

**RESTATED AND AMENDED  
CHARTER SCHOOL CONTRACT**

**THIS CONTRACT**, dated this 14TH day of FEBRUARY, 2000, is made and entered by and between the CHERRY CREEK SCHOOL DISTRICT No. 5, (District) and the CHERRY CREEK ACADEMY, INC. (CCA), and shall be and is a renewal, restatement and amended Charter School Contract between the Parties hereto.

**RECITALS**

**WHEREAS**, the Colorado General Assembly has enacted C.R.S. § 22-30.5-101 et. seq., the Charter Schools Act, ("Act"), for certain purposes as specified in the Act; and

**WHEREAS** on or about July 21, 1995 the Parties hereto entered into a Charter School Contract for a term ending June 30, 2000; and

**WHEREAS**, CCA has submitted to the District an Application for the renewal of the Charter School Contract; and

**WHEREAS**, the District's Board of Education (BOE) has determined that the Application submitted to the District for the renewal of the CCA Charter School Contract, as amended herein, complies with the purposes and requirements of the Charter School Act; and

**WHEREAS**, the District desires to approve the Application, and to renew the Charter School Contract as amended herein; and

**WHEREAS**, CCA seeks approval of its Application for renewal of its Contract, as amended herein, subject to certain waivers from District policy and/or state law; and

**WHEREAS**, the District has the authority to waive only those District approved policies and/or regulations to the extent permitted by law; and

**WHEREAS**, the authority of the State Board of Education to provide waivers from requirements of state law only extends to provisions contained in Title 22 of the Colorado Revised statutes; and

**WHEREAS**, implementation of the renewal of the contract is contingent upon State Board and District approved waivers prior to the effective date of the renewal, July 1, 2000;

**NOW, THEREFORE**, in consideration of the foregoing Recitals and the mutual understandings, releases, covenants and payments herein described, the parties agree as follows:

## AGREEMENT

1. **Mission Statement:** The mission statement contained in Section (a) of CCA's Application for the creation of CCA is hereby accepted by the District to the extent it is consistent with the principles of the General Assembly's declared purposes for enacting the Charter Schools Act. The school is open to children who will be in grades K-8.
  
2. **Goals, Objectives and Pupil Performance Standards:** The goals, objectives, and pupil performance standards set forth in the initial Application are hereby accepted by the District, subject to the conditions set forth below:
  - a. **Student Attendance, Conduct and Discipline.** CCA has adopted its own set of written policies, CCA shall at all times comply with all District policies and regulations concerning student attendance, standards of conduct and discipline.
    - (i) CCA's existing written attendance policy shall be granted a waiver from the District's policy, so long as the policy is in compliance with Colorado's compulsory attendance laws, including, without limitation, hour requirements and the distinction made between excused and unexcused absences.
    - (ii) CCA's adopted set of written rules concerning student conduct and student discipline shall be subject to compliance with District policies, and in compliance with applicable federal and state laws including, without limitation, the grounds and procedures established by state statute for suspending, expelling or denying admission to a student, and provided that written rules for conduct and discipline be submitted to and approved by the District.
  - b. **Student Welfare and Safety.** CCA shall comply with all BOE approved policies and regulations, and comply with all applicable federal and state laws concerning student welfare, safety and health, including, without limitation, BOE policies and laws addressing the reporting of child abuse, harrassment, accident prevention and disaster response, and any state and federal regulations governing the operation of school facilities.
  - c. **Identification of Academically Low-Achieving Students.** CCA shall identify academically low-achieving students and shall provide its educational program to these students in a manner which best serves their needs.
  
3. **Community Support:** The BOE finds that sufficient support for the renewal of the CCA Charter School Contract appears to exist, as evidenced by the current student enrollment. The maximum enrollment shall be as approved from time to time by the District but in no event shall the same exceed the maximum occupancy limit of the Charter School facility.
  
4. **Statement of Need:** The District has determined that, subject to the terms herein, the Application for renewal of the Charter School Contract sufficiently establishes a need for

educational choice within the District and that the proposed program would serve that need in an appropriate manner.

5. **Educational Program, Pupil Performance Standards and Curriculum:** The educational program, pupil performance standards and curriculum set forth in the original Application for the Charter School are hereby accepted, as amended herein, and are subject to the conditions set forth below:

a. **Curriculum.** The District agrees to waive its curricular requirements, to the extent permitted by state law, but subject to the implementation by CCA of its instructional programs as outlined in its Application with the following stipulations:

(i) CCA shall have the authority and responsibility of designing and implementing its educational program subject to the conditions of this Contract, in a manner which is consistent with state law, including, without limitation, requirements regarding content standards. CCA will be accountable to meet or exceed District and state proficiency standards.

(ii) CCA agrees to comply with all state statutory requirements concerning subjects of instruction, unless specifically waived by the State Board of Education, including without limitation, instruction in the areas of state and federal history and civil government, C.R.S. § 22-1-104, honor and use of the United States Flag, C.R.S. § 22-1-106, the federal constitution, C.R.S. § 22-1-108, and the effect of use of alcohol and controlled substances, C.R.S. § 22-1-110.

(iii) CCA must comply with accreditation laws of the state and all Colorado Department of Education rules. In addition CCA must establish a curriculum which meets or exceeds District and state standards. This curriculum must be adopted by CCA and approved by the District on or before September 30, 2000.

b. **Records.**

(i) CCA agrees to comply with all record keeping requirements of the District and/or federal or state law and shall provide any reports, as necessary, to meet the District's reporting obligations to the State Board, Colorado Department of Education, and the federal government.

(ii) CCA shall comply with all District approved policies and regulations, and applicable federal and state laws, concerning the maintenance and disclosure of student records, including, without limitation, the Colorado Open Records Law, C.R.S. § 22-72-204, et seq., and the Family Educational Rights and Privacy Act of 1974, 20 U.S.C. 1232g.

c. **Nonreligious, Nonsectarian Status.** The educational program of CCA shall be nonreligious, nonsectarian and shall not discriminate against any student on the basis of

race, creed, color, sex, national origin, religion, ancestry, disability or need for special education services.

d. **Open Enrollment.** Enrollment shall be open to any child who resides within, and is enrolled in the District, subject to the CCA's total enrollment limitations as contained herein.

e. **Admissions.** Students shall be considered for admission into the program without regard to race, creed, color, sex, national origin, religion, ancestry, disability or need for special education services, or ability to pay any fees. With the exception of children of employees and siblings of students currently enrolled in the program, who shall have priority, all students will be admitted on a first come first served basis based on applications and waiting lists. Subject to limitations imposed by law, any such waiting lists and the names and grade levels of students enrolled in CCA shall be available for review by the District Superintendent or his/her designee to insure compliance with the admission entitlement and enrollment status of students.

f. **Education of Students with Disabilities.** CCA agrees to comply with all District approved policies and regulations and all of the requirements of federal and state law concerning the identification and education of children with disabilities.

g. **Tuition.** Tuition may not be charged to students other than for before- and after-school programs administered by CCA or extended kindergarten or preschool. Nonresident students may be enrolled in only special circumstances through inter-district choice, if space is available, under the provisions of District policy, and state and federal law.

6. **Evaluation of Pupil Performance and Procedures for Corrective Action:** The District approves CCA's methods for evaluating pupil performance and procedures for corrective action contained in the original Application, subject to the conditions below and otherwise set forth in this Contract:

a. **Timeline.** CCA agrees to follow the accountability and accreditation timelines, for achieving its goals as stated in the original Application.

b. **Performance Assessment.** CCA must properly and timely administer the Colorado Student Assessment Program (CSAP) as required by state law and regulations. CCA agrees that assessment of student performance shall include, but not be limited to ITBS administration and analysis and all other state or federal required testing and agrees to provide this information annually to the Assistant Superintendent of Performance Improvement (herein "Assistant Superintendent"). CCA also agrees that the baseline data for evaluating student performance shall include, but not be limited to, CSAP testing, ITBS testing and such other information as CCA may chose. In addition, CCA must demonstrate to the District that CCA students meet or exceed established District proficiencies.

7. **Economic Plan, Budget and Annual Audit:** The terms stated in this Contract shall supersede and control any conflicting language contained in the initial Application and shall by this reference incorporate the assumptions contained in CCA's Economic Plan, a copy of which is attached hereto.

a. **Funding.**

(i) The District shall provide funding to CCA in an amount equal to 97.59% percent of the District's Per Pupil Revenue (PPR) (which is currently  $\$4,976.93 \times 97.59\% = \$4,857.00$ ) as the same may be established from year to year, adjusted in accordance with the State Finance Act or other matters impacting the PPR for each District resident student enrolled in CCA, and the prorated state reimbursement for Special Education students staffed and served in the school. So long as CCA is not in material breach of this Contract, this funding will be made available to CCA in 12 monthly installments, commencing July of each fiscal year. In the event the school is not operating with students in attendance by October 1, of each fiscal year, payments to CCA will cease until such time as the school is officially in session with students in attendance. If the school fails to open during any school year, those funds paid to the school prior to October 1, shall be refunded by CCA to the District. The term "enrolled" as used in this provision shall be deemed to mean enrolled as of the official counting dates or periods and in accordance with the School Finance Act of, 1994, C.R.S. §§ 22-54-101, et seq., and State Department of Education regulations. If the State Auditor disallows counting of some of CCA's students, then its funding for the following school year will be reduced by the same amount.

(ii) In addition to the foregoing provisions, to the extent the District experiences any reduction in state equalization support by a legislative rescission or other action, proportionate reductions will be made to CCA by adjustment or set off in subsequent months.

(iii) On or before March 15 of each year of the Charter, CCA and the District will begin negotiations concerning funding for the ensuing fiscal year in order that the amounts may be determined in conjunction with the District's and CCA's budget development and adoption process. In future fiscal years, it is agreed that the amount of funding provided to CCA from the District shall not be less than that required by law or as may be agreed to by the parties.

(iv) The proportionate share of state and federal resources generated by CCA students with disabilities, or the staff serving them, shall be directed to CCA. CCA will be eligible to apply for federal and state grant funds under the same conditions as other district schools. If requested, the District will provide Special Education services in accordance with such fees as may be agreed by the parties.

Any state reimbursement for transportation of handicapped students will be retained by the District.

(v) The funding of that portion of the per pupil revenues paid by the District to CCA shall be established based on the official student enrollment count for students enrolled in CCA for each year as approved and/or accepted by the State Auditor reduced by any appropriate proportionate reductions in state equalization support as a result of legislative action payable in 12 equal monthly payments. This amount shall not be increased or decreased due to any change in monthly enrollment during the then school year. Provided, however, the District reserves the right upon 30 days prior written notice to CCA to adjust the payments to be made to CCA in the event of a substantial reduction in the CCA monthly student count as may be determined by the District, in which event the pro-rata share of funds shall be retained by the District. In the event the District should, for any reason, lose the state funding allocated to any student who has withdrawn from CCA, said funding shall be deducted from subsequent payments to CCA.

(vi) CCA must provide an address of record, the name of the contact person for fiscal purposes, and where funds are to be sent at least 30 days in advance of when funds are to be made available.

(vii) CCA will make no supplemental budget requests to the District to cover unanticipated expenditures or debts.

(viii) The District will pay to CCA an amount equal to \$73 per pupil enrolled in CCA as determined in accordance with the forgoing provisions during the 2000-2001 school year only for use by CCA for instructional computers. CCA shall provide the District with documentary evidence satisfactory to the District of the appropriate use of said funds. Should said documents not be made available to the District, the District shall deduct said funds from future payments to CCA.

(ix) The District shall pay to CCA a one time amount not to exceed \$8,000, to pay for or reimburse CCA for a card entry system. This payment shall be made during the 2000-2001 school year but not until after CCA has submitted to the District plans, specifications and bids, for said system.

b. **Budget.** The annual Budget for CCA shall consider and set forth:

(i) The per-pupil funding for each fiscal year shall be determined in accordance with paragraph 7a above.

(ii) CCA shall be responsible for all costs associated with its school operations, including the cost of contracting for goods and services. Support and contract services may be provided to CCA, such as insurance and food services, by the

District in accordance with mutually agreeable cost schedules and agreements. Other areas may be considered, as well.

(iii) On or before April 15 of each year, CCA shall submit to the District its proposed budget for the upcoming school year for the District's approval.

c. **Annual Audit.** CCA agrees to maintain appropriate financial records in accordance with all applicable federal, state and local laws, rules and regulations, and make such records available to the District, as requested, from time to time. CCA agrees to engage and participate in an independent, outside audit by a certified public accountant of its financial and administrative operations on an annual basis. The results of the audit shall be provided to the District in written form within the same statutory time limits required of the District and shall be published and posted as required by law. Any cost associated with the audit of CCA shall be borne by CCA. CCA will comply with any requirements imposed by the District in the event any exceptions are noted by the auditors in regard to CCA's financial records, activities or administrative operations.

8. **Governance and Operation:** The nature and extent of parental, professional educator and community involvement in the governance and operation of CCA is approved by the District to the extent permissible under federal and state law and subject to all conditions of this contract, including, without limitation, the stipulations set forth below:

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

b. **Commitment to Nondiscrimination.** CCA shall comply with all applicable federal, state and local laws, rules and regulations, including without limitation, the constitutional provisions prohibiting discrimination or harrassment on the basis of disability, age, race, creed, color, sex, national origin, religion or ancestry.

c. **Accountability.** CCA shall operate under the auspices of, and accountable to, the District and subject to all District approved policies and regulations unless specifically waived.

d. **Open Meetings Law.** CCA acknowledges and agrees that it is subject to the provisions of the Colorado Open Meetings Law, C.R.S. § 24-6-401, *et seq*, and that it will comply with the provisions of such law as well as all other state and federal laws in connection with all of its activities.

e. **Free and Reduced Priced Meals.** If a breakfast or lunch program is offered, CCA shall provide, at its cost, free and reduced priced meals to needy students in accordance with Board policy and applicable federal and state law.

f. **Operational Powers.** Subject to the above conditions, CCA shall be fiscally responsible for its own operations within the limitations of any funding provided by the District and other revenues derived by CCA consistent with law, and shall have authority to independently exercise, also consistent with federal and state law, the following powers (including such other powers as provided for elsewhere in this Contract and in the initial Application to the extent consistent with this Contract): contract for goods and services; prepare a budget; select personnel and determine their compensation; procure insurance, lease facilities for school purposes; purchase, lease or rent furniture, equipment and supplies; and accept and expend gifts, donations or grants of any kind in accordance with such conditions prescribed by the donor as are consistent with law and not contrary to any of the terms of this Contract. The District shall be given written notice of all accepted gifts, donations and grants in the amount of or which have a dollar value of \$750.00 or more and any conditions thereof, within thirty (30) days of receipt. In exercising these powers, CCA shall comply with all applicable District approved policies unless a specific waiver is obtained. CCA shall furnish to the District, for its review, copies of all written policies or procedures it may develop with respect to any matter relating to its operation and educational program upon adoption of such policies by CCA's Governing Board.

g. **Waivers.** CCA wishes to apply for certain waivers from District approved policies and/or regulations and, where appropriate, waivers from certain state laws from the State Board of Education. Those waivers, and the reasons therefore, have been, or will be, submitted separately and are incorporated into a separate District action, which is hereby incorporated into this Contract. The contract between the District and CCA will not be considered binding until the District has specifically approved or denied, as the case may be, any requested waivers of District policy and until District Administration has received official notice of the waiver approvals from the Commissioner of Education on behalf of the State Board of Education. Provided, however, should the District and CCA not receive notice of the State Board's decision within forty-five days after the submittal of the request for waivers, the request shall be deemed granted. A complete list of state statutes and District policies for which waivers have been approved shall be attached to this contract and incorporated herein.

h. **Bidding Requirements.** Unless purchased from or through the District, contractual services and purchases of supplies, materials and equipment shall be procured through a system of competitive bidding, as required by District policy and state law

i. **Semiannual Review.** CCA shall be subject to a semi-annual review of its operations and finances by the BOE or a designee.

j. **Financial and Educational Reports.** CCA will be responsible for submitting a monthly financial report to the Chief Financial Officer of the District within 30 days of the report's ending date. This will include a written revenue and expenditure report with comparison to budget. CCA shall also be responsible for submitting a written educational report to the Assistant Superintendent, on an annual basis, which includes a specific enrollment section and demonstration of student performance relative to the District



proficiencies. CCA shall also provide the Assistant Superintendent with copies of all minutes and records of action of CCA's Governing Board, together with all reports, data and information submitted to CCA's Governing Board supporting the Governing Board's actions. These minutes and supporting documents shall include data relating to CCA's operations, including, without limitation, progress made towards its educational goals and objectives, policy development issues, student attendance and student discipline information, and personnel matters.

k. **Term.** The Contract Renewal is effective as of July 1, 2000 and shall continue for a period of five years, terminating, if not before, on June 30, 2005.

l. **Termination.** This Contract may be terminated, and the Charter revoked by the District, for any of the grounds provided by state law, and/or for any material breach of this Contract, which breach is not cured within thirty (30) days after written notice has been given to CCA by the District. In the event the breach is not reasonably capable of being cured within said thirty (30) days, CCA shall commence to cure the default within said thirty (30) days and diligently pursue such action as may be necessary to cure the default. Failure to so proceed shall be deemed a default and no further notice shall be required. Should CCA choose to terminate this Contract and revoke its charter before the end of the Contract term, it may do so with the District's approval, at any time, upon thirty (30) days' advance written notice. In addition to the foregoing grounds for termination or revocation, this Contract may be terminated by the District in the event the District does not for any reason budget and appropriate sufficient funds to meet the District's obligations under this Contract for any fiscal year beyond the July 1, 2000-June 30, 2001, fiscal year. Any such termination based on lack of budget shall be accomplished by thirty days' advance written notice being given to CCA.

m. **Dissolution.** In the event CCA should cease operations for whatever reason, including the nonrenewal or revocation of the Charter, it is agreed that the District shall supervise and have authority to conduct the winding up of the business and affairs of CCA; provided, however, that in doing so, the District does not assume any liability incurred by CCA beyond the funds allocated to it by the District under this Contract. The District's authority hereunder shall include, but not be limited to, the return and/or disposition of any assets acquired by purchase or donation by CCA during the time of its existence.

n. **Director of School.** The Director, shall be certified or shall have such experience, training and knowledge, as may be approved by the District's superintendent, necessary to fulfill the duties of the position, and shall be knowledgeable of, charged with and accountable for, ensuring compliance with federal and state laws with matters concerning, but not limited to, child abuse reporting, open-meetings laws, public records act, student due process rights, non-discrimination, and special education.

o. **Closed Forum School.** The school will operate as a closed forum consistent with all other elementary and middle schools in the District.

9. **Employment Matters:** The guidelines set forth in the initial Application concerning employment matters such as employee relationships, job descriptions, and terms and conditions of employment are approved by the District, and shall supersede the requirements of any District approved policies or regulations, waived by the District and CDE, to the extent permitted by law, and subject to the following conditions in addition to all other provisions of this Contract:

a. **Hiring of Personnel.** To the full extent allowed and provided by law, all persons who perform services for CCA shall be considered "at-will" employees or volunteers of CCA. The District agrees that CCA may select its personnel directly without prior authorization from the BOE subject to compliance with all federal and state rules and regulations, including, without limitation, requirements concerning the recruitment of applicants and the use of background and criminal checks. CCA shall inform the District's Superintendent or designee of all personnel selected and the District may direct for good cause that any selected employee not be hired. The District may direct CCA to terminate the employment of any CCA personnel for cause, after consultation with the Governing Board. Should CCA terminate any employee upon the direction of the District, the provisions of paragraph 10c(iv) concerning indemnification shall not be applicable to any suit, claim, charge or proceeding alleging wrongful or improper termination asserted by or on behalf of the terminated employee. CCA shall submit a quarterly personnel report to the Superintendent identifying each person employed at CCA, the level of employment (0-100%), and the position held. The Governing Board of CCA may terminate the employment of any personnel so long as such employees are not terminated for unlawful or constitutionally impermissible reasons. All employees of CCA shall be advised in writing, that they are employees of CCA not the District and that the District shall have no obligation to the employee for compensation or any other benefits.

b. **Employee Compensation, Evaluation and Discipline.** The District agrees to waive all District approved policies and regulations concerning the compensation, evaluation, promotion, discipline and termination of CCA employees subject to compliance with all state and federal laws, rules, and regulations, unless specific waivers are obtained from the State Board of Education.

(i) CCA Governing Board shall be responsible for evaluating the performance of the school's Director on an annual basis. The written results of such evaluation and the evaluation report shall be made available upon request to the District Superintendent or designee.

(ii) CCA shall adopt its own written policies which shall be in compliance with federal and state law, concerning the recruitment, promotion, discipline and termination of personnel; methods for evaluating performance; and a plan for resolving employee-related problems, including complaint and grievance procedures; provided, however, CCA shall not have the authority, by virtue of such policies or procedures or other action of the governing board, to change the "at-will" nature of the employment relationship.

c. **PERA Membership.** All CCA employees shall be members of the Public Employee's Retirement Association and subject to its requirements. CCA shall be responsible for the cost of the employer's respective share of any required contributions.

d. **Equal opportunity Employer.** CCA affirms that it shall not discriminate against any employee on the basis of race, creed, color, sex, national origin, religion, ancestry, age or disability in its recruitment, selection, training, utilization, termination or other employment-related activities and shall comply with all state and federal laws, rules and regulations related thereto.

e. **Employee Welfare and Safety.** Except as specifically waived, CCA shall comply with all applicable District approved policies, and applicable federal and state laws, concerning employee welfare, safety and health issues, including, without limitation, the requirements of federal law for a drug-free workplace.

f. **Employee Records.** CCA shall comply with all applicable District approved policies and regulations, and applicable federal and state laws, concerning the maintenance and disclosure of employee records, including, without limitation, the requirements of the Colorado Open Records Law § 24-72-201 et seq.

g. **Employee Conflicts of interest.** All CCA employees shall comply with the applicable District policies and regulations, and applicable state law, concerning employee actual and potential conflicts of interest.

h. **District Teachers.** Current teachers of the District who are selected for employment by CCA are eligible for a one-year leave of absence from their employment with the District, consistent with state law, and may be eligible for two additional one-year leaves of absence upon mutual agreement of the teacher and the District, and subject to all District policies related to leaves of absence and subject to state law. The status of any teacher in the District employed by CCA shall not be affected by such employment, however, the teacher will not be eligible to move vertically on the District's salary schedule. Upon returning to the employment of the District, CCA teachers in good standing who were on leave from the District will be provided a position with the District, although not necessarily in the same position or facility as he or she previously held, subject, however, to all applicable District employment, compensation and personnel policies.

i. **Teacher Contract.** The CCA teacher contracts shall stipulate that employment with CCA will not count as service in terms of non-probationary status or salary advancement in the Cherry Creek School District. In addition, the contract will state that the teacher will have no expectation of employment in the District.

10. **Insurance and Legal Liabilities:** The following stipulations and guidelines will govern;

a. **Insurance.** It is agreed that during the term of this Contract, the District will, subject to the insurance companies' requirements, regulations and limitations, provide insurance coverage which is consistent with the coverage available to the District itself. CCA agrees that it will coordinate all risk management activities through the District's risk management office. This will include, but is not limited to, the prompt reporting of any and all pending or threatened claims, filing of timely notices of accidents, injuries or claims, co-operating fully with the District in the defense of any claims and complying with the Colorado Governmental Immunity Act and the payment or reimbursement of deductibles on the District's applicable insurance policies. CCA shall neither compromise, settle, negotiate nor otherwise affect any disposition of potential claims asserted against it without the District's, and/or its insurers, prior written approval. In consideration of the District's providing the described insurance coverage, CCA agrees to pay to the District such sum as may be agreed upon by the parties. CCA will be responsible for pay of deductibles up to \$5,000 per claim.

b. **Legal Costs.** Legal representation for insured losses will be assigned by the insurance company providing coverage for the claim. All other legal expenses, including the per claim deductibles, will be paid by CCA.

c. **Legal Liabilities.** CCA shall operate in compliance with all applicable District approved policies and regulations and all applicable federal, state and local laws, rules and regulations, unless specifically waived or unless such waiver is obtained from the proper authority pursuant to the procedures of paragraph (i) below subsequent to the execution of this Contract.

(i) **Waiver.** Waivers from specific District approved policies or regulations and/or state law may be requested by CCA by submitting such a request, in writing, to the District's Superintendent. The request shall include the reasons why CCA is in need or desires the waiver. The Superintendent will present the matter to the BOE at its next regular meeting. The BOE will review the request at the next regular meeting, and take action at the following meeting to approve or disapprove the waiver request. Waivers of District approved policies and regulations may be granted only to the extent permitted by state law. In the event the District policy or regulation from which CCA seeks a waiver is required by state or federal law, or where CCA otherwise requests release from a state regulation, the District agrees to jointly request such a waiver from the State Board of Education, if the District's BOE first approves the request.

(ii) **Faith and Credit.** CCA agrees that it cannot and will not attempt to extend the faith and credit of the District to any third person or entity. CCA acknowledges and agrees that it has no authority to enter into a contract that would bind the District and that CCA's authority to contract is limited by the same provisions in law or District policies that apply to the District itself. CCA also is limited in its authority to contract by the amount of funds obtained from the District as provided hereunder, or from other independent sources. All contracts

entered into by CCA shall provide notice that the District incurs no liability or obligation for payment or performance of any obligation under or pursuant to any contract entered into by CCA. CCA's Governing Board shall approve contracts to which CCA is a party, subject to the requirements and limitations of the Colorado constitution, state law, BOE approved policies and the provisions of this Contract.

(iii) Pursuant to §22-30.5-104(4.5)(a), direct leases and financial obligations of CCA do not constitute debt or financial obligations of the District unless the District specifically assumes such obligations by action of its BOE. All contracts, purchase orders or other documents creating any debt or obligation of CCA shall provide notice of the foregoing.

(iv) Indemnification. To the extent not covered by insurance or otherwise barred by the Colorado Governmental immunity Act, CCA agrees to indemnify and hold the District, its BOE, agents and employees harmless from all liability, claims and demands on account of injury, loss or damage, including, without limitation, claims arising from bodily injury, personal injury, sickness, disease, death, property loss or damage or any other losses of any kind whatsoever, including the District's costs and attorneys fees, which arise out of or are in any manner connected with CCA's operations. The foregoing provision shall not be deemed a relinquishment or waiver of any kind of applicable limitations of liability provided by the Colorado Governmental immunity Act.

11. **Facility:** CCA is responsible for leasing or purchasing an appropriate space adequate to appropriately house and educate Cherry Creek students. CCA is responsible for preparing the facility to meet applicable codes, ADA requirements, and minimum acceptable standards, and paying all costs associated therewith. It is further stipulated that CCA will furnish the District Administration with appropriate documents demonstrating certificates of occupancy for the school's educational purposes, building/content values for insurance purposes, and lease agreements to the District Risk Manager. Under no circumstances shall the District have any obligation or liability for any cost associated with the lease, repair, purchase, renovation or maintenance of CCA's facilities.

12. **Accountability Committee Feedback:** CCA agrees to respond to the concerns and suggestions made by the District Accountability Ad Hoc Review Committee. The response shall be submitted to the Assistant Superintendent. CCA further acknowledges that there will be vigorous reviews of the academic progress of CCA students.

13. **Transportation:** The District will not be obligated, or expected, to provide transportation for CCA students except those students who qualify for and are entitled to transportation pursuant to special education transportation obligations of state or federal law.

14. **Miscellaneous Provisions:**

a. **Entire Agreement.** This Contract, with attachments, contains all terms, conditions, provisions, understandings, representations, and discussions of the parties relating thereto, and all prior representations, understandings and discussions are merged herein and superseded and canceled by this Contract.

b. **Amendment.** This Contract may only be modified or amended by further written agreement executed by the parties hereto.

c. **Notice.** Any notice required, or permitted, under this Contract, shall be in writing and shall be effective upon personal delivery (subject to verification of service or acknowledgement of receipt) or three (3) days after mailing when sent by certified mail, postage prepaid to the Director's office, in the case of notice being sent to CCA, or to the Office of the Superintendent for notice to the District.

d. **No Waiver.** The parties agree that no assent, expressed 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 be taken to constitute a waiver of any succeeding or other breach.

e. **Dispute Resolution.** In the event any dispute arises between the District and CCA 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 Superintendent of the District or his designee for review. Thereafter, representatives of the District and CCA shall meet and attempt in good faith to negotiate a resolution of the dispute. In the event these representatives are unable to resolve the dispute informally pursuant to this procedure, they shall submit the matter to the BOE for its consideration and resolution. In the event CCA does not accept the resolution and decision of the BOE, CCA may request that the Dispute be submitted to nonbinding arbitration before an Arbitrator familiar with charter schools, public schools and the provisions of Title 22, C.R.S., as the same relate to the dispute at issue. Should either party fail to agree with the decision of the arbitrator, that party may submit the Dispute to the State Board of Education pursuant to Sections 20-30-107.5(2) and 20-30.5-108(3), C.R.S.

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

q. **Terms.** In the event of any conflict between the terms of this contract and the Application, the terms of this contract shall control.

h. **Inclusion.** It is agreed that all recitals, set forth above are considered a part of this contract.

i. **Supersede Prior Contract.** This Agreement amends in its entirety and supercedes that certain Charter School Contract dated on or about July 21, 1995, between the parties hereto.

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

**CHERRY CREEK ACADEMY, INC.**

By: Dean L. Atkinson  
Title President

**ATTEST:**

Shirley G. Gage  
Secretary

**CHERRY CREEK SCHOOL DISTRICT #5**

By: Wendy A. DeBel  
President, Board of Education

**ATTEST:**

[Signature]  
Secretary, Board of Education