

Memorandum of Agreement between the Sullivan College of Technology and Design and the Jefferson County Public Schools for an Educational Partnership relating to Welding Training and Certification Courses

This memorandum of agreement is made and entered into as of June 23 2015 by THE SULLIVAN UNIVERSITY SYSTEM, INC., a Kentucky corporation doing business as the Sullivan College of Technology and Design (hereinafter "SCTD") and the JEFFERSON COUNTY BOARD OF EDUCATION, a Kentucky public school district doing business as the Jefferson County Public Schools (hereinafter "JCPS").

Whereas, SCTD and JCPS (hereinafter collectively called the "Parties") are educational organizations operating in the state of Kentucky, and

Whereas, the Parties recognize that manufacturing and other industries operating in the state of Kentucky have a need for trained and certified welders, and the Parties desire to form an educational partnership that will have the goal of assisting such industries to obtain trained and certified welders and thereby will benefit the economic development of the state of Kentucky, and

Whereas, JCPS currently operates welding instruction programs for secondary school students at Jeffersontown High School and Iroquois High School, and SCTD currently operates welding instruction programs for post-secondary school students including graduates of such JCPS programs, and

Whereas, the Parties have concluded that the goal of their educational partnership will be advanced by allowing SCTD to use the JCPS welding facility at Jeffersontown High School for the purpose of providing advanced welding instruction to graduates of the Jeffersontown High School and Iroquois High School welding instruction programs and other post-secondary school students, and

Whereas, this memorandum of agreement (hereinafter "MOA") sets forth the rights and duties of the Parties with regard to the use of Jeffersontown High School's welding facility by SCTD for the purpose of providing industry-required welding instruction to such persons.

Now, therefore, for good and valuable consideration, the receipt and sufficiency of which is acknowledged, the Parties agree as follows:

I. JCPS agrees to make available to SCTD the welding lab and classroom, restrooms in the main hallway and the teacher break room located within Jeffersontown High School (hereinafter "JHS") and the safety equipment therein, each Monday and Friday, June 29 – December 18, 2015, 5p.m. – 10p.m. and during subsequent quarters if required by student needs and demand for SCTD's Welding Certification Program (hereinafter "Welding Certification Program").

II. SCTD agrees that the areas of the JHS facility/grounds and equipment specified in **Section I** above will be used only for the Welding Certification Program's classes.

III. SCTD agrees to pay JCPS the amount of \$2,675 (two thousand six hundred seventy five and no/100 dollars) for the right to use the JHS facility/grounds and equipment for the purposes provided in this MOA. SCTD shall pay said amount in full by June 23, 2015. Payment shall be made payable to the Treasurer, Jefferson County Public Schools and sent to the VanHoose Education Center, 3332 Newburg Road, P.O. Box 34020, Louisville, Kentucky 40232 – 4020, Attention: Accounts Receivable.

IV. The Parties agree that the use by SCTD of the areas of the JHS facility/grounds and equipment specified in **Section I** above shall be subject to each of the following terms and conditions:

A. Prior to its proposed use of JHS facility/grounds and equipment, SCTD shall:

i. Execute and return this MOA

ii. Submit payment of the amount set forth in **Section III** above

iii. Procure and maintain insurance with a reputable insurer having an A.M. Best financial strength rating of “A” or better, throughout the period specified in this MOA. Such insurance policies shall be in an amount not less than listed below:

General Liability including Fire Damage Legal Liability

\$ 1,000,000 per occurrence/\$2,000,000 aggregate

Umbrella Liability \$ 5,000,000

Workers Compensation Statutory

Employers Liability \$ 500,000 / \$500,000 / \$500,000

Auto Liability \$ 1,000,000

iv. Name “Jefferson County Board of Education” an additional insured under the General Liability, Auto Liability, Employers Liability and Umbrella Liability policies. SCTD and JCPS agree that any insurance policy(ies) procured by SCTD that provides benefits or protection for JCPS shall be primary and that any insurance policy(ies) procured by JCPS shall be secondary for any claims arising out of SCTD’s use of the JHS facilities/grounds and equipment. Evidence of such shall be endorsed to said policies.

v. Provide a certificate of insurance must be provided to the JCPS prior to the use of the JHS facilities/grounds and equipment. The executed MOA and the certificate of insurance shall each be submitted to JCPS at the VanHoose Education Center, 3332 Newburg Road, P.O. Box 34020, Louisville, Kentucky 40232- 4020, Attn: Insurance Technician, by June 23, 2015.

- B.** SCTD shall be solely responsible for providing the Welding Certification Program's classes to the post-secondary students enrolled in such classes, including without limitation the selection of students, the hiring of instructors, the selection of the curriculum and the delivery of the instruction. SCTD may hire one or more JCPS employees to work for the Welding Certification Program during times outside the JCPS work day of such employees; provided, [i] all instructors for the Welding Certification Program's classes will be employees of SCTD with respect to their time spent working for the Welding Certification Program, not employees of JCPS with respect to such time, [ii] SCTD shall be solely responsible for all compensation, benefits and tax withholding and all insurance coverage, including workers compensation insurance coverage, for the instructors with respect to such time, and [iii] the hold harmless and indemnity obligations of SCTD in **Section IV.D** below shall apply to the acts of the instructors with respect to such time.
- C.** SCTD and its invitees' access to the JHS facilities/grounds and equipment shall be strictly limited to those parts of JHS facilities/grounds and equipment specified in **Section 1**, above, and reasonable means of entry to and egress from the JHS facilities/grounds.
- D.** SCTD shall hold harmless and indemnify JCPS for any and all loss, claims, expenses, action, costs, damages, and obligations, arising from any and all acts of SCTD, including but not limited to its instructors, students, agents, servants, employees, representatives, licensees, invitees or participants that result in injury to persons, corporations, partnerships, or any other entity. JCPS shall have the right but not the obligation to be associated with the defense of any claims.
- E.** SCTD shall abide by all JCPS policies, procedures, rules and regulations in its use of the JHS facility/grounds and equipment, and shall be strictly liable for any and all damage to the JHS facility/grounds and equipment which occurs during the time specified in **Section I**, above, or as a result of the SCTD's usage of said JHS facility/grounds and equipment.
- F.** SCTD shall observe all applicable fire and safety regulations and codes.
- G.** SCTD agrees that, unless prior approval is given by JCPS in writing, no hazardous materials (including, by not limited to, flammable materials or liquids, fireworks, pyrotechnic devices, explosives, poisonous materials or plants, or strong acids or caustics) and no dangerous animals will be brought onto the JHS facilities/grounds or used in any way while occupying any portion of the JHS facilities/grounds.

- H. SCTD shall prohibit the use of tobacco products and alcoholic beverages in or on the JHS facility/grounds.
- I. SCTD shall not allow any immoral or illegal activity, including but not limited to, gambling, in or on the JHS facility/grounds.
- J. SCTD shall not make any alterations to the JHS facility/grounds or equipment without prior written approval of JCPS.
- K. SCTD shall not sublease, reassign, or in any way encumber any portion of the JHS facility/grounds or item of equipment covered by this MOA.
- L. The use of JCPS equipment shall be limited to the JHS equipment that is specially listed in **Section I**, above. SCTD agrees that:
 - i. Such equipment may not be used by SCTD if such use interferes with JCPS's school activities;
 - ii. Such equipment shall not be removed from the JHS facility/grounds; and
 - iii. SCTD shall assume full responsibility for any and all expenses resulting from the transfer, repair, or replacement of such equipment necessitated as a result of SCTD's use thereof.
 - iv. In the event that such equipment is damaged, JCPS shall send a report to SCTD at the address listed in this MOA. A resolution agreeable to the JCPS shall be a prerequisite to continue use by SCTD of any the JHS facility/grounds or equipment.
- M. In the event equipment assigned for SCTD's use is either unavailable or in unsatisfactory working conditions on the date and at the time scheduled for its use, SCTD's sole remedy shall be a prorated refund of any equipment usage costs paid by the SCTD for such period during which the equipment was so unavailable for use.
- N. SCTD shall ensure that proper care is taken of the JHS facilities/grounds and equipment during its use thereof, and that the JHS facilities/grounds and equipment are left in as good of a condition after each individual use as immediately before it. SCTD agrees that any furniture or equipment moved during the use of the JHS facilities/grounds shall be restored to its original position and that the JHS facilities/grounds shall be left in a clean and tidy condition.
- O. SCTD shall not sell or offer to sell any merchandise on the JHS facility/grounds.

- P. SCTD shall be responsible for the conduct of individuals using the JHS facility/grounds as a result of the Welding Certification Program.
- Q. SCTD agrees that if the JHS facility/grounds, employees, or equipment become unavailable due to circumstances beyond JCPS's control, including but not limited to: loss of electrical power, sickness, terrorism, war, adverse weather, or natural disaster (earthquake, fire, flood, ice storm, tornado, windstorm, etc.), SCTD's sole remedy shall be a prorated refund of the applicable actual cost paid by SCTD for use during such period of unavailability.
- R. SCTD agrees to give notice to JCPS, within 24 hours, of any incident resulting in bodily injury or property damage occurring on or in any way connected with SCTD's use of the JHS facilities/grounds or equipment. Such notice shall include details of the time, place and circumstances of the incident, as well as the names and addresses of any person(s) witnessing the incident. The notice shall be directed to the JCPS Insurance Technician, at the address referenced above.
- S. SCTD shall not discriminate on the basis of race, color, national origin, religion, sex, age or disability in its employment, delivery of services, or the availability of program participation in connection with its use of the JHS facilities/grounds and equipment, and will always conduct itself in conformity with the provisions of Title VI and VII of the Civil Rights Act of 1964, as amended, Title IX of the Education Amendments of 1972, as amended, Rehabilitation Act of 1973, as amended, Age Discrimination Act of 1975, as amended, Americans with Disabilities Act of 1990, and Executive Order No. 11246 of September 24, 1965, as amended, and all other applicable laws and regulations which prohibit discrimination.
- T. SCTD will offer the following benefits to JCPS students as a term of the educational partnership created by this MOA:

*SCTD will provide industry certifications through the American Welding Society (AWS) and the National Center for Construction Education and Research (NCCER). These credentials are portable and standard in the industry.

*SCTD will provide one scholarship to a student graduating with a welding major from either Jeffersontown High School or Iroquois High School each year. Students will receive applications during their senior year and address scholarship criteria developed by the high school and postsecondary partners. Each scholarship will be in the amount of \$1,435 and can be used to defer some of the program costs.

*SCTD will recognize graduates of the high school welding programs at either Iroquois High School or Jeffersontown High School who have earned certifications with the American Welding Society (AWS) and/or the National Center for Construction Education and Research (NCCER) as having advanced standing in the Welding Certification Program.

*SCTD, in partnership with Jeffboat, a major local employer of welders in the Louisville area, will travel at least once to Jeffboat with the SCTD students in order to complete levels of testing and orientation that will allow them to go directly to work at the facility following their participation in the program.

*SCTD will offer JCPS graduates a program that will ensure their employability at a reasonable cost. Students who complete the four tracks of the program will pay \$4,868. Many of JCPS welding graduates who attend welding schools such as Tulsa, have to pay as much as \$19, 581, and in addition have to pay travel and living expenses while they attend classes on campus. The proposed instruction will give students an alternative in an environment familiar to them. They can remain at home, greatly reduce the expense of training, and receive high quality training in a well-equipped facility.

*At present, the program SCTD will offer at Jeffersontown High School will not be for college credit. When/if SCTD does seek accreditation for the program from the Kentucky Council on Postsecondary Education and its national accrediting agency, the Accrediting Council for Independent Colleges and Schools (ACICS), SCTD will offer dual credit for coursework that JCPS students complete successfully during their high school programs.

V. The terms and conditions of this MOA may be extended or amended at any time by mutual agreement, commemorated in writing and signed by both Parties.

VI. Either Party shall have the right to terminate this MOA for convenience at any time 30 days following written notice, served upon the other Party by certified or registered mail with return receipt requested. In addition, either Party may terminate this MOA immediately for cause upon written notice served upon the other Party by registered or certified mail with return receipt requested.

VII. If any part, term or provision of this MOA is held illegal or in conflict with any federal law or law of the Commonwealth of Kentucky, the validity of the remaining portions or provisions shall not be affected, and the rights and obligations of the Parties shall be construed and enforced as if the MOA did not contain the particular part, term, or provision held to be invalid, if the remainder of the MOA is capable of performance.

VIII. All questions as to the execution, validity, interpretation and performance of this MOA shall be governed by the laws of the Commonwealth of Kentucky. Furthermore, the Parties agree that any legal action which is brought on the basis of this MOA shall be filed in the Jefferson County Circuit of the Commonwealth of Kentucky.

JEFFERSON COUNTY BOARD OF EDUCATION

By: _____

Name: _____

Title: _____

Date: _____

THE SULLIVAN UNIVERSITY SYSTEM, INC.

By: CE

Name: Chris Ernst

Title: Executive Director

Date: 6-11-15