

**C-STEM
PARTICIPATION AGREEMENT**
(Newport-Mesa Unified School District)

This participation agreement ("Agreement") is by and between THE REGENTS OF THE UNIVERSITY OF CALIFORNIA ("University") on behalf of its UC Davis Center for Integrated Computing and STEM Education ("C-STEM or The C-STEM Center"), and NEWPORT-MESA UNIFIED SCHOOL DISTRICT "District", collectively, the "parties".

WITNESSETH:

WHEREAS, The C-STEM Center has established a comprehensive program and curricula for computing and STEM education (the "C-STEM Program") and supports a network of school districts, colleges, universities, and private sector collaborators (the "C-STEM Network"); and

WHEREAS, District desires to implement the C-STEM Program in order to provide its students specialized training in science, technology, engineering, and mathematics (STEM) subjects, which consists of various curricular programs (the "C-STEM Curricular Program(s)"); and

WHEREAS, District shall have access to all C-STEM Program curricula and annual updates as well as access to the C-STEM electronic communication network, online systematic assessment and evaluation, online on-going training, online program support and additional benefits; and

WHEREAS, the parties desire to work together to maximize the benefit of the C-STEM Program to students by maintaining the quality standards and practices necessary to ensure the efficient and effective delivery of the C-STEM Program.

NOW, THEREFORE, the parties agree as follows:

1. Purpose. The purpose of this Agreement is to provide District with access to the C-STEM Curricular Program according to the following terms and conditions.
2. Term. The term of this Agreement shall begin as of the date last signed below continuing through July 31, 2021.
3. Application and Information. District's application forms showing participating schools, contact information and dollar amounts are attached as Exhibit A and are by this reference made a part hereof. District represents that the information contained in the application remains accurate as of the date of this Agreement. In the event that District elects to have additional schools or sites added, or elects to make other material changes such as adding additional C-STEM Curricular Programs, District must first complete the necessary data entry and/or information reasonably required by the C-STEM Center, followed by an amendment signed by the parties.
4. C-STEM Requirements for Implementation. District agrees to implement the C-STEM Program according to the program and implementation requirements established by the C-STEM Center ("C-STEM Program Requirements" or "Program Requirements" attached hereto as Exhibit B and made a part hereof), which shall include, but not be limited to, Program Requirements governing participation fees, sequencing, courses, training, certification or

maintenance of program standards, and other aspects of a successful implementation of the C-STEM Program and C-STEM courses by participating entities. Program Requirements are available on the C-STEM Center website and may be modified from time to time by the C-STEM Center in its sole discretion. Should participation fees be modified, C-STEM will give District thirty (30) days' notice of such modification before such fee will be imposed on District.

5. C-STEM Curricular Program. District agrees to follow the C-STEM curricula and to meet C-STEM quality standards and practices including any concurrent student course requirements as reasonably established by the C-STEM Center for students to be successful in the C-STEM Program. C-STEM Middle School and High School Curricular Programs, including concepts and objectives, must be taught in its entirety without interruption or any unauthorized modification. The C-STEM Supplementary Implementation Curricular Program allows schools more flexibility in implementation but has added restrictions which prevents schools from classifying themselves as a C-STEM School or classifying the course as a C-STEM A- G course. Additional information is found in the Program Requirements.

6. C-STEM Software. The C-STEM curricula are supported by proprietary C-STEM software including electronic documents and programs that align with the C-STEM curricula. Districts must install and allow students' access to required C-STEM Center software during the term of this agreement. The term for the right to use C-STEM software is the then-current academic year of this Agreement, after which District must cease the use of the C-STEM Software unless this Agreement is renewed for additional terms. District agrees to maintain reasonable security measures to protect the C-STEM Software, and to prohibit its unlawful use. When not in actual use, District agrees to secure the C-STEM Software. District agrees to accept all risk and liability for use of C-STEM Software programs.

7. Third Party Software. The C-STEM curricula are supported by certain third party software programs (Third Party Software) that align with the C-STEM curricula to provide students with rigorous and relevant application of skills. District must obtain or purchase annual or other available rights to Third Party Software programs which are integrated into the C-STEM Program courses in that academic year. These rights may be subject to limitations established by the owner of the Third Party Software, which may include school or site restrictions, as outlined in the Program Requirements. If the right to use the Third Party Software is on an annual basis, then the term for the rights is the then-current academic year of this Agreement, after which District must cease the use of the Third Party Software unless this Agreement is renewed for additional terms. All Third Party Software shall be subject to the standard end-user license agreement from the Third Party Software vendor, a copy of which is included with the Third Party Software, and copyright for each Third Party Software package remains with its owner and is protected by applicable copyright law. District agrees to maintain reasonable security measures to protect the Third Party Software, and to prohibit its unlawful use. When not in actual use, District agrees to secure the Third Party Software. District agrees to accept all risk and liability for use of such third party Third Party Software programs. Additional information is found in the Program Requirements.

8. C-STEM Curricular Program Annual Participation Fee. Upon payment of an annual participation fee for each school or site participating in the C-STEM Program in the amount of \$600 per elementary school, \$800 per middle school, or \$1,000 per high school for a total amount of \$800 by District to C-STEM, District will have access to the C-STEM Curricular Program. District will

access the C-STEM Curricular Program through its website at <http://c-stem.ucdavis.edu/>. The participation fee(s) shall be due and payable in the amount of \$ 800 no later than August 31st during the term hereof. Correspondence or inquiries regarding payment should be directed to the following addresses: C-STEM Center Finance Officer, One Shields Avenue, 2132 Bainer Hall, MAE Dept., Davis, CA 95616. Email: orders@c-stem.ucdavis.edu Telephone: (530) 752-9082. Current participation fees are set forth in the Program Requirements. The participation fee covers program support features to the curriculum for which a school has trained teachers, as well as the associated support systems such as end of course assessments. A full list can be found in the Program Requirements. The C-STEM Center may adjust any participation fees on an annual basis in the sole discretion of the C-STEM Center, provided, however, that the C-STEM Center shall provide notice no later than March 1 of each year of any such increases or decreases for the following academic year. Additional information is found in the Program Requirements.

9. Required C-STEM Teacher Training. Teachers are required to successfully complete course specific C-STEM Teacher Training for each C-STEM course they will instruct. District will select each teacher for participation in the C-STEM Teacher Training program. It is the sole responsibility of District to ensure that every teacher meets all Federal, State and local requirements to teach each respective C-STEM course. District shall register each teacher being selected for training and teaching with the C-STEM Center by the date required under the Program Requirements. The C-STEM Center reserves the right to accept or reject any training or teaching candidate. Additional information is found in the Program Requirements.

9.1. C-STEM Conference. The annual C-STEM Conference is a professional development conference for school counselors, post-secondary advisers, principals, teachers and school/district/county administration to learn more about the C-STEM Program as well as why and how they should encourage students to enroll in the C-STEM Program. C-STEM Center and its Affiliates provide C-STEM Teacher/Counselor/ Administrator Training annually, in the form of the annual C-STEM Conference. Although it is suggested to have all advisers/counselors/administrators attend a C-STEM Conference at least once, each participating school or site of the Entity will send a minimum of one adviser/counselor/administrator per annual conference. The Entity will permit the attendance of appropriate teachers/advisers/counselors and shall pay all fees and expenses in conjunction with this C-STEM Conference.

10. Indemnification. District will defend, indemnify, and hold harmless University, its officers, employees, and agents, from and against all losses, expenses (including, without limitation, reasonable attorneys' fees and costs), damages, and liabilities of any kind resulting from or arising out of the Agreement, including the performance hereunder of District, its officers, employees, agents, sub-suppliers, or anyone directly or indirectly employed by District, or any person or persons under District's direction and control, provided such losses, expenses, damages and liabilities are due or claimed to be due to the acts or omissions of District its officers, employees, agents, sub-suppliers, or anyone directly or indirectly employed by District, or any person or persons under District's direction and control. University agrees to provide District with prompt notice of any such claim or action and to permit District to defend any claim or action, and that University will cooperate fully in such defense. University retains the right to participate in the defense against any such claim or action, and the right to approve any settlement, which approval will not unreasonably be withheld. University specifically disclaims any liability for Third Party Software claims; District shall assume all liability, loss, expense, attorneys' fees, or claims for

injury or damages arising from Third Party Software claims.

11. University Insurance. University warrants that it shall maintain, during the term hereof, a program of self-insurance combining the coverages and minimum limits described in the following subsections. University to notify District at least thirty (30) days prior to and policy modification, change, or cancellation.

11.1. General Liability Insurance.

Per Occurrence	\$1,000,000
General Aggregate	\$2,000,000

11.2. Workers' Compensation. University shall maintain workers' compensation insurance as required by California law.

12. District Insurance. District warrants that it shall maintain, during the term hereof, a program of commercial general liability insurance or self-insurance combining the coverages and minimum limits described in the following subsection. District to notify University at least thirty (30) days prior to cancellation.

12.1. Commercial General Liability Insurance.

Per Occurrence	\$1,000,000
General Aggregate	\$2,000,000

12.2. Workers' Compensation. District shall maintain workers' compensation insurance as required by California law.

13. Equipment Used in the C-STEM Program.

13.1. Equipment. The C-STEM Purchasing guide includes details on equipment, supplies and other items (collectively referred to as "equipment" in this Agreement) that are required to implement the C-STEM Program. To ensure that District's school or site facilities properly support the C-STEM Program, and to provide special purchase or license agreements and other costs savings practices negotiated by the C-STEM Center, in some instances it is required that specific equipment (including Third Party Software) be used due to curricular requirements. Unless specific equipment is required by the C-STEM Center, District may implement the C-STEM Program using equipment purchased from vendors not listed in the C-STEM Purchasing guide, provided such equipment meets or exceeds program specifications and adequately supports the C-STEM Program. The District shall be responsible for ensuring that equipment will meet or exceed Program Requirements and adequately support the C-STEM Program. Additional information is found in the Program Requirements.

13.2 Safety. District is solely responsible for the safe and proper implementation of the C-STEM Program at its sites and schools. District hereby covenants and agrees that any facility used to teach the C-STEM Program shall be adequately equipped to operate the equipment safely and properly and that such facility and any equipment used thereon shall at all times comply with applicable standards and/or customary practices relating to safety and reasonable use. District shall be solely responsible for providing its teachers with appropriate safety training relating to the implementation of the C-STEM Program.

14. Assessment and Evaluation of Results. The C-STEM Center assists and supports participating entities and the quality of the C-STEM Program through studying and evaluating the effectiveness of the C-STEM Program on an ongoing basis in order to update instructional, curricular and assessment materials and otherwise improve the instruction that C-STEM participating entities provide to students. These efforts include the development, validation, and administration of assessments, examinations, surveys and/or other measurement tools on behalf of entities during their participation in the C-STEM Program. The C-STEM Center's ongoing studies review longitudinal student achievement data. The C-STEM Center retains data for four to six academic years after a student's estimated matriculation date, after which time the data is destroyed; at the request of District, a copy of the data will be returned to District prior to destruction. In support of these efforts, District acknowledges its participation annually in the C-STEM systematic assessment and evaluation process when District uses the C-STEM Middle School and/or C-STEM High School Programs. The C-STEM Center will provide, and District will annually participate in, the C-STEM online systematic assessment and evaluation process conducted by the C-STEM Center and/or its designated representatives, which includes online teacher registration, online student rostering/ registration, and full participation in various assessments, examinations, surveys and/or other measurement tools using technology and other support services provided by the C-STEM Center. District and the C-STEM Center acknowledge and agree that the personally identifiable data is confidential, and shall be used, shared and maintained for the purposes set forth above and only in accordance with reasonable privacy/security measures, proper professional practices, student confidentiality and applicable laws, including FERPA. Notwithstanding any language to the contrary, C-STEM may publish results from assessments and surveys in aggregate provided no personally identifiable data is included. Use or access to any protected data obtained as a result of these studies will be limited to representatives with a legitimate interest in accessing this data and re-disclosure of any personally identifiable information will be done in limited instances only, and only as allowed by, and consistent with, applicable laws. District shall be responsible for implementing annual notifications, record-keeping and other such privacy requirements relating to these services.

15. Delivery of Materials and Communication. In order to facilitate the delivery of the C-STEM curricula and other C-STEM Program materials to District, and to facilitate communication for the C-STEM Network, the C-STEM Center will use various internet applications and systems. The C-STEM Center shall determine which systems and applications will be used, in its sole discretion, and will implement reasonable security measures to safeguard sensitive data. Schools will implement appropriate measures to facilitate communication with these applications and systems. Additional information is found in the Program Requirements.

16. Use of C-STEM's Marks. District shall not use the name or mark of the UC Davis C-STEM Center in any form or manner in advertisements, reports, or other information released to the public without the prior written approval of the UC Davis C-STEM Center. District acknowledges that the C-STEM Center retains all rights and title to its marks, curricula, framework, methodologies, processes, information, materials and other intellectual property (collectively referred to in this Agreement as "materials").

17. License.

17.1. Non-exclusive. The C-STEM Center grants to District a non-exclusive, non-transferable license to reproduce and use, to the extent authorized herein, printed or electronic materials developed and/or used in connection with the C-STEM Program, for the sole purpose of instruction to students at registered schools or sites

that are actively providing C-STEM instruction, and appropriate training for authorized teachers. Any other use, reproduction, disclosure or distribution of such materials, including but not limited to commercial use, shall be strictly prohibited.

17.2. Program Identification. The C-STEM Center, C-STEM, the C-STEM graphics, and other marks used in the C-STEM Program are service/trademarks of the C-STEM Center. During the term of this Agreement, District shall use the appropriate logos, marks and other identifying materials on all C-STEM Program materials and communications with teachers, students, officials and community constituents. Only entities implementing the C-STEM Middle School or C-STEM High School programs can use the terminology “C-STEM School” on any materials and communication. Entities implementing the Supplementary Implementation program may not use the “C-STEM School” terminology in reference to District but may use “C-STEM Site” terminology which is a school within a District that uses the Supplementary Implementation program. The C-STEM Center will supply District with appropriate instructions and labels relating to such identifying material to facilitate the proper promotion of the C-STEM Program. Upon termination of this Agreement, District shall cease using any such identifying material and shall make no representations linking any of its own educational programs to the C-STEM Program without the prior written consent of the C-STEM Center. All press releases and other public pronouncements involving the C-STEM Program shall be subject to the advance approval of the C-STEM Center through the C-STEM Center’s designated representative. District agrees to reasonably promote and publicize the C-STEM Program in order to encourage student participation and to retain its distinct character.

17.3. Termination. The license granted hereunder shall cease upon the earliest to occur of: (i) the termination of this Agreement; or (ii) the C-STEM Center providing sixty (60) days written notice to District of its election to revoke the license. Upon termination of the license all material shall cease to be used and, at the election of the C-STEM Center, all C-STEM software, including electronic documents and programs, shall be uninstalled from all District computers, and in no event later than fifteen (15) days after the effective date of termination.

18. Representations and Warranties of District. District hereby makes the following representations and warranties: (a) This Agreement has been duly approved by the governing authority of District, and the person executing this Agreement on behalf of District has been duly authorized to so act by such District; (b) This Agreement is a legally binding agreement whose rights and obligations run only between District and the C-STEM Center and District’s execution of this Agreement does not create rights in any other party; and (c) The terms of this Agreement do not violate or conflict with District’s charter or any other of its rules of governance, the laws of District’s State or any subdivision thereof, or any other agreement to which District is a party.

19. Default.

19.1 Material Breach and Cure Period. Upon a material breach of this Agreement by either party which is not cured within fifteen (15) days after written notice is mailed to the defaulting party, this Agreement shall terminate effective upon the completion of the then-current academic year.

19.2 Non-payment or Failure to Implement Program. If District fails to make prompt payment of the participation fee in accordance with the terms of this Agreement or to implement the C- STEM Program for the academic year immediately following the date of this Agreement, then this Agreement may immediately terminate, at the option of the C-STEM Center. In the event that District implements one or more courses, but fails to timely and properly implement the courses required for District's C-STEM Curricular Program(s), then, this Agreement may immediately terminate, at the option of the C-STEM Center.

19.3 Other Remedies. In addition to the right to terminate the Agreement upon a breach thereof, the parties shall also have the right to exercise all of their respective remedies, both legal and equitable, as a result of the breach.

20. Protection of Intellectual Property. District agrees to adhere to any and all restrictions in connection with equipment, C-STEM Software, Third Party Software and other intellectual property use agreements between the C- STEM Center and Third Party Software producers, vendors or other such entities, and to take proactive measures to protect intellectual property used or available under such agreements, as shall be requested by the C-STEM Center or the owner of the intellectual property. Upon termination of this Agreement, District shall discontinue use of all Third Party Software or other intellectual property provided to them pursuant to this Agreement or through special agreements relating to District's participation in the C-STEM Program. The C-STEM Center assumes no liability for the non-performance of the Third Party Software or other intellectual property but will provide reasonable assistance to resolve non-performance issues with the owner of the Third Party Software or other intellectual property. District agrees that if it materially breaches these restrictions, its right to use such Third Party Software or other intellectual property will be terminated and all Third Party Software or other intellectual property shall be immediately returned to the C-STEM Center or the owner. District shall solely be responsible for any remedies sought by the owner relating to District's breach of these provisions, and the C-STEM Center shall not be liable in any way for such breach.

21. Disclaimer of Warranty. UNIVERSITY MAKES NO WARRANTY AS TO RESULTS TO BE OBTAINED BY THE USER FROM THE USE OF ANY SERVICES AND/OR FACILITIES PROVIDED BY UNIVERSITY UNDER THIS AGREEMENT. THERE ARE NO EXPRESS OR IMPLIED WARRANTIES, INCLUDING BUT NOT LIMITED TO, THE IMPLIED WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE.

22. Attorneys' Fees. If any action at law or equity is brought to enforce or interpret the terms of this agreement, including collection of delinquent payment, the prevailing party shall be entitled to reasonable attorney's fees, costs and necessary disbursements in addition to any other relief to which it may be entitled.

23. Assignment. District is prohibited from assigning to or in any other way enabling any of its rights under this Agreement to inure to any third party without the prior written consent of the C-STEM Center. This prohibition on assignment shall be a material term of this Agreement and any violation of this Section shall be a material breach of this Agreement, which shall allow the C-STEM Center to terminate this Agreement.

24. Severability. If a provision of this agreement becomes, or is determined to be, illegal, invalid, or unenforceable, that will not affect the legality, validity, or enforceability of any other provision of the agreement or of any portion of the invalidated provision remains legal, valid, or enforceable.

25. Notice. Any notice required or permitted hereunder shall be sent to the parties via U.S. mail, e-mail, facsimile, or personal service at the addresses shown below. Either party may change its address by written notice to the other during the term.

UNIVERSITY
Business & Revenue Contracts
University of California, Davis
One Shields Avenue
Davis, CA 95616

DISTRICT
NEWPORT-MESA USD
Attn: Jeff Trader
2985 Bear Street
Costa Mesa, CA 92626
jtrader@nmusd.us

And to:

C-STEM Center Finance Officer
One Shields Avenue
2132 Bainer Hall
MAE Dept.
Davis, CA 95616
Email: orders@c-stem.ucdavis.edu
Telephone: (530) 752-9082

26. Relationship of the Parties. The parties to this agreement shall be and remain at all times independent contractors, neither being the employee, agent, representative, or sponsor of the other in their relationship under this agreement.

27. Governing Law. This agreement shall be construed pursuant to California law.

28. Entire Agreement. This Agreement contains the entire understanding of the parties with respect to the subject matter hereof. This Agreement supersedes all prior agreements and understandings between the parties with respect to such subject matter.

Signature page follows:

IN WITNESS WHEREOF, the parties have each executed this Agreement on the dates indicated below.

AGREED:

NEWPORT-MESA UNIFIED
SCHOOL DISTRICT

THE REGENTS OF THE
UNIVERSITY OF CALIFORNIA

By: _____

By: _____

Print name: _____

Kelly Gilmore
Associate Director - Procurement & Contracting Services
Procurement & Contracting Services
UC Davis

Title: _____

Date: _____

Date: _____