

## DISTRIBUTED LEARNING AGREEMENT

THIS AGREEMENT is made the \_\_\_\_\_ day of \_\_\_\_\_ 2011.

BETWEEN:

**HER MAJESTY THE QUEEN IN RIGHT OF THE PROVINCE OF  
BRITISH COLUMBIA**, represented by the Minister of Education

(the “Ministry”)

OF THE FIRST PART

AND:

**THE BOARD OF EDUCATION** of School District No. \_\_\_\_\_

(the “Board”)

OF THE SECOND PART

WHEREAS:

- A. Pursuant to section 75 (4.1) of the *School Act*, a board may provide all or part of an educational program by means of distributed learning only with the prior agreement of the Minister of Education;
- B. The Board wishes to provide an educational program by means of Distributed Learning; and
- C. This Agreement constitutes the Minister of Education’s agreement for the Board to provide an educational program by means of distributed learning during the Term of this Agreement.

THEREFORE THIS AGREEMENT WITNESSES that the parties agree as follows:

### 1.0 DEFINITIONS

1.01 In this Agreement

“**Distributed Learning**” means a method of instruction that relies primarily on indirect communication between learners and educators, including internet or other electronic-based delivery, teleconferencing or correspondence;

“**Distributed Learning School**” means a school or francophone school within the meaning of the *School Act*, that offers instruction by means of Distributed Learning only;

“**Educator**” means a person holding a certificate of qualification from the British Columbia College of Teachers who is employed by the Board to provide an educational program to Learners;

“**Learner**” means a student, including a graduated adult, who is enrolled in an educational program provided by the Board;

“**LearnNow BC**” is the website found at [www.learnnowbc.ca](http://www.learnnowbc.ca);

“**Parent**” means, in respect of a minor Learner,

- (a) the guardian of the person of the Learner or child,
- (b) the person legally entitled to custody of the Learner or child, or
- (c) the person who usually has the care and control of the Learner or child;

“**School Act**” means the *School Act*, R.S.B.C. 1996, c. 412;

“**School of Record**” means the school where the Learner is enrolled in the majority of courses or, where the number of courses is the same in each school, the school that the Learner’s parent has indicated is the school of record;

“**Term**” means the period referred to in paragraph 2.01; and

“**Virtual School Society**” is a society incorporated under the *Society Act*, RSBC 1996, c. 433.

## **2.0 TERM**

2.01 Notwithstanding the date of execution and delivery of this Agreement, the Term of this Agreement will commence on June 1, 2011 and end on May 31, 2014, unless terminated earlier in accordance with this Agreement.

## **3.0 RENEWAL**

3.01 The Ministry may renew this Agreement by giving the Board notice in writing prior to May 1, 2014.

3.02 If the Agreement is not renewed by the Ministry in accordance with section 3.01, and terminates on May 31, 2014:

- (a) the Ministry will advance any installments of Distributed Learning funding already calculated on counts prior to termination; and
- (b) the Board’s obligations under this Agreement continue until all Learners have completed or withdrawn from Distributed Learning educational programs and courses funded under (a).

## **4.0 AMENDMENT**

4.01 The Ministry may, in its sole discretion, amend this Agreement from time to time by giving at least 30 days written notice to the Board.

## **5.0 FUNDING**

- 5.01 The Ministry will fund the Board for such educational programs, courses and services as set out in Ministry policy and amended from time to time.
- 5.02 Upon request by the Ministry, the Board will provide all information necessary to demonstrate, to the Ministry's satisfaction, that:
- (a) the funds provided under this Agreement are being used to support Learners using services, courses or programs through Distributed Learning; and
  - (b) the process used to determine the amount of funding to be allocated to direct and indirect costs by the Board including, but not limited to instruction and technology, is transparent.
- 5.03 The Board agrees that it will not use funds budgeted to support an educational program, or offer equipment required to participate in a Distributed Learning educational program or course (such as computers), as an incentive to have a Learner register in an Distributed Learning educational program or course.
- 5.04 Notwithstanding any other provision of this Agreement, payment of funds by the Province to the Board pursuant to this Agreement is subject to:
- (a) there being sufficient monies available in an appropriation, as defined in the *Financial Administration Act* ("FAA"), to enable the Province, in any fiscal year when any payment of money by the Province to the Board falls due pursuant to this Agreement, to make that payment; and
  - (b) Treasury Board, as defined in the FAA, not having controlled or limited, pursuant to the FAA, expenditure under any appropriation referred to in subparagraph (a) of this paragraph.

## **6.0 BOARD OBLIGATIONS**

- 6.01 The Board will provide a tuition-free educational program by means of Distributed Learning through LearnNow BC, which
- (a) consists of either provincial or Board/Authority Authorized (BAA) courses, and
  - (b) complies with the Ministry's Education Guarantee policies, as amended from time to time, found on the Ministry's website at [http://www.bced.gov.bc.ca/adult\\_graduation/courses.htm](http://www.bced.gov.bc.ca/adult_graduation/courses.htm)
- 6.02 The Board will comply with all British Columbia legislation, including but not limited to the *School Act* and all regulations and orders made under that Act.
- 6.03 The Board will prepare and submit to the Ministry reports and statements in the form, with the information and at the time required by the Ministry.
- 6.04 The Board will comply with all Ministry policies, as they are amended from time to time, pertaining to the delivery of an educational program by means of Distributed Learning including, but not limited to, those requiring the Board to:
- (a) meet or exceed the Distributed Learning Standards [http://www.bced.gov.bc.ca/dist\\_learning/documents/dl\\_standards.pdf](http://www.bced.gov.bc.ca/dist_learning/documents/dl_standards.pdf);

- (b) align its website with criteria established by the Ministry  
[http://www.bced.gov.bc.ca/policy/policies/distance\\_ed.htm](http://www.bced.gov.bc.ca/policy/policies/distance_ed.htm);
  - (c) participate in the Quality Review Process  
[http://www.bced.gov.bc.ca/policy/policies/distance\\_ed.htm](http://www.bced.gov.bc.ca/policy/policies/distance_ed.htm);
  - (d) make available supplemental supports for Learners; in particular, Special Education, Aboriginal Education and English-as-a-Second Language supports.
- 6.05 The Board must work to achieve a 100% participation rate
- (a) of Learners who take all or part of their educational program through Distributed Learning, in either the Foundation Skills Assessments or an equivalent assessment to be determined by the Ministry; and
  - (b) where the Distributed Learning School is the school of record, for Learners and Parents, in the Ministry's Distributed Learning Satisfaction Survey.
- 6.06 The Board will:
- (a) provide the Ministry with complete, current, and accurate information about the Distributed Learning program(s), including website, courses offered, and contact information, for posting on LearnNow BC by no later than July 31 of each year and update as required during the Term of the Agreement  
[http://www.bced.gov.bc.ca/policy/policies/distance\\_ed.htm](http://www.bced.gov.bc.ca/policy/policies/distance_ed.htm);
  - (b) work to advise applicants of their status within 2 business days of the inquiry being placed in the LearnNow BC mailbox; and
  - (c) collaborate with the Virtual School Society in identifying and developing mutually beneficial e-learning services and resources available through LearnNow BC.
- 6.07 The Board will provide appropriate support for Learners who reside in the Board's school district and who are enrolled in an educational program provided by a Distributed Learning School in another school district within British Columbia. Appropriate support includes but is not limited to testing services and supervision, timely sharing of Learner information and records, coordinating reports to Learners and to the Ministry, and any other service that position the Board as an education provider within a coordinated province-wide distributed learning system.
- 6.08 In delivering all or part of an educational program by means of Distributed Learning, the Board will
- (a) employ only Educators who have prior experience or training in teaching using Distributed Learning methods; and
  - (b) provide ongoing Distributed Learning-related training and professional development for Educators referred to in paragraph (a).
- 6.09 The Board may provide educational services, materials, or resources to Learners through a third party, on the condition that the Board
- (a) ensures that the educational services, materials, resources are supervised by an employee of the Board who is an Educator, and
  - (b) pay the third party directly and not the Parent, Learner or any other person.

## **7.0 SPECIAL PROVISIONS**

- 7.01 Where the Board agrees to take part in the Ministry's Distributed Learning Audit Program, and the Audit results in recommendations made to the Board, the Ministry may, in its sole discretion, amend the Agreement by setting those recommendations out in a Schedule to this Agreement.
- 7.02 The Board will comply and, where requested by the Ministry, demonstrate its compliance with any recommendation set out in a Schedule as provided for under paragraph 7.01.

## **8.0 REPRESENTATIONS AND WARRANTIES**

- 8.01 The Board represents and warrants to the Ministry, with the intent that it will rely thereon in entering into this Agreement and throughout the continuance of this Agreement, that:
- (a) all information, statements, documents, records and reports furnished or submitted by the Board to the Ministry in connection with this Agreement are true and correct;
  - (b) all necessary proceedings will have been taken and done and all statutory and contractual approvals will have been obtained to authorize the execution and delivery of this Agreement by the Board;
  - (c) this Agreement has been legally and properly executed by the Board and is legally binding upon and enforceable against the Board in accordance with its terms; and
  - (d) the completion of the transactions contemplated by this Agreement will not constitute a breach by the Board of any statute, bylaw or regulation, agreement or of its constating documents.
- 8.02 All statements contained in any certificate, application or other document delivered by or on behalf of the Board to the Ministry under this Agreement or in connection with any of the transactions contemplated under this Agreement will be deemed to be representations and warranties by the Board under this Agreement.
- 8.03 All representations, warranties, covenants and agreements made herein and all certificates, applications or other documents delivered by or on behalf of the Board are material and will conclusively be deemed to have been relied upon by the Ministry and will continue in full force and effect during the continuation of this Agreement.

## **9.0 DEFAULT AND TERMINATION**

- 9.01 The Province may terminate this Agreement by notice in writing to the Board if any of the following Events of Default occur and are not rectified within 90 days after notice in writing from the Ministry:
- (a) the Board fails to comply with any provision of this Agreement, and has not rectified such failure or is not, in the opinion of the Ministry, diligently proceeding to rectify such failure; and
  - (b) any representation or warranty made by the Board in this Agreement is materially untrue or incorrect.

- 9.02 Upon the occurrence of any Event of Default and at any time thereafter, the Ministry may, notwithstanding any other provision of this Agreement, at its option, elect to do any one or more of the following:
- (a) terminate this Agreement by written notice to the Board in which case this Agreement will be terminated on the date specified by the Ministry in that notice;
  - (b) require the Event of Default be remedied within a time period specified by the Ministry;
  - (c) recover all or part of the funds paid under the Agreement from the Board out of funding allocations for the subsequent School Year;
  - (d) suspend any installment of the funds paid under the Agreement or any amount that is due to the Board while the Event of Default continues;
  - (e) waive the Event of Default.
- 9.03 The Board may terminate this Agreement by giving no less than 30 days written notice to the Ministry.
- 9.04 If this Agreement is terminated under paragraphs 9.02 or 9.03:
- (a) the Board will continue to provide an educational program by means of Distributed Learning until all Learners enrolled at the time of termination have completed or withdrawn from Distributed Learning educational programs and courses;
  - (b) the Board will advise the Ministry as to how it will meet the obligations set out in paragraph (a); and
  - (c) the Ministry may, in its sole discretion, advance any remaining installments of Distributed Learning funding already calculated based on counts prior to termination.

## **10.0 NOTICES**

- 10.01 Any written communication from the Board to the Ministry must be mailed, e-mailed, personally delivered, or faxed to the following address:

if to the Ministry:

Ministry of Education  
Learning Division  
3rd Floor – 620 Superior Street  
PO Box 9135 Stn Prov Govt  
Victoria, BC V8W 9B5  
Facsimile: (250) 387-0407

Attention: Teresa McClintick, Accountability Coordinator

E-Mail Address: [teresa.mcclintick@gov.bc.ca](mailto:teresa.mcclintick@gov.bc.ca)

- 10.02 Any written communication from the Ministry to the Board must be mailed, e-mailed, personally delivered, or faxed to the following address

Address: \_\_\_\_\_

Facsimile: \_\_\_\_\_

Attention: \_\_\_\_\_

E-Mail Address: \_\_\_\_\_

### **11.0 NON-WAIVER**

- 11.01 No term or condition of this Agreement and no breach by the Board of any such term or condition will be deemed to have been waived unless such waiver is in writing signed by the Ministry.
- 11.02 The written waiver by the Ministry of any breach by the Board of any term or condition of this Agreement will not be deemed a waiver of such term or condition or of any subsequent breach by the Board of the same or any other term or condition of this Agreement.

### **12.0 INTERPRETATION**

- 12.01 This Agreement will be governed by and construed in accordance with the laws of the Province of British Columbia and the laws of Canada applicable therein.
- 12.02 The headings appearing in this Agreement have been inserted for reference and as a matter of convenience and in no way define, limit or enlarge the scope of any provision of this Agreement.
- 12.03 In this Agreement wherever the singular or neuter is used it will be construed as if the plural or masculine or feminine, as the case may be, had been used where the context so requires.
- 12.04 The Schedules and Appendices to this Agreement are an integral part of this Agreement as if set out at length in the body of this Agreement.
- 12.05 If any provision of this Agreement or the application to any person or circumstances is invalid or unenforceable to any extent, the remainder of this Agreement and the application of such provision to any other person or circumstance will not be affected or impaired thereby and will be enforceable to the extent permitted by law.
- 12.06 This Agreement, the Schedules, and Appendices to this Agreement constitute the entire Agreement between the parties with respect to the subject matter of this Agreement.
- 12.07 Each of the parties will, upon the reasonable request of the other, make, do, execute or cause to be made, done or executed all further and other lawful acts, deeds, things, devices, documents, instruments and assurances whatever for the better or more perfect and absolute performance of the terms and conditions of this Agreement.
- 12.08 All provisions of this Agreement in favour of the Province and all rights and remedies of the Province, either in law or equity, will survive the expiration or sooner termination of this Agreement.
- 12.09 This Agreement will enure to the benefit of and be binding upon the parties and their respective successors and permitted assigns.

12.10 This Agreement may be executed by the parties in separate counterparts each of which when so executed and delivered shall be an original, and all such counterparts may be delivered by facsimile or electronic transmission and each such transmission shall be considered an original.

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

SIGNED on behalf of Her Majesty )  
the Queen in right of the Province )  
of British Columbia by a duly authorized )  
representative of the Minister of )  
Education in the presence of: )

\_\_\_\_\_)  
Witness )  
  
\_\_\_\_\_)  
Date Signed )

\_\_\_\_\_)  
For the Minister of Education  
Tim Winkelmanns  
Manager, e-Learning Programs

SIGNED on behalf of the Board )  
of School District No. \_\_\_\_\_ )

\_\_\_\_\_)  
by a duly authorized representative )

\_\_\_\_\_)  
Witness )  
  
\_\_\_\_\_)  
Date Signed )

\_\_\_\_\_)  
Signature of Authority  
Representative

\_\_\_\_\_)  
(PRINT NAME)

\_\_\_\_\_)  
(PRINT TITLE)