

## DUAL ENROLLMENT AGREEMENT

**THIS AGREEMENT** is made and entered into as of this \_\_\_\_ day of August, 2020,  
by and between

**THE SCHOOL BOARD OF BROWARD COUNTY, FLORIDA**  
(hereafter 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

**THE ARIZONA BOARD OF REGENTS  
FOR AND ON BEHALF OF  
ARIZONA STATE UNIVERSITY**  
(hereafter referred to as ASU),  
a body corporate of the State of Arizona  
having a place of business at  
1130 E University Dr., Suite 600, Tempe, Arizona 85281

**WHEREAS**, SBBC and ASU desire to enter into a Dual Enrollment Articulation Agreement (the “Agreement”) in accordance with Section 1007.271, Florida Statutes, outlining how both institutions will partner to provide accelerated programs to eligible SBBC students; and

**WHEREAS**, dual enrollment is an articulated acceleration mechanism that shortens the time necessary for college-ready students to complete the requirements associated with the conferral of a degree or certificate, broadens the scope of curricular options available to students, and increases the depth of study in a student’s major area of interest by offering college credit courses to eligible high school students.

**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 are hereby acknowledged, the parties 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 on the last date signed by all parties and conclude on June 30, 2021.

2.02 **Joint Responsibilities.** SBBC and ASU shall maintain responsibility for implementing this Agreement and shall review this Agreement and performance of parties hereunder each year to ensure that it continues to serve their mutual interests. ASU and SBBC may provide personally identifiable student records to each other in the performance of this Agreement. Such records are provided pursuant to Sections 1002.22 and 1002.221 Florida Statutes, and 20 U.S.C. 1232g. Each party further agrees to comply with Sections 1002.22 and 1002.221, Florida Statutes, and 20 U.S.C. 1232g, including but not limited to provisions related to confidentiality, access, consent, length of retention and security of student records.

2.03 **ASU Responsibilities.** As part of the Agreement, ASU shall implement the following:

- a) Provide college enrollment assistance to the identified SBBC school(s) with low dual enrollment participation rates to create a bridge from high school to college enrollment.
- b) Provide high quality online college courses to eligible SBBC schools and students (a “Dual Enrollment course(s) or program”).
- c) Confirm that all full-time or adjunct faculty teaching an SBBC Dual Enrollment course under the terms of this Agreement meet the minimum qualification requirements of The Southern Association of Colleges and Schools Commission on Colleges (SACS COC). These requirements are an earned doctorate or master’s degree in the teaching discipline, or a master’s degree with a concentration in the teaching discipline (with a minimum of 18 graduate semester hours in the teaching discipline).

2.04 **SBBC Responsibilities.** As part of the Agreement, SBBC shall implement the following:

- a) Identify SBBC school(s) with low dual enrollment participation rates;
- b) Identify and provide required dual enrollment paperwork for SBBC school students who will enroll in courses.
- c) Identify an individual school counseling team from identified SBBC school(s) with low dual enrollment participation rates to work with ASU’s enrollment services to provide enrollment assistance, thereby providing a clear path from high school to college enrollment.

2.05 **Broward County Articulation Committee.** SBBC and ASU agree to utilize the Broward County Articulation Committee (Committee) to monitor the activities established by this Agreement, to recommend enhancements and other changes, and to generally promote articulation. Committee members and/or designees include the following or their replacement in the event they no longer hold the position identified (and others as invited):

- a) **Members from SBBC:**
  - Chief Academic Officer (Co-Chair)
  - High School Principal Executive Chair
  - Director of Secondary Learning
  - Director of School Counseling and BRACE

Principal of College Academy

b) Members from ASU:

Managing Director of ASU Learning Enterprise, currently Kimberly Merritt  
Associate Vice President of ASU Educational Outreach and Student Services,  
currently Amy McGrath  
Executive Director of Strategic Initiatives, currently Betsy Fowler  
Partnership Manager, currently Julie Hester

**2.06 Information for Students and Parents.** SBBC will provide its students and families with informational documents describing the educational benefits and eligibility requirements for the various program acceleration options, as required per Section 1007.271(8), Florida Statutes, as well as a copy of the Dual Enrollment Transfer Guarantees, as required per Section 1007.271(15), Florida Statutes. Each high school curriculum guide will describe acceleration options. On an annual basis, SBBC will notify the parents of rising 6th graders regarding the importance of rigorous coursework, such as Advanced Placement and Dual Enrollment courses. In a cooperative effort, ASU staff will be available to SBBC high schools to provide additional information and answer specific questions students may have about Dual Enrollment courses.

**2.07 Approved Courses.** **Appendix A** outlines the approved courses and may be changed upon mutual agreement of the ASU Managing Director and SBBC School Superintendent, or their designees, without resubmission for approval to SBBC or ASU. SBBC students who are eligible for Dual Enrollment courses may be permitted to enroll in Dual Enrollment courses conducted during school hours, and after school hours. Courses will be delivered in a remote, online format.

**2.08 Student Eligibility and Admissions.**

a) SBBC school teams (principals, counselors, and teachers) will select students to participate in the Dual Enrollment course(s). School teams should use a student's past academic performance and interests. In accordance with Section 1007.271(3), Florida Statutes, exceptions to the statutorily required minimum grade point average may be granted on an individual student basis. The parties agree that for any such exception(s), the minimum grade point average must be 2.5 or greater.

b) The admissions and registration officials at ASU will provide appropriate forms to participating SBBC high schools and will work jointly with the designated high school counseling staff to accomplish application and registration requirements.

c) It is the responsibility of the SBBC school to submit a student roster to ASU by the primary registration deadline.

d) SBBC schools will have an opportunity to review and revise their rosters the week before courses begin. SBBC schools will not be able to add more students than they initially submitted in the primary registration deadline, but they will be able to remove students and fill those vacant spots with new students. For example, if a school's



primary roster includes 20 students, the school can remove 5 students and fill those spots with 5 other students.

d) Eligible SBBC students are subject to any credit limits prescribed by law, the State Board of Education, or any other applicable policy. After obtaining 60 credits, including but not limited to other accelerated earned credits through Advanced Placement (AP), Cambridge AICE Exams, College-Level Examination Program (CLEP), or International Baccalaureate (IB), an Associate of Arts degree, or the student turns 19 (whichever occurs first), the SBBC student may not be admitted to ASU Dual Enrollment program unless otherwise provided by law.

e) SBBC students enrolled in Dual Enrollment courses may cancel their course registration up to 3-weeks after the course start date. After the third week of participation, SBBC will be charged for the number of students enrolled at that time. No negative consequences to the student will result if a student decides to withdraw from the course after the third week.

f) SBBC may not deny a student access to Dual Enrollment courses unless the student is ineligible to participate in the program subject to Section 1007.271, Florida Statutes.

## 2.09 **General Dual Enrollment Program Guidelines.**

a) If an SBBC student is projected to graduate from high school before the scheduled completion date of a Dual Enrollment course, the student may not register for that course through the Dual Enrollment program.

b) In order to continue in the Dual Enrollment program, SBBC students must obtain a grade of “C” or better in each Dual Enrollment course, as confirmed by their high school counseling director and the ASU registrar’s office. SBBC students may only repeat the course of which a “D” or “F” was received for grade forgiveness after graduation from high school if the student applies to ASU and registers for the course(s) to be repeated. In addition, SBBC students may only repeat the course of which a “W” or “WN” was received after graduation from high school.

c) Regardless of meeting student eligibility requirements for continued enrollment, a student may lose the opportunity to participate in a Dual Enrollment course if the student is disruptive to the learning process such that the progress of other students or the efficient administration of the course is hindered. Students must comply with the Student Handbook, which is available at: <https://www.asuprepdigital.org/wp-content/uploads/2019/08/ASU-2019-2020-Family-Handbook.pdf> (the “Student Handbook”).

2.10 **High School Credits Earned.** The approved Dual Enrollment course list, **Appendix A**, sets forth the number of high school credits earned for each Dual Enrollment course a student successfully completes, as defined by the Florida Department of Education.



2.11 **College Level Course Expectations.** Both ASU and SBBC will collaborate in notifying the students of the options to participate in the Dual Enrollment program, and will inform students and parents or guardians of college course-level expectations, including, but not limited to the following:

- a) Dual Enrollment courses meet the curricular expectations and are at the same depth and rigor of non-dual enrollment postsecondary instruction, including those offered on the high school campus;
- b) Any letter grade below a “C” will not count as credit toward satisfaction of the requirements in Rule 6A-10.030, Florida Administrative Code. However, all grades are calculated in a student’s GPA and will appear on their high school and college transcripts;
- c) High school students are responsible for notifying their high school if they choose to withdraw from a course;
- d) Students enrolled in Dual Enrollment courses are required to abide by the same guidelines outlined in the Student Handbook, which contains the code of conduct, students’ rights and responsibilities, grading and evaluation process, academic dishonesty, disciplinary procedures, as well as accommodations provided for students with disabilities. No exceptions to these guidelines will be made for Dual Enrollment students;
- e) While appropriate for college-level study, course materials and class discussions may reflect topics not typically included in secondary courses which some parents may find objectionable for minors. Courses will not be modified to accommodate variations in student age and/or maturity;
- f) To minimize student costs for excess hours, parents/students should select courses to meet high school graduation and college degree requirements;
- g) It is the students’ responsibility to attend all college classes in which they are enrolled;
- h) The SBBC school is responsible for advising the student each semester at which time the student’s eligibility for enrollment in specific approved courses at ASU must be verified by the high school principal.

2.12 **College Registration Policy.** Dual Enrollment students are permitted to register for courses through the process outlined in Section 2.08, above.

### 2.13 **Services and Resources for Students with Disabilities.**

a) ASU is an equal access/equal opportunity institution, which provides effective services and accommodations for otherwise qualified individuals with documented disabilities, as mandated by The Americans with Disabilities Act of 1990 and Section 504 of the Rehabilitation Act of 1973.

b) Disability impacts all people regardless of race, ethnicity, culture, religion, or gender. Therefore, the staff of the ASU Disability Resource Center supports an environment in which the diversity and variety of human experiences are respected and appreciated.

c) Disclosure of a disability is voluntary. However, if a student has a disability, the student may register with the Disability Resources Connect: <https://eoss.asu.edu/drc>. Some examples of reasonable accommodation are flexible timeline for course completion; acquisition or modification of equipment or devices; appropriate adjustment or modification of examinations or policies; provision of qualified readers, note takers, and/or sign language interpreters; provision of alternative print formats.

2.14 **Faculty Handbook Exceptions.** There are no exceptions to the professional rules, guidelines, and expectations stated in the SBBC faculty and adjunct faculty handbooks.

2.15 **Student Handbook Exceptions for Faculty.** There are no exceptions to the rules, guidelines and expectations stated in the student handbook that apply to faculty members.

2.16 **Faculty Requirements.** Faculty who teach Dual Enrollment courses must meet the teaching credentials described in Section 2.03(c) above and those required of any other SBBC teacher.

2.17 **SBBC Responsibilities Regarding Student Eligibility and Performance Monitoring.** SBBC Principals and school counselors are responsible for determining student eligibility for Dual Enrollment courses and monitoring student performance and enrollment status to avoid pitfalls that may prevent students from completing high school graduation requirements.

2.18 **Transmission of Student Grades.** Students participating in Dual Enrollment courses will receive grades and appropriate credit for their college work. Upon completion of a Dual Enrollment course, students must request for their transcript to be conferred. Grades will be shared via the ASU Partner Portal so SBBC schools can post grades on students' high school transcript. Dual Enrollment course grades become part of the student's permanent high school record maintained by SBBC.

2.19 **Costs**. SBBC will pay ASU \$250 per SBBC student enrolled in an ASU Dual Enrollment course promptly after ASU submits a proper invoice to SBBC, and in no event more than 30 calendar days after a proper invoice is submitted. Such invoice will be submitted by ASU to SBBC three weeks after the Dual Enrollment course start date. Students enrolled in Dual Enrollment courses are exempt from the payment of tuition and fees for Dual Enrollment courses.

2.20 **SBBC Disclosure of Education Records to ASU**.

a) SBBC shall provide ASU with the records listed in this section for the purpose of SBBC students' eligibility for enrollment in Dual Enrollment courses.

1. Student first name
2. Student last name
3. High school attended
4. Student email
5. Student phone number

b) SBBC shall obtain written consent from each student's parent/guardian or student age 18 years or older prior to disclosing education records to ASU pursuant to this Agreement.

2.21 **ASU Confidentiality of Education Records**

a) Notwithstanding any provision to the contrary within this Agreement, ASU shall:

(1) fully comply with the requirements of Sections 1002.22, 1002.221, and 1002.222, Florida Statutes; the Family Educational Rights and Privacy Act, 20 U.S.C § 1232g (FERPA) and its implementing regulations (34 C.F.R. Part 99); and any other state or federal law or regulation regarding the confidentiality of student information and records;

(2) hold any education records in strict confidence and not use or redisclose same except as required by this Agreement or as required or permitted by law unless the parent of each student or a student age 18 years or older whose education records are to be shared provides prior written consent for their release;

(3) be responsible for directing that that, at all times, all ASU employees who have access to any education records during the term of their employment abide strictly by its obligations under this Agreement, and that access to education records is limited only to its employees that require the information to carry out the responsibilities under this Agreement and shall provide said list of employees to SBBC upon request;

(4) safeguard each education record through administrative, physical and technological safety standards to ensure that adequate controls are in place to



protect the education records and information in accordance with FERPA's privacy requirements;

(5) utilize the education records solely for the purposes of providing products and services and reporting de-identified summary data, and shall not share, publish, sell, distribute, target advertise, or display education records to any third party;

(6) notify SBBC promptly upon discovery of a breach of confidentiality of education records by telephone and email at 754-321-0300, [itsecurity@browardschools.com](mailto:itsecurity@browardschools.com) and 754-321-1900, [privacy@browardschools.com](mailto:privacy@browardschools.com); and take all necessary notification steps as may be required by federal and Florida law, including, but not limited to, those required by Section 501.171, Florida Statutes;

(7) fully cooperate with appropriate SBBC staff, including Privacy Officer and/or Information Technology staff to resolve any privacy investigations and concerns in a timely manner;

(8) prepare and distribute, at its own cost, any and all required breach notifications that are related to a breach of ASU's data, under federal and Florida Law, or reimburse SBBC any direct costs incurred by SBBC for doing so, including, but not limited to, those required by Section 501.171, Florida Statutes;

(9) be responsible for any fines or penalties for failure to meet breach notice requirements that are related to a breach of ASU's data, pursuant to federal and/or Florida law;

(10) provide SBBC with the name and contact information of its employee who shall serve as SBBC's primary security contact and shall be available to assist SBBC in resolving obligations associated with a security breach of confidentiality of education records; and

(11) securely erase education records from any media once that media equipment is no longer in use or is to be disposed; secure erasure will be deemed the deletion of the education records using a single pass overwrite Secure Erase (Windows) or Wipe (Unix).

(b) All Dual Enrollment student education records shall remain the property of SBBC, and any party contracting with SBBC serves solely as custodian of such information pursuant to this Agreement and claims no ownership or property rights thereto and, upon termination of this Agreement shall, at SBBC's request, return to SBBC or dispose of the education records in compliance with the applicable Florida Retention Schedules and provide SBBC with a written acknowledgment of said disposition.

(c) To the extent permitted by law, ASU shall, for itself, its officers, employees and agents, 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 or agent of the party to the extent that the party or an officer, employee or agent of the party shall either intentionally or negligently violate the provisions of this section or of Sections 1002.22 and/or 1002.221, Florida Statutes. This section shall survive the termination of all performance required or conclusion of all obligations existing under this Agreement. Because ASU is a public institution, any indemnification, liability limitation, releases, or hold harmless provisions are limited as required by Arizona law, including Article 9, Sections 5 and 7 of the Arizona Constitution and Arizona Revised Statutes (“A.R.S.”) §§ 35-154 and 41-621. ASU’s liability under any claim for indemnification is limited to claims for property damage, personal injury, or death to the extent caused by acts or omissions of ASU.

**2.22 Inspection of ASU’s Records by SBBC.** ASU shall establish and maintain books, records and documents (including electronic storage media but not ASU computing resources) sufficient to reflect all income and expenditures of funds provided by SBBC under this Agreement. All of ASU’s records related to this Agreement, regardless of the form in which they are kept, shall be reasonably open to inspection and subject to audit, inspection, examination, evaluation and/or reproduction, during normal working hours, by SBBC’s agent or its authorized representative to permit SBBC to evaluate, analyze and verify the satisfactory performance of the terms and conditions of this Agreement and to evaluate, analyze and verify any and all invoices, billings, payments and/or claims submitted by ASU pursuant to this Agreement. ASU’s records subject to examination shall include, without limitation, those records reasonably necessary to evaluate and verify direct and indirect costs (including overhead allocations) as they may apply to costs associated with this Agreement.

- a) ASU Records Defined. For the purposes of this Agreement, the term “ASU Records” shall include, without limitation, any supporting documents that would substantiate, reconcile or refute any charges and/or expenditures related to this Agreement.
- b) Duration of Right to Inspect. For the purpose of such audits, inspections, examinations, evaluations and/or reproductions, SBBC’s agent or authorized representative shall have access to ASU’s Records from the effective date of this Agreement, for the duration of the term of this Agreement, and until the later of five (5) years after the termination of this Agreement or five (5) years after the date of final payment by SBBC to ASU pursuant to this Agreement. SBBC shall not conduct more than one audit in any 12-month period.
- c) Notice of Inspection. SBBC’s agent or its authorized representative shall provide ASU reasonable advance notice (not to be less than two (2) weeks) of any intended audit, inspection, examination, evaluation and or reproduction of the ASU Records.

d) Audit Site Conditions. SBBC’s agent or its authorized representative shall have access to ASU facilities and shall be provided adequate and appropriate work space in order to exercise the rights permitted under this section.

e) Failure to Permit Inspection. Failure by ASU to permit audit, inspection, examination, evaluation and/or reproduction as permitted under this Section shall constitute grounds for termination of this Agreement by SBBC for cause and shall be grounds for the denial of some or all of any ASU’s claims for payment by SBBC.

f) Overcharges and Unauthorized Charges. If an audit conducted in accordance with this Section discloses overcharges or unauthorized charges to SBBC by ASU in excess of two percent (2%) of the total billings under this Agreement, the actual cost of SBBC’s audit shall be paid by ASU. If the audit discloses billings or charges to which ASU is not contractually entitled, ASU shall pay said sum to SBBC within twenty (20) days of receipt of written demand under otherwise agreed to in writing by both parties.

g) Inspection of Subcontractor’s Records. ASU shall require any and all subcontractors, insurance agents and material suppliers (hereafter referred to as “Payees”) providing services or goods with regard to this Agreement to comply with the requirements of this section by insertion of such requirements in any written subcontract. Failure by ASU to include such requirements in any subcontract shall constitute grounds for termination of this Agreement by SBBC for cause and shall be grounds for the exclusion of some or all of any Payee’s costs from amounts payable by SBBC to ASU pursuant to this Agreement and such excluded costs shall become the liability of ASU.

h) Inspector General Audits. ASU shall comply and cooperate promptly with any inspections, reviews, investigations, or audits deemed necessary by the Florida Office of the Inspector General or by any other state or federal officials.

2.23 **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: Chief Academic Officer  
The School Board of Broward County, Florida  
600 Southeast Third Avenue  
Fort Lauderdale, Florida 33301



To ASU: ASU Learning Enterprise  
Maria Anguiano, Senior Vice President for Strategy  
P.O. Box 877705  
Tempe, AZ 85287-7705

With a copy to: Arizona State University  
Erin Yunt, Senior Director, Fiscal & Business Operations  
P.O. Box 877705  
Tempe, AZ 85287-7705

2.24 **Background Screening.** Both parties 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, (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 ASU or its personnel providing any services under the conditions described in the previous sentence. ASU 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 ASU and its personnel who are required to have background screening. The parties agree that the failure of either party to perform any of the duties described in this section shall constitute a material breach of this Agreement entitling the breaching party to terminate immediately with no further responsibilities or duties to perform under this Agreement.

2.25 **Indemnification.** Each party agrees to be fully responsible 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. 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.

2.26 **Insurance Requirements.** Each party acknowledges without waiving its right of sovereign immunity as provided by Section 768.28, Florida Statutes, that each party is self-insured for general liability under state law with coverage limits of \$200,000 per person and \$300,000 per occurrence, or such monetary waiver limits that may change and be set forth by the legislature.

### **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 or A.R.S. §§ 35-154 and 41-621. 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 or the State of Arizona 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. The parties will comply with all applicable laws, rules, regulations, and executive orders governing equal employment opportunity, immigration, and nondiscrimination including the Americans with Disabilities Act.

3.05 **Termination.** This Agreement may be canceled with or without cause by SBBC or ASU during the term hereof upon thirty (30) days' written notice to the other party 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 under this Section 3.05 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. Notice is hereby provided of A.R.S. § 38-511.

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. In accordance with A.R.S. § 35-154, if ASU's performance under this Agreement depends on the appropriation of funds by the Arizona Legislature, and if the Legislature fails to appropriate the funds necessary for performance, then ASU may provide written notice of this to SBBC and cancel this Agreement without further obligation of ASU. Appropriation is a legislative act and is beyond the control of ASU.

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.

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 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 **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. Notice is hereby provided of A.R.S. §§ 12-133 and 12-1518.



3.11 **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.

3.12 **Governing Law.** This Agreement shall be interpreted and construed in accordance with and governed by the laws of the State of Florida.

3.13 **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.

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

3.15 **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. Notwithstanding the foregoing, ASU may subcontract any of its services hereunder without the consent of SBBC provided that any such subcontract will not release ASU from its obligations under this Agreement.

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

3.17 **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 affect this Agreement and shall not be construed to create a conflict with the provisions of this Agreement.

3.18 **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.

3.19 **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.

3.20 **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.

3.21 **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.

3.22 **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, epidemics, pandemics, quarantine restrictions, government regulations, and the issuance or extension of government orders of the United States, the State of Florida, the State of Arizona, or local county and municipal governing bodies, 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.

3.23 **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.

3.24 **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.

3.25 **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.

3.26 **Advertising, Publicity, Names and Marks**. Neither party will do any of the following without, in each case, the prior written consent of the other: (i) issue a press release or public statement regarding this Agreement; or (ii) represent or imply any endorsement or support of any product or service on the part of the other party in any public or private communication. Neither party will use any names, service marks, trademarks, trade names, logos or other identifying names, domain names or identifying marks of the other party ("Marks") for any reason, including online, advertising, promotional purposes, or any form of publicity, without the prior written permission of the party that owns the Marks in each instance. Use of any party's Marks

must comply with the owning party's requirements, including using the ® indication of a registered trademark where applicable.

3.27 **Counterparts.** This Agreement may be executed in one or more counterparts, each of which will be deemed an original, but all of which taken together will constitute one and the same instrument, and photocopy, facsimile, electronic and other copies will have the same effect for all purposes as an ink-signed original.



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

**FOR SBBC**

(Corporate Seal)

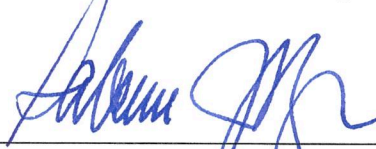
THE SCHOOL BOARD OF BROWARD COUNTY, FLORIDA

ATTEST:

By \_\_\_\_\_  
Donna P. Korn, Chair

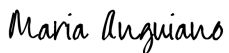
\_\_\_\_\_  
Robert W. Runcie, Superintendent of Schools

Approved as to Form and Legal Content:

  
\_\_\_\_\_  
Office of the General Counsel

**FOR ASU**

THE ARIZONA BOARD OF REGENTS FOR AND ON BEHALF OF ARIZONA STATE UNIVERSITY

DocuSigned by:  
  
By \_\_\_\_\_  
E5DE23755E7E45B  
Maria Anguiano, Senior Vice President for Strategy

ATTEST:

By \_\_\_\_\_

-or-

\_\_\_\_\_  
Witness

Approved as to Form:

\_\_\_\_\_  
Associate General Counsel, ASU

\_\_\_\_\_  
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.



**Appendix A: Approved Course List**

<b>Course ID</b>	<b>Course Name</b>	<b>ASU College Credits</b>	<b>High School Credits</b>
ENG 194	Poetry in America: The City from Whitman to Hip Hop	3	0.5