

AGREEMENT

THIS AGREEMENT is made and entered into as of this ____ day of _____, 2016, 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

Lynn University, Inc.
(hereinafter referred to as "UNIVERSITY"),
whose principal place of business is
3601 N. Military Trail
Boca Raton, Florida 33431

WHEREAS, SBBC and UNIVERSITY wish and intend by this Agreement set forth the terms and conditions of engaging in a cooperative program (hereinafter referred to as the "Program") for the classroom field placement of selected University Students enrolled at UNIVERSITY with the mutual objective of preparing students for entry into the teaching profession.

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 of this Agreement by all parties and conclude on June 30, 2018; and may at the sole discretion of SBBC, be renewable for two (2) additional one (1) year periods.

2.02 **UNIVERSITY Responsibilities**

2.02.1 UNIVERSITY shall plan and administer the UNIVERSITY educational program for its students and be responsible for the enrollment of its students in UNIVERSITY courses, including the clinical field placement.

2.02.2 UNIVERSITY shall maintain all educational records and reports relating to the UNIVERSITY educational programs completed by UNIVERSITY students during the clinical field experience.

2.02.3 UNIVERSITY shall determine, in its sole discretion, which of its enrolled students shall be eligible to participate in the Program.

2.02.4 UNIVERSITY shall provide a person to serve as its Coordinator to oversee its educational program and coordinate Programmatic activities with SBBC.

2.02.5 UNIVERSITY shall work through the SBBC Office of Talent Development to determine in advance placement sites for student teachers in the Program, including dates and the number of students.

2.02.6 UNIVERSITY shall require, as a condition of their participation in the Program, its students to complete a security information background check form provided by SBBC and submit to fingerprinting and criminal records background check to be performed by SBBC or at its direction.

2.02.7 UNIVERSITY shall, in consultation with SBBC, be responsible for grading of the field placement experience and determining whether a UNIVERSITY student has completed the requirements of the UNIVERSITY educational program.

2.02.8 Students shall not be considered as employees or agents of the UNIVERSITY.

2.02.9 UNIVERSITY shall be responsible for providing professional development seminars to its students in the Program. SBBC may be requested to assist in such seminars.

2.02.10 UNIVERSITY shall be solely responsible for the conduct of any proceedings of its students related to academic or behavioral matters.

2.02.11 UNIVERSITY agrees to inform Students that they are responsible for the rules and regulations of SBBC, including recognition of the confidential nature of information regarding pupils and their records.

2.02.12 UNIVERSITY will provide SBBC with a copy of course objectives for the learning experience. SBBC, together with UNIVERSITY, will make arrangements for evaluating the learning experience.

2.03 **SBBC Responsibilities**

2.03.1 SBBC shall be responsible for the conduct of its operations, supervision of its staff and the education of its District students. UNIVERSITY shall not control any of SBBC's property or operations.

2.03.2 SBBC shall provide forms for UNIVERSITY to use as student teacher applications.

2.03.3 SBBC shall determine, in consultation with UNIVERSITY, the University students who will be placed at SBBC schools and which schools.

2.03.4 SBBC shall provide to UNIVERSITY a security background information form to be completed by UNIVERSITY students and provide a process for fingerprinting and criminal records background check to be performed by SBBC or at its direction. SBBC shall determine whether a UNIVERSITY student has satisfactorily cleared the security screening.

2.03.5 SBBC shall, in consultation with UNIVERSITY, assign its teachers to serve as supervising teachers for the evaluation of the UNIVERSITY student teachers. SBBC supervising teachers shall complete evaluation forms provided by UNIVERSITY. Site supervisors selected by SBBC will a) assist in orienting students to the school, the classroom and the pupils; b) Explain all school and district policies, rules, and regulations to students; c) provide prompt and substantive feedback to students regarding performance activities and interactions with SBBC personnel, pupils and parents; d) complete evaluations of student progress and submit them to UNIVERSITY after reviewing them with applicable students; e) immediately inform the UNIVERSITY faculty supervisor of any concerns regarding a student; f) establish a time to meet and discuss with students their activities, impressions, reflections, and suggestions for goals and areas of improvement; g) (For Student Teaching) supervise students on a daily basis if the site supervisor is absent from the classroom, under no circumstance can a student even if he/she is certified, serve as the substitute of record during the student teaching experience unless a separate agreement has been negotiated in writing by the SBBC and the UNIVERSITY.

2.03.6 Students of UNIVERSITY shall not be deemed to be employees of SBBC for purposes of compensation, fringe benefits, worker's compensation, unemployment compensation, minimum wage laws, income tax withholding, social security or any other purpose, because of their participation in the Program. Each student is placed with SBBC to receive clinical field experience as a part of his or her academic curriculum; those duties performed by a student are not performed as an employee, but in fulfillment of these academic requirements and are performed under supervision. At no time during their practicum shall students replace or substitute for any employee of SBBC. This provision shall not be deemed to prohibit the employment of any such student by the District under a separate employment agreement for separate or additional duties.

2.03.7 SBBC agrees that Students assigned to it for counseling, administration, teaching, and/or observation experiences are under the supervision, control and responsibility of SBBC.

2.03.8 SBBC shall retain the right in its sole discretion, to request the removal of any individual from any area of the school premises. Students shall be instructed by the UNIVERSITY to promptly and without protest leave an area whenever they are requested to do so by an authorized SBBC representative.

2.03.9 SBBC will provide to students the policies and procedures and other relevant materials to allow students to function appropriately within the school.

2.03.10 SBBC will permit students access to the library facilities/curriculum laboratories available to personnel. Students may not remove materials from the school without appropriate approval.

2.03.11 SBBC shall keep confidential and shall not disclose to any person or entity a) student applications; b) student health records or reports; and/or c) any student records as defined in the Family Educational Rights and Privacy Act, 20 U.S.C. 123G, concerning

any student participating in the education experiences ordered by a court of competent jurisdiction. SBBC shall adopt and enforce policies and procedures necessary to protect the confidentiality.

2.03.12 Students shall not be considered employees or agents of SBBC.

2.04 **Notice.** When any of the parties desire to give notice to the other, such notice must be in writing, sent by U.S. Mail, postage prepaid, 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 paragraph. 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-Teacher Development
Office of Talent Development
3531 Davie Road
Davie, FL 33314

To UNIVERSITY: Kathleen Weigel
Dean, Donald E. and Helen L. Ross College of Education
Lynn University
3601 N. Military Trail, Boca Raton, FL 33431

With a Copy to: Michael Antonello
General Counsel
Lynn University
3601 N. Military Trail, Boca Raton, FL 33431

2.05 **Background Screening:** UNIVERSITY agrees 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, (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 in advance of UNIVERSITY or its personnel providing any services under the conditions described in the previous sentence. UNIVERSITY 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 UNIVERSITY and its

personnel. The parties agree that the failure of UNIVERSITY to perform any of the duties described in this section shall constitute a material breach of this Agreement entitling SBBC to terminate immediately with no further responsibilities or duties to perform under this Agreement. UNIVERSITY agrees to indemnify and hold harmless SBBC, its officers and employees from any liability in the form of physical or mental injury, death or property damage resulting in UNIVERSITY's failure to comply with the requirements of this Section or with Sections 1012.32 and 1012.465, Florida Statutes.

2.06 **Liability.** 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 acts of negligence, or its employees' acts of negligence when acting within the scope of their employment and agrees to be liable for any damages resulting from said negligence.

B. By UNIVERSITY: UNIVERSITY 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 UNIVERSITY, its agents, servants or employees; the equipment of UNIVERSITY, its agents, servants or employees while such equipment is on premises owned or controlled by SBBC; or the negligence of UNIVERSITY or the negligence of UNIVERSITY'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 UNIVERSITY, SBBC or otherwise.

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 **Termination.** This Agreement may be canceled with or without cause by SBBC during the term hereof upon thirty (30) days written notice to the other parties of its desire to terminate this Agreement. SBBC shall have no liability for any property left on SBBC's property by any party to this Agreement after the termination of this Agreement. Any party contracting with SBBC under this Agreement agrees that any of its property placed upon SBBC's facilities pursuant to this Agreement shall be removed within ten (10) business days following the termination, conclusion or cancellation of this Agreement and that any such property remaining upon SBBC's facilities after that time shall be deemed to be abandoned, title to such property shall pass to SBBC, and SBBC may use or dispose of such property as SBBC deems fit and appropriate.

3.06 **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. However, in the event said default cannot be cured within said thirty (30) day period and the defaulting party is diligently attempting in good faith to cure same, the time period shall be reasonably extended to allow the defaulting party additional cure time. 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. Nothing in this section shall be construed to preclude termination for convenience pursuant to Section 3.05.

3.07 **Annual Appropriation.** The performance and obligations of SBBC under this Agreement shall be contingent upon an annual budgetary appropriation by its governing body. If SBBC does not allocate funds for the payment of services or products to be provided under this Agreement, this Agreement may be terminated by SBBC at the end of the period for which funds

have been allocated. SBBC shall notify the other party at the earliest possible time before such termination. No penalty shall accrue to SBBC in the event this provision is exercised, and SBBC shall not be obligated or liable for any future payments due or any damages as a result of termination under this section.

3.08 **Excess Funds.** Any party receiving funds paid by SBBC under this Agreement agrees to promptly notify SBBC of any funds erroneously received from SBBC upon the discovery of such erroneous payment or overpayment. Any such excess funds shall be refunded to SBBC with interest calculated from the date of the erroneous payment or overpayment. Interest shall be calculated using the interest rate for judgments under Section 55.03, Florida Statutes, applicable at the time the erroneous payment or overpayment was made by SBBC.

3.09 **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 contract 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.

3.10 **Student Records:** Student Records: Notwithstanding any provision to the contrary within this Agreement, any party contracting with SBBC under this Agreement shall fully comply with the requirements of Section Sections 1002.22 and 1002.221, Florida Statutes; FERPA, and or any other state or federal law or regulation regarding the confidentiality of student information and records. Each such party agrees, for itself, its officers, employees, agents, representatives, contractors or subcontractors, to fully indemnify and hold harmless SBBC and its officers and employees for any violation of this section, including, without limitation, defending SBBC and its officers and employees against any complaint, administrative or judicial proceeding, payment of any penalty imposed upon SBBC, or payment of any and all costs, damages, judgments or losses incurred by or imposed upon SBBC arising out of a breach of this covenant by the party, or an officer, employee, agent, representative, contractor, or sub-contractor of the party to the extent that the party or an officer, employee, agent, representative, contractor, or sub-contractor of the party shall either intentionally or negligently violate the provisions of this section or of Section Sections 1002.22 and/or 1002.221, Florida Statutes.

3.11 **Compliance with Laws.** Each party shall comply with all applicable federal and state laws, codes, rules and regulations in performing its duties, responsibilities and obligations pursuant to this Agreement.

3.12 **Place of Performance.** All obligations of SBBC under the terms of this Agreement are reasonably susceptible of being performed in Broward County, Florida and shall be payable and performable in Broward County, Florida.

3.13 **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.

3.14 **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.

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

3.16 **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 including, without limitation, the partial assignment of any right to receive payments from SBBC.

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

3.18 **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.

3.19 **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.

3.20 **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.

3.21 **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.

3.22 **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.

3.23 **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 control of either party, and which cannot be overcome by reasonable diligence and without unusual expense ("Force Majeure"). In no event shall a lack of funds on the part of either party be deemed Force Majeure.

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

3.25 **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.

3.26 **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

ATTEST:

By _____
Dr. Rosalind Osgood, Chair

Robert W. Runcie, Superintendent of Schools

Approved as to Form and Legal Content:

Office of the General Counsel

FOR UNIVERSITY

(Corporate Seal)

LYNN UNIVERSITY, INC.

ATTEST:

Michael Antonello
Michael Antonello, Secretary
-or-

By Kevin M. Ross
Kevin M. Ross, President

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 FLORIDA

COUNTY OF PALM BEACH

The foregoing instrument was acknowledged before me this 10th day of March, 2016 by Kevin M. Ross, President of Lynn University, Inc.
Name of Person
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:

Brenda Williams
Signature – Notary Public

Brenda Williams
Printed Name of Notary

(SEAL)

May 30, 2017
Notary's Commission No.

