

## **Charter School Contract**

Between The  
Albuquerque Public Schools  
Board of Education

And

East Mountain

July 1, 2025 – June 30, 2030

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This charter contract (“Contract”), effective the 1st day of July, 2025 is made and entered into between the Albuquerque Public Schools Board of Education (“Authorizer”) and East Mountain, a public charter school (“School”). Collectively, these entities are referred to as the “Parties.”

The Secretary of the New Mexico Public Education Department is authorized to hear appeals regarding this Contract from the Parties (“Secretary”)<sup>1</sup>.

## **Article I. Recitals.**

### **Section I.01 Purpose.**

The Charter Schools Act<sup>2</sup> enables a charter school

- to structure its educational program and curriculum to encourage the use of different and innovative teaching methods that are based on reliable research and effective practices, or have been replicated successfully in schools with diverse characteristics;
- to develop different and innovative ways of measuring student learning and achievement which addresses the needs of all students, including those determined to be at risk;
- to create new professional opportunities for teachers, including the opportunity to be responsible for the learning program at the school site;
- to improve student achievement;
- to provide parents and students with an educational alternative by creating new, innovative and more flexible ways of educating children within the public school system;
- to encourage parental and community involvement in the public school system; and
- to develop and use site-based budgeting that meets state fiscal requirements.

### **Section I.02 Description of the Roles of the Parties.**

In order to meet the purposes of the Act, the School will determine the process it uses to achieve successful outcomes for the students it serves. The Authorizer’s role<sup>3</sup> will be to evaluate the School’s outcomes rather than to establish the process by which the School achieves the outcomes sought.

### **Section I.03 Description of Protocol for Oversight.**

At the request of the Authorizer or its designee(s), in order to implement a protocol of continuous improvement or to address issues that are of concern, the School may present the Authorizer with improvement plans from time to time to address identified issues. The Parties may also implement a corrective action plan. The Authorizer may

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<sup>1</sup> Section 22-8B-9(A) NMSA 1978.

<sup>2</sup> Section 22-8B-3 NMSA 1978.

<sup>3</sup> Section 22-8B-5.3 NMSA 1978 and all other duties assigned to the Commission relating to charter schools.

implement suspension or revocation procedures under the Charter School Act and associated regulations<sup>4</sup>.

### **Section I.04 History.**

Founded in 1999, EMHS was one of the first charter schools authorized in the state of New Mexico. As we enter our 25th year, we are proud of our school's many accomplishments: an 'A' Rating from the Public Education Dept every year, National Blue Ribbon recognition from the US Dept of Education, state championship athletics, and internationally recognized extra-curricular activities.

We help all students navigate their path to college, career, and beyond. We know that the future poses many complex challenges, but our faculty are committed to instilling a sense of creative problem solving in all students.

In the coming months, we are excited to work on updating the school's strategic plan so we can further expand our impact, improve our facilities, and better serve our students.

The Parties, therefore, hereby agree to establish a New Mexico public charter school according to the following terms and conditions of this Contract.

## **Article II. Parties, Notice and Intent.**

### **Section II.01 Parties.**

The Albuquerque Public Schools Board of Education is authorized to receive applications for initial and renewal charter applications that request to be authorized by the state<sup>5</sup>.

The School is a charter school approved by the Authorizer. (The School Governing Body, its Head Administrator as staff or any person designated by the Governing Body or its Head Administrator to address an issue shall be referred to generally as "School" from this point forward.)

### **Section II.02 Notice.**

Any notice required, or permitted, under this Contract shall be in writing and shall be effective upon personal delivery (subject to verification of service or acknowledgement of receipt) or three days after mailing when sent by certified mail, to the Head Administrator for notice 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 commencement of any action which requires notice, the parties may agree to use electronic notice and filing.

<b>Albuquerque Public Schools Board of Education</b>
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<sup>4</sup> e.g. Section 22-8B-12 NMSA 1978

<sup>5</sup> Section 22-8B-16 NMSA 1978.

<b>C/O APS Director of Charter Schools</b> P.O. Box 25704 Albuquerque, New Mexico 87125
<b>East Mountain</b> <b>Governing Body Contact</b> <b>Dr. Glenn Hushman</b> PO Box 340 Sandia Park, NM 87047
<b>Head Administrator</b> <b>Trey Smith</b> <b>PO Box 340</b> <b>Sandia Park, NM 87047</b>
<b>Attorney</b> <b>Laura Castille</b> <b>Cuddy McCarthy</b> 1701 Old Pecos Trl Santa Fe, NM 87505

### **Section II.03      Creation of Essential Documents.**

Essential Documents. This Contract, the Performance Frameworks (as discussed in further detail in Articles V through VIII below) including the annual performance indicators set under the Performance Frameworks together form the essential documents governing the Parties (“Essential Documents”). Goals set forth in the initial application or the renewal application shall be reviewed by the Parties as part of the basis for the negotiations of the Performance Frameworks as further described in Section VI below. Where appropriate, the conditions placed by the Authorizer on the School in the application of renewal process may become Performance Indicators in the annual Performance Frameworks in order to monitor the School’s compliance with the conditions.

Material Elements of Charter and Renewal Applications Incorporated. The material provisions of the Charter and renewal application (*add if applicable*) have been incorporated as part of the Contract and are listed in Article VIII below.

## **Article III. General Governing Principles**

### **Section III.01      Public Charter School.**

The School is authorized by the Authorizer to operate as a public school, but is a separate legal entity from the Authorizer<sup>6</sup>. Notwithstanding its existence as a separate legal entity, the School is subject to all applicable state and federal laws, regulations, rules, and policies unless waived by the Secretary or by law<sup>7</sup>.

<sup>6</sup> Sections 22-8B-2(A) and 22 -8B-4(C),(J), (N), (P), and (R) (2011) NMSA 1978.

<sup>7</sup> Section 22-8B-5 NMSA 1978.

### **Section III.02 Term of the Charter.**

This Contract and the Performance Frameworks are effective as of July 1, 2025. The Term of this Contract shall run until June 30, 2030.

### **Section III.03 Availability of Funds.**

Although this Contract is for the operation of the School for the Term of the Contract, any financial commitment on the part of the NMPED or Authorizer, if applicable, contained in this Contract is subject to the annual appropriations of the New Mexico Legislature.

## **Article IV. Oversight to Allow Autonomy**

### **Section IV.01 Oversight allowing autonomy.**

The Authorizer shall comply with the provisions of the Act and the terms of the Contract in a manner that does not unduly inhibit the autonomy granted to the School. In order to meet the purposes of the Act, the School will determine the process it uses to achieve the successful outcomes for its students. The Authorizer's role will be to evaluate the School's outcomes according to this Contract and the Performance Frameworks, rather than to establish the process by which the School achieves the outcomes sought.

### **Section IV.02 Charter School Rights and Obligations**

#### **(a) Curriculum, Instructional Program, Student Performance Standards.**

The School shall have the authority and responsibility for designing and implementing the educational plan described as material terms of the Charter in Section 8 below.

#### **(b) Site Based Management.**

The School is responsible for its own operation, including preparation of a budget; is subject to audits<sup>8</sup>; may contract for services; and shall address personnel matters in accordance with the School Personnel Act<sup>9</sup> and all other applicable laws.

#### **(c) Right to Sue.**

The School's Governing Body may contract, sue and be sued.

#### **(d) Limitation on Liability.**

The Authorizer shall not be liable for any acts or omissions of the School<sup>10</sup>.

#### **(e) Employees.**

All employees hired by the School shall be employees of the School for which the Authorizer has no employment responsibility.

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<sup>8</sup> Pursuant to the Audit Act at Section 12-6-1 NMSA 1978, *et seq.*

<sup>9</sup> Section 22-10A-1 NMSA 1978, *et seq.*

<sup>10</sup> Section 22-8B-4(P) NMSA 1978 (2011).

**(f) Waivers.**

**(i) Automatic Waivers.**

The Charter School Act allows for waivers for the School from the requirements of the Public School Code pertaining to individual class load, length of the school day, staffing patterns, subject areas, purchase of instructional materials, evaluation standards for school personnel, school principal duties and driver education<sup>11</sup>. Waivers listed pursuant to this paragraph shall be effective for the term of the Contract<sup>12</sup>.

**(ii) Discretionary Waivers.**

The School has listed Discretionary Waivers that either it has obtained or will seek from the Secretary which must be approved as set forth in (iii) below.

**(iii) Waiver Approval.**

The School shall, within 30 days from the execution of this Contract, deliver to the NMPED any Discretionary Waiver requests submitted for the Secretary's approval. The NMPED shall notify the School of the Secretary's decision on the Discretionary Waiver(s).

**(iv) Subsequent Waivers.**

The School may request additional Discretionary Waivers from the Secretary after the initial request. Any new waiver requests shall be processed according to NMPED waiver request procedures, and, if approved, shall be added to this Contract by the School submitting a revised list of approved waivers

**(g) Policies.**

The School agrees to adopt policies and/or procedures, if and as needed, to deliver the School's program. The School shall be exempt from local district policies and shall, instead, develop policies and procedures to the extent required by applicable law and regulation.

**(h) Acquisition of Property and Gifts.**

The School, within constitutional and statutory limits, may acquire and dispose of property, provided that, upon termination of the Charter, the following will occur: All assets of School shall revert to the state, except that, if all or any portion of a School facility is financed with the proceeds of general obligation bonds issued by a local school board, the facility shall revert to the local school board.<sup>13</sup>

The School's Governing Council may accept or reject any charitable gift, grant, devise or bequest; provided that no such gift, grant, devise or bequest shall be

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<sup>11</sup> Section 22-8B-5(C) NMSA 1978 (2006).

<sup>12</sup> Section 22-8B-5(C) NMSA 1978 (2006).

<sup>13</sup> Section 22-8B-4 (N) NMSA, 1978

accepted if subject to any condition contrary to law or to the Material Terms of this Contract as set forth in Article VIII below. The particular gift, grant, devise or bequest shall be considered an asset of the School.

### **Section IV.03 Authorizer Rights, Obligations, and Processes for Oversight.**

#### **(a) Authorizer Criteria, Processes and Procedures**

The Act requires that the Authorizer develop and maintain the criteria, processes and procedures<sup>14</sup> that the Authorizer and its designees will use for ongoing oversight of organizational, financial and academic performance of the School. Accordingly, these criteria, processes and procedures are set forth in this Article IV and in Articles V through VIII below.

In areas where the School needs improvement (as identified by results of the assessment of the School under the Performance Framework or any performance review), and as requested by the Authorizer, the School shall present an improvement plan(s) to the Authorizer for approval. The School will report to the Authorizer on the progress of the improvement plans from time to time, as established in the improvement plans. The Authorizer may require and the School shall implement a corrective action plan. If warranted the Authorizer may implement revocation, suspension or other procedures pursuant to the process in Article XI.

#### **(b) Authorizer Development of Policies and Protocols.**

The Authorizer shall develop and maintain chartering policies and practices consistent with nationally recognized principles and standards for quality charter authorizing as set forth by the Act, including policies regarding charter school oversight and evaluation; organizational capacity and infrastructure; evaluation of charter applications; performance contracting; and charter school corrective action plans; suspension, revocation, renewal, and closure processes. This contract and the Performance Framework demonstrate, in part, implementation of its chartering policies and practices.

#### **(c) Authorizer Development of Processes for Suspension, Revocation and Nonrenewal.**

The Authorizer shall develop processes for suspension, revocation or nonrenewal of a school<sup>15</sup>. In the event that the Authorizer ever determines that suspension, revocation or nonrenewal of the School is appropriate, the Authorizer shall

- i. provide the School with timely notification of the prospect of suspension, revocation or nonrenewal of the Charter and the reasons for such action;
- ii. allow the School a reasonable amount of time to prepare and submit a response to the Authorizer's action no less than 30 days, absent exigent circumstances; and
- iii. submit the final determination made by the Authorizer to the NMPED.

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<sup>14</sup> Section 22-8B-5.3(H) NMSA 1978.

<sup>15</sup> Section 22-8B-12(L) NMSA 1978 (2011).

In addition, Article XI below also sets forth terms relating to suspension, revocation and non-renewal.

**(d) Authorizer Development of a Performance Framework.**

Throughout the term of this Contract, the Authorizer shall establish annual Performance Framework templates that set forth clear academic and operations performance indicators, measures and metrics that includes the following:

- a. Student academic performance;
- b. Student academic growth;
- c. Achievement gaps in both proficiency and growth between student subgroups;
- d. Attendance;
- e. Recurrent enrollment from year to year;
- f. Post-secondary readiness and graduation rate (if the charter school is a high school);
- g. Financial performance and sustainability; and
- h. Governing body performance, including compliance with all applicable laws, rules, and terms of the Contract.

For purposes of this Contract, the Authorizer shall implement the performance indicators, metrics and measures through the Performance Frameworks. Any additional indicators shall be negotiated in good faith between the Parties and included in the annual School Specific Indicators as discussed in Article V below.

**(e) Authorizer Development of a Closure Protocol.**

The Authorizer shall establish a closure protocol in the event the School closes. The Authorizer shall oversee and work with the closing School to ensure a smooth and orderly closure and transition for students and parents according to the closure protocol and to ensure that assets are appropriately accounted for and protected<sup>16</sup>. In addition, Article XII below also sets forth terms relating to closure.

**(f) Authorizer Obligations Relating to the Contract and Monitoring**

***(i) Negotiate the Contract in Good Faith.***

The Authorizer shall negotiate and execute this Contract, in good faith, so long as it meets the requirements of the Act<sup>17</sup>.

***(ii) Collect, Analyze and Report Data.***

The Authorizer shall collect, analyze and report all data from state assessment tests in accordance with the Performance Frameworks.

**1) Access to Data and State Assessment.**

The School shall obtain information where possible directly from NMPED, including, but not limited to, test scores, Common Core alignment information, special education notices, and funding information. The Authorizer or its designee at the request of the School shall provide the School with substantive

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<sup>16</sup> Section 22-8B-12.1(A) NMSA 1978 (2011).

<sup>17</sup> Section 22-8B-9 NMSA 1978 (2011).

information pertaining to the School to which the Authorizer has access in a timely way that is otherwise not provided directly to the School by the NMPED.

**2) Data Available through student information systems.**

To the extent possible, the Authorizer shall not request reports from the School that are otherwise available to the Authorizer through student information systems or other data sources available to the Authorizer, including but not limited to those data sources created and kept by the NMPED.

In the event that information requested on the reports is available to the Authorizer's designee from the student information systems or other data sources reasonably available to the Authorizer's designee, the Authorizer's designee shall pre-populate required reports and provide this pre-populated report to the School.

***(ii) Conduct Oversight.***

The Authorizer shall conduct and/or require oversight activities according to its policies and procedures to allow the Authorizer to fulfill its responsibilities under the Act, including conducting appropriate inquiries and investigations, when warranted.

***(iii) Monitor School's Progress (Site Visits).***

The Authorizer shall continuously monitor and conduct at least one annual visit to the School to provide technical assistance to determine the overall organizational, academic and financial performance of the School as described in the Performance Frameworks.

**1) Site Visit**

The Authorizer designee(s) shall make at least one annual visit to the School<sup>18</sup> ("Annual Site Visit"). The Authorizer its designee(s) or legal counsel, however, may conduct such monitoring activities in its performance review as it deems appropriate to ensure that the School is complying with applicable law, the terms of this Contract and Essential Documents. Except in extraordinary circumstances, Authorizer visits should be pre-arranged and with reasonable notice to avoid needless disruption of the educational process. The Authorizer, or its designee(s) reserves the right to make unannounced visits to open meetings, or to the School.

**2) Annual Site Visit/ Site Visit Report.**

The protocol for the Annual Site Visit and Annual Site Visit Report shall be conducted and prepared according to the Authorizer protocol and forms provided relating to the Performance Frameworks (as discussed in Articles V - VIII below) and any plan created pursuant to this Contract (i.e. improvement plan or corrective action plan). The protocol and forms shall be provided at least 7 days in advance to the School. The Annual Site Visit shall contain a review, at a minimum, of the School's evidence of progress towards the indicators identified in the Performance Frameworks and progress towards any plan created pursuant to this Contract, as applicable.

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<sup>18</sup> Section 22-8B-12(E) NMSA 1978 (2011).

Following the site visit, the Authorizer or its designee(s) shall complete a draft of the Annual Site Visit Report and present it to the School within 30 days after completion of the site visit. The School shall have 10 days to provide input and comment.

***(iv) Review Data.***

The Authorizer shall review the data provided by the School to support ongoing evaluation according to the terms of the Contract.

***(v) Notify School of Unsatisfactory Performance.***

The Authorizer shall notify the School in a timely manner of unsatisfactory performance on the organizational, academic or financial frameworks, or any other factor that may result in an improvement plan, corrective action, nonrenewal or revocation as determined during the annual site visit or at any other time.

If, based on a performance review conducted by the Authorizer, the Authorizer finds that the School is not making satisfactory progress towards organizational, academic or financial performance or the Authorizer believes there to be a breach of this Contract, the Authorizer may take any steps allowed by law including but not limited to establishment of an Improvement Plan or a Corrective Action Plan as set forth in Article XI<sup>19</sup>. The Authorizer may suspend or revoke the School's Charter if warranted<sup>20</sup> and according to the process established by the Authorizer.

***(vi) Suspend, Revoke or Not Renew the Contract, if necessary.***

The Authorizer may suspend, revoke or not renew this Contract and the Charter<sup>21</sup> if the Authorizer determines that the School did any of the following:

- a. Committed a material violation of any of the conditions, standards or procedures set forth in this Contract;
- b. Failed to meet or make substantial progress toward achievement of the department's minimum educational standards or the student performance standards identified in the Contract;
- c. Failed to meet generally accepted standards of fiscal management; or
- d. Violated any provision of law from which the School was not specifically exempted.

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<sup>19</sup> Section 22-8B-12(F) NMSA 1978.

<sup>20</sup> Section 22-8B-12(K) NMSA 1978 (2012).

<sup>21</sup> Section 22-8B-12(K) NMSA 1978 (2012).

***(vii) Identify Reasons for Suspension, Revocation or Nonrenewal.***

The Authorizer shall state in writing and at a public meeting its reasons for the suspension, revocation or nonrenewal, including the factual bases therefor, if the Authorizer revokes or does not renew a charter<sup>22</sup>.

**Section I.02 Funding.**

**(a) Authorizer Budget for Two Percent Administrative Fee.**

The amount of funding allocated to the School shall not be less than ninety-eight percent of the school-generated program costs<sup>23</sup>. The Authorizer may withhold and use the remaining two percent of the school-generated program cost for its administrative support of the School. The Authorizer shall use the two percent amount withheld for the following purposes:

- A portion of the expenditures supports the charter school division staff salaries and benefits.
- A portion of the expenditures provides the resources needed to accomplish the oversight necessary such as supplies, hardware, software and other resources needed to support the work of the APS Charter School Office.
- A fourth portion of the expenditures provides the resources needed from all other departments in APS that spend time working on issues related to charter schools, including but not limited to, Special Education, Technology, Title I, and Finance.

**(b) Federal Program Funding for Charters.**

The School is authorized by law to apply for federal funding for which it may be eligible<sup>24</sup>.

**(c) Annual Audits.**

The School agrees to pay its proportionate share of the district's annual audit expense and to budget an appropriate amount annually for purposes of conducting the School's annual audit.

The School has an associated not-for-profit foundation named EMHS Foundation, and the foundation is designated as a component unit of the School. The foundation shall pay a reasonable, additional amount to include the not-for-profit foundation in the School's audit.

**School Delay in Audit.** If the School's annual audit is delayed and that delay results in the School and/or the district receiving a "late audit report" finding, the APS Charter School Office shall notify the Authorizer and the School with that information once the audit is released publically. The Authorizer may determine that the "late audit report" finding constitutes a violation of this Contract or the Performance Framework indicators and shall provide the School a reasonable opportunity to submit an explanation for the

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<sup>22</sup> Section 22-8B-12(M) NMSA 1978 (2011).

<sup>23</sup> As defined by the Public School Finance Act, Section 22-8-1 NMSA 1978, *et seq.* Also see Section 22-8B-13 NMSA 1978 (2006).

<sup>24</sup> Section 22-8B-13(C) and (D) NMSA 1978.

audit finding in addition to its “management response” for the Authorizer’s review. The APS Board of Education may make an independent determination of whether it considers the School’s “late audit finding” a material violation of this Contract based on the School’s response to the audit finding and take appropriate action including imposition of the sanctions as set forth in NMSA 1978, 22-8-12.1 or as otherwise provided by law.

### Corrective Action Plans

Following the findings from the Annual Financial Audit, each school shall develop a Corrective Action Plan to identify the processes, procedures, and policies that need to be improved to address the audit finding. During the site visit process, the Corrective Action Plan will be reviewed. Failure to develop an adequate Corrective Action Plan, shall result in a Notice of Unsatisfactory Performance.

#### **(d) Third Party Contracts.**

The School may contract<sup>25</sup> with a school district, a university or college, the state, another political subdivision of the state, the federal government or one of its agencies, a tribal government or any other third party for the use of a facility, its operation and maintenance and the provision of any service or activity that the School is required to perform in order to carry out the educational program described in the Material Terms of the Contract as set forth in Article VIII below.

The School shall not contract with a for-profit entity for the management of the School.

#### **(e) Master Plan.**

The School shall prepare its own facility master plan in compliance with the rules of the Public School Capital Outlay Council and the Public Schools Capital Outlay Act<sup>26</sup>.

## **Article II. Performance Frameworks.**

### **Section II.01 Performance Framework Overview.**

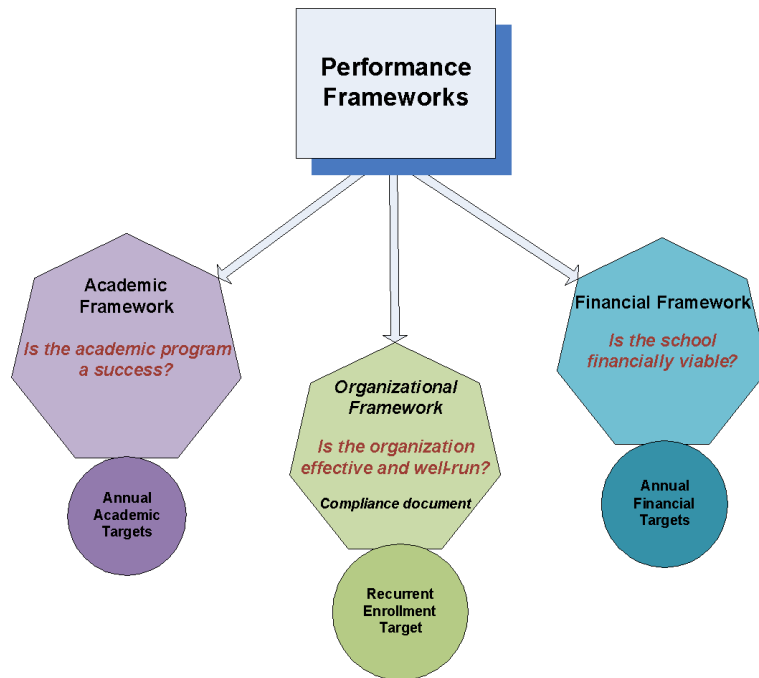
The School’s performance shall be based on three Performance Frameworks: an Academic, an Organizational and Financial Framework, which are discussed in further detail in Articles VI, VII and VIII below. Each Framework will include indicators<sup>27</sup>, measures and metrics. As referenced above, these Performance Frameworks and the annual performance indicators are part of the Essential Documents governing the Parties.

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<sup>25</sup> Section 22-8B-4 (R) NMSA 1978.

<sup>26</sup> Section 22-24-4 NMSA 1978 (2010).

<sup>27</sup> Performance indicators in this Contract are the same as the performance targets referenced in Section 22-8B-9.1(B) NMSA 1978 (2011)



**(a) Optional Supplemental Indicators.**

The School may identify optional supplemental indicator(s) that are specific, rigorous, valid, measurable and reliable. If such indicator(s) are identified, the School shall report each year on supplemental indicator(s) as set forth in the Performance Framework. Progress towards achieving the supplemental indicator(s) shall be described annually.

These annual Performance Frameworks will be used by the Authorizer to monitor and assess the performance of the School. The Performance Frameworks are the basis of the annual school review process, and the data and evidence resulting from the annual review ultimately will inform the Authorizer’s renewal decision.

**Section II.02 Annual Performance Indicators.**

Each Performance Framework is set up to establish annual performance indicators and targets. For the annual performance indicators and targets, the Authorizer first shall approve a Performance Framework template to be used for the upcoming school year, after consultation with its schools. The Parties shall then complete the template with school-specific indicators for each year this Contract is in effect (“negotiated Performance Framework”). The annual negotiated Performance Framework and scorecards are compiled. The annual negotiated Performance Framework negotiated by the parties may include additional specific, rigorous, valid and reliable indicators to augment other evaluations of the School’s performance. The annual negotiated Performance Framework established for each year of this Contract and scorecards resulting from a review of these annual School Specific Indicators shall be included in the Essential Documents, as each document is created for each year of the Contract.

### **Section II.03 Progress on Performance Framework Indicators and Annual Performance indicators.**

The School shall make satisfactory progress towards the negotiated Performance Framework which includes Academic, Financial and Organizational Frameworks, including Special Education compliance, by meeting or exceeding the standard as set forth in the negotiated Performance Framework. If the Authorizer finds that the School is not making satisfactory progress toward any part or all of the annual negotiated Performance Framework or fiscal, overall governance and student performance and legal compliance<sup>28</sup>, the Authorizer may take such action as allowed by this Contract or by law, rule or regulation, including implementing an Improvement Plan, a Corrective Action Plan or charter revocation as set forth in this Contract or by law, rule or regulation.

The renewal of the School's charter shall be based substantially on the data collected regarding how the School is progressing towards the annual School Specific Indicators in the negotiated Performance Frameworks and compliance with the terms of this Contract. The Parties will negotiate how the School will show compliance with its annual Academic Indicators. The information from the annual Financial Framework will come from the annual School audit or any other applicable sources. Each annual Organizational Indicator outlines the evidence that the School may show the Authorizer to show compliance with that Indicator.

During the Annual Site Visit, the Authorizer designee(s) and School shall review annual School Specific Indicators established the previous school year. Subsequently, the Parties shall identify the annual School Specific Indicators for the next year considering and incorporating the general annual performance indicators set by the Authorizer for that year. The Parties may meet to negotiate changes if necessary.

### **Section II.04 Terms Requiring Amendment.**

Any modification of the Performance Frameworks requires an amendment that must be agreed to and executed by both Parties. Each Party must vote on this amendment in an open public meeting prior to execution of the amendment. The School will submit the requested amendment to all entitled to notice in Section 2.02 and request that the Authorizer place the amendment on the agenda of the Authorizer for approval.

## **Article III. Academic Performance Framework**

### **Section III.01 Academic Annual Performance indicators.**

The annual negotiated Performance Framework includes three parts. One part is an Academic Framework. The Academic Framework looks at student performance.

Failure to meet the standard(s) set forth in an Academic Performance Indicator is not a "material violation" as defined in NMSA 1978, §22-8B-12(K)(1). Rather it may be

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<sup>28</sup> Section 22-8B-12 (D) 1978

deemed a failure “to meet or make substantial progress toward achievement of the department’s minimum educational standards or student performance standards” (NMSA 1978, §22-8B-12(K)(2)) and may be assessed accordingly for purposes of nonrenewal or revocation.

### **Section III.02 Disaggregation of Data.**

The Parties shall look at disaggregated data by student subgroup, including gender, race, poverty status, special education or gifted status, and English language learner status, in determining student performance. The Parties may obtain such information through reports prepared by the NMPED. To the extent that an annual performance indicator already reports disaggregated data by student subgroup, the Parties may use this report in their review rather than creating additional reports.

### **Article IV. Financial Performance Framework.**

The annual negotiated Performance Framework includes three parts. One part is a Financial Framework. The Financial Framework looks at the financial viability of the School.

### **Article V. Organizational Framework.**

The annual negotiated Performance Framework includes three parts. One part is an Organizational Framework. The Organizational Framework is a compliance checklist that ensures that the School is responsive to the needs of its students, employees and School community, and also looks at recurrent enrollment. This framework looks at organizational, overarching processes established by the School to ensure efficient operations by the School and compliance with applicable laws.

The following is a general description of the Organizational Framework areas of focus.

### **Section V.01 Organizational Framework, Education Program 1.a. *Is the school implementing the Material Terms of the Charter as defined in this section?***

Organizational Framework Question 1.a. Description. The School shall demonstrate evidence of achieving the Material Terms of the Charter in all respects.

#### **(a) Material Terms of the Charter.**

The Parties agree that the following are the “Material Terms” of the approved Charter:

#### **(i) Operational Structure**

Length of school day	<i>7.5 hours</i>
Length of school year	<i>196 days</i>
Enrollment cap	800
Authorized school grades	6-12

#### **(ii) School Mission**

The School’s mission statement is as follows:

A safe, innovative environment, EMHS engages a diverse community of learners through transformative experiences and creative problem-solving to shape forward-thinking leaders.

The School shall report each year on implementation of its mission as set forth in the mission specific indicator(s) as set forth in the Performance Framework, Academic Framework. Progress toward achieving the School’s Mission shall be described annually.

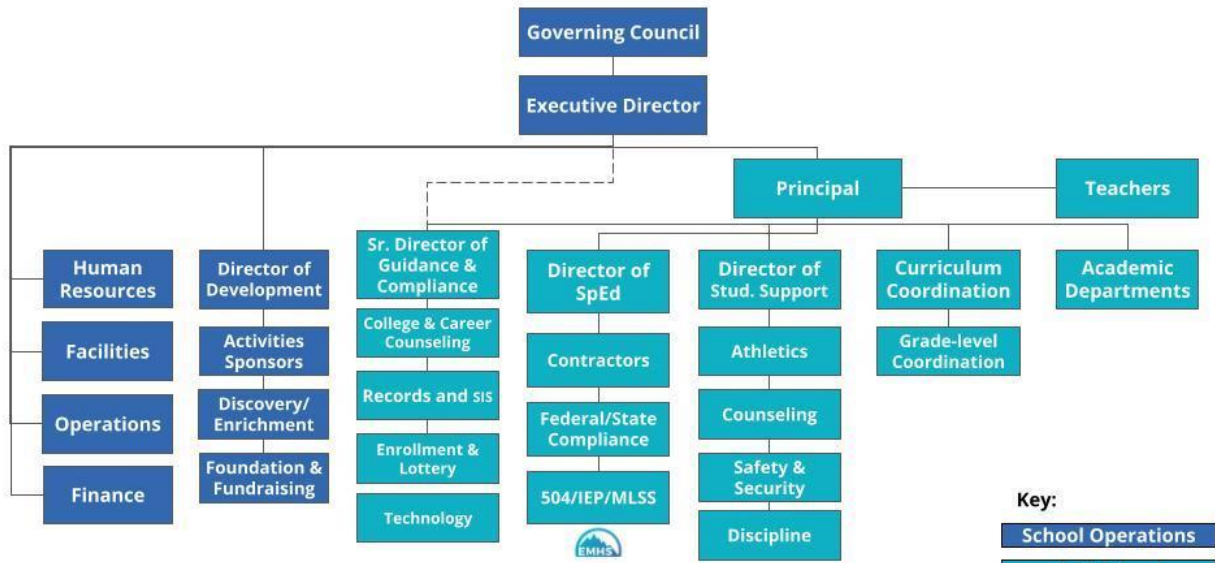
**(iii) Governance Structure.**

The Parties agree that the following are key provisions regarding the School’s governance structure.

The Governing Council consists of 5 members. Full board meetings are monthly, as well as finance committee meetings. Other committees meet as needed. The Governing Council is currently seeking to add 2-3 new members.

The Governing Council oversees policies, passes the annual budget, and oversees the Executive Director. The Executive Director is tasked with implementing the organizational chart:

## EMHS Organizational Chart 2024-2025 By Program



**(iv) Total Student Enrollment.**

As set forth above, the School is authorized to enroll the following:  
800

The School shall provide instruction to students in such grades and subject to approved caps in each year of operation<sup>29</sup>. The School may make modifications as to the number of students in any particular grade, and number of students within a class to accommodate staffing decisions that are consistent with the School's programmatic needs, and attrition patterns. However, the School shall not increase the number of grades or the total number of students proposed to be served in each grade without an amendment to this contract or waiver of grade cap provision<sup>30</sup>.

If the School seeks to amend enrollment or grades served, the School must, among other things, demonstrate that such changes in enrollment/grades served do not adversely compromise the fiscal and educational program of the School.

**(v) Facility.**

The Charter School's primary location is:

25 La Madera Rd, Sandia Park NM 87047

The facility meets all applicable facility requirements of State and Federal law.

The School acknowledges that the new facility must meet all applicable health and safety requirements prior to the School relocating to the new location. The Authorizer approves this location contingent upon the School providing the Authorizer with evidence of compliance with applicable law, including NMSA 22-8B-4.2(C).

**(vi) Facilities Occupancy Requirement.**

The School acknowledges that its facility must meet all educational occupancy standards required by applicable New Mexico Construction Codes<sup>31</sup>. The School's facilities shall be certified for occupancy as a public school prior to commencing operations in the new building, including the approval of the director or designee of the New Mexico Public Schools Facilities Authority ("PSFA")<sup>32</sup>. The School further acknowledges that if it is renewed on or after July 1, 2015, that its facilities must meet the requirements as set forth in Subsection D of Section 22-8B-4.2 NMSA 1978 (2011).

The School shall comply with all state and federal health and safety requirements applicable to public schools, including those health and safety codes relating to educational building occupancy.

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<sup>29</sup> Section 22-8B-6 NMSA 1978 (2011).

<sup>30</sup> Section 22-8B-6(D) NMSA 1978 (2011).

<sup>31</sup> Section 22-8B-4.2(A) NMSA 1978 (2011).

<sup>32</sup> Section 22-8B-4.2 NMSA 1978 (2011).

**(vii) *New Mexico Condition Index.***

The School acknowledges that it may not open or relocate to a facility after opening unless:

- A. the facility receives a condition rating equal to or better than the average condition for all New Mexico public schools as determined by the Public Schools Facility Authority (PSFA) for that year, or
- B. the School demonstrates within 18 (eighteen) months of occupancy or relocation of the School, the way in which the facility will achieve a rating equal to or better than the average New Mexico condition index<sup>33</sup>.

**(viii) *Facilities Funding.***

The School is eligible for state capital outlay dollars to the extent provided for in the Public School Capital Outlay Act<sup>34</sup>; the Public School Capital Improvements Act<sup>35</sup>; the Public School Buildings Act<sup>36</sup>; and any other applicable law.

**(ix) *Lease Purchase Agreement.***

The School acknowledges that it may not enter into a Public School Lease Purchase Agreement<sup>37</sup> without prior approval of the NMPED.

**(x) *Multiple Facilities.***

With the approval of the Authorizer, the School may maintain separate facilities at two or more locations. The School acknowledges that the separate facilities shall be treated together as only one school for purposes of calculating program units pursuant to the Public School Finance Act.

**(xi) *Food Service.***

According to the Charter, the School will provide the following food services: Breakfast and lunch food services shall be provided in a manner that is in compliance with applicable federal and state laws regarding public school food programs.

**(xii) *Transportation.***

The School, in accordance with the Act, shall not provide student to-and-from transportation. The School may contract with qualified transportation providers for special events. The School will ensure that students with disabilities shall comply with their qualified IEP or Section 504 plan related to transportation.

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<sup>33</sup> Section 22-8B-4.2(C) NMSA 1978 (2009).

<sup>34</sup> Section 22-24-1 NMSA 1978, *et seq.*

<sup>35</sup> Section 22-25-1 NMSA 1978, *et seq.*

<sup>36</sup> Section 22-25-1 NMSA 1978, *et seq.*

<sup>37</sup> Section 22-26A-1 NMSA 1978, *et seq.* of the Public School Lease Purchase Act

**Section V.02 Organizational Framework, Education Program 1.b. *Is the school complying with applicable educational requirements?***

Organizational Framework Question 1.b. Description. Unless waived, the School shall demonstrate compliance with applicable laws, rules, and regulations relating to education requirements such as instructional days, graduation and promotion requirements; content standards, state assessments and implementing mandated programming associated with state or federal funding.

**Section V.03 Operational Framework, Students and Employees, 1.c. *Is the School protecting the rights of all students?***

Organizational Framework Question 1.c. Description. The School shall demonstrate compliance with applicable laws, rules, and regulations relating to the rights of students, including policies related to admissions, lottery, recruitment and enrollment; adherence to due process protections; and development and adherence to student discipline policies.

The School shall also comply with the following additional terms and conditions:

**(a) Non-discrimination.**

The School is subject to all federal and state laws and constitutional provisions prohibiting discrimination on the basis of disability, physical or mental handicap, serious medical condition, race, creed, color, sex, gender identity, sexual orientation, spousal affiliation, national origin, religion, ancestry or need for special education services. The School shall be a nonsectarian, nonreligious and non-home-based public school<sup>38</sup>.

Student recruitment and enrollment decisions shall be made in a nondiscriminatory manner and without regard to race, color, creed, national origin, sex, marital status, religion, ancestry, disability, or need for special education services<sup>39</sup>.

**(b) Enrollment and admission processes and procedure.**

The School must establish and post enrollment and admissions process and procedures which comply with applicable law. The School may not charge tuition or have other admissions requirements, except as otherwise provided in the Public School Code<sup>40</sup>.

**(c) Lottery.**

Unless otherwise exempted in the Public School Code, if more students apply than can be admitted based on the School's enrollment cap, admission decisions will be made by a lottery process<sup>41</sup>. The School shall adopt in advance the enrollment

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<sup>38</sup> Section 22-8B-4(K) NMSA 1978.

<sup>39</sup> Section 22-8B-4(J) NMSA 1978.

<sup>40</sup> Section 22-8B-4 (K) NMSA 1978.

<sup>41</sup> Section 22-8B-4.1 NMSA 1978.

procedure for vacancies that occur during the school year that complies with applicable law.

**(d) Continuing Enrollment.**

Students who enroll in the School shall remain enrolled in the School through the highest grade served by the School, unless there is a voluntary withdrawal, mandatory withdrawal pursuant to the New Mexico Public School Finance Act, expulsion, graduation, court-ordered placement, IEP team placement, or other applicable laws.

**(e) Suspension or Expulsion.**

A student who is long-term suspended or expelled from the School shall be deemed to be suspended or expelled from the school district in which the student resides<sup>42</sup>. A student who is suspended from a school district may also be considered suspended or expelled from the School located within the geographic boundary of that district. The School shall develop its own enrollment policies for enrolling students who have been suspended or expelled from another charter school or a school district.

**Section V.04 Organizational Framework, Education Program 1.d. *Is the School protecting the rights of students with special needs?***

Organizational Framework Question 1.d. Description. The School shall demonstrate compliance with applicable laws, rules, and regulations, including the Individuals with Disabilities Education Act, Section 504 of the Rehabilitation Act of 1973, the Americans with Disabilities Act, and laws relevant to gifted children, relating to identification and referral of those suspected of having a disability or intellectual ability and providing services for students with identified needs.

The School shall also comply with the following additional terms and conditions:

**(a) Special Populations.**

The School is responsible for identifying, evaluating, and offering a free appropriate public education to all eligible children who are accepted for enrollment in the School.

**(b) Enrollment of Students with Disabilities.**

To ensure that the needs of students with a disability are met, the following procedures must be followed:

**(i) Documents.**

Following the application deadline and upon completing the lottery if required, the School shall request from relevant school district and/or the student a copy of the most recent Individualized Education Program (IEP) or Section 504 Accommodations Plan, if any.

**(ii) Implementing the IEP.**

Admission of applicants with an IEP or Section 504 Accommodations Plan must be in compliance with state and federal requirements and procedures concerning the education of students with disabilities or intellectual ability. Every student who is

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<sup>42</sup> Section 22-8B-5(G) NMSA 1978 (2006).

admitted to the School with an IEP or Section 504 Accommodations Plan from his/her previous school must receive services as reflected in the IEP or 504 plan unless modified.

**(c) Response to Intervention.**

The School must fully implement the State’s Response to Intervention (Rtl) Framework. The Rtl Framework includes the Student Assistance Team process which supplements regular education functions, conducts evaluations and develops accommodation plans under Section 504, develops individual student academic improvement plans<sup>43</sup>, and receives and analyzes evaluation requests for special education and gifted education services.

**Section V.05 Organizational Framework, Education Program 1.e. *Is the School protecting the rights of English Language Learner (ELL) students?***

Organizational Framework Question 1.e. Description. The School shall demonstrate compliance with applicable laws, rules, and regulations, including Title III of the Elementary and Secondary Education Act, relating to English Language Learner requirements.

**Section V.06 Organizational Framework, Education Program 1.f. *Is the School complying with compulsory attendance laws?***

Organizational Framework Question 1.f. Description. The School shall demonstrate compliance with applicable laws, rules, and regulations relating to compulsory school attendance.

**Section V.07 Organizational Framework, Education Program 1.g. *Is the School complying with the annual recurrent enrollment target?***

The School shall comply with the annual recurrent enrollment target set by the Authorizer.

**Section V.08 Organizational Framework, Financial Management and Oversight 2.a. *Is the School meeting financial reporting and compliance requirements?***

Organizational Framework Question 2.a. Description. The School shall demonstrate complete and timely compliance with applicable laws, rules, and regulations relating to sound financial principles<sup>44</sup> and financial reporting requirements, including compliance with the New Mexico Procurement Code.

The School shall also comply with the following additional terms and conditions:

**(a) Authorizer Notification.**

The School shall notify the authorizer or its designee(s) and appropriate authorities in the following situations:

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<sup>43</sup> Section 22-2C-6 NMSA 1978.

<sup>44</sup> e.g. Public School Finance Act at Section 22-8-1 NMSA 1978, *et seq.*, and 6.20.2.1 NMAC [2006].

- A. All complaints filed against the School by governmental entities alleging violations of state, federal or local violations of law, regulation or rule, (e.g. building-code violations, environmental or health code violations, state-level IDEA special education complaints or due process hearings, Section 504 grievances, Title I of the Elementary and Secondary Education Act complaints);
- B. The conviction of any members of the School’s governing body or staff for a crime punishable as a felony, or misdemeanor involving moral turpitude, or determination of inappropriate contact<sup>45</sup> related to that person’s responsibilities to the School; or for any crime related to the misappropriation of school funds or theft of school property; or
- C. A finding by an internal or independent auditor or investigator of misappropriation of the School’s public funds by any member of the School’s governing body, employee, volunteer, contractor, or other individuals.

Notice shall be provided within a reasonable period of time under the circumstances. The Parties may then take such steps as reasonably necessary, and as consistent with their adopted policies, to address these issues.

**(b) Operational Reporting.**

The School shall provide documentation to support the site visit report during the visit. The Authorizer may require additional reporting as a part of an Improvement Plan or Corrective Action Plan.

**Section V.09 Operational Framework, Financial Management and Oversight 2.b. *Is the School following Generally Accepted Accounting Principles?***

Organizational Framework Question 2.b. Description. The School shall demonstrate compliance with applicable laws, rules, and regulations, relating to financial management and oversight expectations, that shows that the School is following generally accepted accounting principles.

**Section V.10 Organizational Framework, Governance and Reporting 3.a. *Is the School complying with governance requirements?***

Organizational Framework Question 3.a. Description. The School shall demonstrate compliance with applicable laws, rules, and regulations relating to charter school governance through the adoption of and adherence to school policies; the Open Meetings Act; the Inspection of Public Records Act; a conflict of interest policy; an anti-nepotism policy and sound Governing Body operations.

The School shall also comply with the following additional terms and conditions:

**(a) Governing Structure.**

The School’s governing body shall have at least 5 (five) members<sup>46</sup>. No member shall serve on the School’s governing body if he or she was a member of another charter

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<sup>45</sup> 6.60.9 NMAC

<sup>46</sup> Section 22-8B-4(B) NMSA 1978 (2011).

school's governing body that was suspended or failed to receive or maintain their board of finance designation.<sup>47</sup>

**(b) Change in Governance Membership.**

The School will notify the Authorizer within 30 (thirty) days of a member's resignation or designation of a new member and shall sign the appropriate forms to ensure that the governing body continues to qualify as a board of finance<sup>48</sup>. The School shall fill any vacancy on its governing body no later than 45 days from the vacancy or shall seek an extension for such appointment from the Authorizer in writing. The new member must execute the required statements for Board of Finance designation<sup>49</sup> to the NMPED.

**Section V.11 Operational Framework, Governance and Reporting 3.b.  
*Is the School holding management accountable?***

Organizational Framework Question 3.b. Description. The School shall demonstrate timely compliance with applicable laws, rules, and regulations relating to oversight of school management through evaluation of the head of school and the relationship with a partner organization, if any.

The School shall also comply with the following additional terms and conditions:

**(a) School Complaint Process.**

The School must establish a process for resolving community, parental, and other public complaints. The process shall afford the opportunity for the complainants to be heard by the head administrator and/or the School's governing body. The governing body shall be the final determiner of the complaint unless the complainant has additional legal remedies or requirements provided by law.

**(b) Authorizer Notification Regarding Complaints.**

The Authorizer agrees to notify the School of all written complaints about the School that the Authorizer receives. The notification shall be made immediately or as soon as is practicable under the circumstances, but not later than 10 business days after its receipt by the Authorizer. The notice shall include the substance of the complaint, taking into consideration any complainant's request for anonymity. The School shall respond to the complaint according to its prescribed complaint procedures and shall notify the Authorizer through its legal counsel of the School's response to the complaint within the timeframe prescribed in the notice of the complaint.

**Section V.12 Organizational Framework, Students and Employees, 4.a.  
*Is the School meeting teacher and other staff credentialing requirements?***

Organizational Framework Question 4.a. Description. The School shall demonstrate compliance with applicable laws, rules, and regulations relating to state certification

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<sup>47</sup> Section 22-8-38(B)(4) NMSA 1978 (2011).

<sup>48</sup> Section 22-8-38 NMSA 1978 (2011).

<sup>49</sup> 6.80.4.16 NMAC [6/30/2008].

requirements and Title II of the ESEA for Highly Qualified Teachers and Paraprofessionals.

**Section V.13 Organizational Framework, Students and Employees, 4.b. *Is the School respecting employee rights?***

Organizational Framework Question 4.b. Description. The School shall demonstrate compliance with applicable laws, rules, and regulations relating to employment requirements; and develop and adhere to sound policies for employees.

The School shall also comply with the following additional terms and conditions:

**(a) Volunteer Requirements.**

The School acknowledges that all volunteers must comply with state regulations<sup>50</sup>.

**Section V.14 Organizational Framework, Students and Employees, 4.c. *Is the School completing required background checks?***

Organizational Framework Question 4.c. Description. The School shall demonstrate compliance with applicable laws, rules, and regulations relating to background checks of all individuals at the School having unsupervised access to children, including staff and members of the community, where required.

**Section V.15 Organizational Framework, School Environment, 5.a. *Is the School complying with facilities and transportation requirements?***

Organizational Framework Question 5.a. Description. The School shall demonstrate compliance with applicable laws, rules, and regulations relating to the School's facilities and transportation.

The School shall also comply with the following additional terms and conditions:

**(a) Insurance Provider.**

The School shall procure insurance<sup>51</sup> through the New Mexico Public Insurance Authority (NMPSIA). Upon request by the Authorizer, a copy of the certificate of insurance shall be provided.

**(b) Insurance Coverage.**

The School shall purchase insurance protecting the School and its governing body, employees, and volunteers, and the Authorizer, consisting of comprehensive general liability insurance, errors and omissions liability insurance, and auto liability insurance. The School shall also purchase statutory workers' compensation insurance coverage.

**(c) Change of Coverage.**

All of the School's insurance policies purchased by the School shall state that coverage shall not be suspended, voided, cancelled, reduced in coverage or in limits, except after 45 days prior written notice by certified mail, return receipt requested,

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<sup>50</sup> 6.50.18 NMAC [2010] ("Use of Volunteers in Schools and School Districts).

<sup>51</sup> Section 22-8B-9(B)(16) NMSA 1978.

has been given to the Authorizer. The School shall notify the Authorizer within 10 days if for any reason there is a lapse in insurance coverage. The School shall be solely responsible for any deductibles payable under the policies purchased by the School.

### **Section V.16 Operational Framework, School Environment, 5.b. *Is the School complying with health and safety requirements?***

Organizational Framework Question 5.b. Description. The School shall demonstrate compliance with applicable laws, rules, and regulations relating to safety and the provision of health related services, if such services are provided by the School.

### **Section V.17 Organizational Framework, School Environment 5.c. *Is the School handling information appropriately?***

Organizational Framework Question 5.c. Description. The School shall demonstrate compliance with applicable laws, rules, and regulations relating to security of and appropriate access to personally identifiable student information; student records and testing materials.

All records required to be kept pursuant to state and/or federal laws, regulations, or policies or as otherwise established shall be open to inspection and review and made available in a timely manner to the PEC, CSD, NMPED, or other officials who shall be deemed to have legitimate educational interests in such records within the meaning of the federal Family Educational Rights and Privacy Act (FERPA). The School is encouraged to adopt a policy for student directory information in compliance with FERPA.

## **Article VI. Resolution of Dispute Relating to the Contract.**

### **Section VI.01 Dispute Resolution.**

Disputes arising out of the implementation of this Contract shall be subject to the dispute resolution process set forth in this section. However, disputes coming under Article XI of this Contract shall not be subject to the dispute resolution process unless agreed to by the Parties.

### **Section VI.02 Continuation of Contract Performance.**

The School and the Authorizer agree that the existence and details of a dispute notwithstanding, the Parties shall continue without delay their performance of this Contract, except for any performance that may be directly affected by such dispute.

### **Section VI.03 Notice of Dispute.**

Either party shall notify the other party in writing that a dispute exists between them within 15 working days from the date the dispute arises. The notice of dispute shall identify the article and section of this Contract in dispute, reasons alleged for the dispute and copies of any documentation that supports the complaining party's position. If the dispute is not timely presented to the other party, the party receiving late notice may elect not to enter into mediation.

#### **Section VI.04 Initial Administrative Resolution.**

The matter shall be submitted to the head administrator of the School and the Authorizer's designee(s). The head administrator and the Authorizer's designee(s) shall keep the School Governing Body and the Authorizer informed during any attempt at administrative resolution. Either Party may identify an authorized representative to join the School staff or the Authorizer's designee(s) in identifying possible solutions. The process shall be completed within 15 working days of the receipt of the Notice of Dispute or the Parties shall agree in writing to an alternative date certain for the termination of this process. If the matter is not resolved within the time frame established, either Party may consider the Initial Administrative Resolution alternative terminated and give the other party notice of the termination. ("Termination of Initial Administrative Resolution").

If the matter is able to be resolved through an Initial Administrative Resolution, the School staff and Authorizer's designee(s) shall jointly draft a document identifying the agreed upon resolution and notify the respective Parties of the Initial Administrative Resolution. If the Initial Administrative Resolution requires an action of the School and the Authorizer, such Initial Administrative Resolution shall be presented after due notice at the next respective Governing Body meetings of the Parties. If necessary, the Parties shall call a special or emergency meeting to approve any Initial Administrative Resolution. In the case that Party approval is needed under this paragraph, the Initial Administrative Resolution shall take effect only if approval is given by both Parties and shall have no effect otherwise.

#### **Section VI.05 Mediation at the Administrative Level.**

If there is a Termination of the Initial Administrative Resolution process, then either Party may demand formal mediation by mailing or delivering notice in writing to the other Party within 10 working days after the Termination of Initial Administration Resolution.

Mediation conducted by the Parties is subject to the Mediation Procedures Act<sup>52</sup>. If either Party submits a Notice of Demand to Mediate, it shall include in the notice the name of a mediator along with his/her qualifications. If the other Party does not agree to the proposed mediator, then it shall identify an alternate mediator along with his/her qualifications within 5 business days. If the other Party does not agree with the alternate designation, it shall give notice within 5 business days. In the event that the Parties cannot agree on a mediator the two proposed mediators shall meet within 5 business days to appoint a third person to act as mediator. The appointed mediator shall mediate the dispute.

Each Party shall pay one-half of the reasonable fees and expenses of the mediator. All other fees and expenses of each party, including without limitation, the fees and expenses of its counsel, shall be paid by the Party incurring such costs.

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<sup>52</sup> Section 44-7B-1 NMSA 1978, *et seq.*

Mediation shall be completed within 40 working days unless another date certain is set by the Parties and mediator.

If the matter is able to be resolved through Mediation at the Administrative Level, the School through its staff and Authorizer through its designee shall jointly draft a document identifying the Mediation Resolution and notify the Parties of the Mediation Resolution. If the Mediation Resolution requires an action of the School and the Authorizer, such Mediation Resolution shall be presented at the next respective Governing Body meeting of the Parties. If necessary, the Parties shall call a special or emergency meeting to approve any Mediation Resolution. In the case that Party approval is needed under this paragraph, the Mediation Resolution shall take effect only if approval is given by both Parties and shall have no effect otherwise.

If no resolution is reached by the Parties, then the mediator shall render a written proposal with a proposed resolution of the mediator concerning the matters in controversy, together with his/her findings in the event that the Parties do not come to any agreement. The Proposed Resolution of the Mediator shall be presented to each Party. The mediator shall note any provision in the proposed resolution that would require a vote of the respective Parties.

#### **Section VI.06 Governing Body Consideration.**

If a Mediation Resolution has not been reached within 40 business days of the appointment of the mediator, both representatives shall submit the matter to the respective Parties for consideration along with the Proposed Resolution of the Mediator.

The matter shall be placed on the next regular meeting of each Party, unless a special or emergency meeting is warranted. Prior to the board meeting, the Parties may designate a subcommittee to meet with the subcommittee of the other Party for informal discussions. The subcommittee shall be less than the quorum needed for a meeting of the Governing Body. The subcommittees shall meet jointly to consider the proposals of each Party and the Proposed Resolution of the Mediator. If the subcommittees of the Governing Bodies can identify a Joint Proposal that may resolve the dispute, the Joint Proposal of the subcommittees shall be presented at the next meeting of each Party. The Joint Proposal shall be discussed in the public meeting and public comment shall be heard on the Joint Proposal. The Joint Proposal shall then be voted on by the Parties. A special or emergency session may be called of each Party, if needed.

If both Parties adopt the Joint Proposal, the issue shall be deemed resolved according to the terms of the Joint Proposal. If one or both Parties reject(s) the Joint Proposal, then the dispute resolution process shall be deemed to have failed and to have ended.

#### **Section VI.07 Process for Final Resolution of Dispute.**

If settlement of the dispute is not reached through mediation or by agreement of the Parties, either Party may pursue any right or remedy to which it may be entitled by law.

## **Article VII. Renewal.**

### **Section VII.01 Renewal Timeline and Process.**

The School shall submit its renewal application to the Authorizer on or before October 1 of 2029. The Parties may mutually agree to an extension of the submittal of the renewal application; such extension shall be memorialized in writing. The Authorizer shall vote on the renewal application in a public hearing no later than January 1, of the year in which the Contract expires; i.e. January 1, 2030 unless extended by agreement.

### **Section VII.02 Required Information.**

The renewal application shall contain the information required by law<sup>53</sup>.

### **Section VII.03 Authorizer Review and Analysis of Renewal Contract.**

The Authorizer review shall be conducted according to law, regulation and rule.

## **Article VIII. Suspension, Nonrenewal and Revocation.**

### **Section VIII.01 Suspension, Nonrenewal and Revocation.**

The charter may be suspended, revoked, or not renewed by the Authorizer as set forth in law, regulation, rule or policy that complies with law and as set forth in this Contract. The Authorizer is not required to allow corrective action as set forth below if the unsatisfactory review warrants revocation.<sup>54</sup> Until such time as the NMPED promulgates regulations setting forth procedures for revocation, the Parties shall follow the processes set forth in the Uniform Licensing Act<sup>55</sup> and such other Rules of Civil Procedure as agreed to by the Parties in conjunction with the revocation proceedings under the Charter School Act, but only to the extent such processes are consistent with the provisions of the Charter Schools Act.

### **Section VIII.02 Corrective Action Required by Authorizer for Actions Not Warranting Immediate Revocation.**

If, based on a performance review conducted by the Authorizer, the School's organization, academic or financial performance appears unsatisfactory or the Authorizer believes there to be a breach of this Contract not warranting immediate revocation, the Authorizer may initiate the process to implement a corrective action plan. The Authorizer shall notify the School of the unsatisfactory review and provide a reasonable opportunity for the School to remedy the Authorizer's concerns.

#### **(a) Notice of Unsatisfactory Performance (NUP) for actions not warranting immediate revocation.**

The Authorizer shall provide written notice to the School no more than 10 business days after determining that there is unsatisfactory performance related to the School's organization, the School's academic or financial performance appears

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<sup>53</sup> Section 22-8B-12(J) NMSA 1978.

<sup>54</sup> Section 22-8B-12(F) NMSA 1978

<sup>55</sup> Section 61-1-1 et. seq. NMSA 1978 and associated rules and regulations

unsatisfactory, or the Authorizer believes there to be a breach of this Contract not warranting immediate revocation.

**(b) Response for actions not warranting immediate revocation.**

The School shall respond to the NUP within 10 business days, unless an extension is agreed to by the Authorizer. The response shall be in writing and shall include all documents that support the response.

**(c) Corrective Action Plan (CAP) for actions not warranting immediate revocation.**

After receiving the School's response to the NUP, the Authorizer may require the School to present a Corrective Action Plan that addresses the identified deficiencies; provided that if the unsatisfactory review and School's response to the NUP warrants revocation, the Authorizer may begin revocation procedures. The Authorizer shall provide clear timelines for complying with the Authorizer's demand for corrective action.

**(d) CAP Development for actions not warranting immediate revocation.**

If a CAP is required by the Authorizer, the School shall develop the CAP along with a proposed timeline for correcting the alleged deficiencies and submit the CAP to the authorizer for review, comment, and approval. The Authorizer may require the school to review and revise the plan if it is not effective in remedying the deficiency.

**(e) Effect of Successful CAP Response for actions not warranting immediate revocation.**

Successful completion of the CAP shall be acknowledged by the Authorizer in writing and the corrected infractions addressed by the CAP shall not be a basis for future for nonrenewal or revocation actions. However, if the School does not successfully correct the Authorizer's concerns, the Authorizer may take additional steps to insure compliance, which include, but are not limited to seeking assistance from the CSD or another technical assistance provider to implement a plan for correcting the Authorizer's concerns. Failure to comply with the requirements of the CAP may also be considered by the Authorizer when making decisions about renewal, suspension or revocation.

**Article IX. School Closure.**

Any permanent School closure shall be conducted according to applicable law, regulation rule or policy that complies with law.

**Article X. General Provisions.**

**Section X.01 Order of Precedence.**

In the event of any conflict among the documents and practices defining this relationship, it is agreed that

- a) the Contract shall take precedence over policies of either Party and the Charter; and
- b) a provision in the annual Performance Frameworks that conflicts with a provision in the Contract shall take precedence over that provision in the Contract.

This Contract shall not take precedence over any applicable provisions of law, rule or regulation.

## **Section X.02 Amendments.**

### **(a) Terms Requiring Amendment.**

Any modification of the contract requires an amendment that must be agreed to and executed by both parties. The Authorizer is required by law to vote on this amendment in an open public meeting. The party requesting the amendment will submit the requested amendment to all entitled to notice in section 2.02.

### **(b) Authority to Amend.**

No amendment to the Contract shall be valid unless ratified in writing by the Authorizer and the School and executed by its authorized representatives.

### **(c) Process.**

The School must first vote in a public meeting to approve any proposed amendment to the Contract or Essential Documents. The School must then submit the requested amendment to the Authorizer's legal counsel. The Authorizer shall vote on the proposed amendment within 60 days of the request. If the Authorizer denies the amendment, the School may appeal the decision to the Secretary of the NMPED. Until the time that NMPED promulgates appropriate regulations; the procedure for this appeal will be the same as provided in NMSA 22-8B-9(C).

## **Section X.03 Merger.**

The Contract and Essential Documents to this Contract contain all terms, conditions, and understandings of the Parties relating to its subject matter. All prior verbal representations, understandings, and discussions are superseded by this Contract.

## **Section X.04 Non-Assignment.**

Neither Party shall 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.

## **Section X.05 Governing Law and Enforceability.**

This Contract shall be governed and construed according to the Constitution and laws of the State of New Mexico. If any provision of this Contract or any application of this Contract to the School is found to be contrary to law, such provision or application shall have effect only to the extent permitted by law.

## **Section X.06 Severability.**

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

**Section X.07 Changes in Law, Rules, Procedures or Forms.**

In the event of a change in law, regulation, rule, procedure or form affecting the School during the term of this Contract, the Parties shall comply with the change in law, rule, regulation or procedure or utilize the new form, provided, however, that the change does not impair the existing Contract and the Parties' respective rights hereunder. If an amendment to this Contract is required to comply with a change in the law or rule, then the Parties shall execute such an amendment, to the extent that the change does not impair the Parties' respective rights hereunder. No such amendment is required to only amend or correct any references to statute, rule, regulation or document provision set forth in this Contract.

**Section X.08 No Third Party Beneficiary.**

The enforcement of the terms and conditions of this Contract and all rights of action relating to such enforcement shall be strictly reserved to the Authorizer and the School. Nothing contained in this Contract shall give or allow any claim or right of action whatsoever by any other or third person. It is the express intent of the Parties that any person receiving services or benefits hereunder shall be deemed an incidental beneficiary only.

**Section X.09 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 shall constitute a waiver of any other breach.

**Section X.10 Authorized Signatories.**

The Parties hereby declare that their president/chair or their authorized designee shall be or has been duly authorized to sign this Contract.

**Approved:**

**APS Board of Education**

By: Danielle M. Gonzales

Title: President

Signature: 

Date:

**Approved:**

**East Mountain**

By: Dr. Glenn Hushman

Title: Chair

Signature: Glenn Hushman  
Glenn Hushman (Dec 11, 2024 13:31 MST)

Date: