

Exhibit A

AGREEMENT made April 29, 2013, by and between the STELLA AND CHARLES GUTTMAN FOUNDATION, INC., a New York not-for-profit corporation, 122 East 42nd Street, Suite 2010, New York, NY 10168-2101 (the “Foundation”) and The CITY UNIVERSITY OF NEW YORK, a separate and distinct corporate body established by Article 125 of the New York Education Law, 205 East 42nd Street, New York, NY 10017 (the “University” or “CUNY”).

The University has established, beginning with the 2012-2013 academic year, a new two-year community college that is and will continue to be part of the University’s network of “CUNY” community colleges. The new college has been temporarily named “The New Community College” (“NCC”).

NCC has adopted and intends to develop further a new approach to community college education in order to improve the historically low success and graduation rates of community colleges. NCC’s program includes, among other elements, a requirement of full-time attendance the first year, a first-year core curriculum that merges developmental and disciplinary course work, a focus on building college level reading, writing and math skills, a restructuring of semesters into two parts — a 12 week Fall I and Spring I Term and a six-week Fall II and Spring II Term, and the incorporation of student development and work-related education.

The Foundation wishes to support NCC and its innovative approach. In addition, through a transfer scholarship program, the Foundation wishes to assist CUNY community college graduates generally (including NCC graduates) in their pursuit of four-year bachelor degrees at CUNY senior colleges.

To accomplish these objectives, the Foundation is prepared to make three gifts aggregating Twenty-Five Million (\$25,000,000) Dollars, one gift to be paid and spent over a two-year period and two gifts to be placed in perpetual endowment funds, all as more fully described below in the body of this Agreement.

As part of this understanding and Agreement, NCC and any successor thereto will be named, in perpetuity, after "Stella and Charles Guttman."

Accordingly, the University and the Foundation hereby covenant and agree as follows:

1. Foundation Gifts to the University. Pursuant to this Agreement, the Foundation will make three gifts to the University aggregating Twenty-Five Million (\$25,000,000) Dollars. The amounts, purposes, limitations, restrictions and timing of the gifts are set forth in the following subparagraphs of this Paragraph 1.

a. The "Accelerated Study in Associates Programs" – One Million (\$1,000,000) Dollars.

(i) The "Accelerated Study in Associates Programs" ("ASAP") is an innovative program initiated by the University in 2007 and intended to improve the success and graduation rates at each of the seven existing community colleges, including NCC. As described by the University, ASAP program elements include required full-time study, a cohort model with block scheduled courses, consolidated class schedules, intrusive advisement, career development, and academic support. ASAP also provides a range of special programs, including trips, arts/cultural events, scholarship opportunities, and a leadership program, among

others. The program provides financial resources to remove the barriers to full-time study, including waiver of any amount owed by the student because of the excess of tuition and fees over the student's financial aid, free use of textbooks, and public transportation assistance.

(ii) To assist the University in further developing and expanding the ASAP program, the University is seeking additional funding. The Foundation will give to the University One Million (\$1,000,000) Dollars for this purpose, in two equal installments: Five Hundred Thousand (\$500,000) Dollars will be paid upon the execution and delivery of this Agreement, and a second installment of Five Hundred Thousand (\$500,000) Dollars will be paid on or before July 1, 2014 (pursuant to a separate Foundation grant contract, a copy of which has heretofore been submitted to and approved by the University).

(iii) The Foundation understands and agrees that the One Million (\$1,000,000) Dollar gift is for current use and will likely be fully spent by the University within the next two academic years (ending June 30, 2015).

(iv) Promptly after the end of the academic years ending June 30, 2014 and 2015, the University shall submit a written report to the Foundation on the ASAP program, which report shall include data about the number of students enrolled in ASAP, the first-year retention rate of ASAP students and such rate for first-year CUNY community college students who are not part of the ASAP program, graduation rates of CUNY community college students who graduate after three and four years, stated separately for students in the ASAP program and non-ASAP students, the number of CUNY community college graduates transferring to CUNY senior colleges, stated separately for students in the ASAP program and non-ASAP students, and the number of ASAP students who received Guttman Transfer

Scholarships and any other relevant information that would assist the Foundation in assessing the success of the ASAP program. In addition, the University will furnish to the Foundation copies of any reports available to the University evaluating the ASAP program completed by external or internal evaluators during the five academic years ending on June 30th in each of the calendar years 2013 through 2017.

b. The “Guttman Student Success and Engagement Fund” - Fifteen Million (\$15,000,000) Dollars.

(i) Pursuant to this Agreement, the University and NCC will establish the “Guttman Student Success and Engagement Fund” (the “Success Fund”), the income of which will provide funding for key components of the NCC program in addition to the funding provided above for the ASAP program in which the NCC will be eligible to participate. The income from the Success Fund will be allocated by NCC to provide support, as needed, to ensure the success of the NCC students and contribute to the continued development and refinement of the NCC program. The likely uses of the funds are expected to include, but will not necessarily be limited to, paid internships, community service, other experiential learning experiences intended to build civic engagement and academic success, scholarships to encourage retention in the second year, emergency financial aid to students to meet critical needs, compensation of CUNY undergraduates (including second-year NCC students) to serve as mentors to first year NCC students, and otherwise provide assistance to further develop and implement the NCC program to foster student learning and success.

(ii) To establish the Success Fund, upon the execution and delivery of this Agreement, the Foundation will give to the University Fifteen Million

(\$15,000,000) Dollars as an endowment fund, to be held and managed in perpetuity, for the purposes described above and to perpetuate the Guttman name. Subsequent provisions of this Agreement set forth restrictions and limitations on the management and use of the Success Fund and the distribution of the income of the Fund.

(iii) The University shall report in writing periodically, but at least annually following the end of each academic year, in reasonable detail on the activities and operation of NCC and the Success Fund, including without limitation, the total amount expended from the Success Fund, the purposes for which grants were awarded, the number of grants and the number of students who received one or more grants from the Fund, the overall retention rates of first-year students, the number of grant recipients during the immediately preceding or any prior year who dropped out of school, the graduation rate of NCC students within two or three years following their initial enrollment, the number of NCC students who transferred to four-year CUNY colleges (and the number of those students who received Guttman Transfer Scholarships), changes (if any) in the criteria or administrative procedure for making grants and any other relevant information that would assist the Foundation in assessing the success of the Fund. In addition, the University (A) shall inform the Foundation of any changes in NCC's programs or professional development initiatives and (B) shall furnish the Foundation copies of any reports available to the University evaluating the performance or accreditation of NCC completed by external or internal evaluators (including accreditation committees). The University and NCC shall also keep the Foundation informed on a current basis of developments relating to and progress made in moving NCC to a new, permanent site. These reports shall include information on the status of any applicable master plan and Public Authorities Control Board submissions and approvals, New York State and City appropriations for the NCC,

negotiations with developers for development of the proposed NCC site (John Jay College's former North Hall), schematics showing the new NCC facility and its student capacity, beginning and completion of construction of the new NCC facility, move of NCC into its new facility and the opening thereof. If the NCC will be situated at another site, CUNY will so notify the Foundation, and provide it with information comparable to the foregoing. If after ten (10) years from the date of this Agreement, the new NCC facility is not under construction, the Foundation or its successor and the University will reconsider the Foundation's Success Fund support of the NCC. The Foundation reserves the right in that event to require the University to refund to it the entire net balance of the Success Fund as more fully described below in section 2.a.

c. The "Guttman Transfer Scholarship Fund" - Nine Million (\$9,000,000) Dollars.

(i) The University and the Foundation share the hope and objective of increasing the number of low income qualified CUNY community college graduates (including graduates of NCC) who continue their education at four-year CUNY senior colleges and receive baccalaureate degrees. The proposed "Guttman Transfer Scholarship Fund" is intended to achieve that goal.

(ii) The recipients of the scholarships will be designated and known as "Guttman Scholars" and will receive grants totaling Four Thousand (\$4,000) Dollars (that is Two Thousand (\$2,000) Dollars a year for two years), subject to adjustment in future years to reflect changes in the cost-of-living or other relevant factors as determined by the University. Unless otherwise determined by the University, after consultation with the

Foundation, applicants for the scholarships will be required to demonstrate financial need and to have a cumulative grade point average not lower than 3.5 after having completed three semesters prior to their transfer to a CUNY senior college. Applicants with a cumulative grade point average below 3.5 must submit to CUNY a statement explaining why their current grade point average does not reflect their full academic potential, which CUNY will take into account in determining their eligibility for Guttman Transfer Scholarships.

(iii) The University shall send at least two communications a year to all CUNY community college students advising them of the availability and criteria for grants of Guttman Transfer Scholarships and the procedures for applying. Such communications will be sent by all appropriate and customary means used to communicate with the students, including without limitation, e-mails, social media, website and publicly displayed posters. Initially, applications for the transfer scholarships will be considered and awarded only to those community college students who attend one of the following four CUNY four-year colleges: Brooklyn, Hunter, Lehman and Queens. The success of the program at these colleges will be evaluated periodically at least every three (3) years, during the first nine (9) academic years after this Agreement is entered into. The University, after consultation with the Foundation, will from time to time have the discretion to add other CUNY four-year colleges to this eligibility list, to remove one or more colleges then on the list or to restore one or more colleges that have been removed from this list. Removal of a school will not diminish or impair the right of a student at that school to receive the balance of any, Guttman Transfer Scholarship previously awarded to that student.

(iv) To establish the Guttman Transfer Scholarship Fund, upon the execution and delivery of this Agreement, the Foundation will give to the University Nine

Million (\$9,000,000) Dollars as an endowment fund, to be held and managed in perpetuity, for the purposes described above and to perpetuate the Guttman name. As in the case of the Success Fund, subsequent provisions of this Agreement set forth restrictions and limitations on the management and use of the Transfer Scholarship Fund and the distribution of the income of the Fund.

(v) The University shall report to the Foundation in writing annually, promptly following the end of each academic year after this Agreement is entered into, beginning with the academic year ending June 30, 2014, in reasonable detail on the activities and results of the Guttman Transfer Scholarship Fund, including without limitation, the number of applicants, the number of scholarships granted, summary biographical information about the scholarship recipients, the names of the four-year CUNY colleges the recipients will attend and the CUNY community colleges the students attended, the two and three-year graduation rates (and the dropout rates) for the four-year colleges attended by the scholarship recipients, changes (if any) in the criteria for judging financial need or assessing qualifications, changes (if any) in the administrative procedure for making grants and any other relevant information that would assist the Foundation in assessing the success of the scholarship program.

2. Naming of NCC as the "Stella and Charles Guttman Community College."

a. Upon the execution and delivery of this Agreement, the University will name NCC, in perpetuity, the "Stella and Charles Guttman Community College." In the event of the merger, consolidation or transfer of all or substantially all the assets of NCC with, into or to another school or other entity, or the conversion of NCC to a four-year college, the continuing entity shall bear the names "Stella and Charles Guttman." If NCC shall permanently

close without a successor entity, the University and the Foundation will agree to name one of the other CUNY community colleges the “Stella and Charles Guttman Community College.” In either of those events, the endowments created hereunder and the other provisions of this Agreement shall apply to the continuing entity or to the other community college, as the case may be. If the University and the Foundation do not agree on the perpetuation of the Stella and Charles Guttman names, the Foundation or its successor shall so notify the University, and within 30 days after receipt of such notice, the University shall return to the Foundation or its successor the remaining net balance of the Fifteen Million (\$15,000,000) Dollars Success Fund endowment, including any additions to principal from income or realized gains.

b. All University and NCC announcements, press releases, stationery, papers, publications, catalogs, maps, websites, social media sites and other materials published hereafter shall bear the name “Stella and Charles Guttman Community College” as shall such materials of any NCC successor or any other CUNY college that may in the future bear the names “Stella and Charles Guttman.”

c. The University will design and prepare appropriate and customary signs and plaques that will bear the new name of NCC. Such signs and plaques will be subject to the approval of the Foundation, which approval shall not be unreasonably withheld or delayed.

d. As described in section 1.b.(iii), NCC is now housed in facilities that are intended to be temporary. At some time in the future NCC is expected to move to a new structure that will serve as the school’s home for the indefinite future. The provisions of this Agreement (including, without limitation, provisions relating to the name and signage) shall continue to apply with full force and effect to the NCC at any such future location or locations.

3. Management of the Two Endowment Funds.

a. Notwithstanding any provision of law to the contrary, including without limitation, New York State's version of the Uniform Prudent Management of Institutional Funds or Uniform Principal and Income Acts, as the same may be amended from time to time, or any replacement or successor laws thereto, the two endowment funds created pursuant to this Agreement shall be held by the University as true endowments and will be accounted for separately from other University funds. The income of the two funds shall be used solely and exclusively for the purposes described in this Agreement. No part of such funds shall be used for indirect costs or expenses customarily considered part of overhead nor for any costs of constructing or equipping any NCC facility or of moving it to any new NCC facility. Except as otherwise provided in the following sub-paragraph b, as used in this Agreement "income" shall mean only interest, dividends, rents and royalties and any other revenue considered income at common law. Income not spent in any fiscal year shall be added to the principal of the endowment funds.

b. The principal of the two endowment funds shall not be expended by the University. Realized appreciation during a fiscal year may be treated as distributable income if and only to the extent required to supplement the then fiscal year's income (as defined above) available for distribution in order to meet the University's distribution percentage on its pooled endowment funds for the fiscal year involved; otherwise, realized appreciation during the year shall not be treated as income but shall be added to the principal of the endowment funds. Unrealized appreciation may not be expended at any time.

c. The University shall report to the Foundation periodically, but at least annually, on the investment performance of the endowment funds. The report shall include the opening and closing balances of the funds for the University's fiscal year in question, the opening and closing allocations of the funds' assets among types of investments and the return on the investment in each category. The University will maintain full and complete books and records for the endowment funds and will make them available for inspection by the Foundation's representatives at reasonable times, not more often than one inspection a year.

4. Board Representation of the Foundation. If NCC directly or through a related foundation or other entity creates one or more governing, oversight or advisory boards of directors, trustees or managers, the Foundation shall have the right to designate a member of each such board or boards (and from time to time designate one or more replacement members). The Foundation's designated representative shall have the same duties, responsibilities, rights and authority as the other members of such board or boards. The Foundation's successor, if any, shall have the same right to designate such members.

5. Public Announcements. The parties will consult with each other and agree on the timing and content of a joint public announcement of this Agreement, the funding of ASAP, the creation of the two endowment funds and the re-naming of NCC.

6. Foundation Representatives and Warranties. The Foundation represents and warrants to the University that:

a. it is an organization described in Section 501(c)(3) of the Internal Revenue Code of 1986, as amended, and that it is duly organized and legally authorized to make the gifts which are the subject of this Agreement;

b. it has fully authority to distribute funds for the purposes provided in this Agreement;

c. the execution and delivery of this Agreement by the Foundation has been authorized and is binding upon the Foundation, its successors and assigns, subject to bankruptcy and other laws affecting creditors' rights; and

d. no further authorizations or approvals are required in connection with this Agreement.

7. a. University Representations and Warranties. The University represents and warrants to the Foundation that:

(i) it is organization described in Sections 170(b)(1)(A), 170(c), 2055(a) and 2522(a) of the Internal Revenue Code of 1986, amended, is a publicly supported organization and not a private foundation under section 509 of the Code, as amended, and is duly organized and existing and legally authorized to accept the gifts which are the subject of this Agreement;

(ii) it has fully authority to accept, hold, invest and expend funds for the purposes of, and as provided in, this Agreement;

(iii) its performance of this Agreement will not violate any law, regulation, agreement, judgment or order to which the University is a party or subject;

(iv) the execution and delivery of this Agreement by the University has been duly authorized by the University and is binding upon and enforceable

against the University, its successors and assigns, subject to bankruptcy and other laws affecting creditors' rights, by the Foundation and its successors and assigns;

(v) No further authorizations or approvals are required in connection with this Agreement; and

(vi) the CUNY officer executing this Agreement is duly authorized to do so on behalf of the University.

b. The University will promptly notify the Foundation if the Internal Revenue Service should ever revoke the University's federal income tax exemption determination. In such event, the University and the Foundation or its successor will first consult with each other and attempt to agree on an appropriate recipient or use of the Success Fund. If they are unable promptly to agree the University will return to the Foundation or its successor the then net principal of the Success Fund endowment established hereunder as described above in Section 2.a.

8. Amendments. The terms of this Agreement may be amended only by a written instrument signed by the University and the Foundation or its designated successor.

9. New York Governing Law. This Agreement shall be governed by New York law applicable to agreements made and to be fully performed in New York State. Notwithstanding any inconsistent or contrary provision of New York law, the parties agree that if the Foundation's or its successor's rights to enforce the terms of this Agreement are abrogated or compromised by any public agency or private action, without the Foundation's or its successor's prior written consent, then either the University or the Foundation or its successor, or both the

University and the Foundation or its successor, may apply to a court, on notice to the Foundation or its successor or to the University, as the case may be, for a cy pres order designating such organization as the recipient of the Success Fund as in the judgment of the court will best carry out the purposes of this Agreement. The foregoing sentence shall not, in such eventuality, preclude the parties from seeking either an agreed solution or, on notice to the other, such remedies as law or equity may afford.

10. Notices. All notices, requests and other communications hereunder must be in writing and will be deemed to have been duly given only if delivered (a) personally or (b) by hand or (c) by certified mail with return receipt requested (charges prepaid) or (d) by a recognized overnight delivery service (charges prepaid) to the parties at the following addresses:

If to the Foundation, to:

Stella and Charles Guttman Foundation, Inc.
Att'n: The President
122 East 42nd Street
Suite 2010
New York, NY 10118-2101

with copies to:

William Josephson, Esq.
c/o Fried, Frank, Harris, Shriver & Jacobson LLP
One New York Plaza
New York, NY 10004-1901

Stella and Charles Guttman Foundation, Inc.
Att'n: Executive Director
122 East 42nd Street
Suite 2010
New York, NY 10118-2101

If to the University, to:

The City University of New York
Att'n: Chancellor
205 West 42nd Street
New York, NY 10017

with a copy to:

The City University of New York
Att'n: General Counsel
205 West 42nd Street
New York, NY 10017

All such notices, requests and other communications shall be deemed given (1) only when actually received if delivered by hand, (2) three business days after mailing or (3) the following business day if delivered by overnight courier. Any party from time to time may change its address or other information for the purpose of notices to each party by giving notice specifying such change to the other party hereto as provided above.

11. Enforcement and Waivers. Any term or condition of this Agreement may be waived at any time by the party that is entitled to the benefit thereof, but no such waiver shall be effective unless set forth in a written instrument duly executed by or on behalf of the party waiving such term or condition. The failure of any party hereto to enforce at any time any provision of this Agreement shall not be construed to be a waiver of such provision, nor in any way to affect the validity of this Agreement or any part hereof or the right of any party thereafter to enforce each and every such provision. No waiver by any party of any term or condition of this Agreement, in any one or more instances, shall be deemed to be or construed as a waiver of the same or any other term of condition of this Agreement on any future occasion.

12. Construction and Severability. Whenever possible, each provision hereof shall be interpreted in such manner as to be effective and valid under applicable law. If any provision of this Agreement is held to be illegal, invalid or unenforceable under any present or future law and if the rights or obligations of any party hereto under this Agreement will not be materially and adversely affected thereby (a) such provision will be fully severable, (b) this Agreement will be construed and enforced as if such illegal, invalid or unenforceable provision

had never comprised a part hereof (but only to the extent of such illegality, invalidity or unenforceability), (c) the remaining provisions of this Agreement will remain in full force and effect and will not be affected by the illegal, invalid or unenforceable provision or by its severance herefrom (unless such a construction would be unreasonable), and (d) in lieu of such illegal, invalid or unenforceable provision, the parties will add as a part of this Agreement a legal, valid and enforceable provision as similar in terms to such illegal, invalid or unenforceable provision as may be possible.

13. Counterparts. This Agreement may be executed in [four] counterparts, each of which will be deemed an original, but all of which together will constitute one and the same instrument.

14. Headings. Headings or captions in this Agreement are for convenience of reference only and shall not affect the meaning or interpretation of this Agreement.

15. Successors and Assigns. This Agreement shall be binding upon, and inure to the benefit of, the parties hereto and their respective successors and assigns. In addition, if the Foundation liquidates and dissolves, it shall have the right (but not the obligation) to designate one or more persons or entities to exercise all of the rights and privileges of the Foundation provided in this Agreement. Such designated persons or entities shall, from time to time, have the right (but not the obligation) to designate their successors thereafter to exercise all of the rights and obligations of the Foundation provided in, and as parties to, this Agreement. Such persons or entities are described as "successors" in various provisions of this Agreement.

16. Entire Agreement. This Agreement supersedes all prior discussions and agreements between the parties with respect to the subject matter hereof and contains the sole and entire agreement between the parties hereto with respect to the subject matter hereof.

IN WITNESS WHEREOF, the parties have signed and delivered this Agreement as of the day and year first above written.

STELLA AND CHARLES GUTTMAN
FOUNDATION, INC.

By:



Ernest Rubenstein, President

THE CITY UNIVERSITY OF NEW YORK

By:



Frederick P. Schaffer, General Counsel and
Senior Vice Chancellor for Legal Affairs

Reviewed and Approved:

NEW COMMUNITY COLLEGE

By:



Scott Evenbeck, President

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