

THIS AGREEMENT MADE on

Between:

**THE BOARD OF TRUSTEES OF
PEMBINA HILLS SCHOOL DIVISION**
(hereinafter referred to as the "Board")

OF THE FIRST PART

- and -

(hereinafter referred to as the "Client")

OF THE SECOND PART

PARTIES TO THE AGREEMENT

AGREEMENT

WHEREAS the Board operates Vista Virtual School, a school offering distance education programs to students in grades 1 to 12;

WHEREAS the Client requires the design, delivery and support of distance education programs to be provided by Vista Virtual School;

AND WHEREAS the Board has undertaken to provide such services subject to the following terms and conditions;

NOW THEREFORE the parties hereby agree as follows:

1. SERVICES

- 1.1. The Board will undertake to design, deliver and support distance educational programming for the Client as described in Schedule "A" which is attached hereto, and forms a part of this Agreement, and as established between the Client and the Board's designated administrators, in a competent, non-negligent and professional manner (hereinafter referred to as the "Services").
- 1.2. In carrying out its obligations hereunder the Board shall be bound by and observe all applicable federal, provincial, and municipal legislation. Including any regulations and policies passed thereunder, and any amendments thereto as well as all policies of the Board.

- 1.3. The Board agrees and undertakes to perform the Services promptly and efficiently within the terms of this Agreement, and to ensure that the Services are performed in accordance with the highest standards of professional and technical quality.
- 1.4. The Board agrees that the Client or its designate shall have, at all reasonable times, access to the works, products, records generated as a result of the provision of the Services, or any component part thereof that the Board is performing as a result of the provision of the Services under the terms and conditions of this Agreement.
- 1.5. During the term of this Agreement, the Board shall provide sufficient, qualified staff to provide the Services. The Board shall ensure that it and its employees or agents authorized to provide the Services, hold and maintain during the term of this Agreement all required qualifications and professional designations for the performance of the Services.
- 1.6. The Board must provide at the Board's cost, all equipment, materials, supplies and services required to perform the Services herein, including but not limited to any computer equipment, software, internet service, office supplies, photocopying, telephone service, courier or delivery services and any typing services except for goods or services specifically listed in Schedule "A" as the Services billable to the client.

2. TERM

- 2.1. The term of this Agreement shall be from the Effective Date of this Agreement and shall continue for an initial period of one (1) year (the "Initial Term"), after which this Agreement shall be automatically renewed for additional one (1) year terms on each anniversary of the start of the Initial Term (each successive term being a "Renewal Term) unless terminated earlier by either party in accordance with the Agreement or unless either party provides written notice to the other party of its intent not to renew this Agreement at least three (3) months prior to start the following Renewal Term. The fees indicated in Schedule "A" are subject to review and change upon each renewal and with ninety (90) days' notice from the Board.

3. ADMINISTRATION

- 3.1. The Board's representative and designated administrator responsible for the administration of this Agreement shall be the Principal of Vista Virtual School (or in the absence of the Principal of Vista Virtual School, the Superintendent or designate).
- 3.2. The Client's representative responsible for the administration of this Agreement shall be

4. PAYMENT

- 4.1. The client agrees to pay the Board for the completion of the Services, in accordance with the fee schedule specified In Schedule A, attached.
- 4.2. The Board shall be responsible for any and all costs and expenses incurred in the provision of the Services unless otherwise provided for in this Agreement.
- 4.3. Client payments to the Board shall be made in the following manner:
 - a) An invoice will be generated at the time of registration for course credits registered at time of registration.
 - b) All amounts due and owing shall be inclusive of the Goods and Services Tax, if applicable.
 - c) The Client shall pay the Board the amount of the invoice within thirty (30) days of receipt.

5. RELATIONSHIP

- 5.1. Nothing contained herein shall be construed to create the relationship where one party to this Agreement becomes the agent, partner, joint-venture, or other legal representative of the other party and each party acknowledges and agrees that it has no authority to assume or create any obligations whatsoever, express or implied in the name of the other party.
- 5.2. The Client and the Board agree that nothing contained herein shall constitute the Board or its employees or agents as an employee of the Client for any purpose whatsoever, it being understood and agreed between the Board and the Client that the Board shall be responsible for all statutory remittances and that no deductions will be made by the Client from any monies paid to the Board hereunder, and that no additional monies will be paid by the Client on account of income tax, goods and services tax, employment insurance, workers' compensation, holiday pay, Canada Pension Plan contributions or the like unless required by rulings of the Canada Revenue Agency or any other law, provided that if the Board shall be obligated to pay any additional monies on account hereof, the Board shall reimburse the Client on account of such payments, and the Client may deduct the amount from payments subsequently falling due to the Board, excepting the case of contrary rulings with the Canada Revenue Agency or by or through any other law.

6. INSURANCE

- 6.1. The parties to this Agreement shall be solely responsible for obtaining appropriate third-party liability insurance with regards to their respective obligations under this Agreement.
- 6.2. The Board may, at its own expense and without limiting its liabilities herein, insure its operations under a contract of comprehensive or commercial general liability insurance (insuring against bodily injury, personal injury and property damage, including loss of use thereof, and including coverage for no-owned automobile and all contractual liability arising under this Agreement), with an insurer licensed in Alberta in such form and amounts as the Board deems appropriate in respect of its operations and the Services to be provided under this agreement. Evidence of such insurance in a format acceptable to the Client shall be made available to the Client forthwith upon request.
- 6.3. During the term of this Agreement, any and all efforts which may be undertaken by the Client to obtain third party liability insurance coverage that may extend coverage to the Board for the Services provided under this agreement shall be deemed to be voluntary on the part of the Client, in no way an obligation of the Client, and in no way satisfies or relieves the Board from its obligations to maintain insurance in accordance with this Agreement.

7. WORKERS COMPENSATION INSURANCE

- 7.1. The Board may obtain and continue to carry during the term of this Agreement Workers' Compensation insurance as and to the extent required by the Workers Compensation Act of Alberta, when the Act applies, including without limitation, personal coverage for any director of the Board providing Services under the Agreement, and shall provide proof of coverage upon request by the Client. All other insurance, taxes, and charges required or related to the provision of Services under this Agreement shall be provided by the Board at the Board's expense.

8. OCCUPATIONAL HEALTH AND SAFETY REQUIREMENTS

- 8.1. The Board acknowledges that the Board is an employer as defined in the Occupational Health and Safety Act, and that the Board will, as a condition of this Agreement, comply with the Occupational Health and Safety Act, R.S.A. 2000, c. O-2 and the regulations thereto, and any successor legislation, in the performance of the Services under this Agreement.

9. INDEMNITY AND LIABILITY

- 9.1. The Board shall be liable to the client for all losses, costs, damages, and expenses whatsoever which the Client may sustain, pay or incur, as a result of or in connection with a breach by the Board, or its employees or agents, of any of its obligations assumed under this Agreement, or as a result of or in connection with the provision of Services by the Board, its employees or agents, and for any acts, errors or omissions or acts of negligence, which result in harm to the Board or its students or any individuals who are in receipt of Services by the Board, or for any willful harm, misconduct, or crimes by the Board relating to the provision of the Services, and without limiting the generality of the foregoing, the Board shall reimburse the Client for any financial losses, or damages, whether direct or indirect, in failing to comply with the Board's obligations under the terms and conditions of this Agreement.

- 9.2. The Board shall indemnify and save harmless the Client, its employees and agents, of and from all manner of actions, causes of action, proceedings, claims, demands, losses, costs (on a solicitor and his own client full indemnity basis), damages and expenses whatsoever which may be brought or made against the Client which the Client or the above-described individuals may sustain or incur as a result of or in connection with the breach by the Board of any of its obligations under this Agreement or as a result of or in connection with the provision of Services.

10. NON-ASSIGNMENT & SUB-CONTRACTING

- 10.1. The Board shall not assign or sub-contract the Services under this Agreement without the prior written consent of the Client.

11. CONFIDENTIALITY & OWNERSHIP OF DOCUMENTS

- 11.1. During the term of this Agreement or at any time thereafter, information communicated to or acquired by the Board in the course of carrying out the services or otherwise, shall not be divulged nor made use of by the Board for any other purpose unless the prior written authorization is granted by the Client. All such information acquired by the Board shall be treated as confidential. Any documentation, or information, whether provided in hard copy or electronic form, by the Client to the Board, for use in carrying out the Services shall remain the property of the Client and shall be surrendered to the client upon termination of this Agreement.

- 11.2. The parties acknowledge and agree that the Board shall retain no right, title or interest in any materials, programs or products of any kind, created under this Agreement, and that any materials, programs or products of any kind, created

under this Agreement, shall be the sole and exclusive property of the client, together with all rights, copyright licenses, privileges and intellectual property rights, and it being further agreed that such rights are to be world-wide in perpetuity, and belong to the Client.

- 11.3. The Board waives in whole all moral rights provided to an author of a work under the Copyright Act, Canada in the material/work produced pursuant to this Agreement in favor of the Client.
- 11.4. The Board agrees to obtain from the author of any materials a waiver of all moral rights to the material produced pursuant to this Agreement in favor of the Client. If the Board is unable to obtain a waiver, it is in the Client's sole discretion whether or not to terminate this Agreement.
- 11.5. The Board shall not copy, or otherwise reproduce, any of the Client's documents, records, resources or materials except as required to carry out the Services under this Agreement.

12. FREEDOM OF INFORMATION AND PROTECTION OF PRIVACY OBLIGATIONS

- 12.1. The Board acknowledges that the Freedom of Information and Protection of Privacy Act, R.5.A. 2000, c. F-25, and amendments thereto and regulations thereof ("FOIP Act") apply to all information and records relating to, or obtained, generated, collected or provided under or pursuant to the terms and conditions of this Agreement. The Board covenants and agrees that they understand and will abide by the requirements of both the privacy and access provisions of the Freedom of Information and Protection of Privacy Act, of Alberta and any regulations thereto and shall both respect and maintain privacy and confidentiality entitlements of students, parents, staff, of the Client, all in accordance with the requirements of the Freedom of Information and Protection of Privacy Act and any Client policies or regulations related thereto.
- 12.2. All records collected, created or maintained by the Board in the performance of the Services will be under the custody and control of the Client insofar as the access and privacy provisions of the FOIP Act are concerned.
- 12.3. No personal information may be collected by the Board unless the collection is authorized under this Agreement as being necessary for the provision of Services, or the collection is expressly authorized by the Client, in writing, in advance of any collection taking place.
- 12.4. The Board shall ensure that no use or disclosure may be made of the personal information obtained by or provided to the Board for any purpose other than what

is needed to carry out this Agreement unless the Board has received the prior express written authorization for doing so from the client.

- 12.5. The Board acknowledges that all records created or maintained by the Board in the performance of the Services, including records as defined within the FOIP Act are the property of the Client, and shall be maintained in accordance with the Client's requirements and any applicable statutory requirements.

13. TERMINATION

- 13.1. The Client may terminate this Agreement for any reason whatsoever upon the provision of thirty (30) days' written notice to the Board. In the event of such termination, the Client shall pay to the Board all amounts due and owing up to and including the date of termination. No further payments of any nature shall be made to the Board.
- 13.2. The Board shall be deemed to have committed an act of default, which shall result in immediate termination of this Agreement, upon the occurrence of any of the following events:
- (a) a breach of any of the terms and conditions of this Agreement by the Board in providing the Services;
 - (b) conduct by the Board that brings the reputation of the Board, its elected officials, employees, agents or students into disrepute;
 - (c) dishonesty or non-performance respecting the Services or the provision thereof.
 - (d) becomes bankrupt, acknowledges insolvency, is ordered to be wound up by a court of competent jurisdiction, makes a general assignment for the benefit of his creditors, or a liquidator, receiver, receiver manager or trustee in bankruptcy is appointed for, or on behalf of, the Board.
- 13.3. In the event of such termination, the Board shall only be entitled to payment for all Services rendered up to and including the date of termination.
- 13.4. The Board may terminate this Agreement for any reason whatsoever upon the provision of thirty (30) days' written notice to the Client. The Board shall only be entitled to payment for Services rendered up to the date of termination.
- 13.5. Notwithstanding the foregoing, the parties acknowledge and agree that in the event the client is of the opinion that the Board has not performed or is not performing or fulfilling its Services in accordance with the terms of this Agreement, the client may

cancel this Agreement in whole or in part in accordance with the provisions above noted.

- 13.6. This Agreement may be terminated at any time upon the mutual agreement of the parties, with the Board being entitled to payment for all amounts due and owing up to the mutually agreed date of termination.
- 13.7. The parties agree that in the event that this agreement is terminated prior to the planned expiry date for any reason whatsoever, the parties will work together in good faith after notice is given and before activities under this agreement are completed to:
 - (a) enable students who have begun the registration process and are receiving or soon to be receiving services supplied by the Board, the parties will extend services to assist the students in completing the courses for which they are registered within a reasonable period of time, and
 - (b) ensure that student information resulting from student activity or progress be passed from the Board to the Client before the termination is complete, and
 - (c) that copies of all material and intellectual property owned by the Client and held in Board files or computer storage is returned to the Client before termination is complete.

14. GENERAL PROVISIONS

- 14.1. There are no representations, warranties, agreements or understandings between the parties hereto other than as expressly contained herein, and this Agreement contains all the terms and conditions agreed on by the parties hereto.
- 14.2. A waiver of any breach of a provision hereof shall not be binding upon a party unless the waiver is in writing and the waiver shall not affect such party's rights with respect to any other or future breach.
- 14.3. Each party warrants that it has the authority to enter into this Agreement, and that the Agreement does not contravene any law or regulation or agreement binding or affecting either party.
- 14.4. Time shall be of the essence of this Agreement.
- 14.5. The Board hereby acknowledges and confirms that it has had the opportunity to seek independent legal or other professional advice prior to executing this contract and has either obtained such independent legal or other professional advice as it

deems appropriate, or has waived the right to obtain such independent legal or other professional advice.

14.6. This Agreement shall be construed and the relations between the parties determined in accordance with the laws of Canada, and the courts of the country of Canada shall have exclusive jurisdiction with respect to all matters relating to or arising out of this Agreement.

14.7. Termination of the Agreement shall not affect the validity of any provisions, including but not limited to section 9, which are, expressly or by implication, to survive or to take effect on or after such termination.

14.8. Any notice given under this Agreement shall be sufficiently given if personally delivered or if sent by first class mail, postage prepaid as follows:

a. to the Board:

Pembina Hills School Division
5310 – 49 Street
Barrhead, Alberta T7N 1P3
Attention: Heather Nanninga, Secretary Treasurer
Email: heather.nanninga@pembinahills.ca

b. to the Client:

Attention:

Email:

and shall be conclusively deemed to be received by the party on the third (3rd) business day following the day of such mailing, or on the date of delivery where personally delivered. Either party may change its address for service by notice, in writing, to the other given as aforesaid.

14.9. Subject to its terms, this Agreement shall ensure to the benefit of and be binding upon the parties hereto and their respective successors and assigns.

14.10. In the event any provision or term of this Agreement, as amended from time to time, is deemed invalid or void, in whole or in part, by any court of competent jurisdiction, the remaining terms of provisions of this Agreement remain in full force and effect.

14.11. Any changes to this Agreement shall be evidenced in writing by way of an addendum to this Agreement, which is signed and dated by both parties by an authorized representative of each party to the Agreement.

IN WITNESS WHEREOF the parties hereto have executed this Agreement effective the date first above written.

Date

PEMBINA HILLS SCHOOL DIVISION

Date

Board Chair

Secretary Treasurer

SCHEDULE “A”

This is Schedule “A” to an agreement dated between The Board of Trustees of Pembina Hills School Division (the Board) and (the Client) and forms an Integral part thereof.

The Board shall provide the following services at the stated costs.

Service	Description	Fee
Delivery of student instruction to registered (non-primary) students	<ul style="list-style-type: none"> • PHSD’s Vista Virtual School will: <ul style="list-style-type: none"> ○ Maintain a record of the students registered from your schools, and the courses for which they are registered ○ Add your students to VVS class-lists ○ Work with your schools’ teachers and administration to monitor and support student progress toward successful completion of their course(s). • VVS teachers will: <ul style="list-style-type: none"> ○ Deliver the content ○ Provide feedback to students and school contacts ○ Assess student work ○ Record final grades in PASI • PHSD will invoice your school division monthly based on the total number of credits for which students from your jurisdiction and/or school have registered in the month • PHSD will sell textbooks and other course materials to the Client as per information provided in the Course Catalogue at vvschool.ca. Textbooks and other course materials are non-refundable. Prices are subject to change without notice. • PHSD will charge other optional fees to your school division if and when these fees are necessary. All fees will be identified in PHSD’s Rates Annex as amended from time to time. 	Alberta Funded Student = \$140/Credit Federally Funded Alberta Student = \$140/credit Unfunded Student = \$210/Credit <u>Elementary and Junior High core courses are equivalent to 5 credits.</u>