school courses. Summit's courses shall meet or exceed the content standards of the School District, as approved from time to time by the Board, and shall be implemented so as to allow for assessment

of subject area proficiency in a manner and at times that are consistent with federal and state law and regulations. In addition to state or federally-required assessments, Summit will participate in District school improvement/climate surveys, will administer assessments in any world languages taught either by using the School District's designated assessment or comparable assessment approved by the School District, and will participate in any NAEP assessments. Summit will also administer assessments in any world languages taught at Summit, using either the School District's designated assessment or comparable assessment approved by the School District. The School District specifically approves the National French Exam, National Spanish Exam, and National German Exam.

5.1.2 Summit agrees to comply with all state statutory requirements concerning subjects of instruction, unless specifically waived by the State Board of Education, including, without limitation, instruction in the areas of state and federal history and civil government, C.R.S. § 22-1-104; honor and use of the United States Flag, C.R.S. § 22-1-106; the federal Constitution, C.R.S. § 22-1-108; and the effect of use of alcohol and controlled substances, C.R.S. § 22-1-110.

5.1.3 Summit shall keep in force a process, approved by the School District, for resolving public complaints, including complaints regarding curriculum, that provides an opportunity to be heard and an appeal process similar to current School District policies and procedures (KL and KLB, together with supporting regulations), except that the final administrative appeal shall be heard by the Board of Directors of Summit, rather than the Board of Education of the School District.

5.1.4 Summit and the School District shall work cooperatively and jointly to explore and implement strategies designed to increase accessibility to Summit's educational programs for under-represented populations. These efforts shall include, for example, literature about Summit made available in Spanish and in English at the District's targeted assistance schools, staff development for regular education teachers in making modifications and accommodations for students with disabilities, and continuing Summit's school-wide commitment to accepting and retaining students of diverse ability levels who want or need more challenge. By September 1 of each year (or such other date as may apply to other School District schools of the same level), Summit shall submit to the School District its school improvement plan, which plan will evaluate, among other things, the success of the strategies referred to above. The School District will provide mailing labels to Summit for the District's targeted assistance schools. Summit shall use these labels for the purpose of sending information to students and their parents (also translated into Spanish by the School District, if requested by Summit) about opportunities to enroll in Summit.

## 5.2 Records.

5.2.1 Summit agrees to comply with all record keeping requirements of the Board and/or federal or state law and shall provide any reports, as necessary, to meet the School District's reporting obligations to the State Board, Colorado Department of Education ("CDE"), and U.S. Department of Education. Student records include, without limitation, immunization records, class schedules, records of academic performance, disciplinary actions,

attendance and standardized test results, and documentation required under federal and state law regarding the education of students with disabilities. Copies of a student's permanent cumulative education file will be forwarded by the School District to Summit in a timely manner for those students who are registered to attend Summit.

5.2.2 Summit shall comply with all Board-approved policies and regulations, and applicable federal and state laws, concerning the maintenance, retention, and disclosure of student records, including, without limitation, the Colorado Open Records Law, C.R.S. §§ 24-72-204 et seq., and the Family Educational Rights and Privacy Act of 1974, 20 U.S.C. § 1232g.

5.3 Nonreligious, Nonsectarian Status. The educational program of Summit shall be nonreligious, nonsectarian and shall not discriminate against any student on the basis of race, creed, color, national origin, sex, marital status, sexual orientation, religion, ancestry, disability, or need for special education services. Summit acknowledges and shall comply with the School District's Nondiscrimination Regulation, File: AC-R (November 2001).

5.4 Enrollment. The School District and Summit agree that for the initial year of this Contract, Summit's total funded enrollment for purposes of the Public School Finance Act of 1994, or successor act ("Finance Act") and for any allocation of state or local funds ("Funded Enrollment") shall be limited to 314 full-time equivalent students in grades six through eight ("Student FTEs"), unless otherwise mutually agreed. During the term of the Contract, Summit's enrollment may increase, but shall not exceed 360 Student FTEs as long as it is occupying its current facility and site. This limitation on the number of enrolled and funded students is acknowledged by the School District and Summit as necessary to ensure that Summit's enrollment does not exceed the capacity of Summit's facility and site. Summit may enroll students, including enrolling students from the list of applicants created during open enrollment who have not yet been admitted to Summit because of lack of slots ("wait list" or "waiting list"), in a manner and at times designated by the School District for other schools. Consistent with the preceding sentence, and in order to assist Summit in maintaining its enrollment for funding purposes on the count date, if Summit's enrollment drops below its enrollment limit before October 1, it may admit students up to its enrollment limit from the Summit waiting list prior to October 1. Summit shall coordinate the acceptance of all such students in advance with and on the dates authorized by the Superintendent or designee.

5.4.1 Summit and students enrolling in Summit are subject to and shall comply with the School District's current open enrollment policy and regulations applicable to its other schools. Except as stated below in this section, Summit shall comply with future modifications to the School District's open enrollment policies and regulations subject to Section 8.7.3. Notwithstanding the foregoing, Summit agrees not to invoke Section 8.7.3 for future modifications to the School District's timelines and revisions to District forms. The School District acknowledges the desirability of managing the open enrollment system district-wide in a manner that allows schools to reach their enrollment numbers as early in the process as practicable. Summit's proposed "Admissions Process" section of the Charter Renewal Application (Part II, § 4) is replaced by this Contract. Summit shall not be required to give priority for admission among District resident students because of the student's place of

residence within the School District boundaries. Within its total enrollment, provided above in Section 5.4, Summit may determine the number of slots available for student admissions at each grade level; provided, however, that no two grades combined will be less than fifty percent (50%) of Summit's enrollment. Unless otherwise mutually agreed in writing, the priority for admission of students to Summit during the term of this Contract shall be as follows, which priorities shall not be affected by any future revisions to School District policies:

(i) Currently enrolled students.

(ii) Children of the school organizers and of present and former Directors.

(iii) Children of Summit employees and children of eligible School District employees ("Eligible School District employees" are those who are working at Summit an average of at least ten hours per week during the open enrollment period. Children of new Summit employees hired after the end of the open enrollment period who are working at least ten hours per week are allowed to enroll, so long as the enrollment does not cause Summit's enrollment to exceed by more than one percent (1%) the numbers specified in Section 5.4.).

(iv) Siblings of currently enrolled students and of Summit graduates. (A "Summit graduate" is a person who has completed eighth grade at Summit.).

(v) Siblings of students who have been assigned to Summit during the current open enrollment process.

(vi) Residents of the School District who applied during the previous year's open enrollment period, who were not offered a place at Summit, and who reapply during the current year's open enrollment period ( A student who was placed on the waiting list and who declined an opportunity to enroll at Summit is not eligible for the priority in this subsection (vi)).

(vii) Residents of the School District.

(viii) Residents of districts other than the School District; and

(ix) Children whose applications are received after the end of the open enrollment period, if such students were not enrolled at a School District school during the open enrollment period.

The preferences in subsections (ii), (iii), and (iv) shall apply regardless of the district of residence. Summit will make the final decision about the appropriate grade level placement (i.e. sixth, seventh, or eighth) for each student who is enrolled in Summit. Summit students are guaranteed enrollment for each succeeding year unless their parents/guardians enroll them in a different school. Once enrolled at Summit, students do not need to re-enter the open enrollment process, even if their grade level changes through promotion, acceleration or retention. If a Summit student temporarily moves away from the Boulder-Denver metropolitan area, the

Summit Board may approve a request for the student to take a leave of absence for up to one year. During the approved leave, the student will be dis-enrolled from Summit, but may automatically re-enroll on or before the conclusion of the approved leave.

5.4.2 Summit students may apply for enrollment in individual classes at School District high schools on the same basis as students from other School District middle schools including, without limitation, satisfying any prerequisites and space availability. Students from other School District schools and home schooled students may apply for enrollment in individual classes at Summit on a space-available basis. If such enrollment of students who have been included in the funded pupil count, result in a net transfer, during a given semester, from or to Summit of more than ten semester hours, then either Summit or the School District, as the case may be, shall reimburse the other, within sixty days after the end of each fiscal year, at the rate of one-fourteenth of the State's per-pupil revenue funding, net of purchased services, for each semester hour that one party's enrollment under this section exceeds the other's.

5.5 Admissions Criteria. Subject to the provisions of Sections 5.4, 5.4.1, and 8.7.3, students shall be considered for admission into Summit in a manner consistent with the School District's open enrollment process for other schools and in all cases without regard to race, creed, color, national origin, sex, marital status, sexual orientation, religion, ancestry, disability, or need for special education services. Denial of admission shall be handled consistent with state law, this Contract, and applicable Board policy.

5.6 Education of Students with Disabilities or Limited English Proficiency. Funding and payment for ELL and special education services shall be in accordance with Section 7.1 of this Contract.

5.6.1 Subject to the provisions of Section 8.7.3, Summit agrees to comply with all Board-approved policies and regulations and the requirements of federal and state law concerning the education of children with disabilities. Unless otherwise agreed in writing by the parties, Summit shall comply with this obligation by contracting with the School District to provide special education and related services as provided herein. Following enrollment of a District resident student, Summit and the School District shall determine whether the student has been identified as a child with disabilities, as defined by state and federal law. If so, the parties shall obtain a copy of the student's individualized education program ("IEP"). Any necessary members of the staffing team shall be convened to determine whether Summit is an appropriate placement for the student and, if so, what services are to be provided by Summit and what services will be provided by the School District. Where a student's special education needs can be appropriately met by Summit's staff, the student(s) needing such services will receive them, to the extent appropriate, on the Summit campus based upon a determination of the District staffing team. To the extent that special education and related services are required pursuant to a student's IEP that cannot be provided by Summit, the School District will do so in a manner consistent with its approach for other schools of the School District. Funding and payment for ELL and special education services shall be in accordance with Section 7.1 of this Contract.

5.6.2 If a student with disabilities who is not a resident of the School District applies for admission to Summit, enrollment acceptance is contingent upon an appropriate IEP team meeting being convened to determine if a free appropriate public education is available for the student at Summit. The student will not be accepted as a student at Summit if the IEP team finds that a free appropriate public education is not available for the student at Summit. If the non-resident student with disabilities is one for whom tuition may be charged or excess costs collected, the School District is entitled to collect said monies and credit them to the overall School District cost of providing special education services.

5.6.3 Summit shall remain solely responsible for the costs of providing those services required under an IEP that are typically provided by regular classroom teachers through the normal classroom program, including without limitation, the cost of the classroom teacher (subject to Section 7.1.4), typical classroom supplies and services, and supplies generally made available to all students. Summit and the School District shall both be responsible for ensuring that their respective employees properly carry out the applicable requirements of each IEP.

5.6.4 Where a student's need for English Language Learner ("ELL") services can be appropriately met by Summit's staff, the student(s) needing such services will receive them, to the extent consistent with other non-program ELL schools of the School District, on the Summit campus. For purposes of ELL, the School District will treat Summit like any other non-program school by making available professional development in the form of sheltered instruction (referred to in the School District presently as "Student Waived Training") and training in the use of the English language development profile. The School District will also do the language proficiency assessments, determine eligibility for ELL services, and keep records as may be required by CDE and the Office for Civil Rights.

5.7 Tuition and Fees. Tuition may not be charged to students who reside in the School District, other than for optional before- and after-school programs, summer programs, and travel programs administered by Summit, consistent with the provisions of C.R.S. § 22-32-118. In the case of enrollment of a nonresident student with disabilities in Summit, the School District shall collect the tuition charge for the excess costs incurred in educating the child from the school district of residence pursuant to guidelines developed by CDE in accordance with C.R.S. § 22-20-109(5) and apply such amounts toward reducing the School District's overall cost of providing special education services. Student fees may be charged by Summit so long as in accordance with applicable Colorado law and regulations, including, but not limited to, the provisions of C.R.S. §§ 22-32-110(1)(o) and (p), § 22-32-117, and Board policy and regulations. Summit shall provide the School District with a schedule of all proposed fees for the ensuing school year by May 1 of each year.

5.8 Extracurricular Activities and Interscholastic Activities. Summit's teams shall be included in the School District's middle school league for purposes of extracurricular and interscholastic activities. Subject to the provisions of C.R.S. § 22-32-116.5 and this section 5.8, Summit students may participate in extracurricular and interscholastic activities offered by the School District that are not offered at Summit. The School District shall choose the school at which the student may participate. Among other factors, the school of participation shall be the

school that offers the greatest number of activities in which the student wishes to participate and shall be at the school that would otherwise be the student's regular school of attendance in the School District unless otherwise approved by the Superintendent or designee for good cause, such as the distance from Summit to that school. To participate at another School District school, the student shall comply with all applicable laws and the then current rules, policies, and prerequisites of the School District and the school of participation; all eligibility requirements; and all responsibilities and standards of conduct, including related classroom and practice requirements. Where such participation requires a fee, the Summit student or Summit shall be responsible for payment of the fee which shall be equal to 150 percent of the fee amount the school of participation would charge an enrolled student to participate in the activity. Under the same terms and conditions above, School District students similarly may try out for and participate in extracurricular and interscholastic activities offered by Summit that are not offered at the student's school of attendance.

6.0 Evaluation of Pupil Performance and Procedures for Corrective Action. The Board accepts Summit's methods for evaluating pupil performance as contained in the Plan for Evaluating Pupil Performance Section of the Renewal Application, subject to the following modifications or as otherwise set forth in this Contract. The Board accepts Summit's proposal for the use of multiple tools for assessment of student performance. Summit shall cooperate with School District administrators to coordinate testing and the reporting of test data with the School District's statistical reporting needs and to implement any testing or assessments that may be required to meet the School District's obligations under the provisions of Colorado law including, without limitation, the Accountability Act, the Accreditation Act, and NCLB.

7.0 Economic Plan, Budget, and Annual Audit. The provisions of this Contract shall supersede and control over any conflicting language contained in the Renewal Application.

#### 7.1 Funding Package.

7.1.1 Subject to the enrollment limits in Section 5.4 and the provisions of Section 7.1.6 (occupancy of School District facilities), and the purchased services and allocated Costs described on Exhibit B, the School District shall provide funding for each funded Student FTE enrolled in Summit during each fiscal year of the term of the Charter (commencing with the 2006-2007 fiscal year) as follows: (i) 100 percent of the School District per pupil revenues ("PPR"), as defined by C.R.S. § 22-54-103(9.3) and which shall include per pupil amounts allocated by the General Assembly under Article IX, Section 17 of the Colorado Constitution ("Amendment 23") and as required by C.R.S. § 22-30.5-112(2)(a)(III)(B), as amended from time to time; (ii) 100 percent of the per pupil revenue attributable to the School District's November 1991 budget election; (iii) a "fair share" per pupil to Summit of the November 1998 budget election; (iv) a "fair share" per pupil attributable to the School District's November 2002 budget election; and (v) 100 percent of the per pupil revenue attributable to the 2005 election for excess transportation costs. "Fair share" shall be calculated in accordance with Exhibits C and D attached, subject to adjustment based upon School District student enrollment. Services purchased by Summit from the School District as listed on Exhibit B shall be provided at substantially the same level as provided for other District schools. So long as Summit is occupying School District facilities, the minimum per pupil amount allocated by the School

District to the capital reserve fund under C.R.S. § 22-54-105(2), shall be retained by the School District (or deemed to be allocated to Summit and reimbursed to the School District) as part of the cost for occupying the land, buildings, and facilities by Summit and the related costs of operation, maintenance, repair, improvement, and reserve for depreciation of such land and facilities. Summit shall also be eligible to apply for capital reserve project funds on the same basis as other schools in the School District. In the event that Summit elects to no longer occupy School District facilities, as provided in Section 7.1.6, the above-referenced per-pupil amount of the capital reserve fund attributable to Summit will no longer be retained by or reimbursed to the School District, and Summit will no longer purchase the services described on Exhibit B, item 18, "Site-Related Costs." The parties agree that the funding levels provided for in this Contract, including the purchased services and allocated costs under Exhibit B, comply with the financing guidelines of the Act. The term "enrolled" as used in this Contract shall be deemed to mean enrolled as of the counting dates or periods and in accordance with the requirements of the Finance Act, C.R.S. §§ 22-54-101 *et seq.*, and CDE regulations. Summit shall be subject to audit by CDE and by the School District of the count of students enrolled in Summit.

7.1.2 So long as Summit is not in material breach of this Contract, any funding provided by the School District hereunder will be made available to Summit throughout the year consistent with the School District's procedures for its other schools, commencing on July 1, 2006, for the first year and on July 1 in each year of the Contract thereafter, subject to enrollment limits, adjustments, deductions, or purchased services as provided in this Contract. The funding on July 1 will be based on the number of students with enrollment forms on file with the School District at that time that are signed by a parent or guardian. Funding will be adjusted in October to reflect the official October count required by the state. When adjustments in funding are made, based upon these enrollment count dates, any increases or decreases shall apply to the total school year but shall be spread over the remaining months of the fiscal year. Expenditures, within the applicable funding allocated to Summit, shall be made by the School District on Summit's behalf as part of the purchased Business Services.

7.1.3 To the extent the School District experiences any reduction or receives any increase in state equalization support by state audit attributable to Summit's enrollment or a legislative rescission or a modification to per pupil equalization funding, proportionate reductions or increases will be made to Summit's funding by adjustment or set off in subsequent months. Adjustments may be accomplished by the School District upon thirty days' prior written notice. The parties acknowledge that under the current version of the Finance Act, neither Summit nor the School District will receive funding for students in the year of enrollment if the student first enrolls in Summit or the School District after the October count date.

7.1.4 In consideration of the special education and ELL services to be provided by the School District under Section 5.6 (Education of Students with Disabilities or Limited English Proficiency), Summit agrees that the School District will deduct from the funding provided in this Section 7.1 the amount of the School District's average, per pupil special education and ELL costs (items numbered 2 and 3 on Exhibit B) multiplied by Summit's total student Funded Enrollment. Summit will receive, as a credit against such costs: (i) a proportionate share of the categorical reimbursement funding provided to the School District by

the federal and state governments for special education, ELL, and for English Language Proficiency Act ("ELPA"); and (ii) a proportionate share of excess costs for non-resident students as described in Sections 5.6.2 and 5.7, as noted on Exhibit B under "Categorical Sources." By May 1 of each year, Summit and the School District's Director of Special Education shall determine the number of students that will be attending Summit in the ensuing year that have active IEPs. Based upon the needs of such students, the Director of Special Education shall determine the portion of a special education licensed and/or endorsed (as required by law) staff FTE needed to serve those students at Summit. The School District shall then allocate funds back to Summit in the ensuing school year for that portion of the salaries and benefits of those staff FTEs hired by Summit, if any, who have been approved by the School District to provide special education services under this Contract consistent with those students' IEPs. Reimbursement for licensed and endorsed certified special education staff salaries and benefits under this section shall be based upon the actual amounts paid by Summit but shall not exceed the salary and benefits that such special education teacher(s) would receive if she or he were hired by the School District and placed on its adopted salary schedule in accordance with its procedures. The School District will endeavor to promote the continuity of any District-employed special education and ELL FTEs assigned to Summit and will not unilaterally reassign a special education or ELL FTE, who has proved acceptable to Summit, for the District's own convenience. With respect to categorical programs other than special education, ELL, and ELPA, Summit may apply for state and federal funding, if any, to the extent that Summit serves students who are eligible for such aid, complies with the conditions and requirements of such programs and applicable law, fulfills the reporting requirements under such programs, and is not receiving services under such programs from the School District.

7.1.5 The method of determining and the amount of funding to be provided by the School District as referred to in Section 7.1.1 above and the time period of the funding is based upon the provisions of the Finance Act, its definitions, and the School District's PPR as of October, 2005. To the extent the Finance Act should be modified by the General Assembly in any year of the Charter such that the definition or computation of the amount of the PPR or Insurance Reserve and Capital Reserve transfer is modified, the parties agree to negotiate in good faith in light of any such successor act or statutory revisions in order to achieve substantially comparable funding as contemplated under Section 7.1.1 of this Contract. The level of funding provided by the School District for Summit and the term of such funding is based upon the assumption that Summit will be occupying School District facilities. The level of funding shall be adjusted, as provided in Section 7.1.1, for future fiscal years if Summit elects to no longer occupy School District facilities as provided in Section 7.1.6.

7.1.6 In consideration of the payment of the costs of operation as set forth on Exhibit B and so long as Summit is a School District charter school and is not in material breach of this Contract, the School District agrees to allow Summit to occupy School District facilities, as designated by the Board in accordance with this section. During the entire term of this Contract, Summit shall occupy the Majestic Heights school building, including the unfurnished double portable classroom units currently located at the Majestic Heights Campus pursuant to the Lease Agreement, dated June 13, 2006, attached to this Contract as Exhibit E. In order to ensure that student enrollment does not exceed the capacity of the facility and site, it is mutually agreed that Summit's occupancy shall be subject to the enrollment limitations of this

Contract. If the School District has not offered Summit construction funds as provided in Section 7.1.10, then Summit agrees to notify the School District on or before January 15, 2008, whether Summit will occupy the Majestic Heights facility and portables for the school year commencing in August, 2009. If the School District has offered construction funds as provided in Section 7.1.10, then Summit shall not vacate the Majestic Heights facility and portables without the School District's prior written permission. If Summit elects to vacate because the School District has not offered construction funds as provided in Section 7.1.10, Summit will move from the facility prior to July 1, 2009, and restore it to the condition existing at the time Summit took occupancy, except for normal wear and tear and modifications that had been approved by the School District. Subject to Summit's compliance with the provisions of Colorado law including, without limitation, C.R.S. § 22-32-124 and the Board's authority thereunder, and subject to the potential requirement for Summit to remove portables as provided in Section 7.1.10 (vii) below, the School District will not object to Summit's acquisition, ownership, and placement at Summit's expense of three additional portable buildings at the Majestic Heights campus.

7.1.7 During the term of the charter, Summit's ending fund balance shall comply with the emergency reserve requirements of Article X, Section 20 of the Colorado Constitution ("TABOR" or "TABOR Reserve"). Summit will be responsible for any required TABOR Reserve increases attributable to its revenue and spending.

7.1.8 Summit shall receive its pro rata share of state funding for additional textbooks, if any, to the extent provided by law, subject to Summit's submission of a plan, as required by law, to the School District at the same time as submitted by other District schools.

7.1.9 Requests by Summit to fund necessary capital construction projects through ballot questions for approval of bonded indebtedness and/or a special mill levy shall be submitted in writing (with a capital construction plan as specified in C.R.S. § 22-30.5-404(3) and other supporting documentation) to the School District as far in advance of the November election date as possible, and such requests shall be considered and action thereon shall be taken in accordance with governing law. The School District will, however, provide notice to Summit at the earliest possible time, but not later than the time required by C.R.S. § 22-30.5-404 of: (i) its intent to hold an election to incur bonded indebtedness for these purposes, and (ii) the date the Board requires the above materials to be submitted by Summit.

7.1.10 Summit and the School District acknowledge that the Majestic Heights building was constructed over half a century ago to serve as an elementary school, and has not been modified since then, and therefore poses unique challenges for use as a middle school today. Therefore, Summit and the School District agree to mutually cooperate in improvement of the facilities at the Majestic Heights site in order to enable Summit appropriately to serve a middle school student population of up to 360 students. Summit has prepared a facility master plan detailing the key programmatic needs of the school. The School District has prepared a facility condition assessment identifying the key infrastructure deficiencies of the site. Summit and the School District agree:

(i) Any construction at the Majestic Heights site shall be subject to the School District's prior written approval and will be done according to the quality and workmanship standards established by the School District;

(ii) Summit shall work jointly with the School District in prioritizing and scheduling programmatic improvements and infrastructure improvements such as code compliance matters, life-safety, electrical, plumbing, roofing and drainage improvements, science labs, science storage space, additional classrooms, additional restrooms, and/or renovation and expansion of Summit's library/Integrated Media Center, within the \$4,000,000 amount specified in subsection (vi) below. Because the cost of all possible infrastructure improvements could preclude any of the programmatic improvements, Summit and the School District agree to budget first for only the infrastructure improvements that are essential to comply with code requirements or to assure the efficacy and viability of a programmatic improvement;

(iii) The School District will publicly bid and manage all construction projects at the Majestic Heights site in a manner similar to other projects managed by the District;

(iv) Summit and the School District shall jointly select the architect for any construction projects at the site unless otherwise mutually agreed in writing between Summit and the District. Summit acknowledges that the School District will not approve the selection of any architect who will not agree to sign the School District's standard Architect Agreement;

(v) Summit and the School District will cooperate in scheduling renovation and construction projects in a timeframe mutually agreed;

(vi) In the event the School District offers, prior to December 31, 2007, to expend at least \$4,000,000 in capital construction funds for the construction of improvements to the Majestic Heights building and site ("hard costs"), as outlined in subsection (ii) above and commences construction of such improvements in the first round with other School District projects, then the parties agree that the term of this Contract shall be automatically extended through June 30, 2016. If the Contract is so extended, then Summit agrees at its own expense, without the issuance of certificates of participation or other financing that obligates the School District or encumbers any District assets, to construct a gymnasium on the site and to expend at least \$1,000,000 in doing so. The gymnasium shall be constructed in accordance with plans and specifications approved by the School District and construction shall commence by no later than June 15, 2010. Upon completion of the gymnasium that has been constructed with Summit's funds and during the Contract term, the Summit Board may name the new gymnasium facility and retain any funds derived from its own scheduling and rental of that gymnasium. Summit's Board may also name interior parts of the facility during the Contract term. In the event the School District offers \$4,000,000 in hard costs, it will also separately absorb up to thirty percent (30%) above that sum in customary "soft costs." These include, by way of example, architectural and engineering fees, field and laboratory testing, geotechnical reports, surveys, balancing of HVAC systems and other items that are customarily, separately

contracted and paid for by the School District on its other capital construction projects. If the School District offers construction funds as provided above, it will also install at its expense a fiber optic cable drop to the Majestic Heights building.

(vii) The School District staff will cooperate with Summit in engaging in any discussions or seeking approvals needed from any regulatory authority, subject to the Board of Education's final authority under C.R.S. § 22-32-124. If the School District has offered construction funds as provided above, Summit agrees that upon completion of the improvements contemplated in subsection (ii) and at the School District's request, Summit will remove at Summit's expense any portables owned by Summit that have been placed on the Majestic Heights site in excess of two.

7.2 Budget. Summit's annual budget is subject to the following:

7.2.1 The per pupil funding from the School District for 2006-2007 and subsequent years shall be determined in accordance with Section 7.1 above.

7.2.2 Summit shall be responsible for all costs associated with its school operations, including the cost of contracting for goods and services and the cost of certain purchased services and allocated costs of the School District as set forth in Exhibit B, attached and incorporated by this reference. The services identified on Exhibit B as "purchased" shall be provided to Summit by the School District and purchased and paid for by Summit to the School District during the term of this Contract at the School District's annually budgeted costs. For those services identified as "optional" on Exhibit B, Summit shall inform the School District by no later than June 1 of each year of the services it intends to purchase for the following fiscal year. If Summit does not purchase optional services, it shall be responsible for performing those activities or services itself in the same manner as is required by law of other schools in the School District, unless otherwise waived in writing by the Superintendent or designee. The School District shall provide Summit with access to projected costs for purchased services by May 15 and final, budgeted service costs for each fiscal year within fifteen (15) days following final adoption of the School District's budget for that year in October. These budgeted costs will be the basis for the amounts charged to Summit during that fiscal year. Exhibit B includes a detailed description of each service and allocated cost charged together with cost estimates provided by the School District for the 2005-2006 fiscal year. This will be adjusted to reflect budgeted costs for each fiscal year. Costs of purchased services and central administrative overhead charges shall be reconciled annually to actual costs within 90 (ninety) days after the end of each fiscal year to the extent required by C.R.S. § 22-30.5-112(2)(a.4). Any difference between the amount initially charged and the actual cost shall be paid to the owed party.

7.2.3 Subject to Section 10.2.3, the School District will provide legal services through the School District's legal counsel for defense of suits, actions, and claims against Summit sounding in tort for which the School District provides insurance coverage in accordance with Exhibit F. Legal services shall also be provided by the School District's in-house legal counsel in accordance with the legal services purchased by Summit under Exhibit B. Legal counsel shall not be provided for disputes between Summit and the School District or where there exists a conflict of interest between the School District and Summit (as determined

by counsel for the School District in reference to legal services purchased by Summit from the School District, and as determined by insurance defense counsel as to legal services provided through the School District's insurance). In these circumstances, the School District, or the School District's insurance, as the case may be, will provide legal services through other counsel. The provision of a defense is conditioned upon prompt notification by Summit to the School District of all claims, including threatened or reasonably anticipated claims or actions; full cooperation with the School District and legal counsel in defending the claim and Summit not compromising, settling, negotiating, or otherwise similarly dealing with the claim without the express consent of the Board. Summit acknowledges that in the event of a dispute between Summit and the School District, the School District's legal counsel will represent the School District and not Summit with respect to such dispute. However, any potential conflict arising from the representation of Summit by the School District's legal counsel shall be resolved in accordance with the Colorado Rules of Professional Conduct. Summit will have access to legal consultation and advice where such assistance is requested through the School District's Superintendent or designee, consistent with the foregoing and Summit's purchase of legal services from the School District. Except as provided above, legal services that are requested by Summit shall be provided at Summit's expense. In determining how to proceed with representation of Summit and in making determinations of whether to settle or contest claims, the School District and its legal counsel shall at all times give Summit's funds, reputation, and adherence to principles the same consideration they would give to those of the School District itself, and Summit shall give the same consideration to expenses likely to be incurred by the School District as it would its own funds.

7.2.4 In further consideration of the funding provisions, the School District agrees that it will defend any federal complaint, Office for Civil Rights ("OCR") complaint or due process hearing request related to an ELL student or a student with disabilities in attendance at Summit, to the extent of any alleged illegal actions or inactions against such students by a School District employee or Summit employee. Within ten days after the receipt of any federal complaint, OCR complaint or due process hearing request that includes allegations against both Summit and School District employees, the parties will meet to explore efficiencies and to determine the course of action in providing a defense including, without limitation, the potential for a joint defense. The parties agree that the intent of this provision is that each party shall defend at its expense any obligation incurred as a result of actionable claims or omissions by its own employees, and not for the other's.

7.2.5 By May 1 each year, Summit shall identify the total Student FTEs who have enrolled and provide to the School District its proposed balanced budget for the upcoming fiscal year based upon such enrollment. The projected Summit balanced budget, when incorporated into the School District's budget and accepted by the Board for each fiscal year, will be attached and incorporated into this Contract as an exhibit, and will be subject to adjustment based upon current state funding data as it becomes available during the budget adoption process. The budget format used by Summit shall be consistent with the requirements of applicable Colorado law (currently form CDE-18). The budget may be modified prior to October 1 of each year so long as it continues to present a balanced financial plan, consistent with this Contract and state law, to provide the instructional services represented by Summit. Any material modifications to the budget shall be submitted to the Superintendent or designee.

7.3 Financial Records and Annual Audit. Summit agrees to establish, maintain, and retain appropriate financial records in accordance with all applicable federal, state, and local laws, rules, and regulations, and make such records available to the School District, as requested, from time to time; provided that, for those services that the School District agrees to perform under this Contract, the School District will maintain and make available such records. Summit shall similarly make the records (except personnel files and names of individual donors) of any of its supporting I.R.C. § 501(c)(3) organizations (currently known as "Supporters of Summit, Inc.") available to the School District's independent auditor if required, in the auditor's opinion, to be able to prepare any reports required by state or federal law or regulations. Summit agrees to cooperate in an independent, outside audit by a certified public accountant of its financial and administrative operations on an annual basis. The Summit audit shall be performed by the School District's independent auditors in conjunction with the audit of the School District itself. The results of the audit shall be provided to the School District in written form within the same statutory time limits required of the School District and shall be published and posted as required by law. The cost of the School District's annual audit of Summit (but not of Supporters of Summit, Inc.) is included in the amount designated on Exhibit B for central administrative overhead costs. In the event Summit fails to provide the financial information to the School District in the form and on the dates provided for in this Contract or as otherwise required by the state or federal government, the School District may withhold twenty percent of any payment due Summit until such time as Summit complies with the financial reporting requirements. Nothing contained herein shall prevent Summit from arranging, at its own cost, an additional audit of its financial operations, and the School District shall reasonably cooperate with such audit and supply information requested by the auditor.

8.0 Governance and Operation. The Governance and Operation Section of the Renewal Application (Part II, §10) concerning the nature and extent of parental, professional educator, and community involvement in the governance and operation of Summit is accepted by the School District to the extent permissible under federal and state law and subject to all conditions of this Contract. In addition, the Renewal Application is amended as follows, which amendments and other provisions of this Contract shall supersede and control over any conflicting language:

8.1 Conflict of Interest. Members of the Board of Directors and other committees of Summit shall comply with state law and Board policies and regulations regarding ethics and conflict of interest.

8.2 Nonreligious, Nonsectarian Status. Summit agrees that it shall operate, in all respects, as a nonsectarian, nonreligious, non-home-based public school. Summit shall not be affiliated with any nonpublic sectarian school or religious organization. Negotiation by Summit of an occupancy lease from a religious institution shall not be construed as affiliation.

8.3 Commitment to Nondiscrimination. Summit shall comply with all applicable federal, state, and local laws, rules, and regulations, including, without limitation, the constitutional provisions prohibiting discrimination on the basis of race, creed, color, national

origin, sex, marital status, sexual orientation, religion, age, disability, or need for special education services.

8.4 Accountability. Summit's Board of Directors has appointed and shall continue to operate a school accountability committee with a composition of members consistent with the requirements of Colorado law that will participate in the accountability process in accordance with Board policy and state law. All records created and maintained in accordance with the provisions of this Contract, Board policy, and federal and state law shall be open to inspection by the School District.

8.5 Open Meetings Law. Summit acknowledges and agrees that it is subject to the provisions of the Colorado Open Meetings Law, C.R.S. §§ 24-6-401 *et seq.*, and that it will comply with the provisions of such law in connection with all of its activities. Public notice of all regular and special meetings of the Summit Board of Directors and other committees of Summit to which the Open Meetings Law applies shall be given and posted in accordance with law.

8.6 Indigent Students. Except for those programs described in Section 5.4 above for which tuition may be charged, Summit shall waive all fees for indigent students in accordance with Board policy and applicable federal and state law. If requested by the School District, Summit shall survey its student population for eligibility for free and reduced lunches under federal guidelines in accordance with State Board regulations. On all fee lists and schedules, Summit shall include notification of the policy for the waiver of fees for indigent students.

8.7 Operational Powers. Subject to the conditions and provisions of this Contract, Summit shall be fiscally responsible for its own operations within the limitations of any funding provided by the School District and other revenues derived by Summit consistent with law.

8.7.1 To the extent consistent with federal and state law, Summit shall have authority to exercise independently the following powers (including such other powers as provided for elsewhere in this Contract and in the Renewal Application to the extent consistent with this Contract): purchase goods and services; prepare a proposed budget; select and hire personnel and determine their compensation; procure insurance at its expense; purchase or lease facilities for school purposes; purchase, lease, or rent furniture, equipment, transportation, and supplies; retain fees collected from students in accordance with law; and accept and expend gifts, donations, or grants of any kind in accordance with such conditions prescribed by the donor as are consistent with law and not contrary to any of the terms of this Contract or applicable Board policy.

8.7.2 Summit shall comply with applicable provisions of Article X, Section 20 of the Colorado Constitution. Summit shall not have any authority to enter into any agreement nor make any commitment that gives rise to a multiple-fiscal year direct or indirect debt or other financial obligation whatsoever on the part of Summit unless in compliance with law and shall not have any authority to enter into nor make any commitment that gives rise to a

multiple-fiscal year direct or indirect debt or other financial obligation whatsoever on the part of the School District without the prior express written consent of the Board of Education, the Superintendent or his or her authorized designee.

8.7.3 In exercising its powers, Summit shall comply with all presently existing, applicable Board-approved policies and regulations unless a specific waiver has been or is obtained. All Board-approved policy and regulation changes will be distributed to Summit in the same manner as to other schools within the School District. Summit agrees that the School District may follow this method of distribution for new future policies or regulations and that the procedure for notice set forth in Section 12.3 herein does not apply to new future policies or regulations. If requested by the School District, Summit shall furnish to the Board copies of all written policies or procedures it may develop with respect to any matter relating to its operations and educational program promptly after adoption of such policies by Summit's Board of Directors. Except as provided in Section 5.4.1, including, without limitation, subsections (i) through (ix), Summit agrees to comply with future policies and regulations that are approved by the Board unless any such policy or regulation materially interferes with Summit's educational program or operations. If Summit's Board of Directors asserts within thirty days after the distribution of any such policy or regulation to Summit that any such policy or regulation does materially interfere as provided herein, Summit shall state the reasons and rationale in writing and if the School District disagrees or if agreement on a waiver or partial waiver cannot be reached, the matter shall be subject to the dispute resolution process described in Section 12.9 herein. The new policy will become effective as to Summit if no objection is filed within thirty days after actual delivery of the new policy or regulation to Summit or, if a challenge is timely filed, upon the conclusion of the dispute resolution process unless it is determined in the dispute resolution process that the new policy or regulation will materially interfere with Summit's educational program or operations. Except for any changes that are required to be implemented earlier by state or federal law, for purposes of this Section any new policy that is delivered to Summit from July 1 to August 1 of any year of this Contract shall be deemed to be delivered on August 1 of that year and the thirty-day period stated above shall commence and begin to run on August 1, not on the date of actual delivery.

8.7.4 Summit shall clearly indicate to vendors and other entities and individuals outside the School District with which or with whom Summit desires to transact business that the obligations of Summit under any agreement are solely the responsibility of Summit and are not the responsibility of the School District.

8.7.5 All cash gifts or donations and all gifts or donations of property, having a reasonable value in excess of \$250, shall be reported by Summit to the School District by recording the same in the financial records required under Section 7, above. Summit shall report to the Board within fourteen days the acceptance of any gift or donation in excess of \$10,000 and shall obtain the prior approval of the Board of Education for any grant and any gift or donation that would involve any condition or obligation on the part of the School District beyond the normal accounting for use of grant funds within purchased services and confirmation of Summit's charter school status, enrollment numbers, and standard financial statements. Grants and gifts to Summit and Summit's fund-raising activities shall be consistent with Summit's replacement policy KH, "Public Gifts to the Schools," dated November 1, 2000. All non-

consumable grants, gifts, and donations made to Summit shall be considered the property of the School District for the use of Summit, unless otherwise provided in writing by the donor. This section does not apply to any supporting I.R.C. § 501(c)(3) organizations, including Supporters of Summit. No offset, fee, or sharing charge shall be imposed by the School District on any donations, gifts, or grants made directly to Summit. In turn, Summit will not receive any interest payments or payments in-lieu of interest on any of Summit's cash balances held in School District-managed or commingled accounts.

8.7.6 Unless otherwise agreed in writing by the School District, Summit shall not have the authority to enter into a contract or subcontract for the management or delivery of its instructional programs or services by any person or entity that is not a teacher or administrator employed directly by Summit itself or the School District. This provision shall not prevent Summit from engaging independent contractors (individuals or organizations) to teach selected, specific classes from time to time, as needed.

8.8 Waivers. The Board hereby waives the Board-approved policies and regulations and approves the replacement policies, listed in the attached Exhibit G, which is incorporated into this Contract. In addition, the parties agree to jointly request from the State Board waivers from certain state laws listed in Exhibit H. Further modifications or waivers from specific Board-approved policies or regulations and/or state law may be requested by Summit by submitting such a request, in writing, to the School District's Superintendent in compliance with state regulations. The request shall include the reasons why Summit is in need of or desires the waiver and any alternative or substitute policies proposed, if any. The Superintendent shall have ten school days to review the request and, thereafter, will present the matter before the Board at its next regular meeting. The Board shall have twenty school days to consider the matter prior to rendering a decision at a regular meeting. Waivers of Board-approved policies and regulations may be granted only to the extent permitted by state law. In the event the School District policy or regulation from which Summit seeks a waiver is required by state law, or where Summit otherwise requests release from a state regulation, the School District agrees to jointly request such a waiver from the State Board, if the School District's Board first approves the request.

8.9 Bidding Requirements. Unless purchased from or through the School District, contractual services and purchases of supplies, materials, and equipment shall be procured through a system of competitive bidding.

8.10 Periodic Review of Progress. Summit shall be subject to a review of its instructional programs, operations, and finances by the Board, its designee, or a multi-disciplinary team of School District representatives upon reasonable advance written notice. Summit shall, by June 30 of each year, provide to the School District an annual written report concerning its operations, including, without limitation, progress made towards achieving its educational goals and objectives, content standards, policy development issues, student performance standards, student attendance and discipline information, personnel matters, and other provisions of its Renewal Application and by September 1 of each year, provide the School District with its school improvement plan.

8.11 Financial Reports. If Summit is not purchasing Business Services from the School District, Summit shall be responsible for providing to the School District, within twenty days following the end of each month, a written revenue and expenditure report with comparisons to budget and, on an annual basis, a financial statement that reports the costs of administration, instruction, and other spending categories, consistent with the format required by state law. So long as Summit's financial records are maintained by the School District's office of Business Services in accordance with the CDE's Financial Policies and Procedures, are supplemented monthly by Summit with respect to any expenditures and revenues received by Summit from sources other than the School District, and are available to members of the Board or designee upon request, the reporting requirements described in this section shall be considered fulfilled.

8.12 Term. Subject to the potential extension as provided herein, it is the intent of the Board that the Charter and this Contract are to be effective for a period of three fiscal years (2006-2007 through 2008-2009) and to terminate on June 30, 2009. Although this Contract is for operation of Summit as a charter school in the School District for a period of up to ten years, any financial commitment on the part of the School District contained in this Contract is subject to annual appropriation by the Board. The parties agree that the School District has no obligation to fund the financial obligations under this Contract other than for the then current year of the Contract term and that the School District has not irrevocably pledged and held for payment sufficient cash reserves for funding Summit or for providing services described herein for the entire term of the Contract. Renewal of the Charter may be sought by Summit in accordance with C.R.S. § 22-30.5-110(2). The parties agree that the Contract will be automatically extended through June 30, 2016, if the School District offers capital construction funds and commences construction of improvements as provided in Section 7.1.10(vi) above.

8.13 Termination.

8.13.1 This Contract may be terminated and the Charter revoked by the Board for any of the grounds provided by state law, C.R.S. § 22-30.5-110(3), and/or for any material breach of this Contract by Summit. Summit shall first be given a reasonable opportunity to cure any alleged basis for termination or breach after receiving written notice of the breach from the School District. Summit shall also give the School District written notice of any alleged material breach of this Contract by the School District; provided, however, that any material breach by the School District shall not allow Summit to terminate this Contract but rather to enforce its terms in accordance with Section 12.7 below. The School District shall be given a reasonable opportunity to cure the breach after receiving written notice of the breach from Summit. For purposes of this section, reasonable opportunity to cure shall mean cure within twenty-one days of the effective date of such notice, or in the case of breaches that cannot practically be cured within twenty-one days, commencement of the cure within twenty-one days and diligent pursuit of the cure to the satisfaction of the non-breaching party until the cure is complete. The parties shall exhaust the dispute resolution provisions set forth in Section 12.9 in the event termination of the Contract is sought. Should Summit choose voluntarily to terminate this Contract and revoke its Charter before the end of the Contract term, it may do so only with the Board's approval. During the original three-year Contract term and, if extended, through June 30, 2016, Summit shall not become a State Charter School Institute school or program and

shall remain a public school within and accountable to the School District and the Board. In the event of termination, all assets not requiring return or transfer to donors or grantors or required for discharge of existing liabilities and operations of Summit shall be returned to the School District. Summit's Board of Directors shall determine whether any assets are subject to the requirements of return or transfer to donors or grantors. Unless a donor or grantor specifically provides otherwise in writing, all gifts, donations, and grants shall be assumed to be made to the School District for the benefit of Summit and shall be included among the assets returned to the School District upon termination of this Contract. The School District acknowledges that all gifts, donations, and grants made by Supporters of Summit have been made exclusively for Summit and have never been intended to be made to the School District. In the event of dissolution, as provided herein, Summit's rights shall be limited to personal property acquired or received by Summit and Summit shall have no rights, title, or interest in any real property, fixtures, or attached equipment at or used with the Majestic Heights building and site. It is acknowledged that classroom portable VIN 6476031 is Summit's personal property.

8.13.2 During the period after the School District gives Summit written notice of a termination or a material breach, in addition to any other rights, the School District shall also have the following additional rights and powers to (a) require Summit to promptly take such actions as may be necessary to freeze bank accounts and other assets of Summit and/or to require School District approval of any expenditure or disposition of assets, and to (b) receive full and complete access to all Summit's records, data, and information. In the event the School District should exercise its rights under this section, to the extent reasonably possible it will endeavor to allow the school to continue to operate during any cure period and completion of the dispute resolution process.

8.13.3 Notwithstanding any other provision of this Contract, in the case of any breach that the Board reasonably determines to pose a serious threat to Summit or School District students, the community, or the property rights of the School District or Summit, the School District may, but shall not be required to, take immediate control of Summit and may exercise any portion or all power and authority of Summit's Board of Directors or governance authority for such period of time as may be necessary to reasonably control such threat. These additional rights of the School District shall continue during the pendency of any dispute resolution process with respect to such breach.

8.14 Dissolution. In the event Summit should cease operations for whatever reason, including the nonrenewal or revocation of the Charter, it is agreed that the Board shall supervise and have authority to conduct the closure of the business and affairs of Summit; provided, however, that in doing so, the School District does not assume any liability incurred by Summit beyond the funds allocated to it by the School District under this Contract. The School District's authority hereunder shall include, but not be limited to, the return and/or disposition of any assets acquired by purchase or donation by Summit during the time of its existence, consistent with any donor conditions.

9.0 Employment Matters. The Employee Relations Section of the Renewal Application concerning employment matters and specific personnel policies are accepted to the

extent permitted by law, subject to the following conditions and other provisions of this Contract:

9.1 Hiring of Personnel. All persons who perform services for Summit shall be considered either employees or volunteers of Summit itself, as a separate entity. Employees shall be "at-will" employees of Summit, unless otherwise agreed in writing with a specific employee; provided, however, no employee shall be employed for a term longer than one year with an expiration date of June 30. The School District agrees that Summit may select and hire its personnel directly without prior authorization from the Board, subject to compliance with all federal and state rules and regulations, including, without limitation, requirements concerning the recruitment of applicants, the use of background and criminal checks, and teacher qualifications set out in Section 9.1.1. In the absence of the School District's prior written consent, Summit shall not knowingly hire any individual who has been nonrenewed or has been dismissed by the School District for performance or legal reasons. The School District shall endorse applications for alternative certification or licensing by Summit teachers; provided, however, that Summit shall be responsible for any costs associated with such application and approval process. Teachers at Summit will not accrue credit in the School District toward non-probationary status. The Board of Directors of Summit may terminate the employment of any personnel so long as such employees are not terminated for constitutionally impermissible reasons. The Board reserves the right to request the termination of employment of any Summit personnel for cause, after consultation with Summit's Board of Directors. It is acknowledged, however, that this provision does not in any manner change the "at-will" nature of the employees' employment. Summit shall comply with the NCLB requirement that certain employees be "highly qualified."

9.1.1 Teacher Qualifications. Teachers shall be qualified to teach at Summit, subject to selection by the Board of Directors, if they meet the requirements of NCLB and its regulations as applied to charter schools in Colorado.

9.2 Employee Compensation, Evaluation, and Discipline. The School District agrees to waive all Board-approved policies and regulations concerning the compensation, evaluation, promotion, discipline, and termination of employees at Summit, subject to compliance with all applicable state rules and regulations, unless specific waivers are obtained from the State Board. School District policies are replaced by the Replacements of GBM and GBM-R and GCBA, collectively included in Exhibit G to this Contract.

9.2.1 Summit's Board of Directors shall be independently responsible for the supervision and evaluation of the faculty and staff within Summit.

9.2.2 Summit's Board of Directors and the school community shall be responsible for evaluating the performance of the school's principal on an annual basis. The principal's evaluation shall be made available to the Superintendent upon written request to Summit's Board of Directors.

9.2.3 Summit has adopted its own written policies in compliance with federal and state law, concerning the recruitment, promotion, discipline, and termination of personnel and methods for evaluating performance; provided, however, Summit does not have

the authority, by virtue of such policies or procedures or other action of its Board of Directors, to change the "at-will" nature of the employment relationship, except by express and specific agreement with a particular employee.

9.2.4 Summit shall notify the School District and other appropriate authorities, in accordance with state law, of discipline of employees at Summit arising from misconduct or behavior that may have resulted in harm to students or others or that constituted violations of law or applicable policy.

9.3 Payroll. If Summit purchases payroll services through the School District, employees shall be paid through the payroll department of the School District using its procedures for recording employee work hours, overtime, absences, leaves, vacation, and other adjustments, as contained in applicable Board-approved policies and regulations.

9.4 Benefits. So long as authorized by the provider of the respective School District benefit programs, Summit's compliance with eligibility and participation requirements, and Summit's purchase of payroll services from the School District, employees at Summit shall receive the same insurance benefits as are provided to other comparable School District employee groups. The School District shall endeavor to provide Summit with at least six months notice prior to any discontinuation of coverage. In contracting for insurance coverages contemplated by this section, the School District will advocate for inclusion of Summit. Unless otherwise agreed in writing, all benefit programs will be handled and administered by the School District for Summit consistent with the procedures utilized by the School District's Business Services Division. Summit may determine to contract independently for its employees' benefits provided that Summit has given the School District written notice prior to October 1 of the then-current fiscal year (nine months prior to the July 1 insurance benefits renewal) and that Summit has also waived the purchase of payroll services through the School District.

9.5 PERA Membership. All employees at Summit shall be members of the Public Employees' Retirement Association and subject to its requirements. Summit shall be responsible for the cost of the School District's/employer's respective share of any required contributions.

9.6 Equal Opportunity Employer. Summit affirms that it shall not discriminate against any person on the basis of race, creed, color, sex, marital status, sexual orientation, national origin, religion, ancestry, protected age, or disability in its recruitment, selection, training, utilization, termination, or other employment-related activities.

9.7 Employee Welfare, Safety, and Training. Summit shall comply with all applicable federal and state laws and, subject to Section 8.7.3, School District policies, regulations, and procedures concerning employee welfare, safety, and health issues, including, without limitation, the requirements of federal law for a drug-free workplace, and statutorily required training concerning the Child Protection Act of 1987, C.R.S. §§ 19-3-301 *et seq.*

9.8 Employee Records. Summit shall comply with all Board-approved policies and regulations, as modified and not waived herein, and applicable federal and state

laws, concerning the maintenance and disclosure of employee records, including, without limitation, the requirements of the Colorado Open Records Law, §§ 24-72-204 *et seq.*

9.9 Employee Conflicts of Interest. All employees at Summit shall comply with the Board's policy and regulation, and applicable state law, concerning employee actual and potential conflicts of interest.

9.10 District Teachers. Current teachers of the School District who are selected for employment by Summit are eligible for two consecutive one-year leaves of absence from their employment with the School District. Such leave shall commence on the first day of services under a contract for Summit. Upon the request of the teacher and the mutual agreement of the teacher and the School District, a teacher may be considered by the Board for a third consecutive one-year leave of absence. The status of any teacher in the School District employed at Summit during a one- or two-year leave of absence shall not be affected by such employment. Upon returning to the employment of the School District following the first or second year of a leave of absence, Summit teachers in good standing will be governed by the provisions of the agreement between the Board and the Boulder Valley Education Association then in effect. Teachers who do not request a second or third year leave of absence or who complete three years' leave of absence and do not return to the School District will no longer be considered employees of the School District for any purpose other than the protections of the Colorado Governmental Immunity Act during the time they were employees.

9.10.1 The School District shall have no obligation for career longevity stipends for any current or former Summit teacher.

9.10.2 Summit employees will not be eligible to participate in the School District's sick leave bank. Summit may establish its own sick leave bank.

## 10.0 Insurance and Compliance Obligations.

10.1 Insurance. It is agreed that during the term of this Contract and so long as Summit is occupying School District-owned facilities, Summit shall purchase through the School District at the School District policy rates, the following insurance coverages: (a) workers compensation; (b) unemployment insurance; and (c) the coverages as set forth in Exhibit F, attached and incorporated into this Contract, that are consistent with the coverages available to the School District itself. Summit agrees that it will coordinate all risk management activities through the School District's risk management office and comply with all risk management practices and procedures of the School District. This will include, without limitation, participation in any training, inspections, and safety precautions required by the School District or its insurers; the prompt reporting of any and all pending or threatened claims; filing of timely notices of claim; cooperating fully with the School District in the defense of any claims; and complying with the defense and reimbursement provisions of the Colorado Governmental Immunity Act and the School District's applicable insurance policies. Summit shall neither compromise, settle, negotiate, nor otherwise affect any disposition of potential claims asserted against it without the School District's prior written approval. So long as Summit is in

compliance with these insurance and risk management requirements, the deductible portion of any insured claim shall be covered by the School District.

10.2 Compliance. Summit shall operate in compliance with all Board-approved policies and regulations and all applicable federal, state, and local laws, rules, and regulations, unless specifically waived as indicated in attached Exhibits G and H or unless such waiver is obtained from the proper authority pursuant to the procedures of Section 8.8 herein subsequent to the execution of this Contract.

10.2.1 Faith and Credit. Summit agrees that it will not extend the faith and credit of the School District to any third person or entity. Summit acknowledges and agrees that it has no authority to enter into a contract or incur obligations that would bind the School District including, without limitation, any waiver or modification of the provisions of the Colorado Governmental Immunity Act and Summit agrees to include a statement to this effect in each contract it enters into with third parties. Summit acknowledges that its authority to contract is limited by the same provisions in law or Board policy that apply to the School District itself, including but not limited to TABOR. Summit also is limited in its authority to contract by the amount of funds obtained from the School District, as provided hereunder, or from other independent sources. Summit's Board of Directors shall hereby be delegated the authority to approve contracts to which Summit is a party, subject to the requirements and limitations of the Colorado Constitution, state law, Board-approved policies, and the provisions of this Contract.

10.2.2 Indemnification. To the extent permitted by law and not covered by insurance or not otherwise barred by the Colorado Governmental Immunity Act, Summit and the School District agree to indemnify and hold the other and their respective boards and employees harmless from all liability, claims and demands on account of injury, loss or damage, including, without limitation, claims arising from bodily injury, personal injury, sickness, disease, death, property loss, or damage or any other losses of any kind whatsoever that are proximately caused by the negligent or intentional acts of their respective employees. The foregoing provision shall not be deemed a relinquishment or waiver of any kind of applicable limitations of liability provided by the Colorado Governmental Immunity Act or other law.

10.2.3 Indemnification by Independent Entities/Governmental Immunity. In the event Summit authorizes, with the School District's approval, another person or entity to operate a before- and/or after-school, intersession, or other program as an independent contractor that rents a portion of Summit's facility or charges Summit for services provided off-campus, such person or entity shall provide separate insurance coverage for general liability and errors and omissions with limits consistent with the School District insurance policies naming Summit, the School District, and the property owner as additional insureds. Such person or entity will also agree to indemnify and hold Summit, the School District, and the property owner harmless from all liability, claims, and demands on account of injury, loss, or damage, including, without limitation, claims arising from bodily injury, personal injury, sickness, disease, death, property loss, or damage, tort and civil rights claims, or any other losses of any kind whatsoever that arise out of or are in any manner connected with such person's or entity's operations. Nothing contained in this Contract shall be deemed a relinquishment or waiver by the School District nor

Summit of any kind of applicable limitations of liability provided by the Colorado Governmental Immunity Act.

11.0 Transportation. The School District and Summit acknowledge and agree that transportation will not be provided to students attending Summit, unless otherwise agreed by the parties in writing or required as a related service by law and an IEP. If Summit determines to provide transportation during the term of this Contract, Summit may purchase transportation services from the School District at cost as provided by law. During the term of this Contract, the School District will reimburse Summit up to \$5,000.00 in the first year and that amount adjusted by inflation in subsequent years during the term of this Contract for the cost of any RTD student school-year passes or tokens that are issued or given to students enrolled in Summit who qualify for free and reduced-priced lunch.

12.0 Miscellaneous Provisions.

12.1 Entire Agreement. This Contract, with attachments, contains all terms, conditions, and provisions hereof and the entire understandings and all representations of understandings and discussions of the parties relating thereto, and all prior representations, understandings, and discussions are merged herein and superseded and canceled by this Contract.

12.2 Amendment. This Contract may only be modified or amended by further written agreement executed by the parties hereto.

12.3 Notice. Any notice required, or permitted, under this Contract, shall be in writing and shall be effective upon personal delivery (subject to verification of service or acknowledgment of receipt) or three days after mailing when sent by certified mail, postage prepaid, to Summit's principal, in the case of notice being sent to Summit, or to the Office of the Superintendent for notice to the School District.

12.4 No Waiver. The parties agree that no assent, express or implied, to any breach by either of them of any one or more of the covenants and agreements expressed herein shall be deemed or be taken to constitute a waiver of any succeeding or other breach.

12.5 Invalidity. If any provision of this Contract is determined to be unenforceable or invalid for any reason, the remainder of the Contract shall remain in effect, unless otherwise terminated by one or both of the parties in accordance with the terms contained herein.

12.6 Interpretation. In the event of any disagreement or conflict concerning the interpretation or enforcement of this Contract, the Renewal Application, and the application of Board policies, procedures, regulations, or other requirements, other than those for which waivers have been granted, it is agreed that this Contract shall control and that compliance by Summit or the School District shall be required and measured in the same manner as may be applied and expected by the School District of a majority of its other middle schools.

12.7 Standing and Capacity. The Summit Board of Directors shall have standing and capacity to enter into and enforce any of the terms of this Contract on behalf of Summit. Any action by Summit's representative body on behalf of Summit shall be limited to enforcing the terms of this Contract and recovering the amounts provided for herein and shall not include any action or proceeding for other amounts or damages.

12.8 Assignment. Summit shall not assign its Charter nor any of its rights or obligations under this Contract to any person or entity, including, without limitation, a body corporate formed by Summit, without the prior written approval of the Board.

12.9 Dispute Resolution. In the event any dispute arises between the School District and Summit concerning this Contract, including, without limitation, the interpretation of its terms, or the implementation of or waiver from any policies, regulations, or procedures, such dispute shall first be submitted, as other schools within the School District do, through the lines established in the School District's organizational chart and, if not resolved, to the Superintendent of the School District or her or his designee for review. The Superintendent (or designee) shall provide a written advisory response to the Summit Board of Directors and the Board within thirty days after receipt of a request for review of the matter. Within five business days after the advisory response from the Superintendent (or designee), if the matter remains unresolved, then representatives of the School District and Summit shall meet and attempt in good faith to negotiate a resolution of the dispute. In the event these representatives are unable to resolve the dispute informally pursuant to this procedure, they shall submit the matter to an independent mediator, who shall be agreed upon by the parties within ten calendar days following either party's request for mediation (the "moving party"). If the parties are unable to agree upon a mediator within that time, the moving party shall obtain a list of five names from the Judicial Arbiter Group, Denver, Colorado, and submit them to the other party (the "non-moving party"), who shall strike one, return the list to the moving party, and so forth, until one name remains. The remaining person shall be selected as the mediator. This striking process shall be completed within ten calendar days after delivery of the list to the non-moving party. The mediation shall be scheduled and concluded within thirty days of the mediator's selection. The mediation process shall be closed to the public and all information submitted during mediation shall be confidential to the extent provided by law. At the conclusion of the mediation, if the dispute is still not resolved, the mediator shall make an advisory recommendation to the parties. The advisory decision of the mediator may be appealed to the State Board concerning those matters within its jurisdiction or the matter may be submitted to the appropriate court with respect to all matters not within the jurisdiction of the State Board or after exhaustion of the State Board process. Participation in this dispute resolution process is not intended to waive any rights of either party to contest jurisdiction at any time or to obtain such remedies for the violation of this Contract as are provided by law.

12.10 Mutual Cooperation. The parties pledge to collaborate in good faith, through two-way communication and mutual respect, to attempt to informally and amicably resolve any issues that may arise between them. The parties shall abide by the covenant of good faith and fair dealing, otherwise implied by law, in the performance of this Contract. To promote their common goal of providing the best possible education for students within the School District, the parties agree to approach the relationship between them in a healthy, positive, and

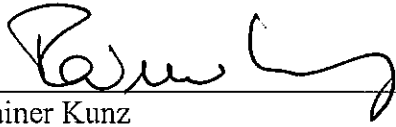
supportive manner and to avoid publishing or dispensing disparaging or factually inaccurate information about the programs offered by the other.

12.11 No Third Party Beneficiary. The enforcement of the terms and conditions of this Contract and all rights of action relating to such enforcement shall be strictly reserved to the School District and, subject to the provisions of Section 12.7, Summit's Board of Directors. Nothing contained in this Contract shall give or allow any claim or right of action whatsoever by any other or third person. It is the express intent of the parties to this Contract that any person receiving services or benefits hereunder shall be deemed an incidental beneficiary only.

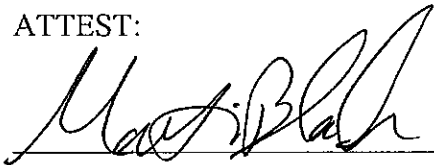
12.12 Order of Precedence. In the event of any disagreement or conflict concerning the interpretation of this Contract, the Renewal Application, Board policy or other requirements, it is agreed that the interpretation that is most consistent with the express terms and conditions of this Contract, and then the interpretation that is most consistent with Board policy, shall control (unless the applicable Board policy is pending in the dispute resolution process provided for in Section 8.7.3). The Renewal Application is incorporated into this Contract in the manner specified in Exhibit I, "Summit Middle Charter School, Inc. Renewal Application Inclusions;" provided, however that all provisions of the Renewal Application that impose obligations on the School District are incorporated only to the extent expressly stated herein.

IN WITNESS WHEREOF, the parties have executed this Contract as of the date first above written.

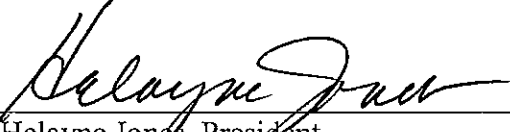
SUMMIT MIDDLE CHARTER SCHOOL, INC.  
A Colorado non-profit corporation

By:   
Rainer Kunz  
President


ATTEST:




BOULDER VALLEY SCHOOL DISTRICT RE-2

By:   
Helayne Jones, President  
Board of Education

ATTEST:

  
Sandra Eicher, Secretary

Approved as to form:

  
School District Attorney