

**MEMORANDUM OF UNDERSTANDING**

**By and Among:**

\_\_\_\_\_, a California Charter School;

**And**

**The State of California,  
State Allocation Board and California School Finance Authority**

**ARTICLE I – PURPOSE**

- A. This Memorandum of Understanding (“MOU”) is made and entered into as of \_\_\_\_\_ (“Effective Date”) by and among the State Allocation Board and the California School Finance Authority (individually or collectively referred to as the “State”); the charter school identified above, a California Charter School operating as a non-profit public benefit corporation in accordance with Education Code Section 47604 (“Charter School”). The provisions of this MOU shall be effective from and after the Effective Date and shall continue until all duties and obligations of the parties, as stated in this MOU, are carried out.
- B. The Charter School has applied to the State for financing of its charter school facilities project (“Project”) under the Charter School Facilities Program (“CSFP”) established pursuant to Article 12 of Chapter 12.5 of Part 10 of the California Education Code and the regulations for its implementation provided in Title 4, Cal. Code Regs., Section 10151, et seq., and Title 2 Cal. Code Regs., Section 1859.160, et seq., attached hereto and incorporated by reference. A copy of the Charter School’s application and approval documents are attached hereto and incorporated herein by reference as a means of defining the Project.
- C. In accordance with the CSFP, the State is the lender of certain monetary funds to the Charter School to enable the Charter School to acquire real property and/or construct improvements thereon. This loan transaction is set forth in the Funding Agreement

This Memorandum of Understanding and the Funding Agreement set forth the entire agreement between the parties regarding the loan of funds and use of the real property pursuant to the CSFP. There are no understandings, agreements, representations, or warranties, express or implied, not specified herein regarding this Memorandum of

Understanding and the Funding Agreement provided, that in the event any portion of the Memorandum of Understanding and/or the Funding Agreement is held unenforceable by a court of competent jurisdiction, the remainder of the applicable agreement shall remain in full force and effect and shall not nullify the intent of the CSFP.

- D. This MOU is being entered into in accordance with the requirements of the CSFP. To the extent the MOU is inconsistent or in conflict with to the provisions of the CSFP and the implementing regulations, the CSFP and implementing regulations shall prevail.

## **ARTICLE II – FINANCING OF THE CHARTER SCHOOL’S PROJECT**

### **2.1 Fifty Percent Local Matching Share**

- A. The Charter School’s Application for final apportionment for the Project has been approved by the State. The Charter School’s Apportionment (“Apportionment”) is contingent upon the Charter School paying its 50% Local Matching Share obligation, which will be paid to the State by way of payments pursuant to the Funding Agreement.
- B. The Charter School’s Application for final apportionment for the Project has been approved by the State in the amount of \_\_\_\_\_ Dollars (\$\_\_\_\_\_), less any amounts received through advance apportionment. The State will provide funding for fifty percent (50%) of the approved costs for the Project in the amount of \_\_\_\_\_ Dollars (\$\_\_\_\_\_ ) less any amounts received through advance apportionment, and the Charter School will be responsible for the remaining balance of the approved costs for the Local Matching Share for the Project in the amount of \_\_\_\_\_ Dollars (\$\_\_\_\_\_). **[If applicable]** Advance apportionments were previously approved by the State in amount of \_\_\_\_\_ Dollars (\$\_\_\_\_\_ ) and \_\_\_\_\_ Dollars (\$\_\_\_\_\_).
- C. The Charter School will receive initial funding from the State for the Local Matching Share, less any lump sum payments made by, or on behalf of, the Charter School.

## 2.2 Conditions for Release of Funding

The following conditions must be satisfied before the State will release funding:

- 1) The Charter School has complied with all funding release conditions contained in Article 2.2 of the Funding Agreement.
- 2) The Charter School agrees to utilize its apportionment for purposes consistent with the CSFP, and consistent with the purposes for which it was approved.
- 3) Each party is duly authorized to enter, deliver, and perform this Memorandum of Understanding and the Funding Agreement to the other party.
- 4) The Charter School shall provide proof satisfactory to the State that all liens and encumbrances that may arise from the construction of the Facilities have been released and/or satisfied.
- 5) The Charter School shall provide to the State for its review and acceptance a title report and a copy of each instrument listed in said title report. The title report shall be issued no more than 30 days prior to the date of submittal.
- 6) The Charter School shall provide to the State for its review and acceptance an ALTA survey, which together with (3) above, shall be sufficient for the Charter School, at its sole cost and expense, to obtain a ALTA owner's policy for the benefit of the School District and the State, which have remainder interests in the property.
- 7) The Charter School shall provide to the State for its review and files a copy of the original Final California Department of Education ("CDE") approval or Final CDE approval subject to waivers and/or exemptions to the use of real property as a school facility; provided, that if CDE has provided the Charter School any waivers and/or exemptions the Charter School shall obtain from CDE a valid assignment of such waivers and/or exemptions. The purpose of the assignment is to insure that the conveyance of fee title from the Charter School to the School District through the remainder interest will not result in a situation whereby the Facilities then become non-compliant because of the transfer of fee simple title to the School District due to those requirements and standards that are typically imposed upon the School District.
- 8) The Charter School shall provide to the State for its review and files the original "No Further Action" or "Further Action Letter" from the California Department of Toxic Substance Control ("DTSC"); provided, that if DTSC has issued a Further Action Letter, the Charter School shall document that all requirements of the Further Action Letter have been satisfied.
- 9) The Charter School shall provide to the State for its review and files the final approval issued by DTSC for the final Preliminary Environmental Assessment ("PEA") for the real property, if applicable.

### **2.3 Charter School Facilities**

- A. The Charter School's Project includes the real property and all improvements, repairs, replacements, substitutions, and modifications located or to be constructed on the property, and built or acquired with State funds, as described in its application for funding under CSFP ("Facilities").
- B. The Charter School's Facilities are located at (insert name of county) County, California, and is more particularly described on Exhibit "C" of the Funding Agreement, attached hereto.
- C. The Facilities are physically located within the geographical jurisdiction of the School District and the high school attendance area generating eligibility for funding, if applicable.
- D. The Charter School has satisfied itself as to the suitability of the Facilities by its own inquiries and tests. The Charter School shall, by entering into and occupying the Facilities, be deemed to have accepted the Facilities and to have acknowledged that they are in good order, condition and repair.
- E. The State shall not have any obligation for construction work or improvements on or to the Facilities. The Charter School has made a thorough and independent examination of the Facilities and all matters related to its decision to enter into this Agreement. The Charter School is thoroughly familiar with all aspects of the Facilities and is satisfied that they are in an acceptable condition and meet its needs. The Charter School is solely responsible for identifying the real property, evaluating the condition of the title and suitability of the land for the Charter School's intended purpose, and negotiating and closing the acquisition of the real property. In addition, the Charter School is solely responsible for the construction of all improvements, repairs, replacements, substitutions, and modifications located or to be constructed on the real property.

### **2.4 Payments**

- A. The Charter School shall make payments to the State, as provided in the Funding Agreement in satisfaction of the requirements of the CSFP.
- B. This Memorandum of Understanding and the Funding Agreement shall not be deemed to constitute a debt or liability or obligation of the State, the School District, or any political subdivision thereof, or a pledge of the faith and credit or taxing power of the State or any political subdivision thereof, but shall be a special obligation payable solely from the payments made by the Charter School. The obligation to make payments does not constitute an indebtedness of the Charter School or the School District, within the meaning of

any constitutional or statutory debt limitation or restriction and in all cases shall be made solely from legally available funds.

### **ARTICLE III – SECURITY PROVISIONS**

- A. The Charter School will obtain good, absolute and marketable title to the Project in fee simple, free and clear of any mortgage, deeds of trust, liens (monetary or otherwise), claims, charges or other encumbrances or matters of any nature whatsoever other than those included in any other provisions of this Agreement upon satisfaction of all of the following conditions:
- (1) If the funding shall be used to acquire real property, the Charter School, at its sole cost and expense, shall structure the closing of the escrow for the acquisition of the real property for a conveyance of title from the seller to the Charter School, and simultaneously in the same closing of escrow, provide that a lien on behalf of the State Allocation Board, a restrictive covenant and remainder interest on behalf of the \_\_\_\_\_ School District and subsequently the State Allocation Board as more particularly described in this agreement. If the Charter School fails to meet this requirement, the Charter School will be in default of this Agreement.
  - (2) The Charter School shall provide proof satisfactory to the State that all liens and encumbrances that may arise from the construction of the Facilities have been released and/or satisfied.
  - (3) The Charter School shall provide to the State for its review and acceptance a title report and a copy of each instrument listed in said title report. The title report shall be issued no more than 30 days prior to the date of submittal.
  - (4) The Charter School shall provide to the State for its review and acceptance an ALTA survey, which together with (3) above, shall be sufficient for the Charter School, at its sole cost and expense, to obtain a ALTA owner's policy for the benefit of the School District and the State, which have remainder interests in the property.
  - (5) The Charter School shall provide to the State for its review and files a copy of the original Final California Department of Education ("CDE") approval or Final CDE approval subject to waivers and/or exemptions to the use of real property as a school facility; provided, that if CDE has provided the Charter School any waivers and/or exemptions the Charter

School shall obtain from CDE a valid assignment of such waivers and/or exemptions. The purpose of the assignment is to insure that the conveyance of fee title from the Charter School to the School District through the remainder interest will not result in a situation whereby the Facilities then become non-compliant because of the transfer of fee simple title to the School District due to those requirements and standards that are typically imposed upon the School District.

- (6) The Charter School shall provide to the State for its review and files the original "No Further Action" or "Further Action Letter" from the California Department of Toxic Substance Control ("DTSC"); provided, that if DTSC has issued a Further Action Letter, the Charter School shall document that all requirements of the Further Action Letter have been satisfied.
  - (7) The Charter School shall provide to the State for its review and files the final approval issued by DTSC for the final Preliminary Environmental Assessment ("PEA") for the real property, if applicable.
  - (8) The Charter School shall provide to the State for its review and files the final approval of any applicable Federal, State, City or County agency necessary for the acquisition and construction of the Project, and the operation of the Facilities for an educational program conducted by the Charter School. As an example, and not as means of limitation, a charter school may require approval from the California Coastal Commission if a project will be located within its jurisdiction.
- B. Any person or entity providing a substantial contribution that is applied to the costs of the Project in excess of the state share and the local matching share may be granted a security interest, as approved and memorialized in a written instrument executed by the State, to be satisfied from the proceeds, if any, realized when the property is ultimately disposed of. If the contribution was made for the explicit purpose of purchasing any asset with a normal life expectancy of less than twenty years, the security interest will be adjusted to reflect the depreciation of the assets. Contributions used solely to assist the applicant in meeting its local matching share shall not be entitled to a security interest. Where a contribution results in total project funding beyond the state and local matching shares, the contributor's security interest shall be limited to the amount in excess of the state share and local matching share.

- C. If a default occurs and all payments and penalties have not been made, the security interest of any person or entity providing a substantial contribution to the costs of the Project shall be satisfied only after the account is reimbursed for any remaining unpaid local matching share and the State has been reimbursed for any costs and expenses incurred, if any, as the result of such default.
- D. This section intentionally left blank.

## **ARTICLE IV – DEFAULT AND REMEDIES**

### **4.1 Events of Default**

- (1) The occurrence of any of the following shall constitute a “Default” or “Event of Default”:
- (2) Failure by the Charter School to commence to use and occupy the Facilities for the operation of a charter school within one year of receiving the Certificate of Occupancy.
- (3) Failure by the Charter School to make any payment when due, and such failure continues for a period of thirty (30) calendar days after receiving written notice by the State;
- (4) Failure by the Charter School to maintain insurance on the Facilities or to provide reasonable evidence of insurance as required by the Funding Agreement and the Use Agreement, and where such failure continues for a period of thirty (30) calendar days after receiving written notice by the State;
- (5) Failure by the Charter School to provide reasonable evidence of compliance with all requirements whether expressly stated in this Memorandum of Understanding, the Funding Agreement, or otherwise imposed by the State under the CSFP or other applicable law, or failure to observe or perform any other applicable covenant, condition or agreement, where such failure continues for thirty (30) calendar days after receiving written notice of the failure. If thirty (30) calendar days is insufficient, and the Charter School has instituted corrective action, the State, in its discretion, may extend this period up to one hundred and eighty (180) calendar days;
- (6) The Charter School shall be or become insolvent, or admit in writing its inability to pay its debts as they mature, or make an assignment for the benefit of creditors; or the Charter School shall apply for or consent to the appointment of any receiver, trustee or similar officer for it or for all or any substantial part of its property; or such receiver, trustee or similar officer shall be appointed without the application or consent of the Charter School, as the case may be, where possession is not restored in sixty (60) calendar days; or the Charter School shall institute (by petition, application, answer, consent or otherwise) any bankruptcy, insolvency, reorganization, arrangement, readjustment of debt, dissolution, liquidation or similar proceeding relating to it under the laws of any jurisdiction; or

any such proceeding shall be instituted (by petition, application or otherwise) against the Charter School (unless, in the case of a petition filed against the Charter School, the same is dismissed in sixty (60) days) or any judgment, writ, warrant of attachment or execution or similar process shall be issued or levied against a substantial part of the Charter School's Facilities; provided, however, in the event that any provision of this paragraph is contrary to any applicable law, it shall be of no force and effect, and not affect the validity of the remaining provisions;

- (7) The determination by the State that any representation or warranty made by the Charter School was untrue in any material respect when made;
- (8) The Charter School's charter is not renewed or is revoked, or the Charter School ceases to use the Facilities for a charter school purpose. Nothing in this section shall affect a Charter School's rights and obligations pursuant to Education Code Section 17078.62 if the Charter School ceases to use the facility after a revocation or non-renewal;
- (9) The Charter School entirely abandons the Facilities or fails to cure a breach of the Use Agreement; and/or
- (10) If the performance of the payment obligations of the Charter School is guaranteed, the actual or anticipatory failure or inability, for any reason, of the Guarantor to honor the guarantee as required, and the Charter School's failure to provide written alternative assurance or security, which when coupled with the Charter School's then-existing resources, equals or exceeds the combined financial resources that existed at the time this Memorandum of Understanding and the Funding Agreement are executed. The Charter School shall have sixty (60) calendar days following written notice by the State, to provide the written alternative assurance or security.

#### **4.2 Remedies on Default**

The parties acknowledge and agree that this Memorandum of Understanding and the Funding Agreement represent a unique situation that is not limited by the standard landlord's remedies provided by Sections 1951.2 and 1951.4 of the California Civil Code. The parties agree that if any Event of Default shall have occurred, any one or more of the following respective remedies, which are not exclusive but cumulative, may be pursued:

- A. If an Event of Default occurs and the Charter School continues to occupy and/or possess the Project, the Charter School shall remain liable for the performance of all of the obligations of the Charter School under and subject to the Funding Agreement, as amended

including, without limitation, the obligation to make payments to the State when due under the Funding Agreement.

- B. If the Event of Default is solely because the School District has revoked or declined to renew the Charter School's charter, in accordance with Section 17078.62(b)(1) of the Education Code, the Charter School shall:
- (1) have that time period specified in Section 17078.62 of the Education Code, as may be amended, to complete the review process contemplated in Section 47607 or 47607.5 of the Education Code, as may be amended; and
  - (2) so long as the Charter School continues to use and occupy the Facilities, remain liable for the performance of all of the obligations of the Charter School under the Funding Agreement, as may be amended, and the Use Agreement, as may be amended, including, without limitation, the obligation to make payments to the State when due under the Funding Agreement.
- C. If the Event of Default is solely because the School District has revoked or declined to renew the Charter School's charter, the Charter School shall not be liable under the Funding Agreement or this MOU as may be amended, on the effective date of the last to occur of all of the following:
- (1) the Charter School completes the review process provided in Section 47607 or 47607.5 of the Education Code, as may be amended, and the Charter School fails to obtain a renewal of its charter, or the Charter School relinquishes all rights to pursue or complete the review process provided in Section 47607 or 47607.5 of the Education Code, as may be amended, and the Charter School notifies the State and the School District of its election; and
  - (2) the Charter School vacates the Facilities and relinquishes to the School District all right, title and interest in the occupancy and use of the Facilities under the the School District's remainder interest.
- D. Upon the occurrence of Subsection C of this Section 4.2, the School District shall permit the Facility to be used in its "as is" and "where is" condition by another charter school:
- (1) that the State deems as qualified; and
  - (2) whose charter petition is approved and is in good standing with the School District; and
  - (3) that has agreed to a Funding Agreement with the State and, if applicable, a Use Agreement with the School District.

- E. In the event a successor charter school cannot be identified as provided in Subsection D of this Section 4.2, the School District may take title to the property in accordance with the remainder interest held by the School district and in accordance with Section 17078.62(b)(3) of the Education Code, take possession of and use the Facility as a public school facility; provided, that the School District shall be required to make payment to the State in accordance with Section 17078.62(b)(4) or the payments shall be reduced or eliminated if the School District satisfies the conditions set forth in Section 17078.62(b)(4)(A) and (B). In the event the payments do not qualify for reduction or elimination in accordance with Section 17078.62(b)(4)(A) and (B), the State and the School District shall enter into an agreement for the School District's assumption of the payment obligation under the Funding Agreement. Assumption of the payment obligation shall in no way release the Charter School from its payment obligations that accrued prior to the termination of the Funding Agreement or from the Charter School's obligations for any holdover; or
- 1) in accordance with Section 17078.62(b)(5) of the Education Code, decline to take possession of the Facilities or if the Facility is no longer needed for public school purposes, the School District shall dispose of the Facilities in accordance with requirements for the disposal of surplus public school sites. The monetary proceeds from the disposal of the Facilities shall be applied in the following priority: (i) reimburse the School District for reasonable costs and expenses incurred by the School District in disposing of the Facilities; (ii) reimburse the State for reasonable costs and expenses incurred by the State in pursuing the collection of the balance of any unpaid Local Matching Share due and owing under the Funding Agreement; (iii) repay any unpaid Local Matching Share in favor of the State; (iv) repay any security interest granted pursuant to Section 17078.57(a)(3)(B); and (v) in the event any proceeds remain, equally prorated between the State and the School District.
  - 2) disclaim its remainder interest in the real property in which case the State of California State Allocation Board shall succeed to title owner pursuant to its remainder interest.
- F. The State may proceed by appropriate court action to enforce specific performance by the Charter School of its covenants under the Funding Agreement and this Memorandum of Understanding and under the terms of accepting funding under the CSFP, or to recover damages for the breach thereof, including without limitation for the recovery of all past due payments together with interest, penalties and late charges, and all other sums due the State. The

Charter School shall pay or repay to the State all costs of such action or court action, including, without limitation, reasonable attorneys' fees and costs.

- G. In the event of the Charter School's default and the recovery of the Facilities by the School District, the State shall have the right to recover from the Charter School (i) the amount of all outstanding payments or other obligations (whether direct or indirect owed by the Charter School to the State), if any, which are then due and owing, together with interest and late charges, and (ii) any other amounts due from the Charter School to the State, including indemnity payments, taxes, charges, reimbursement of any advances and other amounts payable by the Charter School to the State.
- H. Notwithstanding anything to the contrary, the State and the Charter School may take whatever action at law or in equity that may appear necessary or desirable to enforce its respective rights with respect to this Memorandum of Understanding or the Funding Agreement, and the party or parties prevailing in the action shall have all of their respective costs of such action or court action, including, without limitation, reasonable attorneys' fees and costs as provided in this Memorandum of Understanding and the Funding Agreement or as otherwise permitted by law, paid by the parties against whom the action was brought.
- I. No remedy herein conferred upon or reserved to the parties is intended to be exclusive and every such remedy shall be cumulative and shall be in addition to every other remedy given under this Memorandum of Understanding and the Funding Agreement or existing at law or in equity. No delay or omission to exercise any right or power accruing upon any Event of Default shall impair any such right or power or shall be construed to be a waiver thereof, but any such right or power may be exercised from time to time and as often as may be deemed expedient. In order to entitle either party to exercise any remedy reserved to it in this Article, it shall not be necessary to give any notice other than such notice as may be required under the Agreements. All remedies herein conferred upon or reserved to the parties shall survive the termination of this Memorandum of Understanding and the Funding Agreement.

## **ARTICLE V – MISCELLANEOUS**

### **5.1 Release of Liability**

The State and the School District are hereby released from any and all claims, demands, debts, liabilities, and causes of action of whatever kind

or nature, whether known or unknown or suspected or unsuspected which the Charter School or any of the Charter School's employees or agents may have, claim to have, or which may hereafter accrue against the released parties or any of them, arising out of or relating to the Facilities or the Charter School's project, including those in any way connected with any materials or substances defined as hazardous under any applicable statute, ordinance, rule or regulation, presently in, on or under, or now or hereafter emanating from or migrating onto or under the Facilities.

In connection with this release, the Charter School hereby waives any and all rights conferred upon it by the provisions of Section 1542 of the California Civil Code, which reads as follows:

"A general release does not extend to claims which the creditor does not know or suspect to exist in his or her favor at the time of executing the release, which if known by him or her must have materially affected his or her settlement with the debtor."

## **5.2 Non-waiver**

No waiver of any provision of this Memorandum of Understanding, the Funding Agreement and/or the Use Agreement shall be implied by any failure to enforce any remedy for the violation of that provision, even if that violation continues or is repeated. Any waiver of any provision contained in this Memorandum of Understanding, the Funding Agreement and/or the Use Agreement must be in writing and executed by the applicable parties and will affect only the provision specified and only for the time and in the manner stated in the writing.

## **5.3 Indemnity**

- A. Memorandum of Understanding. To the fullest extent permitted by law the Charter School shall at the Charter School's sole cost and expense with counsel acceptable to the State as applicable, indemnify, defend and hold the School District and the State harmless from and against any and all losses, costs, liabilities, claims, judgments, liens, damages (including consequential damages), actions, causes of action (whether in tort or contract law or equity or otherwise), charges, assessments, fines, penalties and expenses, including, without limitation, reasonable attorneys' fees and costs, and reasonable investigation costs (collectively "Claims"), incurred in connection with or arising from: (a) any breach or default by the Charter School in the observance or performance of any of the terms, covenants or conditions of this Memorandum of Understanding on the Charter School's part to be observed or performed; (b) the construction, operation, maintenance, alteration, use or occupancy of the Facilities by the Charter School; (c) the condition of the Facilities, and any

occurrence on the Facilities, from any cause whatsoever, and (d) any acts omissions or negligence of the Charter School or the Charter School's employees, agents or contractors in, on or about the Facilities.

- B. Funding Agreement. The School District is not a party to the Funding Agreement and, as a result, to the fullest extent permitted by law the Charter School shall at the Charter School's sole cost and expense with counsel acceptable to the School District as applicable, indemnify, defend and hold the School District harmless from and against any and all losses, costs, liabilities, claims, judgments, liens, damages (including consequential damages), actions, causes of action (whether in tort or contract law or equity or otherwise), charges, assessments, fines, penalties and expenses, including, without limitation, reasonable attorneys' fees and costs, and reasonable investigation costs (collectively "Claims"), incurred in connection with or arising from any breach or default by the Charter School in the observance or performance of any of the terms, covenants or conditions of the Funding Agreement on the Charter School's part to be observed or performed.
  
- D. The Charter School will at all times protect and defend, at its own cost and expense, the title to the Facilities from and against all claims, liens and legal processes of creditors and keep all the Facilities and the title free and clear of all such claims, liens, and processes except for the liens created or expressly permitted under the Agreements and the CSFP.

**5.4 Notice.**

Any notice required or permitted to be given under this Agreement shall be deemed to have been given, served and received if given in writing and personally delivered or either deposited in the United States mail, registered or certified mail, postage prepaid, return receipt required, or sent by overnight delivery service or facsimile transmission, addressed as follows:

**If to the State:**

**California School Finance Authority  
Attn: Katrina Johantgen  
304 South Broadway, Suite 550  
Los Angeles, CA 90013**

**If to the Charter School:**

\_\_\_\_\_  
**Attn: Director/Principal**  
\_\_\_\_\_

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Any notice personally given or sent by facsimile transmission shall be effective upon receipt. Any notice sent by overnight delivery service shall be effective the next business day following delivery thereof to the overnight delivery service. Any notice given by mail shall be effective three (3) days after deposit in the United States mail.

### **5.5 Applicable Law/Integration**

This Memorandum of Understanding shall be governed by and construed as a whole in accordance with its fair meaning according to the laws of the State of California. The venue and forum for any action to enforce this Memorandum of Understanding shall be the Superior Court of the State of California in and for the County of \_\_\_\_\_. This Memorandum of Understanding represents the sole and entire agreement between the parties and supersedes any and all prior agreements, negotiations, and discussions by and between the parties hereto with respect to the subject matter covered hereby.

### **5.6 Amendments**

- A. The terms of this Memorandum of Understanding may not be waived, altered, modified, supplemented or amended in any manner except in writing, upon the agreement of all of the parties, or except as otherwise permitted by law.
- B. The terms of this Memorandum of Understanding may be amended, or new agreements executed, as necessary, upon the application of the Charter School and the approval by the State of an advance or final apportionment.

### **5.7 Force Majeure**

The time for the State or the Charter School to perform any obligation or assert any right under this Memorandum of Understanding or the CSFP shall be extended on a day for day basis for any Force Majeure event, which shall include but not be limited to: (1) Acts of God or of the public enemy; and (2) Acts of the federal or State government in either its sovereign or contractual capacity.

### **5.8 Severability**

Should any provision of this Memorandum of Understanding be determined to be invalid, illegal or unenforceable in any respect, such provision shall be severed and the remaining provisions shall continue as valid, legal and enforceable.

**THE STATE:**

**STATE ALLOCATION BOARD:**

By: \_\_\_\_\_

Name: Lisa Silverman

Title: Acting Executive Director

**CALIFORNIA SCHOOL FINANCE AUTHORITY:**

By: \_\_\_\_\_

Name: Katrina Johantgen

Title: Executive Director

**THE CHARTER SCHOOL: \_\_\_\_\_**

By: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_