**MEMORANDUM OF UNDERSTANDING**

**FOR MEMBER CHARTER SCHOOLS PLACING IN PROGRAM OPERATED BY A DIFFERENT LEA**

This Memorandum of Understanding (“MOU”) is entered between \_\_\_\_\_\_\_\_\_\_ School District/Charter School (the LEA providing services “Service Provider”) and the \_\_\_\_\_\_\_\_\_\_\_\_\_Charter School (the charter school receiving services “Charter”). Service Provider and Charter may be collectively referred to as the “Parties” or individually as a “Party.” This MOU shall be effective as of the date of the last-executed signature below.

**Student Information**

This MOU is regarding the provision of special education placement and/or services for [student name] (“Student”), a student enrolled in Charter.

1. **Purpose of MOU**

**Whereas,** Education Code section 56195.1, subdivision (e) provides that membership in a special education local plan area (“SELPA”) does not limit a local educational agency’s (“LEA”), including a charter school’s, authority to contract for special education services from another LEA whether or not the LEA is part of the same SELPA;

**Whereas,** Service Provider is a [member LEA of the XXX SELPA ] and is willing to contract with Charter to provide special education and related services to students enrolled in Charter;

**Whereas,** Charter is a charter school deemed an LEA for the purposes of special education under Education Code Section 47640 and is a member LEA of the El Dorado Charter SELPA.

**Whereas,** Charter seeks to contract with Service Provider in order for Student to be placed in a program operated by the Service Provider and/or receive related services from Service Provider.

1. **MOU Must be Renewed Annually**

This MOU shall be in effect for the period beginning on \_\_\_\_\_\_\_\_\_\_\_\_\_and ending on \_\_\_\_\_\_\_\_\_\_\_\_. This MOU may be renewed at the end of that period by following the “Submission Procedures” set forth in **Section 3** of this MOU. The MOU may be amended at any time by mutual consent of the Parties.

1. **Submission Procedures**

Unless there is a documented change in a student’s Individualized Education Program (“IEP”), all services contracted for under this MOU will run for a period of one year, from\_\_\_\_\_\_\_\_ to \_\_\_\_\_\_\_\_\_. On or before \_\_\_\_\_\_\_\_, Charter shall submit a written request for placement in a specific program operated by the Service Provider and for any related services to be provided by the Service Provider. The written request shall specify the placement requested and list each type of service requested and the number of weekly/monthly/annual service hours requested for that service.

On or before \_\_\_\_\_\_\_\_\_\_\_, Service Provider shall provide Charter with a written response to the request for placement. Service Provider’s written response shall include a rate schedule for the requested placement and services.

1. **Scope of Placement and Services**

Student’s Placement

The Parties agree that Student shall be placed in the following program operated by Service Provider:

1. The [describe placement in terms consistent with Student’s IEP] class located at [school site and address].
2. Placement will meet each of the following criteria:

* 1. Student shall attend [Monday through Friday] from [hours of operation];
  2. Program shall be for (number] instructional minutes per [day/week];
  3. Class size shall not exceed a ratio of one teacher per [14] students;
  4. Service Provider shall provide Student with access to the general curriculum and opportunities for Student to be educated with their nondisabled peers to the maximum extent appropriate including but not limited to: [list any mainstreaming times, PE, recess, etc];
  5. [Additional placement criteria]

Student’s Services

The Parties agree that Student shall receive the following services from Service Provider:

1. [List each service (e.g. SLP, OT, etc, and the duration and frequency per the IEP]
2. [e.g. Speech and Language Therapy 2 x 30-minute sessions per week. ]

The placement and services may be modified by mutual agreement of the Parties. All services will be provided at [placement site] unless otherwise agreed to by the Parties. The Parties will mutually develop a schedule specifying the time, day, of services for Student.

Transportation

If required by Student’s IEP, Charter shall arrange and pay for transportation for Student who is attending a program operated by and/or receiving related services from Service Provider. In the event the Service Provider transports Student, transportation shall be listed as a service under this section and payment for transportation shall be set forth in **Section 5** (below).

1. **Rate Schedule**

The Parties agree that the placement and services set forth in **Section 4** shall be billed as follows:

Placement: Student’s Placement in the \_\_\_\_SDC shall be billed at [rate per day/week/ month/quarter/year].

Services: Student’s services shall be billed as follows:

[List each service and rate]

1. **Service Provider’s Responsibilities**

In addition to any other duties and responsibilities set forth in this MOU, Service Provider shall have the following responsibilities:

* 1. Ensure that staff members working with Student will assist with the drafting of proposed goals and objectives for review and approval by the Student’s IEP team;
  2. Provide quarterly progress reports on Student’s performance in his placement including information regarding Student’s [progress on IEP goals, grades, behavior, [other areas]
  3. Notify Charter if it has reason to believe that Student requires reevaluation, change of placement or services, and/or an IEP team meeting;
  4. Ensure that staff members working with Student are available to attend IEP meetings or other meetings regarding Student;
  5. Ensure that all staff working with Student possess appropriate and current credentials and certifications; and
  6. Be responsible for all employee related issues and discipline.

1. **Charter’s Responsibilities**

In addition to any other duties and responsibilities set forth in this MOU, Charter shall have the following responsibilities:

* 1. Ensure that the placement and services set forth in this MOU are consistent with Student’s IEP;
  2. Provide Service Provider with written documentation showing that Student’s parent has consented to the placement pursuant to this MOU. [See **Attachment A**, Parent Consent to Placement].
  3. Provide Service Provider with copies of all relevant student records including but not limited to Student’s current IEP, most recent assessments, [other records];
  4. Schedule, convene, and conduct, all IEP meetings for Student served under this MOU; and
  5. Provide timely notice to Service Provider when there is a change in Student’s enrollment status at Charter, and/ or if Student has been suspended or expelled.

1. **Payment for Placement and Services**

Placement and services shall be billed on an [monthly/quarterly/annual] basis. At the end of each [monthly/quarterly/annual] billing period, Service Provider will provide Charter with an invoice for the placement and services provided and/or offered under this MOU. The invoice will show the specific placement and services provided and/or offered during the billing period, the fees for the placement and services, and shall include copies of all service logs for the billing period.

Charter shall process and pay each invoice within thirty (30) days from its receipt. If the payment for the invoice is not postmarked from the Charter within forty-five (45) days of the receipt of the invoice, the Charter agrees to pay an additional fee of 1.5% interest per month on amounts not paid, such interest being calculated beginning day forty-six (46) from receipt of the invoice. Interest shall be calculated in accordance with standard accounting procedures. Service Provider shall bill the LEA for the interest. Failure by Charter to pay an appropriately submitted invoice, including an invoice from a prior MOU between the Parties, within 90 days of receipt may be considered a breach of contract and is grounds for termination pursuant to **Section 11** of this MOU.

1. **Student Absences**

Charter acknowledges that the placement and services provided by Service Provider under this MOU will be provided for the entire school year and that Service Provider will be modifying its special education staffing and/or caseloads in order to provide special education and related services to Student.

As such, the Parties agree that the Service Provider shall be reimbursed for any services offered by Service Provider when Student is absent, as follows:

* 1. [The Parties must negotiate if, and to what extent, absences will be reimbursed. Some sample provisions follow.]
  2. [All absences shall be reimbursed];
  3. [Charter shall reimburse for up to [*number*] absence per school year];
  4. [Charter shall reimburse for all unexcused absences as defined by [*list the criteria*]]

Service Provider shall notify Charter if Student is absent for four (4) or more days during the contract year.

1. **Changes to Student’s IEP/Student No Longer Attending Charter**

If an IEP meeting is convened for Student, and the IEP team agrees to modify the placement or services being provided, the scope of services set forth in **Section 4** shall be modified to reflect the reduction in services and a corresponding reduction in payment shall be made under **Section 5**.

If Student is no longer attending the Charter, Charter shall notify Service Provider of the change in enrollment. Effective on the date that Service Provider receives notice of the change in enrollment; the scope of services set forth in **Section 4** shall be modified to indicate the reduction in services and a corresponding reduction in payment shall be made under **Section 5**.

1. **Termination**

Either Charter or Service Provider may terminate this MOU by providing the other party with thirty days (30) written notice except that Service Provider may terminate this MOU by providing Charter with written notice that it is unable or unwilling to provide the requested placement and/or services pursuant to **Section 3** of this MOU.

1. **Charter Solely Responsible For Providing FAPE to Student**

The Parties agree that the Charter remains the LEA responsible for ensuring that Students receives FAPE as required by California and federal special education laws, Section 504 of the Rehabilitation Act of 1973, and related laws, even while the Student is attending a program operated by and/or receiving related services from Service Provider pursuant to this MOU. The Parties further agree that Service Provider, for purposes of this MOU, is only intended to be a service provider under contract as authorized by Education Code, section 56369. The Parties also agree that this MOU does not constitute any form of interdistrict transfer or alternative attendance agreement that would transfer any responsibility for providing FAPE to Service Provider.

1. **Service Provider and Charter Are Independent Contractors**

Charter and Service Provider are independent parties to this MOU and each agree that this MOU was not intended to create the relationship of agent, servant, employee, partnership, joint venture or association.

1. **Non Exclusive Agreement**

The Parties agree that nothing herein is intended nor shall be construed as creating any exclusive arrangement between the Parties. This MOU shall not restrict Charter from contracting for services with other LEAs, nor shall it restrict Service Provider from providing services to other LEAs, including other charter schools.

1. **Indemnification and Hold Harmless**

Charter and Service Provider shall each defend, hold harmless and indemnify the other party, its governing board, officers, administrators, agents, employees, independent contractors, subcontractors, consultants, and other representatives from and against any and all liabilities, claims, demands, costs, losses, damages, or expenses, including reasonable attorneys’ fees and costs, and including but not limited to consequential damages, loss of use, extra expense, cost of facilities, death, sickness, or injury to any person(s) or damage to any property, from any cause whatsoever arising from or connected with the placement and services hereunder, that arise out of or result from, in whole or in part, the negligent, wrongful or willful acts or omissions of the indemnifying party, its employees, agents, subcontractors, independent contractors, consultants, or other representatives.

1. **Responsibility for Litigation Costs**

In the event of any compliance complaint, due process hearing request, or other litigation based on, arising from, or connected to the provision of the placement and/or services under this MOU, the Parties shall negotiate an agreement specifying how legal costs, including attorney’s fees, are to be shared between the Parties.

1. **Meet and Confer**

If a dispute arises regarding any aspect of this MOU, the Parties agree that they shall meet and confer in a good faith effort to amicably resolve their difference prior to initiating any litigation. If the initial attempt to resolve the dispute is not successful, the Parties may, by mutual agreement, participate in alternative dispute resolution.

1. **Credentials, Licenses and Other Qualifications**

Service Provider shall provide all special education and related services under this MOU using appropriately qualified staff. Service Provider shall provide appropriately credentialed teachers and/or licensed personnel consistent with the California laws and regulations unless the California Department of Education has granted a written waiver.

1. **Severability/Waiver**

If any provision of this MOU is determined to be illegal, unenforceable, or invalid, such provision shall in no way affect the validity of any other provision of this MOU. No waiver of any provision of this MOU shall be deemed, or shall constitute, a waiver of any other provision, whether or not similar, nor shall any such waiver constitute a continuing or subsequent waiver of the same provision. No waiver shall be binding unless executed in writing by the party making the waiver.

1. **Execution of MOU Electronically and In Counterparts**

This MOU may be executed in counterparts such that the signatures may appear on separate signature pages. A copy or an original, with all signatures appended together, shall be deemed a fully executed MOU. A facsimile or scanned version of any party’s signature shall be deemed an original signature.

IN WITNESS WHEREOF, the Parties via their respective authorized representatives have executed and entered into this MOU as of the date set next to the signatures below.

[Insert Names of Service Provider and Charter and Authorizing Representative from each]:

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

[Name, Title]

For \_\_\_\_\_\_Charter School

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

[Name/Title]

For \_\_\_\_\_\_Charter School

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

[Name/Title]

For \_\_\_\_\_\_School District/Charter

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

[Name/Title]

For \_\_\_\_\_\_School District/Charter School