

# **CHARTER SCHOOL CONTRACT**

Between

**Sheridan School District No.48J**

And

**Sheridan Japanese School Foundation, an Oregon  
nonprofit corporation,  
Doing business as the Sheridan Japanese School  
Charter School**

**April 2013 - 2023**

Between: Sheridan School district No.48J  
 And: Sheridan Japanese School Foundation, an Oregon nonprofit corporation,  
 Doing business as the Sheridan Japanese School Charter School

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# CHARTER SCHOOL CONTRACT

THIS CONTRACT, dated this tenth day of March, 2003, is made and entered into by and between the Sheridan School District 48J (“District”) and Sheridan Japanese School Foundation, an Oregon nonprofit corporation (“Corporation”).

## RECITALS.

WHEREAS, the Oregon Legislature has enacted ORS Chapter 338 for certain purposes enumerated in that chapter; and

WHEREAS, on November 1, 2002 an application (attached and incorporated as Exhibit A) was submitted to the District for formation of The Sheridan Japanese School as a public charter school (“Charter School”) to operate within the District; and

WHEREAS, the District has determined that the charter application, as amended herein, complies with the purposes and requirements of ORS Chapter 338; and

WHEREAS, the Board of the District held a public hearing on the provisions of the proposal in accordance with ORS 338.055 and evaluated the criteria set forth in ORS 338.055; and

WHEREAS, the Board of the District has determined that the Corporation has demonstrated sustainable support for the Charter School by teachers, parents, students, and other community members, and that the proposal of the Corporation addresses the criteria required in the proposal process; and

WHEREAS, by a resolution adopted January 23, 2003 (attached and incorporated as Exhibit B) the District Board conditionally granted the application contingent upon negotiation and execution of a contract acceptable to the Corporation and the District;

WHEREAS, by a resolution adopted May 22, 2007 the District Board approved the request by the Charter School for a five year extension; and

WHEREAS, this Contract, including the Exhibits, will constitute the full and complete agreement between the parties regarding the governance and operation of the Charter School; and

WHEREAS, the parties desire that the Corporation be authorized to operate the Charter School and conduct its affairs in accordance with the terms of this Contract and ORS Chapter 338.

NOW, THEREFORE, inconsideration of the foregoing recitals and the mutual understandings, releases, covenants and payments herein described, the parties agree as follows:

**AGREEMENT.**

**1. Grant of Charter.**

The Corporation is granted, in accordance with ORS Chapter 338 and the terms and conditions of this Contract, a charter to operate the Charter School as described herein.

**2. Existing Conditions to Operation of Charter School.**

In order for the Corporation to operate the Charter School the following conditions shall be met:

**2.1** The Corporation shall provide proof to the District that the Corporation has entered into an agreement to purchase, lease, rent or otherwise secure a facility for the Charter School to operate within the District boundaries; and

**2.2** The Corporation shall secure the appropriate and necessary occupancy and safety permits for the facility and deliver proof of these permits to the District; and

**2.3** The Corporation shall secure insurance in accordance with Section 11.1 and deliver proof of that insurance to the District; and

**2.4** The Corporation shall prepare and deliver to the District a financial statement and budget which accounts for the costs associated with the facility and required insurance policies.

**3. Effective Date.**

Subject to the conditions in Sections 2.1 through 2.4, this Contract shall commence on the date executed by the parties and run for a term of 10 years; the expiration date of this term shall be June 30, 2023.

**4. Term and Renewal.**

**4.1 Term.** The term will be ten (10) years, beginning on June 30, 2013, the effective date under Section 3, and expiring June 30, 2023 as defined in ORS 338.065(4).

**4.2 Renewal.**

**4.2.1** The renewal of this agreement shall be in accordance with the process defined in ORS Section 338.065 (5), as amended.

**5. Grade Range, Educational Program, Curriculum, and Student Assessment.**

**5.1 Age and Grade Range.** The Charter School may provide instruction to students in grades four (4) through twelve (12). The age requirements for students in any grade shall be the same as applicable state law, if any. The total number of full-time students enrolled at the Charter School shall not exceed 88, pursuant to ORS 338.155 and ORS 327.013.

### **5.1.1 Foreign Exchange Student**

Foreign exchange student may be admitted as guest student without the provision of state school funding per Charter School Board invitation. Charter School agrees to comply with all ODE regulations. The addition of the Charter School foreign exchange student program cannot limit the number of foreign exchange students permitted for the districts high school foreign exchange program, pursuant to ORS 339.133(6)(b) (B)

## **5.2 Curriculum.**

**5.2.1** The District agrees to waive its curricular requirements, to the extent permitted by state law, but subject to the implementation of the Charter School's instructional programs outlined in its application, and as amended herein. The Charter School shall have the authority and responsibility of designing and implementing its educational program, subject to the conditions of this Contract, in a manner that is consistent with state law.

**5.2.2** The educational program, pupil performance standards and curriculum designed and implemented by the Charter School shall meet or exceed any content standards adopted by the State of Oregon and shall be designed to enable each pupil to achieve such standards. The Charter School agrees to comply with all state requirements concerning academic content areas as defined in ORS 329.045.

**5.2.3** The Charter School agrees to comply with all District credit requirements leading to a high school diploma or modified diploma.

**5.2.4** The Charter School agrees to obtain prior approval from the District before making a fundamental change to the educational program outlined in its application. A fundamental change is defined as changing the core curriculum of the Charter School, changing the academic focus of the Charter School, or adopting a curriculum that does not meet district or state standards. The District may, at its sole discretion, approve or disapprove fundamental changes in the educational program.

**5.2.5** The Charter School Board shall establish a written policy for resolving complaints against the Charter School, including complaints regarding curriculum. Any changes to policy shall be forwarded to the District within 30 days of the change.

## **5.3 Student Assessment.**

**5.3.1 Assessment System.** The assessment system of the Charter School will have two parts: (1) formative assessments to be used by teachers for the purpose of diagnosing student academic progress in each of the content areas; and (2) summative assessments that will be used to assess final student outcomes. Both types of assessments will be used as part of the Charter School's internal accountability plan. In addition, the Charter School will also collect and report data on several non-academic performance areas and measure them against performance objectives. Results of the end-of-term formative assessments, summative assessments, and the non-academic performance measures will be included as part of the annual report referred to in Section

9.5 (reported in a confidential or coded manner so as to not disclose which assessment results correspond to individual students).

### **5.3.2 Formative Assessments.**

(a) The primary formative assessment to be used by the Charter School will be performance tests given to the students on a regular basis. Student scores on these tests will be the classroom teacher's check on how successfully the content of the curriculum has been mastered by the students. Over the course of each year, each student will develop a history of recorded scores on these performance tests. The end-of-term scores (reported in a confidential or coded manner so as to not disclose which assessment results correspond to individual students) will be reported in the annual report as a measure of the extent to which the Charter School has successfully implemented its curriculum. As an objective for these performance tests, the Charter School's goal is to maintain an average 80% score on the tests.

(b) In addition to test scores, the Charter School will use a variety of formative assessments as diagnostic measures of student progress. For example, portfolios will also be a part of the continuing assessment, showing examples of work by each child at every grade. These portfolios will document students' work, display a command of skills and content, and provide insight into the learning process over time. These portfolios will include a variety of student work samples, along with observations and evaluations of student learning and performance by the student and school staff.

(c) Performance-based assessments will also be used. These require students to actively solve problems and apply knowledge in production-driven learning activities. These activities may include science experiments, dramatic and oral presentations, video productions, research, and so forth.

**5.3.3 Summative Assessments.** The summative assessments the Charter School will use are the Oregon statewide assessments (currently grades 5, 8 and 10), which will be administered on the same schedule the District uses. If state law requires additional grades to be included, the Charter School will administer those assessments as well. In addition, if requested by the District, off-year tests will also be given (grades 4, 6, 7, and 9), using the same vendor as the District, provided the District agrees to pay the expenses of such tests. If the Charter School requests the off-year tests, it will assume responsibility for the expense of such tests. If at any time the statewide assessments are no longer required by state law or state regulation, and if the District elects to administer an alternative test or assessment, then the Charter School will administer such alternative test or assessment for its students in the same grades as required District-wide, using the same vendor as the District, provided the District agrees to pay the expenses of such tests. Statewide test scores and the percent of children meeting or exceeding benchmarks will be reported for all students.

**5.3.4 Non-Academic Performance Objectives.** The Charter School will collect data on, and strive to meet, the following non-academic performance indicators:

(a) Attendance. The Charter School will seek to maintain an average attendance rate of 90% or higher.

(b) Parental involvement and satisfaction. The Charter School parents will be surveyed annually for their opinion of the school and how well it is serving their children. Each spring a parent survey and a student survey will be conducted. The results will be compiled, recorded and retained, and they will be presented as part of the overall evaluation information that is provided to the District. Because of the subjective nature of survey instruments, there will be no numerical benchmark, such as an average satisfaction rating, but the Charter School's goal is that both parents and students will report high levels of satisfaction with the Charter School program.

(c) Parent-Teacher Conferences. The Charter School will seek to have 90% of parents attend three parent-teacher conferences each academic year. Teachers will record conference participants; this data will be included in the annual report.

**5.4 Graduation Activities.** Students of the Charter School may be eligible to participate in graduation ceremonies or activities that are sponsored by the District for the District's graduating students if the student meets the District's requirements to participate in the graduation ceremony or activities.

## **5.5 Curricular and Extracurricular Activities.**

**5.5.1** Charter School students are eligible to participate in extracurricular activities at their neighborhood schools (that is, the District school the student would otherwise attend if not attending the Charter School) at no charge to the Charter School. Students of the Charter School who participate in extracurricular activities of the District shall be subject to same rules regarding fees, eligibility, and conduct that other District students must meet. Students of the Charter School who are not residents of the District must comply with applicable OSAA rules and District policy before being eligible to participate in extracurricular activities in the District school.

**5.5.2** The District shall not be required to provide transportation for a Charter School student to and/or from an extracurricular activity (such as daily or regular practices of a sports team or music team) that is taking place at a District school (for example, transportation from the student's home or from the Charter School to the District school where the activity is taking place, and then the return trip). However, in situations where the District provides transportation services for a team or group (for example, bus transportation of a sports team from a District school to a game that is taking place in another district, or transportation of a music group from one District school to another location), the Charter School student will receive the same transportation services as other District students, and thus will be treated like any other member of the sports team, music group, and so forth. To illustrate: if the District is taking a sports team by bus from the District high school to an away game, the Charter School student who is a member of the team would be responsible for transportation from either home or the Charter School to the District high school where the team will board the bus and then back home after the game; but the student will ride the bus with the rest of the team from the high school to the away game and then back to the District high school. The District is not required to alter or add any additional buses or bus routes to accommodate a Charter School student.

**5.5.3** District high school students will be eligible to take a Japanese class at the Charter School, if the Charter School determines there is available space in the class and if the same or similar course is not being offered at the District high school. There shall be no charge to the District for such course or to the student except for any fees or expenses that other students in the course are properly required to pay. Likewise, Charter School students will be eligible to take a course at the District high school if the District determines there is available space in each such class and if the same or similar course is not being offered at the Charter School. There shall be no charge to the Charter School for such course or to the student except for any fees or expenses that other students in the course are properly required to pay. Transportation to and from the location where the course is being taught is the responsibility of the individual student and his/her family

**5.6 Records and Reports.** The Charter School shall comply with all applicable federal and state laws concerning the maintenance, retention and disclosure of student records, including, without limitation, the Oregon Public Records Law (ORS 192.410-192.505). The Charter School shall cooperate with the District by providing any reports or records to the District within 15 days of a request by the District ~~that~~ the parties mutually agree are necessary to meet the District's reporting obligations to the Oregon Department of Education or the U.S. Department of Education. All records established and maintained in accordance with this Contract shall be open to inspection by the District.

**5.7 Nonreligious and Nondiscrimination.** In compliance with ORS 338.035(7), the Charter School shall not be affiliated with a nonpublic sectarian school or a religious institution. This does not preclude the Corporation from leasing or renting a facility from a church or religious organization, subject to the provisions of Section 8.6. In compliance with ORS 338.115(4), the Charter School shall not violate the Establishment Clause of the First Amendment to the United States Constitution or section 5, Article I of the Oregon Constitution, or be religion based. In compliance with ORS 338.115(1)(h) and ORS 659.150, no person of the Charter School shall be subjected to discrimination on the basis of age, disability, national origin, race, marital status, religion or sex. In compliance with ORS 338.125(3), the Charter School shall not limit student admission based on ethnicity, national origin, disability, gender, income level, proficiency in the English language or athletic ability, but the Charter School may limit admission to students within a given age group or grade level.

**5.8 Open Enrollment.**

**5.8.1 Voluntary Enrollment; Who is Eligible.** Student enrollment in the Charter School will be voluntary. All students who meet age requirements applicable to a particular grade level will be eligible for enrollment. Other than the age of a student and the preferences allowed by law (see Section 5.8.6), there will be no criteria for selection of students. A student will be deemed admitted to and enrolled in the Charter School when the student's application has been unconditionally accepted by the Charter School following completion of a phase of the enrollment process described below and after conditions to such acceptance have been satisfied. Enrollment of special education students will be governed as described in Section 5.8.9.

**5.8.2 Phased Enrollments.** The Charter School shall be allowed to conduct a multi-phase enrollment process. At the election of the Charter School each year, there may be a series of open enrollments, provided the process conforms to this Contract. Each year, the Charter School will set deadlines by which such applications must be received for each phase of the enrollment process. These deadlines may change from year to year at the discretion of the Charter School. The Charter School board will approve any forms and policies that may otherwise be needed to govern the enrollment process, and may change those from time to time as they determine what works best.

**5.8.3 Application Process; First Phase of Enrollment Process.** On a date set by the Charter School board, prospective students could apply for admission to the Charter School for the school year that begins the following September. For the first phase of the enrollment process, if the number of applications received by the deadline for the first phase is less than or equal to the maximum number of students allowed, then all the applications will be accepted (including applications from nonresidents, as described in Section 5.8.8).

If the number of applications received is greater than the maximum number of students allowed, then the Charter School will conduct an equitable lottery, in a manner determined by the Charter School and consistent with state law, to admit the maximum allowed number of students and to create a waiting list for subsequent admission should a space become available later. Order of priority on the waiting list will be determined through the lottery process, pursuant to ORS 338.125.

**5.8.4 Other Enrollments.** If the Charter School receives fewer applications than the maximum number of students allowed, then the Charter School may set a second application deadline. The admissions process will be the same as with the first phase, but will apply only with respect to the "available spaces." However, the Charter School may also accept additional applicants in order to create or expand a waiting list.

If, after the second enrollment, there still remain "available spaces" or the Charter School desires to create or expand a waiting list, the Charter School may set further application deadlines before the school year begins. The admissions process will be the same as with the second phase, again applying only with respect to the "available spaces" (or to create or expand a waiting list) pursuant to ORS 338.125

**5.8.5 Use of Waiting List; Filling Spaces if No Waiting List.** If, at any time, a student who has been enrolled declines to attend the Charter School, or if an attending student withdraws or is permanently expelled, the Charter School may admit the next student on its waiting list. The parties acknowledge that after the final phase of enrollment has been completed and during the school year, a situation could arise where an opening is created [for example, if a student leaves the School], but at that time there might not be a waiting list, or all students on the waiting list might have already enrolled. In that situation, the Charter School may enroll the first student who applies for that available space, so that there is no delay or unnecessary expense incurred in an additional marketing effort and open enrollment process.

**5.8.6 Preferences.** As provided in ORS 338.125 the Charter School will give admissions preference to (1) students who were enrolled in the Charter School in the prior year, and (2) applicants who have siblings who are presently enrolled in the Charter School and who were enrolled in the Charter School in the prior year, (3) waitlist carryover re-applicants, and (4) applicants who are residents of the Sheridan School District.

**5.8.7 Special Education Students.**

(a) The Charter School application form will ask if the applicant has an Individualized Education Program ("IEP") under IDEA. For any prospective student with an IEP, the Charter School will notify the IEP team leader as soon as possible, and a representative from the Charter School will attend the IEP team meeting at which the team will determine whether or not the Charter School is the appropriate placement. If the IEP team cannot meet before the Charter School holds its enrollment lottery under this Section 5.8, then the IEP student(s) will be included in the lottery as if the placement had been approved. Any student with an IEP whose application is accepted will receive a conditional acceptance; the acceptance and enrollment will become final when the IEP team has determined that the Charter School is the appropriate placement.

(b) The Charter School will admit students without regard to their status as special education students, if the student's IEP team determines that the school is the appropriate placement. The parties intend by this process to ensure that the Charter School does not unintentionally discriminate against enrolling special education students or otherwise violate applicable laws.

**5.9 Minimum Enrollment.** The minimum enrollment for each school year shall be 25 full-time students. The District may terminate this Contract if student enrollment in the Charter School falls under 25 students during any school year, as provided in ORS Chapter 338. For purposes of this Contract full-time student means a student who is receiving more than one-half of his or her instructional program at the Charter School.

**5.10 Dual Enrollment.** The Charter School shall not permit a Charter School student to attend on a full-time basis both the Charter School and another public school, another public charter school, or a non-public school without prior approval of the District. If the Corporation becomes aware that any student at the Charter School is enrolled and attending another public school, another public charter school, or a non-public school on such a full-time basis, the Charter School will notify the District and will request that the parent of such student take appropriate action to reduce the student's full-time enrollment and attendance to one school.

**5.11 Student Attendance, Conduct and Discipline.** The Charter School shall maintain accurate enrollment data and daily records of student attendance and shall provide these data to the District on a monthly basis by no later than the 10th of each month, for the preceding month. The Charter School shall implement a system of uniform student discipline consistent with the application, specifically Section 14 and Exhibit C, and shall notify its students of the students' rights and responsibilities as provided in the application. The Charter School board may amend its policies from time to time as provided in Section 11.4. The Charter School shall notify the District immediately upon a student being expelled from the Charter School. The Charter School

and the District shall extend full faith and credit to the suspension and expulsion of a student of the other, unless both parties agree in writing to a variance from this requirement.

**5.12 Education of Students with Disabilities.** The Charter School shall comply with all District policies and regulations and the requirements of federal and state law concerning the education of children under the Individual with Disabilities Education Act (“IDEA”). Compliance by the Charter School includes, but is not limited to, the following:

**5.12.1** The Charter School shall comply with all District policies regarding discipline of special education students.

**5.12.2** The Individual Education Plan/Program (IEP) team is determined by federal law. The parties expect that the Charter School will have at least one classroom teacher of each enrolled special education student serve on the IEP team. The resident school district of the special education student will designate the student's case manager.

**5.12.3** The student’s IEP team will determine the appropriate educational program and placement for the student. The Charter School shall abide by the IEP team’s decision on program and placement.

**5.12.4** For those services that the IEP team, the District and the Charter School mutually agree would be best delivered by District employees, the Charter School will make every reasonable effort to work closely with District staff to assist in the effective delivery of the services. This might include either inclusion or pull-out service delivery. The Charter School will see to it that its staff has received special training when necessary for the delivery of special education services that will be conducted by its staff, as agreed to by the District, the IEP team, and the Charter School.

**5.12.5** The funds from the Oregon Department of Education representing the Average Daily Membership weighted (ADMw) for special education for Charter School special education students shall be retained by the District, if the student is a resident of the District. To illustrate, if the District's General Purpose Grant were \$5,000 per ADMw, the District would receive 2.0 times that amount, or \$10,000, for each special education student under the current formula; the amount payable to the Charter School for each special education student in grades 8 or below [using the 80% formula under Section 7.2.2(b)] would be \$4,000; the District would retain the remainder of \$6,000.

**5.12.6** The District has the discretion to determine which specialized programs will be offered on site at the Charter School site.

**5.12.7** The student’s IEP team may recommend any appropriate placement for the student based on the student’s needs, whether in or out of the Charter School. The Charter School shall not change the student’s placement or IEP without IEP team action.

**5.12.8** Special education transportation will only be provided to a Charter School special education student if it is a related service on the Charter School student's IEP.

**5.12.9** The Charter School shall provide substitutes for the Charter School staff who are required to attend IEP meetings or other meetings related to a Charter School special education student during the instructional day at the Charter School expense.

**5.12.10** If, after a student is enrolled and attending the Charter School, the staff and employees of the Charter School suspect a student may be eligible for special education and related services under IDEA, the Charter School shall comply with the District practices and policies for referral of the student for evaluation. Specifically, the Charter School shall notify the student's resident district and shall cooperate with the District's Student Assistant Program if a Charter School student may need evaluation to determine eligibility for special education. Any student referred for evaluation shall remain enrolled at the Charter School until an IEP team determines that the Charter School is not the appropriate placement for that student.

**5.12.11** The Charter School and the District will negotiate a contract under which the District will compensate the Charter School for the special education services, accommodations, and modifications that the Charter School will be providing, based upon each student's IEP, in accordance with federal and state special education laws.

**5.13 Student Welfare and Safety.**

**5.13.1** The Charter School shall comply with all applicable state and federal laws concerning student welfare, safety and health, including, without limitation, the reporting of child abuse, accident prevention and disaster response, and any local, state or federal regulations governing the operation of school facilities.

**5.13.2** The Charter School is responsible for the reporting of child abuse and neglect in accordance with state law.

**5.13.3** The Charter School shall immediately inform the District Liaison of any incident regarding child abuse and/or neglect.

**5.13.4** The Charter School shall comply with state and federal law relating to drug administration to students.

**5.13.5** The Charter School shall comply with OAR 548-020-0041, the Teacher Standards and Practices Commission requirements that the chief administrator report certain acts of gross neglect of duty by licensed staff.

**5.14 School Year; School Day; Hours of Operation.** The Charter School may be flexible in its calendar and in the scheduling of its daily activities, provided it conforms to any requirements of state law. However, the Charter School anticipates that its annual calendar will generally match the calendar of the District, and the Charter School may maintain a typical nine-month school year for its regular academic program. The number of instructional hours during each school year will comply with requirements of state law.

**5.15 Alternative Education Model.** Subject to applicable state law, federal law, and the terms of this Contract, the Charter School shall be allowed to promote and implement learning situations that are flexible with regard to environment, time, structure and pedagogy.

**6. Evaluation of Student Performance and Procedures for Corrective Action.**

**6.1** The Charter School shall pursue and make progress toward achievement of the goals, objectives and student performance standards consistent with those set forth in Exhibit A and this Contract, provided that such goals, objectives and student performance standards shall at all times remain in compliance with Oregon law. If the Charter School fails to make such progress, then the District and the Charter School shall develop a mutually agreed upon written Plan of Assistance.

**6.2.** The plan of assistance shall describe the actions, roles and responsibilities of both the District and the Charter School to ensure Charter School students are receiving an educational program that will allow the students to make such reasonable progress. If the District and the Charter School cannot mutually agree upon a written plan of assistance, then the parties will seek to use mediation under Section 12.11 to reach agreement. If progress is not made as mandated by the plan of assistance, then the District, in its discretion, may take any of the following actions:

**6.2.1** Rewrite the Plan of Assistance to monitor students' academic progress in the following year;

**6.2.2** Send notification to the parents of students attending and enrolled in the Charter School that the Charter School did not meet the academic level of achievement as outlined in this Contract.

**6.3** If the Charter School fails to follow any of the actions stated in any of the Plans of Assistance as stated above, the District shall issue a written notice to the Charter School that it must comply with the terms of the written Plan of Assistance immediately. If, after 15 business days, the Charter School is not in compliance with the written Plan of Assistance, the District may begin the process of terminating the Charter School's operation as a public charter school under Section 9.6 of this Contract.

## **7. Financial Matters; Funding; Annual Budgets; Annual Audit.**

**7.1 No Tuition; Fees.** The Charter School will not charge tuition to students, except as may be allowed under ORS 339.155 or other applicable law. As noted in ORS 338.115(1)(g), the following laws shall apply to the Charter School: ORS 339.141, ORS 339.147, and ORS 339.155. In accordance with state law, the Charter School may charge reasonable fees for the processing of applications, instructional materials, after-school programs, and student activities, those items described in ORS 339.155 and other items where not prohibited by applicable law. The Charter School shall waive all fees for indigent students in accordance with applicable federal and state law.

### **7.2 Annual Funding.**

**7.2.1 Keeping Count.** The Charter School shall identify and count, and keep accurate records of, its number of enrolled students and their days present and absent; attendance; special education students; students eligible for and enrolled in an English as a Second Language program under ORS 336.079; and other data required in order to calculate average daily membership, weighted average daily membership (ADMw), and related terms necessary to determine funding under state law, particularly ORS 338.155 and 327.013. (except foreign exchange students, see section 5.1.1 who must be in the student data system coded under ODE guidelines)

#### **7.2.2 Calculating ADMw and Funding.**

(a) For each school year, the District shall provide funding to the Charter School in accordance with ORS 338.155(2), as that formula may be changed from time to time, subject to any modifications made by the parties in this Contract. Until the law is changed or the parties otherwise agree by amendment of this Contract, the funding shall be the sum of the following subparagraphs (b) and (c):

(b) Funding related to elementary and middle school students shall be the product of (i) the District's "State School Fund Grant" and Charter School Rate and, [as defined in Section 7.2.3(e)]; multiplied by (ii) the Charter School ADMw for elementary and middle school students; multiplied by (iii) 85%

(c) Funding related to high school students shall be the product of (i) the District's "State School Fund Grant" and Charter School Rate, [as defined in Section 7.2.3(e)]; multiplied by (ii) the Charter School ADMw for high school students; multiplied by (iii) 95%.

#### **7.2.3 Definitions and Calculations.**

(a) The Charter School shall determine its ADMw for the period to be covered by reports given to the District [using projected ADMw for the first report specified below].

(b) The calculation of the additional amounts under ORS

327.013(7)(a) shall include, but not be limited to, an additional 0.5 for each student in average daily membership eligible for and enrolled in an English as a Second Language program under ORS 336.079.

(c) In addition, to take into account the "poverty factor" under ORS 327.013(7)(a)(E)(i), the parties will use the same percentage used in calculating the District's adjusted poverty factor, as that percentage may be changed from time to time. To illustrate, suppose the poverty factor used for the District is 16% of ADM; assume the ADM for the Charter School is 100 students; then 100 would be multiplied by 16%; and this would be multiplied by 0.25; thus, a total of 4.0 would be added to the Charter School's ADM in calculating ADMw.

(d) This Contract will be changed to conform to any changes in state law relating to the calculation of ADMw or otherwise that affects funding of charter schools.

(e) In Section 7.2.2, the term "State School Fund Grant" (using terms generally as defined in ORS 327.013 "State School Fund Grant" distribution computations for school districts) and as per Charter School rate (ORS 338.155).

(f) In addition, to the extent the District experiences any reduction or increase in its state funding "State School Fund Grant," and or Charter School rate proportionate reductions or increases will be made to the Charter School by adjustment or setoff in subsequent months.

**7.2.4 Reports to District.** The Charter School shall give written reports to the District, containing the data set forth in Sections 7.2.1 to 7.2.3, on or before the 30th day of each month of each school year. The reports submitted before school begins each fall (that is, reports for July and August), and thus the payments due from the District based on those reports, will be based on the Charter School projected ADMw. Each year, before the District is required to submit similar reports of projected District ADMw to the state department of education, the District will obtain from the Charter School its best estimate of ADMw for the following school year; and initial payments by the District to the Charter School during that school year will be based on this early estimate, with adjustments to be made thereafter as provided in Section 7.2.5.

**7.2.5 Dates of Payments by District to Charter School.**

(a) Pursuant to ORS 338.155(8), the District shall send payment to the Charter School in the percentages set out below within 10 days after receiving payments from the State School Fund pursuant to ORS 327.095, which payments from the state are due on the following dates.

- July 15 - 8.33%
- August 15 - 8.33%
- September 15 - 8.33%
- October 15 - 8.33%
- November 15 - 8.33%
- December 15 - 8.33%
- January 15 - 8.33%
- February 15 - 8.33%
- March 15 - 8.33%
- April 15 - 8.33%
- May 15 - 8.33%
- June 15 – balance

(b) There will be an adjustment with the final [June] payment, as provided in state law, to reflect changes in calculation of ADMw, changes, if any, in the general purpose grant amount, and changes, if any, with respect to funding during prior school years.

(c) The parties recognize that there may be fluctuations from month to month in the total sum on which these percentage amounts are calculated due to fluctuations in the Charter School ADMw during a school year, as well as due to possible changes in the state’s determination of the general purpose grant, and thus the amount payable by the District to the Charter School may change from month to month. These fluctuations will be dealt with as follows:

(i) if the Charter School’s actual ADMw is less than the projected ADMw given to the District before the school year began under Section 7.2.4, then the monthly amount under paragraph (a) will be reduced accordingly, consistent with the formulas set forth in Sections 7.2.2 and 7.2.3; the purpose of this is to make sure that there are not in effect “overpayments” for several months during the year, which would result in a greatly reduced final payment to the Charter School;

(ii) if the Charter School’s actual ADMw is more than the projected ADMw given to the District before the school year began, the monthly payments will not be increased to reflect such a change; rather, the monthly payments will continue to be based on the projected ADMw, until the District receives from the state its “balance” payment in June of the school year [or whichever month may be set by state law]; and at that time a recalculation of the total sum due to the Charter School will be made so that the balance due will then be paid, consistent with the formulas set forth in Sections 7.2.2 and 7.2.3; the purpose of this is to ensure that the District is not required to make larger monthly payments than it had planned based on the Charter School’s projected ADMw, when the District is not receiving state school funds on

account of the Charter School's higher-than-projected ADMw (until the District receives the "balance" payment from the state).

Thus, there will be an adjustment with the final payment, as provided in state law, to reflect changes in calculation of ADMw and changes, if any, in the general purpose grant amount, as well as changes with respect to funding during prior school years that may be based on final calculations of ADMw and the general purpose grant amount that are not finalized until after the end of a school year.

**7.2.6 End of State Funding.** The financial commitment on the part of the District contained in this Contract is subject to annual appropriation by the State of Oregon, and the District has no obligation to fund Charter School operations if State funding does not occur.

**7.3 Annual Budgets.** . On or before April 1 of each year, the Charter School shall submit to the District its proposed budget, so that the District can review it as part of its consideration of the Charter School's financial stability. The Charter School shall be responsible for all costs associated with school operations, including the costs of subcontracting for goods and services, except as expressly provided in this Contract.

**7.4 Fiscal Agent.** The Charter School shall act as its own fiscal agent.

**7.5 Fiscal Year.** The fiscal year of the Charter School shall begin on July 1 of each year and end on June 30 of the subsequent year.

**7.6 Financial Records, Audits and Accounting Reports.** The Charter School shall maintain and retain appropriate financial records in accordance with all applicable federal and state laws. In accordance with ORS 338.095(2), the Charter School shall have an annual audit of the accounts of the Charter School prepared in accordance with the Municipal Audit Law, ORS 297.405 to 297.555 and 297.990. The annual audit shall be forwarded to the District by December 15<sup>th</sup>, so it can be uploaded to the Oregon State Board of Education, and the Oregon Department of Education.

**7.7 Financial Management.** The Charter School shall operate in accordance with Generally Accepted Accounting Practices (GAAP) or other generally accepted standards of fiscal management, provided that the Charter School's accounting method shall comply in all instances with applicable governmental accounting requirements. The financial management system implemented by the Charter School shall be compatible with the budget and accounting system of the District, in accordance with ORS 338.095 (1)(a)(b). Subject to this Contract, the Charter School through its Board of Directors shall be fiscally responsible for its own operations within the limitations of any funding provided by the District and other revenues derived by Charter School.

**7.8 Other Sources of Funds for Charter School; Fund Raising.** In addition to the funding under Section 7.2, the Charter School may accept gifts, donations, grants and loans, including those described in ORS 338.155(9) and ORS 338.185. The District shall also transfer to the Charter School its proportionate share of any federal, state, or

other government grants (or other funding) that are made to the District, where the amount of the grant (or other funding) is based on the District's ADMw, ADMr, enrollment, or other count or calculation of number of students (examples would include lottery funds and school improvement fund grants). The Charter School shall comply with all state and federal laws regarding reporting of charitable contributions. The Charter School shall record all gifts, donations, loans, and grants in the financial records required in Section 7.6. As provided in ORS 338.125(4), the Charter School may conduct fund-raising activities, but shall not require a student to participate in fund-raising activities as a condition of admission to the Charter School.

## **8. Building and Facilities.**

**8.1 Facility Safety.** The Corporation must satisfy the requirements of Section 2 in order to be allowed to operate as a public charter school. As long as the Corporation satisfies the requirements of Section 2, the Corporation shall take such actions as are necessary to ensure that the lease, occupancy permits, and health and safety approvals remain valid and in full force throughout the term of this Contract.

**8.2 Safe and Secure Facility.** The District has a concern that any facility must reasonably provide a safe and secure environment for the students. Therefore, once the Charter School has entered into an agreement for a facility, the District Superintendent [or the Superintendent's designee] will review the facility to be reasonably sure the District's concerns in this regard are satisfied.

**8.3 Responsibilities of Charter School.** The Charter School will be responsible for obtaining all necessary permits and approvals relating to use of the facility, including land use approvals, building and occupancy permits, and any health and safety approvals. The Charter School will have full responsibility for all costs related to its facility and any playground equipment, other equipment, furniture, and fixtures (except those furnishings and equipment loaned by the District); such responsibility will include purchase costs, rental, utilities, maintenance, repair, cleaning, and replacement.

**8.4 Change of Facility.** The Corporation may change its physical location or obtain additional facilities, provided that the Corporation fulfills the obligations and provides the information set forth in this Section 8 with respect to such new or additional facilities and provided further that the Corporation notifies the District of the proposed change in location or addition of facilities not less than 30 days prior to taking any final action in connection therewith.

## **9. Governance and Operation.**

### **9.1 Corporate Status; Governing Board.**

**9.1.1** The Corporation will remain an Oregon nonprofit corporation throughout the term of this Contract (including extensions and renewals). The Corporation will operate the charter school, and the governing board of the Charter School will be the board of directors of the Corporation ("Board"). The Corporation shall govern and operate the Charter School as set forth in this Contract and in accordance with the Corporation's bylaws.

**9.1.2** The Corporation has furnished the District a copy of its Articles of Incorporation and Bylaws. If the Corporation makes any changes to its Articles of Incorporation or Bylaws, within thirty (30) days thereafter it will give copies of the changes to the District. If the District believes that any such changes violate either this Contract or state or federal law, it will so notify the Corporation. If the Corporation agrees, it will make necessary changes to the Articles or Bylaws to conform to this Contract or the applicable law; if the parties do not agree, the matter will be resolved under dispute provisions of this Contract.

**9.1.3** The size of the Board may vary from time to time, in accordance with the Bylaws and applicable law. The Board may elect Board members who are parents of Charter School students or members of the community providing support to the Charter School.

**9.1.4** The Corporation's Bylaws will include a provision specifying that upon termination of this Contract or dissolution of the Charter School, the assets of the Charter School that were purchased with public funds shall be given to the State Board of Education, as provided in ORS 338.105(6). The District will loan currently-used materials and inventory for utilization at the Charter School. Upon termination of the Charter, loaned items will be returned to the District unless previously sold as surplus items by the District.

**9.2 Public Meetings and Public Records.** The Corporation and its Board of Directors, when acting as the Governing Body of the Charter School, will be subject to the provisions of the Oregon Public Meetings Law, ORS 192.610 to 192.690, and Oregon Public Records Law, ORS 192.410 to 192.505.

**9.3 Operational Powers and Responsibilities.**

**9.3.1** Subject to applicable federal and state laws and any restrictions in this Contract, the Corporation shall have the authority to exercise independently all powers granted to nonprofit corporations and charter schools under Oregon law. The Board will have overall responsibility for the Charter School, including adopting goals and policies, ensuring compliance with applicable laws and this Contract, overseeing financial management, assessing performance, and hiring and overseeing the school's employees. In accordance with the goals, policies and directives adopted by the Board, the Charter School director will direct and oversee day-to-day operations, including financial, operational, personnel, and disciplinary functions. The Charter School may contract with the District or an independent party for evaluations.

**9.3.2** By accepting the curriculum and program design of the Charter School as set forth in this Contract (including exhibits), the District will agree to waive any District program and curricular requirements that are not incorporated into such curriculum design or otherwise set forth in this Contract. The Charter School will be allowed to promote and implement new, innovative, and flexible programs, curricula, learning environments, and learning methods, within the requirements of state law.

**9.3.3** This Contract sets forth the overall goals, standards and general operational policies of the Charter School, and it is not a complete statement of each detail of the Charter School's operation. To the extent that the Charter School desires to implement specific programs, policies, procedures or other specific terms of operation that supplement or otherwise differ from those in this Contract, the Charter School will be permitted to implement such programs, policies, procedures and specific terms of operation, provided that they are consistent with the goals, standards and general operational policies set forth in this Contract and ORS chapter 338.

**9.4 Third Party Contracts; Contracts with District.** The Corporation shall not enter into any contract for school management services, to be performed in substantial part by an entity not a party to this Contract.

**9.4.1** The parties may elect to enter into additional agreements between them including, without limitation, agreements whereby the District will provide certain services to the Charter School. The District will continue to provide a hot lunch program to the Charter School in the same manner as it provides a hot lunch program to other District schools, except the Charter School shall transport the meals themselves, with actual District costs to be reimbursed by the Charter School (or such costs to be deducted from payments due under Section 7.2).

**9.4.2** No third party Beneficiary. This contract shall not create any rights in any third parties who have not entered into this contract, nor shall any third party be entitled to enforce any rights or obligations that may be possessed by either party to this contract.

**9.5 Annual Report and Review.**

**9.5.1** The Charter School will submit an annual report to the District and the State Board of Education in accordance with ORS 338.095 on the performance of the Charter School and its students. This report will include sufficient information necessary to make a determination of compliance with the requirements of ORS Chapter 338.095, including the following:

- (a) Summary data on the progress toward meeting its academic goals and objectives, such as the assessment information described in Section 5.3.
- (b) Attendance and student discipline information.
- (c) Parental involvement and surveys results relating to student and parental satisfaction.

**9.5.2** The specific contents of the report may change from time to time as the parties better understand which types of data and measurements are most useful. The District may do an on-site review annually (338.095(2)).

**9.6 Termination.**

Termination of this agreement and dissolution of the Charter School shall be governed by ORS 338.105.

**9.6.1** To the extent allowed by ORS Chapter 338, the District may revoke the charter and terminate this Contract on any of the following grounds:

- (a) Violation of or failure to meet and sustain any terms of this Contract or ORS Chapter 338.
- (b) Failure to meet the requirements for student performance stated in this Contract.
- (c) Failure to correct any violation of a federal or state law that is described in ORS 338.115.
- (d) Failure to maintain insurance as required by this Contract.
- (e) Failure to maintain financial stability.

**9.6.2** The District shall provide sixty (60) days prior written notice of its intent to terminate this Contract. The Corporation may appeal the District's decision to terminate the charter agreement directly to the District's Board. The Corporation may respond to the allegations in the District's written notification by offering documentary evidence and oral argument. The District bears the burden of proving the allegations in the written notification by a preponderance of the evidence. The Corporation has the burden of proof for any affirmative defense to the allegations by a preponderance of the evidence. The District Board's decision may only be appealed to the state Board of Education according to ORS 338.105.

**9.6.3** The Corporation shall only terminate operation of the Charter School at the end of a semester. The Corporation shall notify the District in writing at least 180 days prior to the proposed effective date of termination, dissolution or closure of the Charter School.

**9.7 Dissolution.** In the event the Corporation should cease operations of the Charter School for whatever reason, including but not limited to, the non-renewal or revocation of its charter, or dissolution of the Corporation, it is agreed that the Corporation's legal authority to operate as a private school shall not be abridged. However the assets of the Corporation that were purchased with public funds shall be distributed in the same manner as described in Section 9.10.

**9.8 Assets Currently Owned by Corporation; Property Inventory Control.** The Corporation certifies that prior to execution of this Contract it does not own any assets that were purchased with public funds. The Corporation shall maintain records of purchase orders for all assets that cost \$500.00 or more. These records shall indicate whether the assets were purchased with public funds (as defined in Section 9.9) or non-public funds. No later than October 15th of each year that the Charter School is in operation, the Corporation shall provide the District with a copy of this purchase order record for the preceding fiscal year.

**9.9. Definition of Public Funds.** For purposes of this Contract, public funds shall include any and all funds distributed to the Corporation:

**9.9.1** By the District, pursuant to ORS 338.155 and ORS 338.165, and

**9.9.2** By the Oregon Department of Education, including any and all federal grant funds that the Corporation may apply for and be awarded by the Oregon Department of Education, and

**9.9.3** By any agency, division or branch of the United States Government, or any entity created by an agency, division or branch of the United States Government.

**9.10 Distribution of Assets upon Termination.**

**9.10.1** This Section 9.10 will apply if this Contract is terminated, at expiration of the term (including all extensions and renewals), upon dissolution of the Corporation, or for any other reason that the Charter School ceases operations as a public charter school under this Contract.

**9.10.2** If any of the foregoing events in Section 9.10.1 occurs, all assets purchased with public funds and still owned by the Corporation shall be given to the state Board of Education in accordance with ORS 338.105(6). The Corporation will be entitled to retain ownership of (a) any asset that is listed on Exhibit C and is identified as being purchased with non-public funds, and (b) any other asset that the Corporation has acquired through the expenditure of non-public funds.

**9.10.3** The parties acknowledge that assets costing less than \$500 may have little value at the time this Section 9.10 applies. Therefore, the Corporation will not be held responsible by the District for identifying assets costing less than \$500 and purchased with public funds and giving them to the state Board of Education, but the District does not waive any rights that the state Board of Education may have to enforce ORS 338.105(6). If the Corporation does not maintain records of purchase orders for all assets, or cannot provide records showing that an asset was purchased with non-public funds, then it shall be assumed that the asset was purchased with public funds, and upon termination the asset in question shall be given to the State Board of Education pursuant to ORS 338.105(6).

**10. Employment Matters.**

**10.1 Staff Qualifications.** At least one-half 50% of the total full-time equivalent (FTE)" teaching and administrative staff at the-Charter School shall be licensed in accordance with ORS 338.135(7) and pursuant to ORS 342, 342.121, 342.125(5), 342.135, 342.136, 342.138, 342.140 and 3342.143. All teachers and administrators must be licensed or registered through TSPC. For any individual hired as a teacher, the Charter School shall provide the District with evidence of certification, if any, or other qualification within 60 days after the individual's initial date of hire.

All individuals hired by the Charter School must comply with Highly Qualified NCLB and ESEA mandates at the time of hire.

**10.2 Corporation is Employer.** All provisions of this Section 10 are subject to state and federal laws and applicable collective bargaining agreements, if any. The District shall not be the employer of any employees of the Corporation or the Charter School. The Corporation may choose to enter into contracts to provide services to the School or to fulfill responsibilities of the Charter School under this Agreement, in which case the people actually providing the services or fulfilling the responsibilities will be employees of such contractor; otherwise, the Corporation will be the employer of the staff at Charter School. The Corporation will control the selection of employees.

**10.3 Staff Hiring, Compensation, Benefits, PERS.**

**10.3.1** The Corporation governing board, in its sole discretion, has complete authority to hire, evaluate, promote, discipline, supervise, and terminate Charter School employees, and to set all terms and conditions of employment, including all decisions regarding compensation and benefits. The Charter School will be responsible for providing substitutes for all Charter School teachers, except as otherwise provided in this Contract (such as Section 5.12.13 relating to training in connection with IEP's).

**10.3.2** For any employee of the District who chooses to work for the Charter School, any leave of absence from the District will be governed by ORS 338.135.

**10.3.3** Licensed and classified staff and other employees of the Charter School will not be included in the District's respective bargaining units. Employee membership in a labor organization and collective bargaining shall be governed by ORS 338.135.

**10.3.4** Pursuant to ORS 338.135(5), the Charter School shall participate in the Public Employees Retirement System (PERS) for its employees.

**10.4 Employee Records.** The Charter School shall be responsible for establishing and maintaining personnel records for its employees, and for the maintenance, retention and disclosure of employee records, all in compliance with all applicable federal and state laws. The Charter School shall meet any and all reporting obligations to the Teacher Standards and Practices Commission ("TSPC") regarding its employees.

**10.5 Criminal Records Checks.** As provided in ORS 338.115(1)(e), ORS 181.539, 326.603, 326.607, and 342.232 (relating to criminal records checks) shall apply to the Charter School. The Corporation shall not knowingly employ an individual for whom a criminal background investigation has not been initiated or who has been convicted of an offense that would preclude that individual from working in a public school in Oregon. No later than October 15th of each school year that the Charter School is in operation under this Contract, the Corporation shall provide to the District a list containing the names and job positions of all its employees. Such list shall also indicate for each employee the date of initiation of the criminal background investigation required by Oregon law.

## **11. Insurance and Legal Liabilities.**

### **11.1 Insurance.**

11.1.1 The Corporation shall, at its own expense, secure and retain and provide proof of the following insurance and in the amounts not less than those set forth below:

- (a) Property insurance, as required under the lease or other agreement for the facility where the Charter School is located.
- (b) Commercial and general liability insurance, \$2,000,000.
- (c) Officers and directors liability insurance, errors and omissions insurance, \$1,000,000.
- (d) Automobile liability insurance (if the Corporation owns any vehicles), \$1,000,000.
- (e) Workers' compensation insurance as required by the State of Oregon.
- (f) Honesty Bond, \$25,000.

**11.1.2** As part of its annual report under Section 9.5, and at any time thereafter upon request of the District, the Corporation shall provide the District with certificates of insurance or other satisfactory proof evidencing coverage in the types and amounts set forth herein. All such insurance policies shall contain a provision requiring notice to the District, at least 30 days in advance, of any material change, non-renewal or termination to the attention of the Superintendent of the District.

**11.2 Compliance with Laws; Non-Exemption from Certain Laws.** The Corporation and the Charter School will comply with all applicable federal, state, and local laws and regulations (including Oregon Administrative Rules developed by the Oregon Department of Education regarding charter schools). As provided in ORS 338.115(1), although statutes and rules that apply to school district boards, school districts or other public schools shall generally not apply to the Charter School, the following laws shall apply to the Charter School:

- a. Federal law.
- b. ORS 192.410 to 192.505 (Public Records Law).
- c. ORS 192.610 to 192.690 (Public Meetings Law).
- d. ORS 297.405 to 297.555 and 297.990 (Municipal Audit Law).
- e. ORS 181.539, 326.603, 326.607 and 342.232 (Criminal Records Checks).
- f. ORS 337.150 (Textbooks)
- g. ORS 339.141, 339.147 and 339.155 (Tuition and Fees).
- h. ORS 659.150 and 659.155 (Discrimination).
- i. ORS 30.260 to 30.300 (Tort Claims).
- j. Health and safety statutes and rules.
- k. The statewide assessment system developed by the Department of Education under ORS 329.485(1).
- l. ORS 329.045(1) (Academic Content Areas).
- m. Any statute or rule that establishes requirements for instructional time provided by a school each day or during a year.

- n. ORS Chapter 338.
- o. ORS 339.250(12) (prohibition of infliction of corporal punishment).

**11.3 Waiver.** As provided in ORS 338.025(2), the Charter School may apply to the State Board of Education to grant a waiver of any provision of this ORS Chapter 338. The Charter School shall give the District a copy of any application for a waiver promptly after submitting it and shall give the District a copy of any grant of a waiver promptly after receiving it.

**11.4 School and District Policies.** The Charter School shall adopt policies as may be required by law and may in its discretion adopt other policies governing operation of the Charter School and may amend its policies from time to time. The Charter School shall make such policies and amendments available for review at the District's request.

**11.5 Full Faith and Credit.** The Corporation agrees that it shall not extend the full faith and credit of the District to any third person or entity. The Corporation acknowledges and agrees that it has no authority to enter into a contract that would bind the District. The Corporation's governing board has the authority to approve contracts to which the Corporation is a party, subject to the requirements and limitations of the Oregon Constitution, state law and provisions of this Contract.

**11.6 Indemnification.**

**11.6.1** To the extent not covered by insurance or otherwise barred by the Oregon Tort Claims Act in ORS Chapter 30, the Corporation agrees to indemnify and hold the District, its Board, agents and employees harmless from all liability, claims, and demands on account of injury, loss or damage, including, without limitation, claims arising from (1) the possession, occupancy or use by the Corporation of property of the Corporation or its landlord, its faculty, employees, students, patrons, guests or agents; (2) civil rights violations, bodily injury, personal injury, sickness, disease, death, property loss or damage or any other losses of any kind whatsoever which arise out of the acts or omissions of the Corporation. This indemnification shall not apply to any liability claims or demands resulting from the negligence or wrongful act or omission of any District Board member, officer or employee. This indemnification shall not apply to any liability claims or demands resulting from the negligence or wrongful act of any District employee working at the Charter School whose negligence or wrongful act or omission is caused in whole or in part, or directed by the District. This indemnification shall not apply to any damages incurred regarding any act or omission of the Corporation or the Corporation Board that is later deemed to be required by law or this Contract. The Corporation agrees to indemnify, hold harmless and defend the District from all contract claims in which the Corporation has obligated the District without the District's prior written approval. The foregoing provision shall not be deemed a relinquishment or waiver of any kind of applicable limitations of liability provided in the Oregon Tort Claims Act.

**11.6.2** To the extent not covered by insurance or otherwise barred by the Oregon Tort Claims Act in ORS Chapter 30, District agrees to indemnify and hold the Charter School, the Corporation, its Board, agents and employees harmless from all liability, claims and demands on account of injury, loss or damage, including, without limitation, claims arising from civil rights violations, bodily injury, personal injury,

sickness, disease, death, property loss or damage or any other losses of any kind whatsoever which arise out of the administration of this Contract or are in any manner connected with District's operation. This indemnification shall not apply to any liability claims or demands resulting from the negligence or wrongful act or omission of any the Corporation Board member, officer or employee. This indemnification shall not apply to any liability claims or demands resulting from the negligence or wrongful act of any District employee working at the Charter School whose negligent or wrongful act or omission is caused in whole or in part, or directed by the Corporation or the Charter School. This indemnification shall not apply to any damages incurred regarding any act or omission of the District or District Board that is later determined to be required by law or this Contract. The foregoing provision shall not be deemed a relinquishment or waiver of any kind of applicable limitations of liability provided in the Oregon Tort Claims Act.

**11.6.3** This indemnification, defense and hold harmless obligation on behalf of the Corporation and the District shall survive the termination of this Contract. Any indemnified party shall have the right, at its own expense, to participate in the defense of any suit, without relieving the indemnifying party of any of its obligations hereunder.

**11.7 District Disclaimer of Liability.** The parties to this Contract expressly acknowledge that the Corporation is not operating as an agent, or under the direction and control, of the District Board except as required by law or this Contract, and that the District Board assumes no liability for any loss or injury resulting from:

**11.7.1** The acts or omissions of the Corporation, its governing Board, trustees, agents or employees;

**11.7.2** The use and occupancy of the building occupied by the Charter School or any matter in connection with the condition of such building; or

**11.7.3** Any debt or contractual obligation incurred by the Corporation.

**11.8 ADA/504 Obligations.** The Corporation acknowledges that it is legally responsible to comply with Section 504 of the Rehabilitation Act of 1973, the Americans with Disabilities Act of 1990 and ORS Chapter 659 with respect to its students, staff and patrons. The Corporation shall indemnify and hold harmless the District from all claims under these statutes.

**11.9 Transportation.** The District is not responsible for providing transportation by bus or otherwise of any students to the Charter School. However, the District will allow Charter School students to ride on District buses to and from the Charter School on existing District routes, to the extent seats are available for such students. The District will give the Charter School a two-week notice if a bus on a particular route has consistently become too full to transport Charter School students so that parents have time to make other arrangements.

## **12. Miscellaneous Provisions.**

**12.1 Entire Agreement.** This Contract, including the Exhibits, contains all terms, conditions and provisions hereof and the entire understanding and all

representations of understandings and discussions of the parties relating thereto, and all prior representations, understandings and discussions are merged herein and superseded and canceled by this Contract.

**12.2 Governing Law.** This Contract shall be governed by, subject to and construed under the laws of the State of Oregon without regard to its conflict of law provisions. The parties intend that where this Contract references federal or state law that they are bound by the laws in effect at the time this Contract is executed.

**12.3 Assignment.** The Corporation shall not, under any circumstances, assign, delegate or contract with any entity to provide the educational program described in this Contract and the attached Exhibits, it being expressly understood that the charter granted by this Contract to operate the educational program runs solely and exclusively to the Corporation.

**12.4 Terms and Conditions of Application.** The parties to this Contract agree that the attached application sets forth the overall goals, standards and general operational policies of the Charter School, and that the application is not a complete statement of each detail of the Charter School's operation. To the extent that the Corporation desires to implement specific policies, procedures or other specific terms of operation that supplement or otherwise defer from those in the application, the Corporation shall be permitted to implement such policies, procedures and specific terms of operation, provided that such policies, procedures and terms of operation are consistent with the goals, standards and general operational policies set forth in the application, this Contract and ORS Chapter 338.

**12.5 Conflict between Application and Contract.** The parties agree and acknowledge that should there be a conflict between any provision of this Contract and the application (Exhibit A), the Contract provision(s) shall supersede any provision contained in the application.

**12.6 District Liaison.** The District shall designate for purposes of this Contract the District Superintendent, or his/her designee, as the official District liaison between the District and the Corporation.

**12.7 Amendment.** This Contract may be modified or amended only by written agreement between the Corporation and the District.

**12.8 Notice.** Any notice required, or permitted, under this Contract, shall be in writing and shall be effective (a) upon personal delivery (subject to verification of service or acknowledgment of receipt) or (b) three (3) days after mailing when sent by certified mail, postage prepaid, to the person and address designated on the signature page of this Contract for receipt of notices. Should these addresses change; the parties agree to notify the other party within ten (10) days of the address change.

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

**12.10 Dispute Resolution.** In the event any dispute arises between the District and the Corporation concerning this Contract, including, without limitation, the implementation of or waiver from any policies, regulations or procedures, such dispute shall first be submitted to the District Liaison for review. If the District and the Corporation are unable to resolve the dispute, either party may submit the matter to the District's Board for its consideration. The decision of the District's Board shall be final and binding on the parties; provided, however, the Corporation may appeal to the state Board of Education concerning those matters within its jurisdiction under ORS Chapter 338.

**12.11 Mediation.**

**12.11.1** The parties may mediate any dispute under this Contract. Either party may request mediation. The party requesting mediation shall do so by giving written notice to that effect to the other party, specifying in the notice the nature of the dispute.

**12.11.2** If the parties cannot agree upon a mediator, either party may request the Oregon Department of Education to appoint the mediator.

**12.11.3** At any time during the mediation process, or if the parties are unable to reach an agreement through mediation, either party may give notice to the other party and to the mediator that it is terminating its participation in the mediation; after that, either party may request a hearing before the District Board.

**12.11.4** The parties shall share equally the fees and expenses of any mediator and each party shall pay its own expenses incurred in the mediation.

**12.11.5** As to any dispute that is not determined through mediation, the Corporation may request a hearing before and decision by the District Board.

**12.11.6** The Corporation may appeal to the State Board of Education concerning those matters within its jurisdiction under ORS Chapter 338.

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

**12.13 Delegation.** The parties agree and acknowledge that with regard to this Contract between the District and the Corporation, the functions and powers of the District Board may be exercised by the District Liaison, provided that any ultimate decision regarding renewal, non-renewal or revocation of this Contract be made only by the District Board.

**12.14 Prior Actions.** It is expressly agreed and understood that as a condition precedent to this Contract becoming effective on the effective date specified above in Section 2, the Corporation shall have taken, completed and satisfied on or before the date specified herein any action or obligation which is required to be completed before such

effective date, and failure to do so shall constitute grounds for the District to declare this Contract null and void.

**12.15 Attorney Fees.** If any suit, action or arbitration is commenced or instituted to interpret or enforce the terms of this Contract, to exercise any remedy on account of a default, or otherwise relating to the provisions of this Contract, the prevailing party or non-defaulting party shall be entitled to recover from the losing or defaulting party its reasonable attorney fees and costs, in addition to all other sums provided by law, at trials or arbitration and any appeals. Such sums shall be determined by the court or arbitrator.

**12.16 Definitions.**

**12.16.1** For purpose of this Contract, “business day” means a day in which the District administrative offices are open. “Business day” does not include (a) Saturdays, (b) Sundays, (c) official state holidays listed in ORS 336.010, (d) federal holidays, (e) District scheduled spring vacation, (f) any day(s) in which the administrative office is closed due to inclement weather, or (g) any day that the District administrative office is closed due to action taken by, or ordered to be closed by, the District Board of Directors or their designee, any instrumentality of the City of Sheridan, any instrumentality of Yamhill County, the State of Oregon or federal government.

**12.17 Incorporation of Application and Other Exhibits.** The following Exhibits are attached and incorporated by reference:

- Exhibit A The Corporation’s charter school application.
- Exhibit B District Resolution adopted on (expiration June 2008).
- Exhibit C Original Resolution for contract adoption.
- Exhibit D First Renewal Resolution adoption (Expiration June 2013).

**12.18 Corporation Authority to Enter Into Contract.** The Corporation expressly affirms that the signatories on its behalf who sign below have the authority to enter into this Contract on behalf of the Corporation and that the Board of Directors of the Corporation has duly approved this Contract. The Corporation shall provide a copy of its written resolution authorizing the Corporation to enter into this Contract.

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

SHERIDAN SCHOOL DISTRICT 48J

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

School Board Chairperson

Address for Notice Purposes:

Attention: Superintendent of Sheridan School District

Sheridan School District

435 S. Bridge St

Sheridan 97378-1811

SHERIDAN JAPANESE SCHOOL FOUNDATION,  
an Oregon nonprofit corporation

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

President of the Corporation

Address for Notice Purposes:

Attention: Dick Paay or Board Chair

Sheridan Japanese School

PO Box 446

Sheridan, Oregon 97378