

**VIRTUAL LEARNING ACADEMY  
OF ST. CLAIR COUNTY**

**CAFETERIA PLAN**

4.0 CONTRIBUTIONS AND FUNDING .....	5
4.1 Employer Contributions .....	5
4.2 Salary Reduction Contributions .....	5
4.3 Change in Family Status .....	6
4.4 Rules Against Discrimination .....	6
5.0 BENEFITS .....	6
5.1 Benefit Schedule .....	6
5.2 Covered Expenses .....	6
5.3 Election of Benefits .....	7
5.4 Benefit Payments .....	7
5.5 Cessation of Benefit Payments .....	7
5.6 Forfeiture of Unused Benefits .....	7
6.0 ADMINISTRATION .....	8
6.1 Authority of the Administrator .....	8
6.2 Claims .....	8
6.3 Appeals of Denied Claims .....	9
6.4 Administrator's Warranty .....	9
6.5 Compensation of Administrator .....	10
6.6 Records and Reports .....	10
6.7 Incapacitated Payee .....	10
6.8 Standard of Care .....	10
6.9 Indemnification of the Administrator .....	10
7.0 AMENDMENT AND TERMINATION .....	11
7.1 Amendment .....	11
7.2 Termination: Discontinuance of Benefits .....	11
8.0 PROVISIONS FOR PARTICIPANTS ON FAMILY MEDICAL LEAVE .....	11
8.1 Participant' s Rights under the Plan .....	11
9.0 MISCELLANEOUS .....	13
9.1 Uniform Rules .....	13
9.2 Plan is Discrete .....	13
9.3 Construction.....	13
9.4 Non-alienation of Benefits .....	14
9.5 Counterparts .....	14
EXHIBIT A .....	15

2.3 **Benefit Schedule** -- The Exhibit that is attached to this Plan as Exhibit A, which describes the benefits available to Participants under the Plan. The Benefit Schedule may be changed by the Employer from time to time, without notice, to the extent that the Employer deems it reasonably necessary for the sound and economical administration of the Plan; provided that the Employer's discretion to change the Benefit Schedule may not be exercised in a manner that is inconsistent with the provisions of any applicable Collective Bargaining Agreement as to those Employees who are within the bargaining unit covered by the Collective Bargaining Agreement. A change to the Benefit Schedule will be treated as an amendment to the Plan.

2.4 **Board** -- The duly constituted School Board of the Employer, according to the laws of the State of Michigan and the Employer's governing instruments.

2.5 **Claimant** -- A person submitting a claim for Benefits under this Plan, or a Policy or Benefit Plan maintained to provide Benefits in conjunction with the Plan. A Claimant can be a Participant, a Beneficiary of a Participant (where appropriate), or a legal representative of a Participant or Beneficiary who would otherwise be the Claimant, but for a condition making the Participant or Beneficiary incapable of personally submitting the claim.

2.6 **Code** -- The Internal Revenue Code of 1986, as amended.

2.7 **Collective Bargaining Agreement** -- A collective bargaining agreement between the Employer and Employees who are members of a relevant bargaining unit.

2.8 **Dependent** -- Any person who fits within the definition of a dependent under a Policy or Benefit Plan that is maintained by the Employer to provide Benefits under this Plan.

2.9 **Effective Date** -- The date specified by the Board as the date upon which this Plan is to be effective. The effective dates of any Policies or Benefit Plans maintained under this Plan will be the dates specified in the instruments by which they are established.

2.10 **Election Period** -- The thirty (30) calendar day period immediately preceding the first day of each Plan Year during which Participants in the Plan may select the types of benefits and the allocation of funds to each benefit for the next period of coverage, all in the manner that is permitted by this Plan. Any Employee who becomes eligible to participate in the Plan on a date that is not within the Election Period will be permitted to make the selections and allocations during the seven (7) calendar day period immediately preceding the date the Employee's participation under the Plan is to begin.

2.11 **Eligible Employee** -- An Employee who meets the requirements for eligibility to participate under this Plan.

### 3.0 ELIGIBILITY AND PARTICIPATION

3.1 **Eligibility.** An Employee who is not covered under a Collective Bargaining Agreement is eligible to participate under the Plan if the Employee satisfies the eligibility requirements to receive coverage under the Policy maintained by the Employer for purposes of its health insurance plan and his/her individual contract of employment.

An Employee who is covered under a Collective Bargaining Agreement is eligible to participate under the Plan if such participation is mandated under the Collective Bargaining Agreement and the Employee has satisfied all additional conditions for participation as are stated in the Collective Bargaining Agreement, if any.

3.2 **Participation.** An Employee who meets the eligibility requirements set forth in Section 3.1 will participate from the Effective Date of the Plan, provided the Employee has filed a benefit election form with the Administrator under this Plan. Any other Employee will become a Participant on the first day of the month coinciding with or next following the date the Employee becomes eligible as set forth in Section 3.1, provided the Employee has filed a benefit election form with the Administrator under this Plan.

If an Employee does not file a benefit election form at the time of the Employee's initial eligibility, the Employee may begin participating as of the first day of any following Plan Year, provided the Employee is eligible to participate at that time and the Employee files a benefit election form with the Administrator in accordance with this Plan during the relevant Election Period.

### 4.0 CONTRIBUTIONS AND FUNDING

4.1 **Employer Contributions.** The amount of the Employer's contributions under this Plan for a Plan Year will be determined during the Election Period, based on the annual benefit election forms completed by Participants under this Plan. The Employer will pay the cost of coverage under any Policies in excess of the contributions of Participants derived from the reduction of Participants' Salaries, as described in the following paragraph, plus any amounts made available by the Employer for Participants who waive benefits under the Employer's health insurance plan (as described in the Benefit Schedule), on forms and under the procedures established by the Administrator and under the relevant Collective Bargaining Agreement (the pertinent provisions of which are incorporated in this Plan by reference). Amounts will be credited to the bookkeeping accounts of Participants. The Employer will not be required in any way to fund the accounts, set aside, earmark or entrust any fund, policy or money with which to pay its obligations under the Plan. All benefits, except those provided under a Policy, will be paid from the Employer's general assets.

The Employer will use reasonable methods for determining the total cost of coverage under Policies, and the Employer's determination will be binding on all interested persons.

contributions or benefits contained in the Code, which discretion may include, without limiting the scope of the Administrator's discretion, modifying Participants' elections under their Salary Reduction Agreements, with or without the consent of the affected Participant. Actions of the Administrator to assure that the Plan does not violate rules against discrimination may be limited to that group of Participants in whose favor the Plan is found to be discriminatory, provided that all actions must be uniformly applied to all members of the affected group. The Administrator may not increase any Participant's reduction in Salary for the purpose of satisfying rules against discrimination.

## 5.0 BENEFITS

5.1 Benefit Schedule. Benefits payable under this Plan shall be those statutory taxable and non-taxable benefits set forth in the Benefit Schedule that is attached to this Plan as Exhibit A.

5.2 Covered Expenses. Benefits will be paid with regard to any Plan Year only for services and other covered expenses arising during that Plan Year. A service or covered expense is deemed to have arisen within the Plan Year that it is actually delivered, even if the Participant is billed, charged or pays for the service or covered expense after the end of the Plan Year. A Participant may submit claims for Benefits after the date of the Participant's employment termination, through the end of the third calendar month following the last day of the Plan Year within which the Participant terminates employment, for covered expenses incurred before the date of employment termination. Unless otherwise provided under the terms of a Benefit Plan or Policy, or otherwise required by law, no Benefits will be paid for expenses incurred by a Participant after the date the Participant terminates employment with the Employer.

5.3 Election of Benefits. For each Plan Year that a Participant wants to participate in the Plan, the Participant must file with the Administrator a written election of Benefits on a form furnished by the Administrator. The manner and place of filing will be determined under procedures established by the Administrator. The form will specify those Benefits from the Benefit Schedule that the Participant elects to receive during the Plan Year, and the amounts of each Benefit that the Participant will fund through a reduction in Salary or waiver of health insurance. Benefit elections may not be amended or revoked on or after the first day of the relevant Plan Year, for which they are made, except under the same circumstances that would permit the amendment or revocation of Salary Reduction Agreements, as described in Sections 4.2.C. and 4.3 of this Plan.

In addition to executing a Benefit election form, the Participant must provide all information and execute all applications and forms necessary to effectuate coverage under all Policies maintained by the Employer to provide the Benefits.

5.4 Benefit Payments. Benefit payments under this Plan will be made in the manner and subject to such conditions and restrictions as are contained in this Plan and the Policies or Benefit Plans providing the Benefits.

6.2 **Claims.** All claims for Benefits under this Plan must be submitted in accordance with this Plan and written procedures established by the Administrator, the Insurer (for Benefits provided under a Policy), or the administrator of the Benefit Plan (for Benefits provided under a Benefit Plan). The Administrator will make all determinations as to eligibility and the right of any Claimant to a Benefit, except Benefits provided under a Policy, in which case the Insurer will make those determinations under the terms of the Policy, or under a Benefit Plan, in which case the Benefit Plan administrator will make those determinations under the terms of the Benefit Plan. The Administrator may rely upon all information furnished to it by the Claimant, as the case may be, when making such determinations. Where benefits are to be provided by an Insurer or a Benefit Plan administrator, the Administrator may rely absolutely on the Insurer's or the administrator's determination regarding claims under the terms of the Policy.

In its sole and absolute discretion the Administrator may require, before paying all or a portion of a Benefit, that the recipient sign a receipt and a release of the claim in favor of the Administrator, the Insurer (if any), the Benefit Plan administrator (if any) and the Employer on a form furnished by or approved as to form by the party or parties being released.

6.3 **Appeals of Denied Claims.** If a claim is denied, totally or partially, the Administrator will provide the Claimant with a written denial stating (i) the specific reasons for the denial, (ii) references to the pertinent Plan provisions upon which the denial is based, (iii) a description of any additional information the Claimant might be required to provide with an explanation of why it is needed, and (iv) an explanation of the Plan's appeal procedure. The written denial will be sent to the Claimant within 90 days after receipt of the claim by the Administrator. The 90 days may be extended for up to another 90 days if special circumstances warrant an extension of time. If an extension is needed by the Administrator to process the claim, the Claimant will be notified in writing before the beginning of the extension period. The notice will include an explanation of the circumstances requiring the extension of time and the date by which the Administrator expects to render a decision on the claim.

A Claimant may appeal the denial of a claim for Benefits by submitting a written request for a full and fair review to the Administrator. The Claimant may examine pertinent documents and submit pertinent issues and comments in writing; provided that neither the Employer nor the Administrator will be required by virtue of this provision to waive any privilege as to materials in their records or the records of their agents, including but not limited to the attorney-client privilege. The Claimant may have a representative throughout the appeals process. The Claimant's written request for a review must be submitted within 60 days of the written notice of denial of the claim. The full and fair review will be completed and a decision rendered by the Administrator within 60 days after receipt of the written request for review; provided that the time for rendering a decision may be extended upon written notice to the Claimant, if warranted by special circumstances, for up to 120 days from the date of the receipt of the written request for review. The Administrator's decision will be in writing and will include specific reasons for the decision, with specific references to the Plan provisions on which the decision is based. The decision of the Administrator will be final and binding.

prudent person acting in a like capacity and familiar with such matters, under the circumstances then prevailing.

6.9 **Indemnification of the Administrator.** The Administrator shall be held harmless and indemnified by the Employer against all claims, damages, judgments, settlements and other liabilities, including attorneys fees and expenses reasonably incurred in the defending of all claims, arising by reason of any act or failure to act made in good faith and consistent with the applicable standard of care in the administration of this Plan.

## 7.0 **AMENDMENT AND TERMINATION**

7.1 **Amendment.** This Plan is intended to be maintained indefinitely. Notwithstanding, the Employer may amend the Plan to comply with applicable law and regulations provided that an amendment does not cause the Plan to cease being maintained for the exclusive benefit of Participants, reduce or eliminate a Participant's right to receive a benefit which the Participant already has a present right to receive, or increase the duties of the Administrator, unless the Administrator otherwise agrees. The Administrator will not be bound to the terms of any amendment until a true and accurate copy of the duly signed amendment has been delivered to the Administrator by the Employer.

7.2 **Termination: Discontinuance of Benefits.** Unless prohibited by applicable law or Collective Bargaining Agreements, the Employer may terminate or partially terminate the Plan at any time. If the Plan is terminated or partially terminated for any reason, amounts credited to accounts maintained under the Plan for Participants will continue to be applied for the exclusive benefit of the Participants. The termination of the Plan will not reduce or eliminate Participants' rights to reduce Salary earned before the date of the termination, nor affect the right of Participants to have Premiums paid under the provision of the Plan, but only to the extent that there are amounts credited to their accounts available for that purpose. Participants will not have the right to reduce, under this Plan, Salary earned after the date of the termination. Notice of a discontinuance or termination is not required except by the terms of any Policy, Benefit Plan or by law. The Insurer may cancel Policies according to their terms.

## 8.0 **PROVISIONS FOR PARTICIPANTS ON FAMILY MEDICAL LEAVE**

8.1 **Participant's Rights under the Plan.** Notwithstanding any other provisions of this Plan, a Participant who takes a leave of absence from the Employer under the federal Family and Medical Leave Act ("FMLA") will have the following rights under this Plan, provided the Employer is subject to the FMLA:

A. The Participant may elect to terminate participation in either or both of the health insurance and the health care flexible spending plan (if either or both of those benefits are provided under this Plan) during a Plan Year that the Participant is on FMLA leave, for the remaining portion of that Plan Year.

authorized by the Employer.

F. In addition to the provisions contained in the preceding paragraphs, the following provisions apply specifically to Participants who have elected to participate in the Health Care Flexible Spending Account Plan and who take an FMLA leave:

1. So long as the Participant continues to participate in the Health Care Flexible Spending Account Plan, the full amount of the elected coverage, as set forth on the Participant's Benefit Election Form, less any prior reimbursement, will be available to the Participant at all times during the FMLA leave period.

2. The Participant will not be entitled to receive reimbursements for claims incurred during any period during the FMLA leave that the Participant's participation in the Health Care Flexible Spending Account Plan terminates.

3. A Participant whose participation in the Plan terminates during the FMLA leave may reinstate participation upon returning to active service after the FMLA leave period for the remainder of the Plan Year; provided that the Participant may not be reimbursed for claims incurred during the period of the FMLA leave that participation was terminated. When the Participant reinstates participation, the Participant's coverage for the remainder of the Plan Year will be equal to the level of the Benefit chosen by the Participant for the Plan Year (as shown on the Participant's Benefit Election Form) prorated for the period during the FMLA leave that the Participant's participation was terminated, and reduced by reimbursements for claims incurred during the portion of the Plan Year preceding the FMLA leave.

## 9.0 MISCELLANEOUS

9.1 **Uniform Rules.** The terms and conditions of this Plan and all rules promulgated by the Administrator under authority granted by this Plan will be interpreted and enforced in a uniform manner as to all similarly situated persons, and no action on the part of the Administrator or the Employer will discriminate in favor of highly compensated employees (as that term is defined in the Code and in regulations promulgated under the Code).

9.2 **Plan is Discrete.** Neither a payment nor the creation, continuation, or change of the Plan or Plan Policies (or any fund, account, or trust) gives any person a non-statutory legal or equitable right against the Employer; against any officer, agent, or other person employed by the Employer; against any Insurer; or against the Administrator.

9.3 **Construction.** The Employer's intent and purpose in adopting this Plan is to establish a plan of welfare benefits consistent with relevant sections of the Internal Revenue Code. The Employer intends to comply fully with statutes and regulations governing wages, compensation, and fringe employment benefits. All questions arising in the construction and administration of this Plan must be resolved accordingly. This Plan is to be construed under the laws of the State of Michigan,



VIRTUAL LEARNING ACADEMY OF ST. CLAIR COUNTY

CAFETERIA PLAN

EXHIBIT A

BENEFIT SCHEDULE

Health Insurance.

Each Participant who wants health insurance coverage for a Plan Year will receive coverage under the Policy or Policies maintained by the Employer to provide such coverage as designated by the Participant in the election form or forms executed by the Participant for the Plan Year under the terms of such Policy or Policies. The coverage available to the Participant will be in accordance with the pertinent provisions of the Collective Bargaining Agreement between the Employer and the bargaining unit that represents the Participant, or in the case of non-organized Participants, in accordance with the pertinent provisions of the employment contract between the Participant and the Employer. Participants will receive health insurance coverage under these terms unless such coverage is waived.

Cash.

Each Participant who does not want coverage under the Employer's health insurance plan may elect to not receive such coverage for a Plan Year by executing a Waiver form provided by the Administrator within the relevant Election Period. A Participant who elects to waive coverage under the Employer's health insurance plan will receive cash in lieu of health insurance coverage in an amount and at the times determined by referencing the pertinent provisions of the employment contract between the Participant and the Employer.

Board Approved

Date: \_\_\_\_\_