

AGREEMENT

THIS AGREEMENT is made and entered into as of this 21 day of April, 2015, by and between

THE SCHOOL BOARD OF BROWARD COUNTY, FLORIDA
(hereinafter referred to as "SBBC"),
a body corporate and political subdivision of the State of Florida,
whose principal place of business is
600 Southeast Third Avenue, Fort Lauderdale, Florida 33301

and

NOVA SOUTHEASTERN UNIVERSITY, INC.
(hereinafter referred to as "NSU"),
whose principal place of business is
3301 College Avenue, Fort Lauderdale, Florida 33314

WHEREAS, the SBBC operates the following (3) three high school enrichment programs: the Aviation Program at Miramar High School; the Marine Science Program at South Broward High School; and the Emerging Computer Technology and Digital Entrepreneurship at Dillard High School (collectively the "Enrichment Programs" and individually an "Enrichment Program"); and

WHEREAS, the SBBC has requested NSU to host each Enrichment Program for a five (5) five day period in June as part of the SBBC's summer programs, and NSU has agreed to so host the Enrichment Programs, pursuant to and in accordance with the terms and conditions contained herein; and

NOW, THEREFORE, in consideration of the premises and of the mutual covenants contained herein and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the Parties hereby agree as follows:

ARTICLE 1 - RECITALS

1.01 **Recitals.** The parties agree that the foregoing recitals are true and correct and that such recitals are incorporated herein by reference.

ARTICLE 2 – SPECIAL CONDITIONS

2.01 **Term of Agreement.** Unless terminated earlier pursuant to Section 3.05 of this Agreement, the term of this Agreement shall commence upon execution by all parties and conclude on June 30, 2015.

2.02 **Description of the Summer Enrichment Program at NSU:** NSU will host the Enrichment Programs during the following times and at the following locations: (i) the Aviation Program from June 8, 2015 through June 12, 2015, daily on Monday through Friday from 8:30 A.M. to 3:00 P.M., at NSU's main campus in Broward County, Florida, (ii) the Emerging Computer Technology and digital Entrepreneurship Program from June 22, 2015 through June 26, 2015, daily on Monday through Friday from 8:30 A.M. to 3:00 P.M., at NSU's main campus in Broward County, Florida, and (iii) the Marine Science Program from June 22, 2015 through June 26, 2015, daily on Monday through Friday from 8:30 A.M. to 3:00 P.M., at NSU's Oceanographic Center in Dania, Florida. NSU will host no more than thirty (30) students in each Enrichment Program. The summer Enrichment Programs at NSU will provide students with (i) hands-on related activities/projects (agreed upon by NSU and the SBBC), and (ii) information on college and career opportunities in the fields of aviation, marine sciences, and computer technology. As a material inducement for NSU to enter into this Agreement, SBBC has agreed to provide, and will provide through Miramar High School, South Broward High School and Dillard High School, the required number of teachers and other staff, satisfactory to NSU, to oversee and supervise the students throughout the summer Enrichment Programs at NSU, including any field trips to be made. NSU will provide the instructors for the aviation, marine science, and computer technology learning sessions. NSU will also provide the materials and supplies to be used in the summer Enrichment Programs at NSU, and arrange for any field trips to be made. The SBBC's Office of Talent Development will provide stipends through Title II-A grant funds for the SBBC teachers to assist with the summer Enrichment Programs at NSU. All SBBC teachers and other staff participating in any way in the summer Enrichment Programs at NSU will be SBBC employees.

2.03 **Notice.** When any of the parties desire to give notice to the other, such notice must be in writing, and (i) personally delivered with a written receipt obtained, (ii) sent by certified or registered U.S. Mail, postage prepaid and return receipt requested, or (iii) sent by a nationally recognized overnight delivery service (e.g., Federal Express) addressed to the party for whom it is intended at the place last specified; the place for giving notice shall remain such until it is changed by written notice in compliance with the provisions of this Section. For the present, the Parties designate the following as the respective places for giving notice:

To SBBC: Superintendent of Schools
The School Board of Broward County, Florida
600 Southeast Third Avenue
Fort Lauderdale, Florida 33301

With a Copy to: Director
Innovative Programs Design/Support
The School Board of Broward County
Florida 600 Southeast Third Avenue
Fourth Floor, Fort Lauderdale, FL 33301

To NSU: Executive Vice President and Chief Operating Officer
Nova Southeastern University
3301 College Avenue
Fort Lauderdale, Florida 33314

With a Copy to:

Academic Affairs
Nova Southeastern University
3301 College Avenue
Fort Lauderdale, Florida 33314
Attn: Meline Kevorkian

2.04 **Background Screening:** NSU and SBBC agree to comply with all requirements of Sections 1012.32 and 1012.465, Florida Statutes, and all of its personnel who (1) are to be permitted access to school grounds when students are present, or (2) will have direct contact with students, or (3) have access or control of school funds, will successfully complete the background screening required by the referenced statutes and meet the standards established by the statutes. This background screening will be conducted by SBBC with respect to SBBC personnel, and NSU or SBBC with respect to NSU personnel in advance of NSU's personnel providing any services under the conditions described in the previous sentence and prior to any of SBBC's personnel coming onto NSU's premises in connection with this Agreement. NSU shall bear the cost of acquiring the background screening required by Section 1012.32, Florida Statutes, and any fee imposed by the Florida Department of Law Enforcement to maintain the fingerprints provided with respect to NSU's personnel. SBBC shall bear the cost of acquiring its background screening for its personnel required by Section 1012.32, Florida Statutes, and any fee imposed by the Florida Department of Law Enforcement to maintain the fingerprints provided with respect to SBBC's personnel. The parties agree that the failure of NSU or SBBC to perform any of the duties described in this Section shall constitute a material breach of this Agreement entitling the other party to terminate immediately with no further responsibilities or duties to perform under this Agreement. Each party agrees to indemnify and hold harmless the other party, its officers, trustees, agents and employees from any liability in the form of physical or mental injury, death or property damage resulting from such parties' failure to comply with the requirements of this Section or with Sections 1012.32 and 1012.465, Florida Statutes.

2.05 **Insurance.** SBBC shall, at its own expense, secure and deliver to NSU not less than thirty (30) days prior to the beginning of the term and shall keep in force at all times during the term of this Agreement:

- a) **COMMERCIAL GENERAL LIABILITY INSURANCE.** Commercial general liability insurance in an amount not less than One Million Dollars (\$1,000,000) per occurrence and Two Million Dollars (\$2,000,000) annual aggregate combined single limit for death, bodily injury and property damage, including, without limitation, personal injury, contractual liability, products and completed operation.
- b) **AUTOMOBILE LIABILITY INSURANCE.** Automobile liability insurance, covering owned, non-owned, and leased vehicles, in an amount not less than One Million Dollars (\$1,000,000) combined single limit per occurrence.
- c) **WORKERS' COMPENSATION INSURANCE** in accordance with the laws of the State of Florida

- d) SBBC shall name Nova Southeastern University, Inc., its trustees, officers, agents, and employees as additional insured under SBBC's commercial general liability and auto liability insurance policies.
- e) At least fifteen (15) days prior to the beginning of the term, SBBC shall provide to NSU a certificate of insurance evidencing all of the foregoing coverage. The certificate holder shall be Nova Southeastern University, Inc., 3301 College Avenue, Fort Lauderdale, Florida 33314.
If any of the insurance policies covered by the certificate of insurance will expire prior to or during the term, then at least fifteen (15) days prior to such expiration, SBBC shall deliver to NSU a certificate of insurance evidencing the renewal of such policy of policies.
- f) SBBC shall provide to NSU thirty (30) days prior written notice of any cancellation of or reduction or other material change in coverage.
- g) All notices and communications concerning insurance shall be sent to the party designated in the Notice Section of this Agreement, and to Nova Southeastern University, Director of Risk Management, 3302 college Avenue, Fort Lauderdale, Florida 33314.
- (h) The coverage limits contained in the liability policies shall be on a per occurrence basis only.
- (i) SBBC hereby acknowledges that the coverage limits contained in any policy, whether such limits are per occurrence or in the aggregate, shall in no way limit the liabilities or obligations of SBBC under this Agreement.
- (j) The failure of SBBC to provide insurance in accordance with this Section shall be a default of this Agreement and shall not be subject to any cure period for default contained herein.

2.08 **Indemnification.** This section shall survive the termination of all performance or obligations under this Agreement and shall be fully binding until such time as any proceeding brought on account of this Agreement is barred by any applicable statute of limitations.

A. By SBBC: SBBC agrees to be fully responsible up to the limits of Section 768.28, Florida Statutes, for its negligence or wrongful acts or omissions, or its agents' or employees' negligence or wrongful acts or omissions, when acting within the scope of their employment and agrees to be liable for any damages resulting from said negligence or wrongful acts or omissions.

B. By NSU: NSU, except as provided for in the last sentence of this Section, agrees to indemnify, hold harmless and defend SBBC, its agents, servants and employees from

any and all claims, judgments, costs, and expenses including, but not limited to, reasonable attorney's fees, reasonable investigative and discovery costs, court costs and all other sums which SBBC, its agents, servants and employees may pay or become obligated to pay on account of any, all and every claim or demand, or assertion of liability, or any claim or action founded thereon, arising or alleged to have arisen out of the products, goods or services furnished by NSU, its agents, servants or employees; the equipment of NSU, its agents, servants or employees while such equipment is on premises owned or controlled by SBBC; or the negligence of NSU or the negligence of NSU's agents when acting within the scope of their employment, whether such claims, judgments, costs and expenses be for damages, damage to property including SBBC's property, and injury or death of any person whether employed by NSU, SBBC or otherwise. NSU shall have no indemnification-related obligations to the extent any claim arises out of or results from the acts omissions of the SBBC, its agents, employees, or contractors.

ARTICLE 3 – GENERAL CONDITIONS

3.01 **No Waiver of Sovereign Immunity.** Nothing herein is intended to serve as a waiver of sovereign immunity by any agency or political subdivision to which sovereign immunity may be applicable or of any rights or limits to liability existing under Section 768.28, Florida Statutes. This section shall survive the termination of all performance or obligations under this Agreement and shall be fully binding until such time as any proceeding brought on account of this Agreement is barred by any applicable statute of limitations.

3.02 **No Third Party Beneficiaries.** The parties expressly acknowledge that it is not their intent to create or confer any rights or obligations in or upon any third person or entity under this Agreement. None of the parties intend to directly or substantially benefit a third party by this Agreement. The parties agree that there are no third party beneficiaries to this Agreement and that no third party shall be entitled to assert a claim against any of the parties based upon this Agreement. Nothing herein shall be construed as consent by an agency or political subdivision of the State of Florida to be sued by third parties in any matter arising out of any contract.

3.03 **Independent Contractor.** The parties to this agreement shall at all times be acting in the capacity of independent contractors and not as an officer, employee or agent of one another. Neither party or its respective agents, employees, subcontractors or assignees shall represent to others that it has the authority to bind the other party unless specifically authorized in writing to do so. No right to SBBC retirement, leave benefits or any other benefits of SBBC employees shall exist as a result of the performance of any duties or responsibilities under this Agreement. SBBC shall not be responsible for social security, withholding taxes, contributions to unemployment compensation funds or insurance for the other party or the other party's officers, employees, agents, subcontractors or assignees.

3.04 **Equal Opportunity Provision.** The parties agree that no person shall be subjected to discrimination because of age, race, color, disability, gender identity, gender expression marital status, national origin, religion, sex or sexual orientation in the performance of the parties' respective duties, responsibilities and obligations under this Agreement.

3.05 **Default.** The parties agree that, in the event that either party is in default of its obligations under this Agreement, the non-defaulting party shall provide to the defaulting party

(30) days written notice to cure the default. Upon the occurrence of a default that is not cured during the applicable cure period, this Agreement may be terminated by the non-defaulting party upon thirty (30) days notice. This remedy is not intended to be exclusive of any other remedy, and each and every such remedy shall be cumulative and shall be in addition to every other remedy now or hereafter existing at law or in equity or by statute or otherwise. No single or partial exercise by any party of any right, power, or remedy hereunder shall preclude any other or future exercise thereof.

3.06 Public Records. Pursuant to Section 119.0701, Florida Statutes, any party contracting with SBBC is required to (a) keep and maintain available for public inspection any records that pertain to services rendered under this Agreement; (b) provide the public with access to public records on the same terms and conditions that SBBC would provide such records and at a cost that does not exceed the cost provided in Chapter 119, Florida Statutes or as otherwise provided by law; (c) ensure that public records that are exempt or confidential and exempt from public records disclosure requirements are not disclosed except as authorized by law; and (d) meet all requirements for retaining public records and transfer, at no cost to SBBC, all public records in that party's possession upon termination of its Agreement with SBBC and destroy any duplicate public records that are exempt or confidential and exempt from public records disclosure requirements. All of such party's records stored electronically must be provided to SBBC in a format that is compatible with SBBC's information technology systems. Each party shall maintain its own respective records and documents associated with this Agreement in accordance with the records retention requirements applicable to public records. Each party shall be responsible for compliance with any public documents request served upon it pursuant to Section 119.07, Florida Statutes, and any resultant award of attorney's fees for non-compliance with that law. Each party acknowledges that this Agreement and all attachments thereto are public records and do not constitute trade secrets.

3.07 Governing Law and Venue. This Agreement shall be interpreted and construed in accordance with and governed by the laws of the State of Florida. Any controversies or legal problems arising out of this Agreement and any action involving the enforcement or interpretation of any rights hereunder shall be submitted to the jurisdiction of the State courts of the Seventeenth Judicial Circuit of Broward County, Florida.

3.08 Entirety of Agreement. This document incorporates and includes all prior negotiations, correspondence, conversations, agreements and understandings applicable to the matters contained herein and the parties agree that there are no commitments, agreements or understandings concerning the subject matter of this Agreement that are not contained in this document. Accordingly, the parties agree that no deviation from the terms hereof shall be predicated upon any prior representations or agreements, whether oral or written.

3.09 Binding Effect. This Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective successors and assigns.

3.10 Assignment. Neither this Agreement or any interest herein may be assigned, transferred or encumbered by any party without the prior written consent of the other party. There shall be no partial assignments of this Agreement.

3.11 **Incorporation by Reference.** Exhibits attached hereto and referenced herein shall be deemed to be incorporated into this Agreement by reference.

3.12 **Captions.** The captions, Section designations, Section numbers, article numbers, titles and headings appearing in this Agreement are inserted only as a matter of convenience, have no substantive meaning, and in no way define, limit, construe or describe the scope or intent of such articles or Sections of this Agreement, nor in any way effect this Agreement and shall not be construed to create a conflict with the provisions of this Agreement.

3.13 **Severability.** In the event that any one or more of the Sections, paragraphs, sentences, clauses or provisions contained in this Agreement is held by a court of competent jurisdiction to be invalid, illegal, unlawful, unenforceable or void in any respect, such shall not affect the remaining portions of this Agreement and the same shall remain in full force and effect as if such invalid, illegal, unlawful, unenforceable or void Sections, paragraphs, sentences, clauses or provisions had never been included herein.

3.14 **Preparation of Agreement.** The parties acknowledge that they have sought and obtained whatever competent advice and counsel as was necessary for them to form a full and complete understanding of all rights and obligations herein and that the preparation of this Agreement has been their joint effort. The language agreed to herein expresses their mutual intent and the resulting document shall not, solely as a matter of judicial construction, be construed more severely against one of the parties than the other.

3.15 **Amendments.** No modification, amendment, or alteration in the terms or conditions contained herein shall be effective unless contained in a written document prepared with the same or similar formality as this Agreement and executed by each party hereto.

3.16 **Waiver.** The parties agree that each requirement, duty and obligation set forth herein is substantial and important to the formation of this Agreement and, therefore, is a material term hereof. Any party's failure to enforce any provision of this Agreement shall not be deemed a waiver of such provision or modification of this Agreement unless the waiver is in writing and signed by the party waiving such provision. A written waiver shall only be effective as to the specific instance for which it is obtained and shall not be deemed a continuing or future waiver.

3.17 **Force Majeure.** Neither party shall be obligated to perform any duty, requirement or obligation under this Agreement if such performance is prevented by fire, hurricane, earthquake, explosion, wars, sabotage, accident, flood, acts of God, strikes, or other labor disputes, riot or civil commotions, or by reason of any other matter or condition beyond the reasonable control of either party ("Force Majeure"). In no event shall a lack of funds on the part of either party be deemed Force Majeure.

3.18 **Survival.** All representations and warranties made herein, indemnification obligations, NSU obligations to reimburse SBBC, obligations to maintain and allow inspection and audit of records and property, obligations to maintain the confidentiality of records, and reporting requirements, shall survive the termination of this Agreement.

3.19 **Contract Administration:** SBBC has delegated authority to the Superintendent of Schools or his/her designee to take any actions necessary to implement and administer this Agreement.

3.20 **Authority.** Each person signing this Agreement on behalf of either party individually warrants that he or she has full legal power to execute this Agreement on behalf of the party for whom he or she is signing, and to bind and obligate such party with respect to all provisions contained in this Agreement.

IN WITNESS WHEREOF, the parties hereto have made and executed this Agreement on the date first above written.

FOR SBBC

(Corporate Seal)

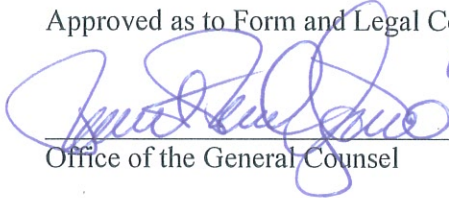
THE SCHOOL BOARD OF BROWARD
COUNTY, FLORIDA

By _____
Donna P. Korn, Chair

ATTEST:

Robert W. Runcie, Superintendent of Schools

Approved as to Form and Legal Content:

 03/31/15

Office of the General Counsel

FOR NSU

(Corporate Seal)

NOVA SOUTHEASTERN UNIVERSITY, INC

ATTEST:

By

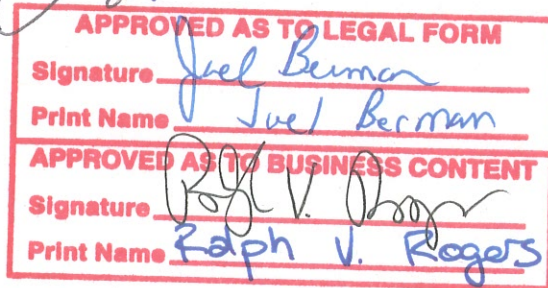
Handwritten Signature
Jacqueline A. Tranizoro

_____, Secretary

-or-

Witness

Witness



The Following Notarization is Required for Every Agreement Without Regard to Whether the Party Chose to Use a Secretary's Attestation or Two (2) Witnesses.

STATE OF _____

COUNTY OF _____

The foregoing instrument was acknowledged before me this _____ day of _____, 20__ by _____ of _____

Name of Person

_____, on behalf of the corporation/agency.
Name of Corporation or Agency

He/She is personally known to me or produced _____ as identification and did/did not first take an oath. _____
Type of Identification

My Commission Expires:

Signature – Notary Public

(SEAL)

Printed Name of Notary

Notary's Commission No.