

## **AGREEMENT**

This Agreement is entered into as of the date set forth on the signature page hereto, between The Trustees of the Stevens Institute of Technology, a not-for-profit corporation existing under the laws of the State of New Jersey (the "University"), and the entity or individual named on the signature page hereto ("Licensee").

**WHEREAS**, the University is a private institution of higher education, and the University's Center for Innovation in Engineering and Science Education ("CIESE") supports excellence in the teaching and learning of science, technology, engineering, mathematics (STEM) and other core subjects through innovative, research-based instructional strategies and use of novel technologies;

**WHEREAS**, CIESE collaborates with K-12 and university educators, researchers, policymakers and educational organizations to develop curriculum materials, conduct professional development programs, and research new methodologies to strengthen STEM education;

**WHEREAS**, CIESE is the author of an underwater robotics curriculum known as Waterbotics® for use in traditional classroom settings or informal educational programs (the "Licensed Materials");

**WHEREAS**, Licensee is providing educational services or activities and wishes to license the Curriculum for purposes of its programs;

**WHEREAS**, in furtherance of its own educational purposes and the goal of introducing the Curriculum to the broadest number of appropriate persons, the University is willing to license the Curriculum to Licensee hereunder;

**WHEREAS**, in consideration of the rights and obligations contained herein, the parties are willing to enter into this Agreement;

**NOW, THEREFORE, FOR GOOD AND VALUABLE CONSIDERATION RECEIPT OF WHICH IS HEREBY ACKNOWLEDGED THE PARTIES AGREE AS FOLLOWS:**

Section 1.     License; License Fee; Web Support.

(a) Subject to the terms of this Agreement, the University hereby grants to the Licensee a non-exclusive, non-assignable or sublicensable, license to use, copy and distribute the Licensed Materials for the sole purpose of face to face instruction with students undertaken by a designated instructor listed on the signature page to this Agreement. The Licensee shall have no rights hereunder to (i) use the Licensed Materials for any purpose other than face to face

teaching, (ii) to use the Licensed Materials with students of any person or entity other than the Licensee, (iii) to post or publish all or any portion of the Licensed Materials to any website or intranet regardless of whether password protected, (iv) sublicense the materials or otherwise give any third party any rights to use, copy or distribute the Licensed Materials or (v) create or permit to be created any derivative work by or on behalf of the Licensee based on or using such Licensed Materials, in whole or in part, including without limitation any translation of all or a portion of the Licensed Materials.

(b) Licensee agrees to use the Licensed Materials in a manner that is in accordance with the requirements of all applicable law and accrediting commissions and consistent with the highest standards of the educational community in the United States.

(d) The University shall have no legal or other responsibility for the operations, administration or academic affairs of the Licensee including compliance with applicable law and accrediting rules, student recruiting, admissions and enrollment, or award of any credentials, student affairs matters.

(e) The parties acknowledge and agree that their relationship is not intended to be exclusive and either party shall be unrestricted in its relationships and agreements with third parties.

(f) As consideration for the license to the Licensed Materials, the Licensee will pay to the University a fee equal to \$200 for each instructor designated on the signature page to this Agreement. Such amount shall be paid by the Licensee to the University concurrently with the execution of this Agreement by check payable to “The Stevens Institute of Technology” and delivered as provided below in Section 8.

(g) The University currently makes available to licensees and others certain supplemental educational material relating to the Licensed Material on a password-protected website. The Licensee will be given a password to this site following execution of this Agreement and, if the Licensee has authorized designated instructors by listing them on the signature page to this Agreement, such instructors will be given separate passwords. The Licensee agrees that it will not share, sell or publish this password and will take all reasonable steps to maintain its confidentiality. The University does not undertake any obligation hereunder (or otherwise) to maintain this website or the materials posted on it and may remove or modify the website in its sole discretion. The University reserves the right to, at any time, implement a fee or other charge for use of the website.

## Section 2. Copyright Notice; Marks.

(a) The Licensed Materials contain a copyright notice in the name of the “Trustees of the Stevens Institute of Technology 2012”. The Licensee agrees that it will include this copyright notice on every copy of the Materials made by the Licensee and not take any steps to remove, alter or obscure any such copyright notice.

(b) The Licensee may use the name Waterbotics® solely in connection with permitted use of the Licensed Materials hereunder and in accordance with the following requirements:

- i. The Waterbotics® name shall only be used in the colors, font and other characteristics set forth in Exhibit A hereto and shall include ® in each instance of use together with “A Registered Trademark of the Stevens Institute of Technology”;
- ii. The Waterbotics® name shall not be used in connection with any additional names or materials other than to identify use of the Licensed Materials with the Licensee hereunder; and
- iii. The name shall not be used for any commercial purpose other than instructional use of the Licensed Materials.

(c) The University retains all right, title and interest in and to its names and logos including Waterbotics® (the "University Marks"). The Licensee shall not make any use of any University Mark, other than as expressly provided above, without obtaining prior written approval from the University. The Licensee agrees that it will promptly notify the University of any unauthorized use of the University's Marks or of any infringement of the University's rights in the Licensed Materials, of which it becomes aware, and take all reasonable steps to cooperate with the University in challenging any such unauthorized use.

(d) The Licensee shall be responsible for compliance with the terms of this Agreement by each designated instructor listed on the signature page to this Agreement.

### Section 3. Representations and Warranties; Disclaimer.

(a) Mutual Warranty. Each party represents and warrants to the other that it has the right to enter into and perform fully its obligations under this Agreement and to grant the rights granted hereunder.

(b) Disclaimer. (i) THE LICENSED MATERIALS AND ANY MATERIALS MADE AVAILABLE ON THE WEBSITE REFERRED TO IN SECTION 1(g) ARE PROVIDED BY THE UNIVERSITY ON AN “AS IS” BASIS AND WITHOUT WARRANTIES OF ANY KIND. THE UNIVERSITY DISCLAIMS ANY WARRANTY, EXPRESS OR IMPLIED, THAT USE OF THE LICENSED MATERIALS TO CONSTRUCT OR MODIFY ANY PRODUCT OR DEVICE WILL BE IN COMPLIANCE WITH THE WARRANTIES COVERING ANY PRODUCT OR DEVICE INCLUDING WITHOUT LIMITATION THOSE WARRANTIES PROVIDED BY LEGO. BY ITS EXECUTION OF THIS AGREEMENT, EACH LICENSEE ACKNOWLEDGES AND AGREES THAT IT UNDERSTANDS AND ASSUMES THE RISKS INVOLVED WITH ANY MODIFICATION OF ANY PRODUCT OR DEVICE INCLUDING WITHOUT LIMITATION ANY PRODUCT OR DEVICE OF LEGO.

(ii) THE UNIVERSITY DOES NOT MAKE AND HEREBY DISCLAIMS

ANY WARRANTIES, EXPRESS OR IMPLIED, CONCERNING THE LICENSED MATERIALS OR ANY CONTENT PROVIDED IN CONNECTION WITH THIS AGREEMENT. THE UNIVERSITY SPECIFICALLY DISCLAIMS THE IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE AND NON INFRINGEMENT, WITH RESPECT TO THE LICENSED MATERIALS ANY AND ALL OTHER CONTENT PROVIDED IN CONNECTION WITH THIS AGREEMENT.

(iii) UNDER NO CIRCUMSTANCES INCLUDING WITHOUT LIMITATION NEGLIGENCE SHALL THE UNIVERSITY BE LIABLE FOR ANY DIRECT, INDIRECT, SPECIAL, PUNITIVE OR CONSEQUENTIAL DAMAGES RESULTING FROM OR RELATING TO THE LICENSED MATERIAL OR ANY OTHER CONTENT PROVIDED IN CONNECTION WITH THIS AGREEMENT. IN NO EVENT SHALL THE UNIVERSITY'S TOTAL LIABILITY TO LICENSEE FOR ALL DAMAGES, LOSSES AND CAUSES OF ACTION OF ANY KIND EXCEED THE AMOUNT PAID BY THE LICENSEE HEREUNDER.

#### Section 4. Indemnification.

Licensee agrees to and hereby does defend and indemnify the University and hold the University harmless from and against all claims, demands, suits, proceedings, prosecutions and other legal actions and causes of actions of any kind (and any resulting loss, liability, cost, expense, damages, assessment, settlement, judgment, interest or penalty, including legal expenses and reasonable attorneys' fees) (individually, a "Claim") asserted against the University resulting from or arising out of (i) acts, errors or omissions or willful misconduct of Licensee or its agents or employees including without limitation any designated instructor, or (ii) the breach by Licensee or a designated instructor of the terms of this Agreement or any provision of applicable law or (iii) its educational programs and training activities wherever located, including without limitation any copyright or trademark infringement of the rights of the University under this Agreement or any third party under applicable law arising from Licensee's programs or training activities. The references to a party in this Section shall include, and shall inure to the benefit of, the University and its trustees, officers, employees, agents and representatives.

#### Section 5. Term; Termination.

(a) This Agreement shall be effective as of the date hereof and shall, unless earlier terminated in accordance with the terms hereof, remain in effect for five years. Thereafter, the parties may elect to renew the term of this Agreement from year to year or for another specified period of time.

(b) This Agreement may be terminated for cause by either party upon the occurrence and continuation of a material breach by a party of any term or condition of this Agreement, provided that written notice has been given by the non-defaulting party and, if such default is capable of cure, the defaulting party has not cured such failure within thirty (30) days of receipt of such notice;

(c) Upon the filing of a petition in bankruptcy, whether voluntary or involuntary, or the filing of a petition for reorganization pursuant to the Bankruptcy Act of the United States or equivalent provision of state law, with respect to either party, this Agreement shall terminate automatically and without further action by either party.

(d) Upon termination of this Agreement, all obligations of the parties shall terminate and all rights to the Licensed Materials shall revert to the University; provided that the terms of Sections 3, 4, 5, 9 and 10 shall survive any termination of this Agreement.

Section 6. Assignment. Neither party may assign, sublicense, transfer or delegate all or any portion of its rights or obligations hereunder without obtaining the prior written consent of the other party.

Section 7. Amendments. All amendments or revisions to this Agreement and any exhibit or schedule thereof shall be in writing and shall be signed by an authorized officer of each of the parties.

Section 8. Notices. All notices, permissions, demands, requests, consents or other communications required, desired, or permitted to be given pursuant to or in connection with this Agreement shall be in writing, and shall be deemed "given" when sent by certified first class mail, return receipt requested, addressed as follows:

If to the University: Vice Provost for Innovation and Entrepreneurship  
Stevens Institute of Technology  
Castle Point Terrace  
EAS Building  
Hoboken, New Jersey 07030

with a copy to: General Counsel  
Stevens Institute of Technology  
Howe Center, 13<sup>th</sup> Floor  
Hoboken, New Jersey 07030

If to LICENSEE: To the address set forth on the signature page to this Agreement

Section 9. Governing Law. This Agreement shall be governed by and interpreted in accordance with the laws of the State of New Jersey and the parties hereto agree to submit to the exclusive jurisdiction of the federal and state courts located in Hudson County and Newark, New Jersey, for the resolution of any dispute arising hereunder, regardless of the place of execution or

performance of this Agreement or any of the programs or activities contemplated hereunder. By execution and delivery of this Agreement, the parties to this Agreement submit to the jurisdiction of those courts, including, but not limited to, the in personam jurisdiction of those courts, waive any objection to such jurisdiction on the grounds of venue or forum non conveniens, or the absence of in personam jurisdiction, and consent to service of process by mail in accordance with Section 8 above or any other manner permitted by law.

Section 11. Relationship Between Parties. Nothing contained herein shall create any agency, partnership, or joint venture between the parties. Neither party shall have any right or authority to create any obligation or responsibility, express or implied, on behalf of or in the name of the other party, or to bind the other party contractually in any manner whatsoever. Under no circumstances, as a result of this Agreement, shall any employee, agent, or representative of either party be considered an employee, agent or representative of the other party, and no employee, agent or representative of either party shall be entitled to any payment from the other party in the nature of benefits under workers' compensation or disability benefits laws, or otherwise, for any accident, illness, occurrence or event arising out of or relating to this Agreement. This Agreement constitutes the final and complete statement of the terms of agreement between the parties hereto pertaining to the subject matter of this Agreement and supersedes all prior and contemporaneous understandings or agreements of the parties.

Section 12. Counterparts. This Agreement may be executed in one or more counterparts, and all of such counterparts together shall constitute one and the same instrument.

**IN WITNESS WHEREOF**, the parties have executed this Agreement as of the date first above written.

**THE TRUSTEES OF THE STEVENS  
INSTITUTE OF TECHNOLOGY**

By

Title

**LICENSEE**

\_\_\_\_\_ (signature) \_\_\_\_\_ (date of signature)

Full Legal Name of Licensee (entity or individual):

Name and Title of Person signing:

Physical Address of Licensee:

Names and email addresses of each designated instructor (required for issuance of password):

**Exhibit A**  
**WaterBotics Graphics**

The WaterBotics logo and approved graphics shown here are available for downloading at <http://waterbotics.org/graphics>.

