

**STATE PUBLIC CHARTER SCHOOL AUTHORITY AND NEVADA VIRTUAL ACADEMY
SETTLEMENT AGREEMENT**

This Settlement Agreement is entered into as of _____, ____, 2020 (the “Effective Date”) by and between the Nevada State Public Charter School Authority (“SPCSA”), a political subdivision of the State of Nevada, and Nevada Virtual Academy (“NVVA”), a Nevada public charter school; (collectively, the “Parties”).

RECITALS

WHEREAS, the SPCSA is a charter school sponsor, formed pursuant to NRS 388A.150; and

WHEREAS, NVVA is a public charter school, formed and operating pursuant to NRS Chapter 388A, and NCA is sponsored by the SPCSA; and

WHEREAS, NVVA is currently operating under a Renewed Charter School Contract dated June 30, 2019; and

WHEREAS, NVVA’s Renewed Charter School Contract is for a six (6) year term, beginning on July 1, 2019 and expires on June 30, 2025; and

WHEREAS, NVVA is currently serving students in grades six (6) through twelve (12) under NVVA’s Renewed Charter School Contract; and

WHEREAS, on or about June 21, 2019, NVVA initiated litigation against the SPCSA in regard to NVVA’s Renewed Charter School Contract (Case No. A-19-797192-W, Eighth Judicial District Court, Clark County) (“the Litigation”); and

WHEREAS, the Parties now desire to resolve any and all disputes now existing between themselves concerning the Litigation, by entering into this Agreement and an Amended Charter Contract, on the terms and conditions as set forth herein.

NOW, THEREFORE, in consideration of the mutual promises and agreements herein and other good and valuable consideration, the receipt and sufficiency of which the Parties acknowledge, the Parties represent, warrant, covenant and agree as follows:

AGREEMENT

1. Nature of Agreement.

Except as otherwise provided herein, this Agreement and the documents, instruments, and any monies to be exchanged in connection with the execution of this Agreement, constitute a fully executed settlement, accord, and satisfaction and general and special release of all claims among and between the Parties arising out of or connected with the Litigation. Nothing contained herein shall be construed by any of the Parties hereto as an admission concerning these claims or issues

or as any admission of liability but only as a compromise of the respective claims of the Parties each to the other.

2. Settlement Terms.

- a. Amendment of NVVA's Renewed Charter School Contract. This Agreement shall only be effective upon approval by the SPCSA and NVVA's governing body of an amendment to NVVA's Renewed Charter School Contract upon the following terms and conditions:
 - i. Amending Section 1.3 of NVVA's Renewed Charter School Contract for a term of five (5) years, beginning on July 1, 2019 and expiring on June 30, 2024; and
 - ii. Amending Section 2.3 of NVVA's Renewed Charter School Contract so that NVVA may serve no more than 2,100 students in grades six (6) through twelve (12) subject to the additional terms and conditions set forth in Section 2.3 et seq. of NVVA's Amended Charter Contract, including but not limited to an allowance whereby the number of students may be adjusted upward or downward by NVVA in an amount not to exceed ten (10) percent.; and
 - iii. Removing and deleting Section 7.5.2 and 7.5.3 of NVVA's Renewed Charter School Contract.
- b. Dismissal of Litigation. Within five (5) business days of approval by the SPCSA and NVVA's governing body of the above-referenced amendment to NVVA's 2019 Renewed Charter School Contract, and execution of this Agreement and the Amended Charter Contract, the Parties shall file with the Court a Stipulation and Order dismissing the Litigation, with prejudice, with the Parties bearing their own attorneys' fees and costs.

3. Default.

A Party shall be deemed to be in default of this Agreement if it fails to perform any of its respective obligations required by this Agreement in the timeframe provided for its performance.

4. Release of Claims.

- a. SPCSA's Release of NVVA. Effective only upon full and timely performance by NVVA of all their obligations under this Agreement, the SPCSA releases NVVA and all of its directors, officers, members, employees, agents, attorneys, affiliates, subsidiaries, related entities, successors, and assigns from any and all manner of claims, actions, causes of action, defenses, charges, suits, rights, debts, dues, sums of money, accounts, reckonings, bonds, bills, specialties, covenants, contracts, controversies, agreements, promises, variances, trespasses, damages, judgments, executions, obligations, liabilities, and demands of any kind or nature whatsoever, whether arising at law or in equity, whether presently possessed or possessed in the future, whether known or unknown, liquidated or unliquidated, whether presently accrued or to accrue hereafter, whether absolute or contingent, foreseen or unforeseen, and whether or not heretofore asserted, that arise from or relate to the Litigation. Only in the event of full and timely performance of all obligations under the Agreement, including all exhibits hereto, this release provision may be pleaded as a full and

complete defense to, and may be used as the basis for an injunction against, any action, suit, or other proceeding which may be instituted, prosecuted, or attempted in breach of this release.

- b. NVVA's Release of the SPCSA. Effective only upon full and timely performance by the SPCSA of all its obligations under this Agreement, NVVA releases the SPCSA and all of its directors, officers, members, employees, agents, attorneys, affiliates, subsidiaries, related entities, successors, and assigns from any and all manner of claims, actions, causes of action, defenses, charges, suits, rights, debts, dues, sums of money, accounts, reckonings, bonds, bills, specialties, covenants, contracts, controversies, agreements, promises, variances, trespasses, damages, judgments, executions, obligations, liabilities, and demands of any kind or nature whatsoever, whether arising at law or in equity, whether presently possessed or possessed in the future, whether known or unknown, liquidated or unliquidated, whether presently accrued or to accrue hereafter, whether absolute or contingent, foreseen or unforeseen, and whether or not heretofore asserted, arising from or related to the Litigation. This release provision may be pleaded as a full and complete defense to, and may be used as the basis for an injunction against, any action, suit, or other proceeding which may be instituted, prosecuted, or attempted in breach of this release.

5. Miscellaneous.

- a. Attorney Fees.

The Parties shall bear their own attorney fees and costs related to the preparation of this Agreement and the Litigation. Should any action be brought by either party to enforce this Agreement, the prevailing party will be entitled to recovery of its actual attorney's fees, including the fair market value of any in-house attorneys and staff, court costs, expert witness fees and/or trustee costs and fees, including all related expenses, all as costs in accordance with this Agreement, through to final non-appealable conclusion, in addition to any other relief to which that party may be entitled.

- b. Acknowledgments.

The Parties mutually understand, agree, and warrant that by entering into this Agreement, including the exhibits hereto: (a) that no promise or inducement has been offered except as herein set forth; (b) that this settlement is in good faith and is equitable provided it is fully and timely performed; (c) the Parties are legally competent to execute this Agreement and to accept full responsibility therefor; (d) that in entering into this Agreement and the settlement and contingent releases that are encompassed herein, the Parties are acting freely and voluntarily and without influence, compulsion, or duress of any kind from any source, including, but not limited to, any other Party or Parties, their attorneys, representatives, or anyone acting or purporting to act on behalf of any Party; (e) that no Party has assigned any claims otherwise released herein; and (f) each Party has the full authority to enter into this Agreement.

c. Entire Agreement.

This Agreement, including any exhibits hereto, constitutes the entire agreement between the Parties. This Agreement may not be modified except in a writing signed by all of the Parties. Any attempted oral modification of this Agreement shall be void and of no effect.

d. Successors in Interest.

This Agreement shall be binding upon and inure to the benefit of the Parties, their executors, administrators, heirs, successors, and assigns.

e. Representation of Comprehension of Document.

In entering into this Agreement, the Parties represent that they have relied upon the legal advice of attorneys of their own choice and that the terms of this Agreement have been completely read and explained, and that those terms are fully understood and voluntarily accepted.

f. Governing Law.

This Agreement shall be governed by and construed in accordance with the laws of the State of Nevada.

g. Counterparts.

This Agreement may be executed in any number of counterparts, each of which when so executed and delivered shall be deemed an original; and such counterparts shall constitute one and the same Agreement. Any signature page of the Agreement may be detached from any counterpart without impairing the legal effect of any signatures and may be attached to another counterpart identical in form. This Agreement may be executed by signatures provided by facsimile, email, or by other electronic means (e.g., DocuSign), and such signatures shall be as binding and effective as original signatures.

h. No Party Deemed Drafter.

No Party shall be deemed to be the drafter of this Agreement. In the event a court ever construes this Agreement, such court shall not construe this Agreement or any provision hereof against any Party as the drafter of the Agreement.

i. Severability.

If any portion of this Agreement or the application thereof to any person or circumstance shall be deemed invalid, illegal or unenforceable to any extent, the remainder of this Agreement and the application thereof shall not be affected and shall be enforceable to the fullest extent permitted by law.

j. Time is of the Essence.

Time is of the essence with respect to all provisions within this Agreement, including all exhibits hereto. Any delay in performance by either party shall constitute a material breach of this Agreement.

In witness whereof, the Parties have executed this Agreement as of the Effective Date contained herein.

Nevada State Public Charter School Authority, a political subdivision of the State of Nevada

Nevada Virtual Academy, a public charter school

Melissa Mackedon; Chair, Nevada State Public Charter School Authority

Samantha Morris; President, Nevada Virtual Academy Governing Body

Dated this ___ of _____, 2020

Dated this ___ of _____, 2020

Approved as to form and content:

Nevada State Public Charter School Authority, a political subdivision of the State of Nevada

Nevada Virtual Academy, a public charter school

Ryan Herrick, Esq.

Jeffery Garofalo, Esq.

Dated this ___ of _____, 2020

Dated this ___ of _____, 2020