

## AGREEMENT

THIS AGREEMENT, made this 20<sup>th</sup> day of March, 1976, by and between BENNINGTON COLLEGE CORPORATION, a non-profit educational corporation organized under the laws of the State of Vermont (hereinafter referred to as the "College"), and BENNINGTON SUMMERS, INC., a non-profit corporation organized under the laws of the State of Vermont (hereinafter referred to as "Bennington Summers"),

WITNESSETH:

WHEREAS, the College has caused Bennington Summers to be formed in order to further the purposes of the College, by contributing financially to the College, utilizing the Arts Center and other facilities of the College, and by developing, managing and operating programs at the College's campus during times when the College is not in session; and,

WHEREAS, the College wishes to make every practical effort to insure the success of Bennington Summers and insure that Bennington Summers and the College will have a mutually rewarding relationship; and,

WHEREAS, the Articles of Association and By-laws of Bennington Summers require that a majority of the Directors of Bennington Summers shall be appointed and are subject to removal with or without cause by the Board of Trustees of the College; and,

WHEREAS, a Faculty Liaison Committee has been established to coordinate concerns of the faculty of the College with respect to Bennington Summers; and,

WHEREAS, the College and Bennington Summers desire to specify the arrangements by which Bennington Summers shall carry out its functions; and,

WHEREAS, Bennington Summers exists solely for the benefit of the College, and the Board of Trustees of the College is and shall remain the sole, final and exclusive judge of the interests of the College with respect to Bennington Summers as with respect to all other matters, and the President of the College remains continuously charged with carrying out all such judgments and policies of the Board;

NOW, THEREFORE, in consideration of the mutual promises and undertakings herein, the parties hereto agree:

I. Duration of Agreement

This agreement shall remain in effect from the date of its execution until September 1, 1978, except that it may be cancelled effective December 1, 1977 on thirty (30) days notice by either party.

II. Use of Facilities

The College shall make available its facilities for use by Bennington Summers during the period from one (1) week after the end of each term until one (1) week prior to the start of the subsequent term during each year of this agreement. For the summer of 1976, Bennington

Summers, depending upon the specific program, will require and have exclusive use or control of Tishman Auditorium, the three large classrooms, terrace and lounge in Dickinson Hall, the Carriage Barn, the tennis courts, basketball courts and soccer fields, the studios and practice rooms in Jennings Hall, the theatre, studios and dining halls in Commons, all student housing on and off campus, all faculty housing which is not in use and not subject to an active lease, the Brick Garage, and the Arts Center. With respect to all such facilities Bennington Summers exclusive use and control shall only pertain to "common spaces," that is, spaces not reserved for full-time faculty or staff members, except that such reserved spaces shall be made available to Bennington Summers if not being used by such faculty members. In no event shall Bennington Summers have use of such reserved spaces without permission of the faculty member in question, but such permission shall not be unreasonably withheld.

In addition, Bennington Summers will have non-exclusive use and control of the Commons Lounge and library. Bennington Summers will also have the use of the outdoor spaces of the campus such as but not limited to around and close to the Arts Center, the meadow between the Arts Center and Jennings Hall, the Carriage Barn field, and the Jennings Gardens. In addition, Bennington Summers will coordinate with the College with respect to parking facilities.

In accordance with past practices, Bennington College will provide suitable term-time office space for Bennington Summers, as well as necessary storage space.

### III. Use of Supplies, Equipment and Machinery

Bennington Summers shall be entitled to use such supplies, equipment and machinery owned by Bennington College directly or indirectly including but not limited to lighting equipment, sound equipment, projectors, and tape recorders, as it may reasonably require for the purpose of all of its programs. It shall be the responsibility of Bennington Summers to replace or restore to its condition as received, ordinary wear and tear expected, any supplies, equipment or machinery which is broken, lost, damaged, destroyed or altered while under the control of Bennington Summers. Bennington Summers and the College agree that, with respect to musical instruments owned by the College but used exclusively or primarily by individual members of the College's faculty, special circumstances may exist. To the extent such special circumstances may make it impossible for Bennington Summers to use such musical instruments, Bennington College will pay for rental replacement equipment, but it shall be the responsibility of Bennington Summers to locate such rental equipment on the most reasonable possible basis. It is the intent of this agreement to make available to Bennington Summers the facilities as equipped by the College.

#### IV. Payment of Rent

Bennington Summers shall pay to Bennington College the sum of Sixty Thousand Dollars (\$60,000.00) in rental for the facilities of Bennington College used by Bennington Summers for the summers of 1976 and 1977. Rental payments for 1978 shall be determined by the Boards of the College and Bennington Summers.

#### V. Reimbursement of Expenses

In addition to the payment of rent set out in Paragraph VI hereof, Bennington Summers shall reimburse the College for any and all non-overhead expenses directly or indirectly incurred by the College in connection with Bennington Summers. In particular, Bennington Summers shall pay an amount equal to the cost of food and of operating living facilities for participants, including maintenance, cleaning, linens, and electricity. Bennington Summers shall make payment for any amount charged by the College for such expenses within fifteen (15) days after billing.

#### VI. College's Control of Facilities

The parties recognize the ultimate responsibility of the President of the College acting for the College's Board for the maintenance of the quality of education, the public image, the safety of facilities, equipment and personnel and standards of life at the College. The President shall, acting with the Board of Trustees, continue to have the authority of his

office in any dispute involving Bennington Summers in which, in the President's judgment, the best interests of the College are threatened. The President may make reasonable rules for the use of the College's facilities, provided that such rules shall not unreasonably interfere with the program of Bennington Summers.

#### VII. Coordination of Use of Facilities

The parties contemplate that the use of the College campus by Bennington Summers will not be exclusive. However, in view of the importance which the College attaches to the Bennington Summers program the College agrees to use all reasonable efforts to minimize to the greatest extent feasible any use of the campus which might interfere with the program or activities of Bennington Summers. Any other use of the College campus during non-term time shall be cleared through the Director of Bennington Summers subject to the approval of the President of the College. It is not the intention of this agreement to interfere in any way with the ordinary existing functions and existing commitments of the College which continue during non-term time. In keeping with the responsibility of Bennington Summers for security, Bennington Summers shall, in consultation and subject to the approval of the President of the College, make reasonable arrangements for coordination of such other users.

#### VIII. Security and Protection of College Facilities

Bennington Summers shall be responsible during the periods referred to in Paragraph I for security and protection of the College over and above

ordinary levels of security, except to the extent that the College has permitted use by other users. Bennington Summers shall reimburse the College for any loss or damage arising out of the failure of Bennington Summers to provide such security and protection. Bennington Summers shall maintain in force such insurance as may be reasonably necessary to effect the purposes of this paragraph, without duplication. To the maximum extent feasible, the College shall cooperate with respect to Bennington Summers' request for coordination of personnel and maintenance staff. It is assumed that the College will continue the normal level of maintenance for non-term time.

#### IX. Finances

A. The parties agree that the financial goal of Bennington Summers shall be to maximize the financial benefit to the College from the use of its facilities during times when the College is not otherwise in session. To that end, Bennington Summers shall present, on or before November 15th of each year, an annual budget showing all items of income and expenses for the succeeding twelve (12) month period. Such budgets shall indicate any amounts of "front money" Bennington Summers shall require from the College during its off-season time to maintain its operation. Any monies advanced by the College for such purposes shall be considered as non-interest bearing loans from the College to Bennington Summers, and repayment of such loans shall be made from the income of Bennington Summers during its operation. Bennington

Summers shall provide monthly statements of its income and expenses to Bennington College throughout each year. Bennington College may, at any time, give forty (40) days notice to the Board of Directors of Bennington Summers that the College intends to decline to make any further payments to or for the benefit of Bennington Summers. Except that the College will honor such commitments which have been submitted to the College in advance for approval.

B. Bennington Summers shall, annually, on January 1 pay over to Bennington College the amount by which its income exceeds its expenses for the previous year, less such retainage as the parties may agree shall be necessary for the operating expenses of Bennington Summers.

Dated at Bennington, Vermont the day and year first above written.

BENNINGTON COLLEGE CORPORATION

by Joseph S. Iseman  
Joseph S. Iseman, Its President  
and Duly Authorized Agent

BENNINGTON SUMMERS, INC.

by Omar K. Lerman  
Omar K. Lerman, Its  
Executive Director and  
Duly Authorized Agent

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X. Settlement of Disputes

Any dispute arising out of this agreement shall be referred for decision to the most senior officer (in the following order: Chairman, Vice Chairman, Treasurer or Secretary) of the Bennington College Board of Trustees who is not also a member of the Board of Directors or an officer of Bennington Summers.

JS  
3/20/76

OK 3/20/76