

CHARTER SCHOOL CONTRACT

This charter school contract (the "Contract") is executed on this 19th day of February, 2013 by and between the State Charter School Institute (the "Institute") and Mountain Song Community School, a Waldorf Methods Charter (the "School" or "MSCS") for the establishment of a new State Charter School to be located in Colorado Springs, CO.

SECTION 1: RECITALS

WHEREAS, the Colorado General Assembly has enacted the Charter Schools Act (the "Charter Schools Act"), **CRS 22-30.5-101 et seq.**, allowing for the creation and operation of charter schools within the state by its terms and for certain purposes as enumerated in **CRS 22-30.5-102(2) & (3)**; and

WHEREAS, The Colorado General Assembly has subsequently enacted **CRS 22-30.5-501 et seq.**, (the "State Charter Institute Act") authorizing the creation of the Institute and empowering the Institute to enter into charter school contracts as specified therein; and

WHEREAS, pursuant to **CRS 22-30.5-503(b)(III), 22-30.5-504(1) and 22-30.5-508(1)**, the Institute has the authority to approve applications to establish charter schools in the state of Colorado and thereafter to enter into contracts with such schools setting forth the terms and conditions under which a charter school is to operate; and

WHEREAS, pursuant to the **Charter Schools Act, CRS 22-30.5-511 et seq.**, ("the Act"), the School submitted a new school application on November 29, 2012 to the Institute for the establishment of the School to operate as an Institute charter school within the geographic boundaries of Colorado Springs District 11 ("the local district"), to be authorized to operate for the period of five (5) school years beginning July 1, 2013, and ending June 30, 2018.

WHEREAS, the charter school new school Application has been reviewed by the Executive Director of the Institute and members of the Institute's Board; and

WHEREAS, on December 11, 2012 the Institute held a public review of the new school Application and pursuant to 1CCR 302-1 Rule 12.00a, the Board considered the new school Application at a public meeting held on that same date; and

WHEREAS, the Board has thoroughly considered the charter school new school Application, the requirements of the Act, the information presented by the charter applicant at the public meetings, the additional written materials submitted by the charter applicant, the comments and concerns of the Institute board; and

WHEREAS, on December 18, 2012, the Institute approved the new school Application, subject to certain conditions and negotiation and execution of a contract acceptable to the Institute and to the School, as reflected in Institute Resolution # 1252 (which is attached hereto as **Exhibit A** and is incorporated by reference herein) and the agreed-upon milestones for opening, which are attached hereto as **Exhibit D** and are incorporated herein by reference; and

WHEREAS, this Contract, together with the new school Application (as modified and incorporated by reference herein) and with the attachments and exhibits thereto, 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.

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

AGREEMENT

SECTION 2: THE SCHOOL

2.1 **Parties.** This Agreement is entered into between the School and the Institute. The person authorized to sign on behalf of the School is the President of the Board of Directors of the charter school and attested by the Secretary of the Board of Directors. The person authorized to sign on behalf of the Institute is the Chair of the Board of Directors of the Institute and attested by the Secretary of the Board of Directors.

2.2 **Term.** This Contract is effective as of the date of execution and is to terminate on June 30, 2018. This Contract may be renewed in accordance with the State Charter Institute Act, the Institute rules, and as set forth in **Section 12** below. Although this Contract is for operation of the School as a charter school for a period of five (5) years, any financial commitment on the part of the Institute contained in this Contract is subject to annual appropriation by the General Assembly; and the parties agree that the Institute has no obligation to fund the financial obligations under this Contract other than for the current year of the Contract term; and that the Institute has not irrevocably pledged and held for payment sufficient cash reserves for funding the School at or above the per pupil allocation or for providing services described herein for the entire term of the Contract.

2.3 **Charter school legal status.** The School will operate under the authority of the Board of Directors of Mountain Song Community School, (MSCS Board) which shall remain incorporated as a Colorado nonprofit corporation and shall apply for and maintain its tax exempt status under **Section 501(c)(3)** of the Internal Revenue Code. The School will operate as a Colorado non-profit corporation and the MSCS Board will assure that its operation is in accordance with its articles of incorporation and bylaws. In addition, the MSCS Board agrees to comply with all necessary filing and reporting requirements in order to maintain tax exempt status. The MSCS Board will notify the Institute promptly of any change in its corporate and/or tax exempt status.

The School is to remain organized and maintained as a separate legal entity from the Institute for all purposes of this Contract. As provided by the Charter Schools Act, the School will constitute a public school in Colorado. Notwithstanding its existence as a separate legal entity, the educational programs conducted by the School are considered to be operated by the School as part of the Institute. As such, the School is subject to Colorado laws and Institute

policies that are applicable to public schools unless waived in accordance **Section 5.9** of this Contract.

SECTION 3: INSTITUTE-SCHOOL RELATIONSHIP

3.1 Institute Responsibilities and Rights

A. **Oversight Authority.** The Institute shall have oversight authority over the School pursuant to **CRS §§ 22-30.5-505 and 22-30.5-507(2)(b)**; and the State Board of Education (the “State Board”) shall also have general supervision of the School pursuant to **CRS § 22-30.5-503(6)**. The School shall be accountable to the Institute and is subject to all applicable Colorado law, regulations of the State Board and the Colorado Department of Education, and Institute policies and regulations as well as all applicable Federal Law, unless specifically waived.

B. **Right to review.** To fulfill its accountability responsibility, all records, established and maintained in accordance with the provisions of this Contract, Institute policies and/or regulations, and federal and state law, shall be open to inspection by the Institute. Upon request, records shall be made available to the Institute in a timely manner. Records include, but are not limited to the following:

- i.* School records including, but not limited to, student cumulative files, policies, special education and related services;
- ii.* Financial records, including bank statements;
- iii.* Educational program, including test administration procedures and student protocols;
- iv.* Interim assessment measures used as part of the School’s performance goals and objectives;
- v.* Personnel records, including evidence that criminal background checks have been conducted;
- vi.* School operations, including health, safety and occupancy requirements; and
- vii.* Inspection of the facility.

Further, this agreement makes explicit the Institute’s right to make announced or unannounced visits to the School to fulfill its oversight responsibilities. Records must be maintained in Colorado; and Institute staff must be granted unlimited access to any electronic student record systems.

C. **Complaints.** The Institute agrees to notify the MSCS Board and the School regarding any complaints about the School that the Institute receives. The notification will be made within five (5) days of receipt of the complaint by the Institute and will include information about the substance of the complaint. Due consideration shall be accorded any complainant’s request for anonymity. In accordance with Institute policy, complaints will first be directed to the School’s administration and the MSCS Board for resolution.

D. **School health or safety issues.** The Institute will immediately notify the school of any circumstances requiring school closure, lockdown, emergency drills or any other action that may affect school health or safety.

E. **Feedback about progress.** Within sixty (60) days of receipt of the release of the CDE School Performance Framework (SPF), the Institute will provide information to the School about its status in relationship to the goals, objectives and accreditation requirements contained in **Section 7**.

F. **Access to student records.** The Institute, upon requests that comply with the provisions of the **Federal Family Educational Rights and Privacy Act of 1974, 20 U.S.C. § 1232g**, will timely make available to the School cumulative files and/or student information, including but not limited to information regarding special education and related services for students of the School. The School will use such information exclusively for fulfillment of its educational responsibilities or for compliance with the law and will not use student information acquired from the Institute for any other purpose.

G. **Access to data and information.** The Institute will timely provide the School with access to any data and information pertaining to the School that it receives from the State or other sources including but not limited to test scores, Exceptional Student Education Act data, school improvement status, accreditation, special education, and funding information.

3.2 **School Responsibilities and Rights**

A. **Records.** The School agrees to comply with all recordkeeping requirements of the Institute and federal or state law and shall provide any reports necessary for the Institute to meet its reporting obligations to the State Board of Education, Colorado Department of Education and U.S. Department of Education in a timely manner. This includes maintaining up-to-date information about enrolled students in the School's student information system. All records shall be maintained at the School and shall be open to inspection, consistent with law, during reasonable business hours. The School further agrees to assist the Institute in accessing or reviewing any records as part of its oversight responsibility or to address its compliance requirements. Financial records will be posted and reconciled at least monthly. The School agrees to comply with the Financial Transparency Act, CRS 22-44-301, et seq., in posting updated financial information on the School's website.

Student records include but are not limited to immunization records, class schedules, records of academic performance, IEP and 504 records, disciplinary actions, attendance and standardized test results and documentation required under federal and state law regarding the education of students with disabilities.

(B) The School shall comply with applicable federal and state laws concerning the maintenance, retention and disclosure of student records, including but not limited to the Colorado Open Records Act, **CRS 24-72-201 et seq.**, and the **Family Educational Rights and Privacy Act of 1974, 20 U.S.C. § 1232g**. In addition, the School will ensure that records for students enrolling in other schools are transferred in a timely manner.

C. **Notice to the Institute**

Timely Notice: The School will timely notify the Institute (and other appropriate authorities) in the following situations:

- i. The discipline of employees at the School arising from misconduct or behavior that may have resulted in harm to students or others, or that constitute violations of law, or
- ii. Any complaints filed against the School or its employees, administration, or Board members by any governmental agency.

Immediate Notice: The School will immediately notify the Institute of any of the following:

- i. Conditions that may cause it to vary from the terms of this Contract, applicable Institute requirements, or federal or state law;
- ii. Any circumstance requiring the closure of the School, including, but not limited to, a natural disaster, such as an earthquake, storm, flood or other extraordinary weather related event, other extraordinary emergency, or destruction of or damage to the school facility;
- iii. The arrest of any members of the MSCS Board or School employees for a crime punishable as a felony or any crime related to the misappropriation of funds or theft;
- iv. Misappropriation of funds;
- v. A default on any obligation, which will include debts for which payments are past due by sixty (60) days or more; or
- vi. Any change in the School's corporate status with the Colorado Secretary of State's Office or status as a **501(c)(3)** non-profit organization, if applicable.

D. **Compliance.** The School will comply with all federal and state laws, local ordinances, and authorizer policies applicable to charter schools, except to the extent that the School has obtained waivers from state law and Institute policies in accordance with **Section 5.9** below. The school is expected to maintain a list and be aware of the federal and state laws with which the School must comply.

E. **Reports.** The School will timely provide to the Institute any reports necessary and reasonably required for the Institute to meet its oversight and reporting obligations. Required reports include, but are not limited to, those listed below along with those listed on the CSI online compliance calendar with projected due dates for the current school year. Timely notification will be provided by the Institute when due dates are changed or if additional reports are required by the federal government or CDE. The Institute will annually update the list of required reports and due dates and provide this information to the School. Failure by the School to provide reports in a timely manner may constitute a material breach of the Contract in accordance with Institute compliance policies and procedures; and the Institute may take action under **Sections 3.4 & 3.5 or Section 12** of this Contract.

- Charter Board proposed budget—April 15
- Charter Board approved budget –June 30
- Quarterly financial reports – posted to the school’s website within 60 days of the close of the quarter
- Final audit- September 30
- End of year trial balance- September 30
- ADE crosswalk-September 30

F. **Indemnification.** To the extent permitted by law and not covered by insurance or not otherwise barred by the Colorado Governmental Immunity Act, the School agrees to indemnify and hold the Institute and its employees, directors, officers, agents, and assigns harmless from all liability, claims and demands of third parties arising on account of 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 its employees. The Institute may withhold funds for damages, attorneys’ fees, costs and expenses incurred in connection with any pending or threatened suits, actions, grievances, charges or proceedings. The forgoing provision will not be deemed a relinquishment or waiver of any kind of applicable bar or limitation of liability provided by the Colorado Governmental Immunity Act or other law.

G. **Amendments to Articles and Bylaws.** The MSCS Board shall follow the requirements of the Colorado Revised Nonprofit Corporations Act in amending its articles of incorporation and bylaws and shall provide the Institute with notice of any such changes within 10 days of such change. The bylaws or policies of the MSCS Board shall include a requirement that each Board member annually sign a conflict of interest disclosure.

H. **Location.** The School facility shall be located at the address or addresses identified in the new school Application or determined within the timeline set forth in Exhibit D below. The School may not change its location without obtaining prior written approval from the Institute. The School shall provide copies of any real property lease or purchase documents to the Institute.

3.3 **Procedures for Contract Amendments.** The party requesting a change to this Contract shall send written notice to the other party in accordance with **Sections 13.2 & 13.8.** The receiving party will have 60 days to review and accept or reject the proposed changes.

With regard to the agreed-upon Milestones set forth in Exhibit D, attached hereto, the parties agree that the dates set forth may be modified by mutual agreement of the Head of School and the Executive Director of CSI.

3.4 **Dispute Resolution:** All disputes arising out of the implementation of this Contract, and not subject to immediate appeal to the State Board of Education, will be subject to the dispute resolution process set forth in this Section unless otherwise provided by law. The School and the Institute agree that, the existence and details of a dispute notwithstanding, both parties shall continue without delay their performance hereunder except for any performance which may be directly affected by such dispute.

- i. **Informal negotiation.** If a dispute arises between the Institute and the School arising out of this Contract, authorized representatives of the Institute and the School will meet at the request of either party to discuss a possible resolution to the dispute.
- ii. **Formal notification of dispute.** If the dispute is not resolved through informal negotiation, either party may submit to the other a written notice identifying the specific action with which it disagrees, any Contract provision which it alleges has been breached, and the specific corrective action it wishes the other party to take. Such notice must be given within twenty (20) days of the time the party knew or should have known of the action at issue.
- iii. **Mediation.** If the parties are unable to negotiate a resolution to the dispute within ten (10) business days of receipt of such formal notice, either party may request mediation. The party making the request will notify the other party of the request in writing. Within one week of receipt of notice by the other party, the authorized representatives of the parties will attempt to agree on a mediator. If the parties through their representatives fail to reach an agreement within one week after the first attempt to agree, they will request appointment of an mediator by the American Arbitration Association or such other organization as may be mutually agreed upon.
- iv. **Procedure.** Within 30 days of appointment, the mediator will conduct a hearing limited to the issues raised in the notice required by **Sections 3.3, 13.2, and 13.8**. The mediator will have authority to make procedural rules and will issue a report to the parties within thirty (30) days after the close of the hearing. Such report will contain findings and a recommendation regarding the issue(s) in dispute. The mediator's recommendation will be forwarded to the Institute and to the School.
- v. **Institute Board action.** If the parties are unable to negotiate a resolution, the Institute Board will make a decision on the matter. The Institute Board's action on the recommendation will be final and binding, subject only to such appeal as may be authorized by law.
- vi. **Exclusions from Dispute Resolution.** The following are expressly excluded from dispute resolution under this Paragraph 3.4: The Institute's rights of action under Paragraphs 3.5 and 12 of this Contract; the Institute's emergency powers as set forth in **CRS § 22-30.5-703**; and exercise of the Institute's statutory duties as set forth in **CRS § 22-30.5-505**.
- vii. **Waiver.** Failure to file notice within the time specified in **Section 3.3** or failure of a party to advance the process within the times specified will be deemed a waiver of any further right to contest an action covered by this procedure with respect to the specific action at issue and will forever bar any claim or proceeding related to such action, provided that the parties may agree in writing to extend any of the time limits for a specified period.
- viii. **Costs shared.** The parties will share equally the costs of mediation, including any per diem expenses, plus any actual and necessary travel and subsistence expenses. A party who unilaterally cancels or withdraws from a scheduled mediation will pay the full cost of any fees assessed by the mediator.

3.5 **Other Remedial Courses of Action:** If the School is in violation of **CRS § 22-30.5-511 (3) or (4)**, state or federal law or administrative regulations, or materially breaches the Contract, the Institute may, but is not required to, take other remedial actions prior to initiating revocation procedures in accordance with **Section 12**. Prior to taking any action other than as set forth in **Section 3.5 (iii) or (iv)** below, the Institute will send a notice of breach and provide the School with an opportunity to cure the deficiency, in accordance with Institute rules. The notice will state the deficiency and the basis for it, an opportunity for the School to contest the deficiency, the timeframe for curing the deficiency, and the expected results.

Courses of action include, but are not limited to, those listed below. These actions may be applied individually, in succession, or simultaneously.

- i.* **Withholding of some or all of the funds due to the School.** This action may be taken in situations which include failure to submit reports listed in **Section 3.2** by the established deadlines and failure to submit a budget to the Institute that meets the requirements of **Section 5.2**.
- ii.* **Seeking technical assistance** from the Colorado Department of Education or another organization if the School is required to prepare and implement a priority improvement plan or turnaround plan.
- iii.* **Requesting that the Commissioner** issue a temporary or preliminary order in accordance with **CRS 22-30.5-701** et seq.,
- iv.* **Taking immediate control of the School or some portion thereof.** Notwithstanding any other provision of this Contract, in the case of any breach which the Institute determines in good faith poses a serious threat to the School or Institute students, the community, or the property rights of the Institute or School, the Institute may, but is not required to, take immediate control of the School and may exercise any portion or all power and authority over the School for such period of time as may be necessary to deal with such threat. These additional rights of the Institute will continue during the pendency of any Dispute Resolution process with respect to any alleged breach.
- v.* **Notice of breach and development of a plan to correct the deficiency.** This action will be initiated by a letter from the Institute containing all of the information in **Section 3.5** above. In addition, the letter will require that: 1.) the School prepare a plan to remedy the deficiency, 2.) the School submit the plan to the Institute for review and comment, 3.) the School revise the plan after review by the Institute, if necessary; and 4.) approval of the plan by the MSCS Board. The MSCS Board shall include a statement that directs the School's staff to implement the plan and to provide the MSCS Board with periodic reports of progress. The Institute may require the School to review and revise the plan if it is not effective in remedying the deficiency. This action may be taken if 1.) the School fails to make progress toward achieving its goals and objectives, or 2.) fails to meet Institute accreditation requirements, or 3.) fails to implement its educational program, or 4.) fails to complete and transmit required reports by the established deadlines.

3.6 **Institute Violations of State Charter Law or Breaches of This Contract:** If the School believes that the Institute has violated any provision of this Contract or charter school law, the School will send the Institute notice of the violation and provide an opportunity to cure. The notice will state the deficiency and the basis for the notice, shall provide an opportunity for the Institute to contest the deficiency, shall set forth the time frame for remedying the deficiency, and shall set forth the expected results. If the Institute does not remedy the violation or breach, the School may initiate the Dispute Resolution procedures outlined in Section 3.4 above.

SECTION 4: SCHOOL GOVERNANCE

4.1 **Governance.** The MSCS Board of Directors is the body that ultimately governs MSCS and will operate in accordance with its by-laws, which shall include provisions dealing with conflict of interest, nepotism, and excessive compensation. The MSCS Board's articles of incorporation, bylaws, and policies shall not conflict with the School's obligation to operate in a manner consistent with the terms of this Contract. The MSCS Board of Directors shall keep written minutes of its meetings, will provide copies of all such minutes to the Institute at least quarterly, and will post agendas and meeting minutes on the School's website in a timely manner.

The MSCS articles of incorporation and bylaws, as they may be updated from time to time, are incorporated in this Contract by this reference. The MSCS Board will operate in strict accordance with these documents. Any material modification of the Articles of Incorporation, the bylaws or changes in the composition of the MSCS Board will be made in accordance with the procedures described in **Sections 3.3, 13.2, and 13.8** of the Contract.

4.2 **Corporate purpose.** The purpose of the School will be limited to such purposes as are set forth in its Articles of Incorporation and as accepted and approved by the IRS with regard to its status as an exempt organization under Section 501(c)(3) of the Internal Revenue Code.

4.3 **Transparency.** The School will make the MSCS Board-adopted policies, meeting agendas and minutes and related documents readily available for public inspection, including publication of MSCS Board meeting minutes, agendas, and meeting notices online. The School will conduct meetings consistent with principles of transparency and avoidance of actual or apparent conflicts of interest in the governance of the School.

a. **Open Meetings Law.** The MSCS Board and the School acknowledges and agrees that it is subject to the provisions of the **Colorado Open Meetings Law, CRS §§ 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 MSCS Board of Directors shall be given and posted in accordance with applicable law.

b. **Conflict of Interest.** The MSCS Board of Directors shall establish a formal conflict of interest policy which preserves the mission and vision of the School and which addresses nepotism, excessive compensation and other potential conflicts.

4.4 **School related complaints.** The School will establish a process for resolving public complaints, including complaints regarding curriculum, which will include an opportunity for complainants to be heard. The final administrative appeal will be heard by the MSCS Board, not the Institute Board, subject to review by the Institute in appropriate circumstances.

4.5 **Grievance Policy.** The School shall adopt a grievance policy for resolution of public complaints, including complaints regarding curriculum. Grievance policies must provide an opportunity for comment by parents of enrolled students in public hearing on the matter and an appeal process. The Institute may require the School to modify the proposed grievance policy prior to approval; but such approval will not be unreasonably withheld. Any material changes to the School's grievance policy may be made only with the approval of the Institute and the MSCS Board of Directors.

4.6 **School Accountability Committee.** The School agrees to establish and maintain a statutorily-functioning School Accountability Committee which is charged with gathering data to inform the MSCS Board on student performance and stakeholder satisfaction. The School agrees to conduct a stakeholder satisfaction survey on an annual basis. The School further agrees that it will address reasonable issues raised as a result of the survey.

4.7 **Contracting for core educational services.** (a) The School and the Institute agree that the School does not intend to contract with an educational service provider (ESP) for implementation of its core educational program. Unless otherwise agreed in writing by the Institute, the School shall not have authority to enter into a contract or subcontract for the management or administration of its core instructional program or services, including special education and related services. This shall not prevent the School from engaging independent contractors to teach selected, specific courses.

(b) The School may negotiate and contract with a School District, the governing body of a state college or university, a school food authority, or any third party for the use, operation and maintenance of a school building and grounds, and the provision of any service, activity or undertaking that the School is required to perform in order to carry out the educational program described herein, subject to the Institute's prior right to review such contracts.

SECTION 5: OPERATION OF SCHOOL AND WAIVERS

5.1 **Operational powers.** The School shall be responsible for its own operations including, but not limited to, fiscal matters, preparation of a budget, contracting for services including legal representation, independent auditing, and personnel matters; leasing or purchasing facilities for the School; accepting and expending gifts, donations or grants of any kind in accordance with such conditions as may be prescribed by the donor as are consistent with law and this contract; and adoption of policies and bylaws consistent with the terms of this Contract.

5.2 **Budget.** The School shall be responsible for the preparation of its budget and shall implement the proposed budget contained in the new school Application. On or before April 15 of each year, the School shall submit to the Institute the School's proposed budget for

the upcoming school year, with the School’s final budget submitted to the Institute by June 30. Any proposed material revision(s) to the budget shall be made only with the approval of the Institute and the MSCS Board of Directors. Budgets must be developed in accordance with **CRS § 22-44-102**.

5.3 **Transportation.** The Institute and the School acknowledge and agree that transportation is not required to be provided to students attending the School. Any transportation of students to the School (other than special education students who require transportation as a related service) will be the sole responsibility of the School.

5.4 **Food Services.** The Institute and the School acknowledge and agree that Child Nutrition Programs are not required to be provided to students attending the School. To the extent the School chooses to participate in Child Nutrition Programs under the CSI School Food Authority (SFA), those programs shall be provided in accordance with all applicable state and federal laws as well as all CSI SFA rules, policies, and procedures pertaining thereto.

5.5 **Insurance.** The School will purchase insurance protecting the School and its Board, employees, and volunteers, and the Institute where appropriate, consisting of comprehensive general liability insurance, errors and omissions liability insurance (also known as school entity liability insurance), and auto liability insurance. The School will also purchase statutory workers’ compensation insurance coverage.

a. The School shall implement the plan to meet applicable insurance coverage requirements set forth in the new school Application. Any material revision to the terms of such plan may be made only with the approval of the Institute and the School’s Board of Directors. Insurance terms and conditions must be acceptable to the Institute and underwritten by insurers that are legally authorized in the State of Colorado and that are rated by A.M. Best Company not lower than “A-VII”. Non-rated insurers must be approved by the Institute. Minimum coverage requirements are listed below:

- Comprehensive general liability - \$2,000,000
- Officers, directors and employees errors and omissions - \$1,000,000
- Property insurance - As required by landlord
- Motor vehicle liability (if appropriate) - \$1,000,000
- Bonding (if appropriate)
- Minimum amounts: \$25,000
- Maximum amounts: \$100,000
- Workers' compensation - (as required by state law)

b. The School will provide certificates of insurance to the Institute by August 1 of each year. All insurance policies purchased by the School will state that coverage will not be suspended, voided, cancelled, reduced in coverage or in limits, except after 45 days prior written notice by certified mail return receipt requested, has been given to the Institute’s CFO. The School will notify the Institute’s CFO within 10 days if for any reason there is a lapse in insurance coverage. The School is solely responsible for any deductibles payable under the policies purchased by the School.

5.6 **Volunteer Requirements.** The School shall not condition the continued enrollment of any student on the commitment of the student's parents to provide any number of volunteer hours.

5.7 **Nonreligious, Nonsectarian Status.** The School agrees that it shall operate in all respects as a nonsectarian, nonreligious, non-home-based public school. The School shall not be affiliated with any nonpublic sectarian school or religious organization, consistent with applicable law.

5.8 **Commitment to Nondiscrimination.** The School shall comply with all applicable federal, state and local laws, rules and regulations prohibiting discrimination on the basis of, including but not limited to, race, color, creed, national origin, sex, marital status, religion, ancestry, disability or need for special education services.

5.9 **Waivers**

A. **Automatic waivers.** The Institute agrees to seek waivers from the State Board of Education of state statutes and regulations that are automatically approved upon request pursuant to **1 CCR 301-35**. The School agrees to provide acceptable replacement policies for these automatic waivers. The waivers to be requested jointly from state law or regulation are set forth in **Exhibit C** along with the rationales and replacement policies the school is required to adopt.

B. **Additional waivers.** In addition to waivers automatically granted, the Institute agrees to jointly request waivers of additional state laws or regulations upon request by the School and upon approval by the Institute. Institute requests to waive State law or regulations will not be unreasonably withheld. To the extent the State Board does not grant the requested waivers or imposes conditions upon the School with respect to such waivers, it is agreed that representatives of the parties will meet to negotiate the effect of such State Board action.

C. **Subsequent or additional waiver requests.** The School may request additional waivers after the original request. Upon receipt of such request, the Institute will have 30 calendar days to review the request. Waivers of Institute policies and regulations may be granted only to the extent permitted by state law. In the event the Institute policy or regulation from which the School seeks a waiver is required by state law, or where the School otherwise requests release from a state regulation, the Institute agrees to jointly request such a waiver from the State Board if the Institute first approves the request. Institute approval of requests to waive either Institute policies or regulations or State law or regulations will not be unreasonably withheld. To the extent the State Board does not grant the requested waivers or imposes conditions upon the School with respect to such waivers, it is agreed that representatives of the parties will meet to negotiate the effect of such State Board action.

D. **Legal Liabilities.** The School shall operate in compliance with all Institute policies and regulations and all applicable federal, state and local laws, rules and regulations unless specifically waived as indicated in **Section 5.9**.

E. **Compliance assurance.** The School will take reasonable steps to assure that staff at the School, members of the MSCS Board, and administrators at the School comply with all replacement policies or practices adopted by the School in connection with waiver of state statutes or rules or Institute policies or, when appropriate, comply with the intent of waived state statutes, state board rules, and Institute policies.

SECTION 6: SCHOOL ENROLLMENT AND DEMOGRAPHICS

6.1 **School enrollment and demographics.**

A. **School grade levels.** The School may serve students in grade PK through grade 8. The anticipated number of students in each grade level shall be as set forth in the new school Application.

6.2. **Support for Formation of Charter School.** The Institute finds that the School has presented sufficient evidence of a plan to ascertain support among parents, teachers, and pupils or a combination thereof for the establishment of the School as a charter school.

The School acknowledges that if actual enrollment declines below the minimum enrollment required for financial viability, the School's charter may be revoked.

6.3. **Age; Grade Range; Number of Students.** The School shall provide instruction to pupils in such ages, grades and estimated numbers in each year of operation as set forth in the new school Application. The School agrees that its student enrollment shall not exceed the capacity of the facility or site as set forth in the Certificate of Occupancy.

6.4 **Student Recruitment and Enrollment.** Enrollment in the School shall be open to any child who resides within the state, except as limited by **CRS § 22-30.5-507(3)**. Student recruitment and enrollment decisions shall be made in a nondiscriminatory manner specified by the School in the new school Application. In all cases, student recruitment and enrollment decisions shall be without regard to race, color, creed, national origin, sex, marital status, religion, ancestry, disability or need for special education services.

A. **Enrollment preferences.** Enrollment preferences will be given to the following types of students according to space availability. Priority for enrollment is as follows:

1. Returning MSCS students.
2. Children of founding families and full-time MSCS teachers and staff
3. Siblings of Returning MSCS students
4. All other students

The combination of children of founding families and children of full-time MSCS teachers and staff will not exceed twenty percent (20%) of the total MSCS enrollment population in any given

year, with siblings automatically enrolled and not counted towards the 20%. Should these two groups of children exceed the twenty percent (20%) limit of the total enrollment population in any given year, priority within this group shall be given to:

1. Children of current or former MSCS Board members;
2. Children of full-time MSCS teachers and staff
3. Children of current or former Steering Committee members

In the beginning years of operations, any children from these three categories who fall outside of the 20% limit shall be eligible for the general school lottery.

B. **Selection method.** When the number of applicants exceeds the number of spaces available in each grade, a lottery will be held. The lottery will be conducted in accordance with dates determined by MSCS board policy.

6.5. **Enrollment timeline and procedures**

- i. Prior to submitting an application for admission, parents and students will be encouraged to attend an informational meeting about the School.
- ii. The School will make clear at meetings and in written information provided along with the application that any student residing in Colorado who satisfies the eligibility requirements described in Section 6.4 above may apply although admission is based on the preferences listed in Section 6.4A.
- iii. Enrollment timelines will be established from year to year by MSCS board policy.

6.6 **Admission process and procedures for enrollment of students with disabilities.** To ensure that the needs of students with disabilities are met, the following procedures must be followed:

- A. Following the application deadline and upon completing the lottery if appropriate, the School shall require that the student provide the most recent IEP (including eligibility IEP) or Section 504 Plan, if any, as soon as practicable. Every student who is admitted with an IEP or Section 504 plan from a previous school shall be placed directly in a program that meets the requirements of such IEP or Section 504 plan unless and until a review staffing by the IEP team or Plan review meeting is held and the IEP or Section 504 Plan is changed.
- B. When an applicant has an IEP or 504 Plan, prior to the decision to admit or deny admission, a screening review team consisting of the School Principal or designee, the School Special Education teacher or coordinator, and a Charter Institute Special Education Director or designee shall review the IEP or Section

504 Plan and, if deemed appropriate, confer with staff at the student's previous school and shall make a determination whether the services and space available at the School are sufficient to deliver the program required by the IEP or to provide the accommodations required in the Section 504 Plan. If the screening team cannot reach consensus, the School shall convene a complete IEP team to make the final determination.

- C. When a student with disabilities who has been placed in a center-based program by an IEP Team or who has intensive service needs as identified by an IEP Team applies for admission into the School, the School Director shall convene an IEP Team meeting. The student's application for admission is contingent upon the determination by the IEP team that the student can receive a free appropriate public education (FAPE) in the least restrictive environment at the School in its existing programs with or without reasonable accommodations. If the determination is that FAPE is not available, the student's application for admission shall be denied and the student's current placement shall remain as determined by the prior IEP Team meeting unless changed at the School's IEP Team meeting. Representatives from the student's prior school shall be invited to participate in the IEP Team meeting at the school. Additionally, an application for attendance at the School may be denied for a student seeking placement in the School in the same manner and for the same reasons as such application may be denied for a student without disabilities.

6.7. **Continuing enrollment.** Pursuant to Colorado state law, students who enroll in the School will remain enrolled in the School through the highest grade served by the school absent expulsion, graduation, court ordered placement, or IEP placement. Students wishing to transfer from the School to another school in their home District may do so only through the home District's within-District transfer procedures.

6.8 **Indigent Students.** The School shall waive all fees for indigent students in accordance with applicable federal and state law. The School shall survey its student population for eligibility for free and reduced lunches under federal guidelines in accordance with State Board of Education regulations. On all fee lists and schedules, the School shall include notification of the policy of waiver of fees for indigent students.

6.9 **Participation in other Programs.** No student may be jointly enrolled in the School and in another District school or program without the written permission of the Institute and the School. Such written permission shall include the manner in which the costs of instruction shall be determined.

6.10 **Expulsion and Denial of Admission.** Students may only be expelled or denied admission in accordance with the procedures set forth in the new school Application, School policy and Colorado law.

SECTION 7: EDUCATIONAL PROGRAM

7.1 Mission Statement:

Mountain Song Community School is a community of families and educators dedicated to the conscious evolution of the whole child, utilizing developmentally appropriate holistic education that nurtures body, mind and heart. Our aim is to bring forth healthy, confident, free-thinking, self-directed children who are passionately engaged with their education and empowered to contribute positively to the world.

The MSCS Board of Directors shall operate the School in a manner consistent with the concept and mission statement set forth in the Application as approved by the Institute. Revisions to the concept, mission statement, or general implementation shall be considered material changes to the contract and shall require prior approval of the Institute.

7.2 Educational Accountability, School Performance and Accreditation. The School shall comply with the educational accountability and or accreditation provisions of Colorado law, as amended from time to time, including but not limited to:

- a. the Educational Accountability Act of 2009, CRS 22-11-101 et seq
- b. the Education Reform Act, CRS 22-7-401 et seq.;
- c. the School Accountability Reporting Act, CRS 22-7-602 et seq.;
- d. Educational Accreditation Act of 1998, CRS 22-11-101 et seq.;
- e. the Accreditation Rules of the State Board, including but not limited to tailoring educational programming to meet the individual needs of "exceptional children" as defined in such rules, unless waived.

7.3 Performance Frameworks and CSI Annual Review of Schools: The Institute has adopted a set of Performance Frameworks and the CSI annual review of schools applicable to all Institute schools, which will be provided annually to the School. The CSI annual review of schools shall supersede any and all assessment measures, educational goals and objectives, financial operations metrics, and organizational performance metrics set forth in the Application and not explicitly incorporated into the Performance Frameworks and the CSI annual review of schools (or its replacement). The specific terms, form and requirements of the Performance Frameworks and the CSI annual review of schools (or its replacement), including any required indicators, measures, metrics, and targets, are maintained and disseminated by the Institute and will be binding on the School.

7.4 Student Performance Goals: The School agrees to make reasonable progress towards meeting State academic standards as defined by the Colorado School Performance Framework and the CSI annual review of schools (or its replacement). Reasonable progress will be established through the implementation of annually agreed-upon academic targets, developed through use of the Unified Improvement Plan process. The School's progress will be monitored with the CSI annual review of schools (or its replacement) and evaluated annually as set forth above.

7.5 Monitoring: The Institute shall monitor and periodically report to the School on the School's progress in relation to the indicators, measures, metrics and targets set out in the Performance Frameworks and CSI annual review of schools (or its replacement). Such reporting shall take place at least annually.

7.6 Renewal: The School's performance in relation to the indicators, measures, metrics and targets set forth in the Performance Frameworks and the CSI annual review of schools (or its replacement) shall provide the basis upon which the Institute will decide whether to renew the School's Charter at the end of the contract term.

7.7 Framework Amendment: The parties intend that, where this contract references or is contingent upon state or federal laws, that they be bound by any applicable modifications or amendments to such laws upon the effective date of said modifications or amendments. The specific terms, form and requirements of the Performance Frameworks and the CSI annual review of schools (or its replacement) may be modified or amended to the extent required to align with changes to applicable state or federal accountability requirements as set forth in law or other circumstances that make assessment based on the existing Performance Framework and the CSI annual review of schools (or its replacement) requirements impracticable. In the event that such modifications or amendments are required, the Institute will use best efforts to apply expectations for school performance in a manner as consistent as possible with those set forth in the Performance Frameworks and the CSI annual review of schools (or its replacement).

7.8 Student Attendance, Conduct and Discipline: The School agrees that it shall comply with all State and Federal law concerning student attendance, standards of conduct and discipline. The School's procedures shall provide that appeal in student discipline cases shall be to the MSCS Board, rather than to the Institute Board.

i. Attendance of students at the School shall be in compliance with Colorado's compulsory attendance laws, including, without limitation, hour requirements and the distinction made between excused and unexcused absences.

ii. The School shall adopt a code of conduct for students. The school will develop codes, policies, and procedures regarding student conduct and student discipline that are in compliance with applicable federal and state laws, including, without limitation, the grounds and procedures established by statute for suspending, expelling or denying admission to a student.

7.9 Student Welfare and Safety: The School shall comply with all MSCS Board-approved policies and regulations, and comply with all applicable federal and state laws concerning student welfare, safety and health, including, without limitation, MSCS Board policies and laws addressing the reporting of child abuse, accident prevention and disaster response, and any state regulations governing the operation of school facilities.

7.10 **Academically Exceptional Students.** The School shall identify academically low-achieving, at-risk students and "exceptional children" as defined in federal and state law and regulations adopted by the Colorado State Board of Education, and shall provide its educational program to these students in a manner that appropriately serves their needs in accordance with governing law, as set forth in the new school Application and this Contract.

7.11 **School Calendar; Hours of Operation.** The days and hours of operation of the School shall not be materially less than those set forth in the new school Application unless previously approved in writing by the Institute; but in no case fall below the minimum number of days and hours set forth in law. For purposes of this Section, "material" is defined as a 10% reduction in time.

7.12 **Online program.** The School's educational program as contained in the new school Application and reviewed by the Institute may include certain online program elements, and such elements are hereby accepted by the Institute. The School is prohibited from offering an exclusive online program without prior written authorization from the Institute.

7.13 **Curriculum, instructional program, and pupil performance standards.** The School will have the authority and responsibility for designing and implementing its educational program, subject to the conditions of this Contract and in alignment with the Application. Material changes to the curriculum will be made only with the prior approval of the Institute. The educational program, pupil performance standards and curriculum designed and implemented by the School will meet or exceed any content standards adopted by the state, will be designed to enable each pupil to achieve such standards, and will be consistent with the School's vision and mission. Any material changes to this provision may be made only with the approval of the Institute and the MSCS Board of Directors.

A. **Curriculum.** The School shall have the authority and responsibility for 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 but not limited to requirements regarding content standards.

B. **Content Standards.** The educational program, pupil performance standards and curriculum designed and adopted by the School shall be consistent with the content standards required by the state pursuant to **CRS 22-7-407** and referenced in **CRS 22-30.5-505(8)** and shall be designed to enable each pupil to achieve such standards.

C. **Instructional Requirements.** The School agrees to comply with all state statutory requirements concerning subjects of instruction, unless specifically waived by the State Board of Education, including but not limited to instruction in the areas of state and federal history and civil government, **CRS § 22-1-104**; honor and use of the United States Flag, **CRS § 22-1-106**; the federal constitution, **CRS §§ 22-1-108 & -109**; and the effect of use of alcohol and controlled substances, **CRS 22-1-110**.

7.14 **Gifted and Talented Students.** The School will identify and provide resources and support to gifted and talented students to enable them to meet their particular academic and emotional needs with a focus on literacy, mathematics, leadership, and creativity. The School will follow the Institute's procedures for identifying, assessing and serving gifted and talented students.

7.15 **English language learners.** The School will identify and provide resources and support to English language learners to enable them to acquire sufficient English language proficiency to participate in the mainstream English language instructional program, consistent with the plan provided in the new school Application. The School will follow the Institute's procedures for identifying, assessing and exiting English language learners.

7.16 **Education of Students with Disabilities.** The School will implement the plan for meeting the needs of students with disabilities set forth in the new school Application, except as set forth below. Any material changes to this plan may be made only with the approval of the Institute and the MSCS Board of Directors.

Admission of applicants with an IEP or Section 504 Plan shall be in compliance with federal and state law and the Institute requirements and procedures concerning the education of students with disabilities. Every student who is admitted with an IEP or Section 504 Plan from his or her previous school shall be placed directly in a program that meets the requirements of such IEP or Section 504 Plan, unless and until a review staffing by the IEP team or Plan review meeting is held and the IEP or Section 504 Plan is changed.

Education of students with disabilities.

- A. The School shall provide all special education support services to students at the School. The School shall assign special education support staff as necessary to meet student needs, which staff shall be licensed in accordance with Colorado law.
- B. The School is responsible for providing services to special education students, with the Institute Director of Exceptional Student Services providing accountability. The School shall be responsible for providing and paying the cost of defense of any and all charges, complaints or investigations concerning special education by the Office for Civil Rights (OCR), the Department's Federal Complaints Officer, IDEA due process proceedings, or any other similar investigations. The Institute and the School agree that enrollment at the School is a choice and as such students with disabilities are generally not eligible for transportation services. Should transportation be required for a student with disabilities, it shall be the responsibility of the School.
- C. The School agrees to comply with all Institute and Board policies and regulations and the requirements of federal and state laws and regulations concerning the education of children with disabilities including but not limited to, the requirements of the **Individuals with Disabilities Act (20 U.S.C. § 1401 et seq.)**, Section 504 of the **Rehabilitation Act of 1973 (29 U.S.C. § 794)**, the Exceptional

Children’s Educational Act (CRS 22-20-101, *et seq.*)(“ECEA”), and the **Americans with Disabilities Act (42 U.S.C. § 12101 *et seq.*)**. Pursuant to **CRS 22-30.5-503(3) and 22-20-106**, the Institute serves as the Local Educational Agency (“LEA”) with administrative authority for delivering special education services to the School. The School will take direction from and work collaboratively with the Institute with regard to the provision of special education services, evaluations and concerns, and shall provide for the attendance of any School employees who should be present at any meetings at which IEPs are developed or modified. If the School and the Institute disagree as to the correct interpretation or application of a statute or regulation concerning the education of students with disabilities, the Institute’s position shall control.

- D. The Institute and the School shall jointly direct the development and/or modification of any IEP for special education students of the School. The Institute’s Director of Exceptional Student Services, or designee, shall maintain the same administrative responsibilities and authority in as in all other Institute Schools. The School shall use Institute special education forms and procedures and shall document compliance with the requirements of federal and state law, including procedural due process. The Institute or the School may identify from time to time changes to the educational program of the School that (a) are reasonably necessary to comply with applicable law for educating students with disabilities, or (b) provide cost savings or other benefits in connection with educating students with disabilities. After good faith discussion of these changes with the School, the Institute shall have the right to require such changes necessary to comply with law, and shall have the right to request other changes on behalf of students with disabilities.
- E. The School’s special education teachers and all related service providers are required to participate in staff professional development, trainings, and meetings sponsored by the Institute and newly hired special education teachers shall participate in a state-approved induction program.
- F. No later than April 1st of each year, the School must report to the Institute its anticipated budgetary allocation and hiring plan for all special education teachers and related service providers who will be employed for the following year. No later than the first day of the opening of school, all Special education teachers and related providers must be hired, appropriately qualified, and available to serve the identified needs of the students.
- G. Special education programs and services shall be available to each student as part of the regular school day in accordance with the least restrictive environment mandate of federal and state law.

7.17 **Assessment of Pupil Performance and Procedures for Corrective Action.** The School agrees to implement any requirements necessary to meet the School’s and the Institute’s respective obligations under applicable provisions of federal and state law, including, but not limited to, those of the state Accountability Act, the Accreditation Act, and federal law.

SECTION 8: FINANCIAL MATTERS

8.1 **Funding and Disbursement of Per Pupil Revenue Funding.** Funding for the School shall be provided in accordance with the provisions of **CRS 22-30.5-513**. The Institute will disburse per pupil revenue funding to the School as those funds are allocated from the State to the Institute subject to the adjustments set forth below.

- A. The local school district (the district in which the school is geographically located) is Colorado Springs District 11 and is referred under the law as the “Accounting District” for purposes of funding.
- B. During each fiscal year of the term, the parties agree that the Institute shall provide funding to the School in the amount of ninety-five percent (95%) of the Accounting District’s adjusted per pupil revenues (“PPR”), as determined in accordance with the formula described in **CRS 22-54-104 (3)**.
- C. The Institute may retain the actual amount of the School’s per pupil share of the administrative overhead costs for services it actually provides to the School; however, such costs cannot exceed 3% of the Accounting District’s per pupil revenues. On or before December 1 of each year, the Institute will provide an accounting of the actual administrative overhead costs for services provided to Institute schools. The Colorado Department of Education may retain an amount not to exceed 1% of PPR for administrative purposes from each Institute-authorized school. Unless PPR is declining, the Institute may also retain an amount equal to one percent of the amount calculated for the School to be directed to the Institute charter school assistance fund, pursuant to **CRS 22-30.5-513(4)(a)(I.5)(B)**.
- D. **Federal categorical aid.** Each year the Institute will provide to the School the School’s proportionate share of applicable federal Elementary and Secondary Education Act funding (e.g. Title I, Title II, Title III, Title IV and Title V) received by the Institute for which the School is eligible. The School is eligible for such funds upon approval of its plans for such funds either by the Institute or the Colorado Department of Education as required. Funds will be distributed on a documented expenditure reimbursement basis on a monthly interval as long so the School provides the Institute with the required documentation.
- E. **State categorical aid.** On or before January 15th of each year, the Institute will provide to the School the School’s proportionate share of applicable state categorical aid (e.g., English Language Proficiency, Gifted and Talented, Amendment 23 Capital Construction funds, or Transportation funding) received by the Institute for which the School is eligible. The School is eligible for such funds upon approval of its plans for such funds either by the Institute or the Colorado Department of Education as required.

- F. The Institute will provide funding under the Colorado Exceptional Children's Education Act that is attributable to identified students with disabilities enrolled in the School and for which the School has supplied appropriate documentation to obtain such funding subject to the provisions of **CRS Section 22-30.5-513 4(II)(b) & 9(a)**.
- G. The parties shall cooperate in pursuing, appropriately disbursing, and properly accounting for funding provided by the federal and state governments for categorical programs such as Gifted and Talented, English as a Second Language, Medicaid Reimbursements, Title programs, and other federal and state grant sources and categorical aid programs for each School student eligible.

8.2 **Disbursement of per pupil revenue funding.** Funding under **Section 3.1** will be made to the School in monthly installments, in accordance with **CRS 22-54-115**, subject, however, to annual appropriation and the Institute's receipt of the funding. The School shall notify the Institute on or before March 1 of each fiscal year of its initial estimated pupil enrollment for the upcoming school year, and monthly payments shall be made based upon such estimate. However, the actual funding for each fiscal year shall be based upon the pupil enrollment, as defined in **CRS 22-54-103(10)**, for such fiscal year, and the Institute will adjust previous payments made for such fiscal year, by credit or debit, as applicable, following October 1st of the fiscal year or any other applicable count day(s) established by law. Any adjustment resulting in a reduction of funding shall require reimbursement of the Institute by the School.

8.3 **Adjustment to funding.** The Institute's disbursement of funds will be adjusted as follows: January 15 of each year, funding may be revised based on the number of FTE pupils actually enrolled at the School as determined at the official student count day(s) and included in the official pupil count, and to reflect any change in PPR, positive or negative, so that the overall funding for the year is equal to the PPR provided for in the geographic district and not otherwise deducted. Funding on January 15th may also be adjusted for any services provided by the Institute under this Contract. In addition, to the extent that the Institute experiences any reduction or increase in state equalization support by a legislative rescission or other action, proportionate reductions or increases will be made to the School's funding. Any adjustments to funding after the January 15th payment so that funding is equal to the PPR provided for in this Contract will be made by direct payment to the School or the Institute.

8.4 **Budget.** On or before April 15 of each year, the School will submit to the Institute its proposed balanced budget for the following fiscal year for Institute review for statutory compliance and compliance with the terms and conditions of this Contract. The budget will be prepared in accordance with the state-mandated chart of accounts. The budget as approved by the Charter Board and any subsequent approved revisions will be submitted to the Institute. A material violation of this Section shall constitute a material breach and may result in the Institute initiating remedies described in **Sections 3.4, 3.5 and 12** of the Contract.

8.5 **Enrollment projections.** Each year of operation, the School will provide the Institute with its best estimates of its anticipated enrollment for the next school year by

November 1. In the event that the projected enrollment materially differs from the Institute's estimate of anticipated enrollment, the Institute reserves the right to base initial funding estimates on the more conservative figure. It is agreed by the parties that the purpose of this Section is to provide information to allow the Institute to prepare its future budgets, and that any information provided under this Section will not be used by the Institute for the purpose of restricting the School's enrollment or otherwise inhibiting the growth of the School.

8.6 **TABOR reserve.** The School's ending fund balance will comply with the emergency reserve requirements of **Article X, Section 20 of the Colorado Constitution** ('TABOR Reserve'). The School will maintain its TABOR reserve in a revenue bearing account. In addition, the School will maintain a positive fund balance at year end.

8.7 **Non-appropriation of funds.** The parties agree that the funding for the School will constitute a current expenditure of the Institute. The Institute's funding obligations under this Contract will be from year-to-year only and will not constitute a multiple fiscal year direct or indirect debt or other financial obligation of the Institute. The Institute's obligation to fund the School will terminate upon non-appropriation of funds for that purpose by the State Board of Education for any fiscal year, any provision of this Contract to the contrary notwithstanding. The parties further agree that the Institute has not irrevocably pledged and held for payment sufficient cash reserves for funding the School at or above the current year per pupil allocation or for providing services described herein for the entire term of the Contract.

8.8 **Contracting.** The School will not extend the faith and credit of the Institute to any third person or entity. The School acknowledges and agrees that it has no authority to enter into a Contract that would bind the Institute, and the School's authority to Contract is limited by the same provisions of law that apply to the Institute, including restrictions on multi-year obligations under TABOR. Unless otherwise agreed in writing by the Institute, each Contract or legal relationship entered into by the School will include the following provisions:

- a. The contractor acknowledges that the School is not an agent of the Institute, and accordingly contractor expressly releases the Institute from any and all liability under this agreement.
- b. Any financial obligations of the School arising out of the agreement are subject to annual appropriation by the Charter Board and the Institute.

8.9 **Financial Reporting.** The School agrees to establish, maintain, publish and retain appropriate financial records in accordance with all applicable federal, state and local laws, rules and regulations, including Financial Transparency requirements under state law, and to make such records available to the Institute, as requested, from time to time.

- a. **Annual audit and trial balance.** The School will undergo an independent financial audit conducted in accordance with governmental accounting standards and GASB #34 performed by an independent certified public accountant each fiscal year. The results of the final audit will be provided to the Institute by October 31 of each year. The School will pay for the audit. In addition, the School will transmit the final trial balance to the Institute using the CDE chart of accounts by October 31 of each year. If such audit

and final trial balance is not received by the Institute by October 31, such failure will be considered a material breach of Contract and the School will have 10 business days, or such other time as the parties may mutually agree, to cure such breach.

b. **Quarterly reporting.** The School will prepare quarterly financial reports for the Institute in compliance with **CRS 22-45-102(l)(b)**. Such reports will be submitted to the Institute no later than 45 days following the end of each quarter except that all fourth quarter and year end reports will be submitted with the annual independent financial audit on October 31.

c. **Non-Authorized commingling.** Except as specifically set forth in the School's new school Application and/or official approval by resolution by the School's Board of Directors, assets, funds, liabilities and financial records of the school shall be kept separated from assets, funds, liabilities and financial records of any other person, entity, or organization.

d. **Loans.** No loans may be made by the School to any person or entity (other than an affiliated entity) for any purpose without prior Institute approval.

SECTION 9: PERSONNEL

9.1 **Employee status.** The School shall employ such personnel as are required for the efficient and effective operation of the School. The School shall adopt and implement personnel policies to address, among other topics, hiring and termination of personnel, terms of employment and compensation consistent with the provisions of the new school Application. All employees hired by the School will be employees of the School and not the Institute and will be employees at will. All employee discipline decisions will be made by the School. Other terms of the employment relationship are described in the Employee Handbook submitted as part of the School's new school Application. The Handbook may be amended or revised at the discretion of the School, with a copy of the amended or revised Handbook provided to the Institute.

a. **Instructional Providers.** The School shall employ or otherwise utilize in instructional positions only those individuals who are qualified in accordance with applicable federal and state law, rules and regulations (unless waived), including the federal No Child Left Behind Act or its equivalent.

b. **Paraprofessionals.** Paraprofessionals employed by the School shall meet all credentialing requirements imposed by applicable federal and state law, rules and regulations (unless waived).

c. **Background Checks; Fingerprinting.** The School shall establish and implement procedures for conducting background checks (including a check for a criminal record) of all employees to the extent required by applicable law, rules and regulations.

SECTION 10: INSTITUTE DIRECT COST WITHHOLDING

10.1 **Direct costs.** The School and the Institute agree to withholding by the Institute of the School's share of the direct costs incurred by the Institute for services provided to the School, pursuant to CRS 22-30.5-513(4)(a)(I.5)(f), which shall not exceed Three Percent (3%) of the School's per pupil funding. Such negotiations will be concluded by June 15th of the year preceding that to which the costs apply.

SECTION 11: FACILITIES

11.1 **Facility.** The building location of the School shall be known as “The Facility.” The School shall provide the Institute with a copy of the lease, purchase agreement, financing arrangements and/or other such facility agreement (the “Facility Agreement”) and such certificates and permissions as are necessary to operate the School in the Facility according to the plan set forth in the new school Application. The School shall obtain a Certificate of Occupancy from the Division of Oil and Public Safety, or a third party inspector under contract with the division, pursuant to **CRS 22-30.5-507(10) and CRS 22-32-124**. The School shall be responsible for the construction and maintenance of any facilities owned or leased by it. The Institute shall have access at all reasonable times to any facility owned, leased or utilized in any way by the School for purposes of inspection and review of the School’s operation and to monitor the School’s compliance with this Contract.

11.2 **Location.** The School may not change its location or geographic district without obtaining prior written approval from the Institute.

SECTION 12: RENEWAL, REVOCATION, AND SCHOOL-INITIATED CLOSURE

12.1 **Renewal Process** Pursuant to the requirements of **CRS 22-30.5-511**, the Contract may be renewed by the Institute for succeeding periods of at least three (3) academic years and not more than five (5) academic years.

A. Timeline and process. The School will submit its Renewal Application in accordance with renewal timelines promulgated by the Institute in the year before the School’s Contract expires. The Institute Board will act on the Renewal Application in accordance with renewal timelines promulgated by the Institute in the year before the School’s Contract expires following a public hearing where the School will have the opportunity to address the Institute Board about its new school request. If the Institute Board decides to not renew the Contract, it will detail the reasons in its resolution.

B. Renewal Application contents. In addition to contents required by law, the Renewal Application may include comments and additional information provided by the School about its progress toward meeting the Institute’s accreditation indicators. The Institute may modify this format without prior notice to the School.

C. Criteria for Non-Renewal or revocation. The Institute may terminate, revoke or deny Renewal of the Contract for any of the grounds listed in **CRS 22-30.5-110 (3)** as they now exist or may be amended, or for a material breach of this Contract. The Institute will annually provide feedback about the School’s progress toward meeting Institute’s accreditation requirements and other goals and objectives included in the Contract. Grounds for termination, revocation or denial also include but are not limited to the following: (1) Pursuant to CRS 22-11-210(1)(d), the School is

accredited with a priority improvement plan or turnaround plan for a combined total of five consecutive years or any lesser number of years as may be established by law or rule of the State Board, after which closure or restructuring is required, or (2) if the school is accredited with a turnaround plan and does not attain a higher accreditation rating at its next performance review in accordance with CRS 22-11-406(3).

12.2 **Termination and Appeal-Corrective Action.** The Institute shall provide the School with written notice of the grounds for termination and the date of a termination hearing before the Institute Board. Prior to providing this notice, the Institute shall, to the extent practicable, send the School a Notice of Concern and a Notice of Breach in accordance with Institute policy. The Institute will provide the School written notice of the grounds for termination and of the requirements for a plan to cure, and will give the School 30 days to remedy the breach or reach agreement with the Institute on a plan to cure. If the breach is not corrected within the time period specified by the Institute in the notice of the breach, then the Institute may terminate this Contract and revoke the Charter in accordance with state statutes and Institute rules. Termination will not take effect until the School has exhausted its opportunity to appeal such decision to the State Board of Education. The Institute may impose other appropriate remedies for breach of this Contract, including, but not limited to, revocation of waiver(s) and withholding of funds.

12.4 **School- initiated termination.** Should the School choose to terminate this Contract before the end of the Contract term, it must do so in accordance with Institute rules, which require a 10-month notice period to the Institute prior to contract termination.

12.5 **Dissolution.** In the event the School should cease operations for whatever reason, including the non-renewal or revocation of this Contract, the School agrees to continue to operate its education program until the end of the school year or another mutually agreed upon date. The Institute will supervise and have authority to conduct the winding up of the business and affairs for the School; provided, however, that in doing so, the Institute does not assume any liability incurred by the School beyond the funds allocated to it by the Institute under this Contract. School personnel and the MSCS Board shall cooperate fully with the winding up of the affairs of the School, including convening meetings with parents at the Institute's request and counseling with students to facilitate appropriate reassignment.

12.6 **Return of property.** In the event of termination or dissolution, all property owned by the School that was purchased in whole or in part with funding provided by the Institute including, but not limited to, real property, or which was purchased with federal startup grant funds through the Institute acting in its role as a fiscal agent, will be returned to and will remain the property of the Institute, unless otherwise provided in the School's articles of incorporation. Notwithstanding the above, the Institute will not have the right to retain property leased by the School, unless the Institute chooses to comply with the terms of that lease. All non-consumable grants, gifts and donations or assets purchased by the School from non-federal grant, gift, or donation funds will be considered the property of the School unless otherwise identified by the donor in writing. Assets purchased exclusively with tuition paid by parents for a preschool program operated by or in conjunction with the School will not be subject to this paragraph. Assets not purchased with public funding provided by the Institute may be donated to another mutually agreeable not for profit organization upon prior agreement by the Institute.

SECTION 13: GENERAL PROVISIONS

13.1 **Order of precedence.** In the event of any disagreement or conflict concerning the interpretation of this Contract, the new school Application, all Institute policies unless waived, or any regulations or other requirements it is agreed that the Contract and Institute policies and regulations will control, followed by the application.

13.2 **Amendments.** No amendment to this Contract will be valid unless ratified in writing by the Institute Board and the School's governing body and executed by authorized representatives of the parties.

13.3 **Merger.** This Contract, together with the new school Application (as modified and incorporated by reference herein) and with the attachments and exhibits thereto, 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.

13.4 **Non-assignment.** Neither party to this Contract will assign or attempt to assign any rights, benefits, or obligations accruing to the party under this Contract unless the other party agrees in writing to any such assignment. Such consent will not be unreasonably withheld, conditioned or delayed.

13.5 **Governing law and enforceability.** This Contract will be governed and construed according to the Constitution and Laws of the State of Colorado. If any provision of this Contract or any application of this Contract to the School is found contrary to law, such provision or application will have effect only to the extent permitted by law. Either party may revoke this Contract if a material provision is declared unlawful or unenforceable by any court of competent jurisdiction and the parties do not successfully negotiate a replacement provision. The parties agree to meet and discuss in good faith any material changes in law that may significantly impact their relationship as set forth in the Contract.

13.6 **No third-party beneficiary.** The enforcement of the terms and conditions of this Contract and all rights of action relating to such enforcement will be strictly reserved to the parties. Nothing contained in this Contract will 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 will be deemed an incidental beneficiary only.

13.7 **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 provisions of this Contract will constitute a waiver of any other breach.

13.8 **Notice.** Any notice required or permitted under this Contract must be in writing and will be effective upon personal delivery (subject to verification of service or

acknowledgement of receipt) or three days after mailing when sent by certified mail, postage prepaid to the School, or to the designated authorizer representative for notice to the authorizer, at the addresses set forth below. Either party may change the address for notice by giving written notice to the other party at the addresses set forth below. Either party may from time to time designate in writing the persons to whom notice shall be sent.

13.9 **Severability.** If any provision of this Contract is determined to be unenforceable or invalid for any reason, the remainder of the Contract will remain in full force and effect, unless otherwise terminated by one or both of the parties in accordance with the terms contained herein.

13.10 **Conflict with Exhibits:** In the event of conflicts or inconsistencies between this Contract and its exhibits or attachments, such conflicts or inconsistencies shall be resolved by reference to the documents in the following order of priority: first, the terms and provisions of this Contract, second, the new school Application; third, the Original Application, and then the remaining exhibits.

13.11 **Counterparts; Signature by Facsimile.** This Contract may be signed in counterparts, which shall together constitute the original Contract. Signatures received by facsimile or electronic mail by either of the parties shall have the same effect as original signatures.

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

Mountain Song Community School
Principal Street Address: 1524 North Nevada Ave., Colorado Springs, CO 80907

By: 
Rita H. Issagholian

Title: President of the Board of Directors

STATE CHARTER SCHOOL INSTITUTE
1580 Logan St., Suite 210, Denver, CO 80203

By: 
Wayne Eckerling

Title: President, State Charter School Institute Board

EXHIBIT A:
NEW SCHOOL RESOLUTION

EXHIBIT B:

AUTOMATED DATA EXCHANGE COLLECTION CALENDAR (by start date)

YEAR ROUND

- **RITS** (Record Intergraded Tracking System Unit)
- **DIRECTORY** (Data Services Unit)

JULY

AUGUST

- **FINANCIAL DECEMBER** (Public School Finance Unit)
August – February
- **AYP DATA RELEASE AND APPEALS** (Title I Unit)
August – September

SEPTEMBER

- **STUDENT OCTOBER** (Data Services Unit)
September – November
- **TITLE X HOMELESS SUBMISSION**
September-November

OCTOBER

NOVEMBER

- **SPECIAL EDUCATION DECEMBER COUNT STAFF AND STUDENT DATA** (Data Services Unit)
November – January
- **DECEMBER HUMAN RESOURCES** (Data Services Unit)
November – January

DECEMBER

- **PRECODED LABELS** (Student Assessment Unit)
December – January

JANUARY

FEBRUARY

MARCH

- **REPORT CARD MARCH** (Data Services Unit)
March – April
- **CELA SBD** (Student Assessment Unit)
March

APRIL

- **11th Grade Alternate Assessment** (Exceptional Student Services Unit)
Test Administration April – May
ADE Data Collection Window April – May

MAY

- **SAFETY AND DISCIPLINE INDICATOR** (Data Services Unit)
May – June
- **STUDENT END OF YEAR** (Data Services Unit)
May – December
- **SPECIAL EDUCATION END OF YEAR STUDENT** (Data Services Unit)
May - October
- **SPECIAL EDUCATION DISCIPLINE** (Data Services Unit)
May – September
- **STUDENT BIOGRAPHICAL DATA/CSAP** (Student Assessment Unit)
May – June
- **CBLA SUBMISSION** (Student Assessment Unit)
May-August

JUNE

- **STUDENT BIOGRAPHICAL DATA CLEANUP/ACT** (Student Assessment Unit)
June – July

NOTE: OTHER SUBMISSIONS MAY BE REQUIRED BY CDE

EXHIBIT C

WAIVERS

EXHIBIT D

MILESTONES

DRAFT MILESTONES*/ Green Lighting Strategy Mountain Song Community School – Fall 2013 <i>*Material Contract Milestones in BOLD</i>	DATE (TBC)
1. Update CSI on location identification and timeline	3/22/2013
2. Identify a suitable facility.	3/22/2013
3. Facility lease/purchase agreement in place.	4/26/2013
4. Provide updated three years' projected budgets for the new school campus incorporating final facility costs	3/22/2013
5. Provide a desired end state for the organization in the five-year strategic plan.	3/22/2013
6. Update marketing plan to determine the target student population and adjust the marketing plan based on results.	3/22/2013
7. Demonstrate enrollment intention	
• 35% of projected student body	4/26/2013
• 65% of projected student body	6/30/2013
• 100% of projected student body	8/30/2013
8. Demonstrate enrollment of at-risk populations, defined as FRL, students testing at an unsatisfactory level on state assessments, and students two or more grade levels behind during year one enrollment.	8/30/2013
9. Provide 2-year performance objectives by school opening date using the goals worksheet from the UIP template.	8/30/2013