

**SUPERINTENDENT'S
EMPLOYMENT AGREEMENT**

This Superintendent's Employment Agreement ("Agreement") is made and entered into effective the 1st day of July, 2025 ("Effective Date"), by and between Sioux Falls School District 49-5 of Minnehaha County, South Dakota ("District") and Dr. James L. Nold ("Superintendent").

WITNESSETH:

WHEREAS, the District, by Action No. 39686.D3 of its School Board ("Board") found in the minutes of the meeting held on January 13th, 2025, employed Dr. James L. Nold, as Superintendent of Schools for the term ending June 30, 2028;

WHEREAS, the District, by Action No. 39695.C9 of its School Board ("Board") found in the minutes of the meeting held on January 27, 2025 approved this Employment Agreement with Dr. James L. Nold, as Superintendent of Schools for the term and upon the conditions set forth herein;

WHEREAS, both parties agree that said Superintendent shall perform the duties of Superintendent of Schools in and for the public schools in the District as prescribed by the laws and regulations of the State of South Dakota, and by the rules and regulations made thereunder by the Board; and

WHEREAS, both parties desire to enter into this Agreement to set forth the terms and conditions of the Superintendent's employment.

NOW, THEREFORE, in consideration of the mutual covenants and agreements set forth herein, the parties hereto agree as follows:

1. Term of Employment

The District hereby employs the Superintendent and the Superintendent hereby accepts such employment to undertake to fulfill the duties and obligations of Superintendent of Schools of the Sioux Falls School District 49-5 of Minnehaha County, South Dakota, for a term of three (3) years commencing July 1, 2025. It is the intent of both parties to amend this Agreement no less than seven (7) months prior to June 30, 2028, if such extension is mutually agreed upon by the parties.

2. Professional Certification and Responsibilities of Superintendent

A. Certification. The Superintendent shall furnish throughout the term of his employment as Superintendent a valid and appropriate certificate to act as prescribed by the laws and regulations of the State of South Dakota.

B. Duties. The Superintendent shall have charge of the administration of the schools of the District. He shall be the chief executive officer of the District; shall direct and assign teachers and other employees of the schools under his supervision; shall organize, reorganize,

and arrange the administrative and supervisory staff, including instruction and business affairs, and shall have the authority to assign and transfer personnel and assign work stations and offices in any manner or fashion which in his professional judgment best serves the interests of the Sioux Falls Public Schools; shall select all personnel subject to the approval of the Board; shall from time to time suggest regulations, rules, and procedures deemed necessary for the well ordering of the school system and in general perform all duties incident to the office of the Superintendent and such other duties as may be prescribed by law or by the District from time to time. The Superintendent shall be entitled to attend all of the Board or committee meetings, including executive sessions where no conflict of interest exists, and shall serve as an ex-officio member of such Board or committees and shall be entitled to submit administrative recommendations on each item of business considered by any such Board or committee. The District agrees that its Board and members, individually and collectively, promptly shall refer all criticisms, complaints, and suggestions called to its attention to the Superintendent for study and recommendation and shall refrain from individual interference with the administration of school policies except through Board action. This is an agreement for the performance of professional services as superintendent by the Superintendent, who shall not be assigned to any other position or have his duties reassigned to others without his consent.

3. Compensation

Beginning July 1, 2025, the base salary of the Superintendent shall be an annual salary of Two Hundred Sixty Thousand Dollars (\$260,000) (the "Salary") and shall be paid in equal installments in accordance and at intervals consistent with the District's payroll practices for professional employees.

The base salary shall continue during the term of this Agreement and may increase yearly in accordance with the annual percentage increase for staff, not to exceed three percent. At no time shall the Salary of the Superintendent be decreased during the term of this Agreement without the consent of the Superintendent.

4. Vacation and Other Benefits

A. 1. Vacation. The Superintendent shall accrue twenty-five (25) working days of vacation each school year, exclusive of legal holidays. If the Superintendent delivers to the District by June 30 a written irrevocable election, he may elect to receive payment for up to, but not in excess of fifteen (15) unused vacation days per school year on a pro rata basis (1/227) based on his compensation (as that term is defined in SDCL 3-12-47.6) reported to the South Dakota Retirement System for the year in which the vacation accrues. The maximum number of days permitted to be accumulated and carried forward into a school year shall be fifty-five (55). The Superintendent shall retain any current accumulated vacation leave.

It is agreed that, for purposes of this section, a school year shall be deemed to commence on July 1. Upon the termination of this Agreement, Superintendent shall be paid for any accrued and unused vacation leave which has not been forfeited on a pro rata basis (1/227) based on the Superintendent's compensation (as that term is

defined in SDCL 3-12-47.6) reported to the South Dakota Retirement System for the final year of this Agreement.

2. Personal Time Off. Superintendent may elect to receive five (5) days of paid personal time off each school year for outside professional work, which may include attending conferences of the Education Research & Development Institute, whose principal place of business is located in Homer Glen, Illinois, provided the Superintendent abide by the District's policy GBEAA. The Superintendent will apprise the Board of any personal time off. The Superintendent shall not be required to use this personal time off for work on behalf of the District, such as attendance at AASA meetings, other national, regional, or state meetings, or other any other meeting falling under Section 5 of this Agreement.

3. Sick Leave. The Superintendent shall be entitled to sick leave in accordance with the policies of the District in effect during the term of this Agreement, such sick leave to be not less than fifteen (15) workdays per school year. The Superintendent shall retain any current accumulated sick leave.

B. The District shall pay the full cost of the life, dental and health insurance coverage of the Superintendent and family, provided that the Superintendent chooses a life, dental and/or health insurance plan available to all other professional employees of the District, and the District shall pay all costs for the Superintendent's public employee retirement benefits. In addition, the Superintendent shall receive the greater of each of the retirement benefits, employee benefits, and personal benefits provided under this Agreement or each of the retirement benefits, employee benefits, and personal benefits provided in the Sioux Falls School Administrators' Association Working Agreement as of the Effective Date of this Agreement. Notwithstanding the election above, the Superintendent shall also be eligible to receive the District Retirement Benefit as contained within the Sioux Falls School Administrators' Association Working Agreement if the Superintendent elects to retire at the conclusion of this Agreement.

C. The District, at the request of the Superintendent and in accordance with state law, shall withhold and transfer an amount of salary annually or semiannually or monthly, said amount to be determined by the Superintendent, from the Superintendent's annual salary into any tax-favored annuity or retirement program chosen by the Superintendent pursuant to the District 403(b) Plan, provided the issuer is an authorized vendor under the terms of the District 403(b) Plan.

D. The District shall pay the Superintendent's membership charges for membership in such professional and civic organizations as the parties shall agree are necessary to maintain and improve his professional skills and community relations.

E. The District shall pay the Superintendent a fringe benefit stipend equal to fifteen percent (15%) of the Superintendent's base annual salary. Payments shall be made in equal monthly amounts beginning with the first month of Salary under this Agreement, shall be in

addition to the Salary specified in this Agreement (and not in lieu thereof) and shall continue during the term of this Agreement unless modified by mutual agreement of the parties.

F. Deferred Compensation: The District shall contribute on the Superintendent's behalf to the Nonqualified Deferred Compensation Agreement attached hereto as Exhibit "A" in accordance with its terms.

5. Professional Growth of the Superintendent

The District expects the Superintendent to continue his professional development and expects him to participate in relevant learning experiences. The Superintendent may participate in educational training programs or curricula and shall attend appropriate professional meetings at the local, state, and national levels. The expenses of said attendance will be paid by the District. The President of the Board shall authorize payment to the Superintendent for reimbursement of expenses of the Superintendent while conducting school business as submitted to the Finance Office in accordance with Finance Office practices and procedures.

6. Expenses

The District shall reimburse the Superintendent for reasonable expenses incurred by the Superintendent on behalf of the District, including entertainment expenses. The District recognizes that the Superintendent shall incur such expenses from time to time as the District's representative in the pursuit of educational excellence, private financing, grants, and for other reasons. The Superintendent shall file itemized expense statements with the Business Manager of the District for reimbursement of these expenses. The President of the Board shall authorize payment to the Superintendent for reimbursement of expenses of the Superintendent while conducting school business as submitted to the Finance Office in accordance with Finance Office practices and procedures. Reimbursement for entertainment expenses shall not exceed Five Thousand Two Hundred Dollars (\$5,200.00) for any period of July 1 through June 30 during the term of this Agreement, without the prior authorization of the District. This reimbursement may be increased for the remainder of any year with the authorization of the Board.

7. Transportation

A transportation expense allowance of Seven Hundred Fifty Dollars (\$750) per month shall be paid to the Superintendent monthly. Such transportation expense allowance shall be considered income of the Superintendent and the Superintendent shall be responsible for reporting and paying applicable taxes on said income. The District will reimburse the Superintendent for any out of town travel at the standard mileage rates according to district policy.

8. Professional Liability

The District agrees that it shall defend, hold harmless, and indemnify the Superintendent from any and all demands, claims, suits, actions, and legal proceedings brought against the Superintendent in his individual capacity, or in his official capacity as agent and employee of

the District, provided the incident giving rise to any such demand, claim, suit, action, or legal proceeding arose while the Superintendent was acting within the scope of his employment and the Superintendent acted in good faith and in a manner which the Superintendent believed to be in, or at least not opposed to, the best interests of the District and, with respect to any criminal action or proceeding, had no reasonable cause to believe his conduct was unlawful; and provided further, that such liability coverage is within the authority of the District to provide under state law. The District shall provide indemnity from liability as set forth above regardless if the Superintendent is employed by the District when the demand, claim, suit, action or proceeding is made or commenced. The maximum aggregate indemnification amount for which the District shall be liable under this Section 8 in regard to any demands, claims, suits, actions or legal proceedings shall be the greater of Three Million Dollars (\$3,000,000) or the maximum indemnification provided to Board members, less the aggregate amount of any payments made in regard to the demands, claims, suits, actions or legal proceedings under any insurance policy. In no case will individual Board members be considered personally liable for indemnifying the Superintendent against such demands, claims, suits, actions, and legal proceedings.

9. Disability

Should the Superintendent be unable to substantially perform the duties required by this Agreement by reason of illness, accident, or other cause beyond his control, he shall be covered by the existing sick leave, workers' compensation, or disability plan of the District, insofar as may be applicable; and should this inability to perform his duties exist for more than one hundred eighty (180) days beyond that period of time for which the Superintendent would have been entitled to take sick leave or vacation or both, or if such condition is permanent and irreparable, or of such nature as will make the performance of the Superintendent's duties impossible, the District may, at its option, terminate this Agreement.

10. Performance Evaluation

The District shall provide the Superintendent with periodic opportunities to discuss the Superintendent-Board relationship. A formal evaluation shall occur annually and if not completed by June, shall be completed during the month of June. As part of that evaluation the Board shall review and consider any increases in the Superintendent's salary.

11. Outside Employment

The Superintendent shall not accept any outside employment without the prior approval of the District School Board.

12. Residency

Superintendent agrees to reside in the Sioux Falls School District throughout the term of this Agreement. Failure of Superintendent to do so shall be grounds for termination of this Agreement by the District.

13. Termination

Throughout the term of the Agreement and any extension thereof, the Superintendent shall be subject to discharge for the causes provided by South Dakota Codified Laws Ann. 13-43-6.1 (2005), provided however, that the District does not arbitrarily or capriciously call for his dismissal and that the Superintendent shall have the right to written grounds for his discharge, a fair hearing before the Board of the District, and at least ten (10) days' written notice of said charges and hearing. At any such hearing before the Board, the Superintendent shall have the right to be present and to be heard, to be represented by counsel, and to present through witnesses any testimony relevant to the grounds identified by the Board for his discharge. A transcript of the record of the proceedings before the Board shall be made available without charge to the Superintendent. If the Superintendent chooses to be accompanied by legal counsel at the hearing before the Board, he will assume the cost of his legal expenses.

14. Amendment

This Agreement may be amended during its term by the mutual written consent of the District and the Superintendent. Any such amendment shall be in writing and approved by official action of the Board of the District and accepted in writing by the President of the Board and Business Manager of the District and the Superintendent.

15. Partial Invalidity

The invalidity of one or more phrases, sentences, clauses, sections, or paragraphs contained in this Agreement shall not affect the remaining portions, so long as the material purposes of this Agreement can be determined and effectuated.

16. Law

This Agreement shall be governed by, construed, and enforced in accordance with the laws of the State of South Dakota. Any lawsuit pertaining to or affecting this Agreement shall be venued in Circuit Court, Second Judicial Circuit, Minnehaha County, South Dakota.

17. Counterparts

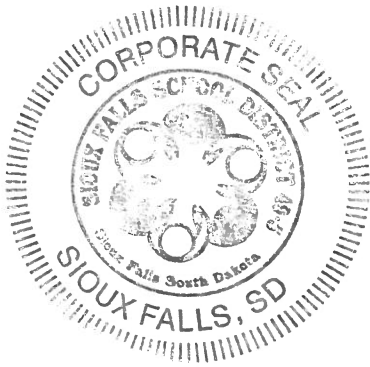
This Agreement may be executed in counterparts, each of which shall be deemed an original, and all of which, taken together shall constitute one in the same agreement.

18. Entire Agreement

The parties hereto agree that this Agreement, and any exhibits contain the entire agreement between them as of this date, and that it has not been induced by either party or by any representations, promises, or undertakings not expressed herein; and that there are no collateral agreements, stipulations, promises, or understandings whatsoever by the respective parties in any way affecting the subject matter of this Agreement which are not expressly contained in this instrument.

IN WITNESS WHEREOF, the parties have hereunto set their hands and seals as of the day and year first above written.

SIOUX FALLS SCHOOL DISTRICT 49-5



By Carly Reiter
Carly Reiter, Board President

By Todd Vik
Todd Vik, District Business Manager

Superintendent

James L. Nold
Dr. James L. Nold

**EXHIBIT A
NONQUALIFIED
DEFERRED COMPENSATION AGREEMENT**

THIS AGREEMENT is made and entered into effective July 1, 2025, between the Sioux Falls School District 49-5 of Minnehaha County, South Dakota (the "District") and Dr. James L. Nold (the "Superintendent").

WHEREAS, District and Superintendent entered into Superintendent's Employment Agreement of even effective date herewith ("Employment Agreement") whereby the District agreed to employ Superintendent as the Superintendent of Schools in and for the public schools of the District for a three (3) year term, beginning July 1, 2025;

WHEREAS, Section 4F of the Employment Agreement incorporates this Nonqualified Deferred Compensation Agreement by reference; and

WHEREAS, both parties desire to enter into this Nonqualified Deferred Compensation Agreement ("Agreement") to supplement the terms and conditions of the Employment Agreement.

NOW, THEREFORE, in consideration of the mutual covenants contained herein, it is agreed between the parties as follows:

ARTICLE 1. TERM OF AGREEMENT

District has agreed to employ Superintendent for three (3) years in accordance with the Employment Agreement of even date herewith. This Agreement is intended to supplement the terms of the Employment Agreement. This Agreement shall not be construed to alter the terms of the Employment Agreement or extend the term of such Agreement. The initial term of this Agreement shall be three (3) years, commencing on July 1, 2025 and continuing for the term of the Employment Agreement. This Agreement shall terminate upon expiration or termination of the Employment Agreement.

ARTICLE 2. DEFINITIONS

Section 2.1. Definitions. Whenever used in this Agreement, the following words and phrases shall have the meanings set forth below unless the context plainly requires a different meaning. When the defined meaning is intended, the term is capitalized.

- (a) "Accrued Balance" means the amount of Superintendent's deferred compensation that is credited to Book Account No. 1 (as adjusted for earnings, losses, distributions, allocable expenses, and changes in value) as provided in Sections 5.1 and 5.2.

- (b) "Board" means the School Board of the District.
- (c) "Book Account No. 1" means the deferred compensation account, which account shall be established under Section 5.2 on the books of the District.
- (d) "Cause" shall mean termination of Superintendent's employment in accordance with Section 13 of the Employment Agreement.
- (e) "Code" means the Internal Revenue Code of 1986, as amended from time to time.
- (f) "Effective Date" means July 1, 2025.

ARTICLE 3. DEFERRAL AMOUNT

Section 3.1. Establishing the Book Account/Deferral Amount. The District has established Book Account No. 1 on its books for the benefit of Superintendent in accordance with Section 5.2. The District shall credit Book Account No. 1 on the Effective Date of this Agreement in the amount of Twenty-Five Thousand and No/100 Dollars (\$25,000.00). On July 1 of each year of this Agreement, the District shall credit an additional Twenty-Five Thousand and No/100 Dollars (\$25,000.00).

ARTICLE 4. VESTING

Section 4.1. Vesting Period. Except as otherwise provided in Section 4.2, and provided that Superintendent remains employed by District during that vesting period, the Superintendent shall be considered vested in the Accrued Balance on June 30 of each year of this Agreement.

Section 4.2. Termination of Employment. As a general rule (subject to the remainder of this Section 4.2), Superintendent shall forfeit any right to receive, or beneficial interest in, and the District shall have no obligation to pay any amounts under this Agreement if one of the following events occurs before Superintendent satisfies the vesting period provided in Section 4.1:

- (a) Superintendent's voluntary termination of employment for any reason, including, but not limited to, breach of Employment Agreement, prior to vesting;
- (b) District's termination of Superintendent's employment for any reason, including, but not limited to, Cause, prior to vesting; or
- (c) Superintendent's failure to provide at least seven (7) months' notice prior to the end of any vesting period of his intent not to return for the following school year.

This Agreement shall terminate upon the occurrence of any of the events described in Section 4.2(a), (b), or (c).

ARTICLE 5. STATUS OF DEFERRED AMOUNTS

Section 5.1. Investment by District. District shall be the applicant for, and owner of, any investment made under this Agreement. District shall direct the investment of amounts held in Book Account No. 1. In so directing, District may take into consideration the investment recommendations, if any, indicated by Superintendent to District. Superintendent shall be the measuring life (e.g., the annuitant under any annuity contract) with respect to any investment made under this Agreement. However, title to and beneficial ownership of all such investments shall at all times remain with the District and shall constitute a general asset of District, subject to claims of District's general creditors.

Section 5.2. Book Account. District shall establish Book Account No. 1 for Superintendent to reflect accurately the District's liability to Superintendent for amounts due under this Agreement. The Accrued Balance of Book Account No. 1 shall be determined as if the amounts in Book Account No. 1 were invested in the investment options (based on the then current fair market value) selected by the District on Superintendent's behalf under Section 5.1, net of brokerage fees or other transactional fees associated with those investment vehicles in which Book Account No. 1 has been invested and any reasonable fee payable by the District to maintain Book Account No. 1.

Section 5.3. Report of Accrued Balance in the Book Account. The District shall advise Superintendent of the Accrued Balance in Book Account No. 1 at least annually (on a date to be determined by the District).

ARTICLE 6. DISTRIBUTIONS

Section 6.1. Distributions. District shall distribute to Superintendent any part of the Accrued Balance that becomes vested, either partially or fully, less any withholding required by applicable law, as soon as administratively practicable after such vesting.

Section 6.2. Designation of Beneficiary. The Superintendent shall designate a beneficiary by filing a written designation on an approved form with the District. The Superintendent may revoke or modify the designation at any time by filing a new designation. However, designations will only be effective if signed by the Superintendent and accepted by the District during the Superintendent's lifetime. The Superintendent's beneficiary designation shall be deemed automatically revoked if that beneficiary predeceases the Superintendent, or if the Superintendent names his spouse as beneficiary and the marriage is subsequently dissolved. If the Superintendent dies without a valid beneficiary designation, all payments shall be made to the Superintendent's surviving spouse, if any, and if none, to the Superintendent's surviving children and the descendants of any deceased child by right of representation, and if no children

or descendants survive, to the Superintendent's estate.

ARTICLE 7. PROVISIONS RELATING TO PARTICIPATION

Section 7.1. Extent of Rights Under Agreement. Except as to amounts actually distributed under this Agreement, neither Superintendent nor any person claiming under or through Superintendent shall have any right or interest, whether vested or otherwise, in this Agreement.

Section 7.2. Unfunded Agreement. Neither Superintendent, Superintendent's beneficiary nor any other person, shall have any right, title or interest in Book Account No. 1, any fund, any specific sum of money, or in any asset which may be acquired by District in respect of its obligations under this Agreement (other than as a general creditor of District with an unsecured claim against District's general assets).

Section 7.3. Extent to Which Other Parties Bound by Agreement. This Agreement shall be binding upon and shall inure to the benefit of the District and its successors and assigns, and Superintendent and his heirs, administrators and personal representatives.

Section 7.4. Tax Withholding. The District shall withhold any taxes that are required to be withheld from any benefits payable under this Agreement.

ARTICLE 8. ADMINISTRATION AND FINANCES

Section 8.1. Powers of the Board. The Board shall have all powers necessary to administer this Agreement, including, without limitation, the power to interpret the provisions of this Agreement, and in their sole discretion to establish rules and forms for the administration of the terms of this Agreement and to appoint individuals to assist in the administration of the terms of this Agreement and any other agents it deems advisable.

Section 8.2. Actions of the Board. All determinations, interpretations, rules, and decisions of the Board shall be conclusive and binding upon all persons having or claiming to have any interest or right under this Agreement.

Section 8.3. Delegation. The Board shall have the power to delegate specific duties and responsibilities to officers or other employees of the District or to other individuals or entities. Any delegation may be rescinded by the Board at any time. Except as otherwise required by law, each person or entity to whom a duty or responsibility has been delegated shall be responsible for the exercise of such duty or responsibility and shall not be responsible for any act or failure to act of any other person or entity.

Section 8.4. Reports and Records. The Board and those to whom the Board have delegated duties under this Agreement shall keep records of all their proceedings and actions and shall maintain books of account, records, and other data as shall be necessary for the proper administration of the terms under this Agreement and for compliance with applicable law.

Section 8.5. Responsibility. The Board shall not be liable to any person for any action taken or omitted in connection with the administration of the terms under this Agreement unless attributable to its fraud or willful misconduct; nor shall District be liable to any person for any such action unless attributable to fraud or willful misconduct on the part of a Board Member, officer or employee of District within the scope of his duties. Each member of the Board shall be indemnified and held harmless by District for any liabilities, costs, and expenses arising out of the good-faith administration of the terms of this Agreement, including reasonable attorneys' fees and the costs of settlement of any lawsuit, to the maximum extent permitted by law.

ARTICLE 9. AMENDMENT

Section 9.1. Amendment. Except for amendments required to comply with applicable law, this Agreement may be amended only by written agreement signed by the District and the Superintendent.

ARTICLE 10. CLAIMS PROCEDURE

Section 10.1. Claims Procedure. Any individual or authorized representative of any individual who has not received benefits under this Agreement that the individual believes should be paid ("Claimant") shall make a claim for such benefits as follows:

- (a) *Initiation – Written Claim*. The Claimant initiates a claim by submitting to the District a written claim for the benefits.
- (b) *Timing of District Response*. The District shall respond to such Claimant within 90 days after receiving the claim. If the District determines that special circumstances require additional time for processing the claim, the District can extend the response period by an additional 90 days by notifying the Claimant in writing or electronically, prior to the end of the initial 90-day period, that an additional period is required. The notice of extension must set forth the special circumstances and the date by which the District expects to render its decision.
- (c) *Notice of Decision*. If the District denies part or all of the claim, the District shall notify the Claimant in writing or electronically of such denial. The District shall write the notification in a manner calculated to be understood by the Claimant. The notification shall set forth:
 - i. The specific reasons for the denial;
 - ii. A reference to the specific provisions of this Agreement on which the denial is based;
 - iii. A description of any additional information or material necessary for the Claimant to perfect the claim and an explanation of why it is needed; and
 - iv. An explanation of this Agreement's review procedures and the time

limits applicable to such procedures.

- (d) *Review Procedure – Denial of Benefits.* This Agreement has one level of appeals for benefit denials. If the District denies part or all of the claim, the Claimant shall have the opportunity for a full and fair review by the District of the denial, as follows:
- (e) *Initiation – Written Request.* To initiate the review, the Claimant, within 60 days after receiving the District's notice of denial, must file with the District a written request for review.
- (f) *Additional Submissions – Information Access.* The Claimant shall then have the opportunity to submit written comments, documents, records and other information relating to the claim. The District shall also provide the Claimant, upon request and free of charge, reasonable access to, and copies of, all documents, records and other information relevant (as defined in applicable ERISA regulations) to the Claimant's claim for benefits.
- (g) *Considerations on Review.* In considering the review, the District shall take into account all materials and information the Claimant submits relating to the claim, without regard to whether such information was submitted or considered in the initial benefit determination.
- (h) *Timing of District Response.* The District shall respond to Claimant within 60 days after receiving the request for review. If the District determines that special circumstances require additional time for processing the claim, the District can extend the response period by an additional 60 days by notifying the Claimant in writing or electronically, prior to the end of the initial 60-day period, that an additional period is required. The notice of extension must set forth the special circumstances and the date by which the District expects to render its decision.
- (i) *Notice of Decision.* The District shall notify the Claimant in writing or electronically of its decision on review. The District shall write the notification in a manner calculated to be understood by Claimant. The adverse benefit notification shall set forth:
 - i. The specific reasons for the denial;
 - ii. A reference to the specific provisions of this Agreement on which the denial is based; and
 - iii. A statement that the Claimant is entitled to receive, upon request and free of charge, reasonable access to, and copies of, all documents, records and other information relevant to the Claimant's claim for benefits.

Section 10.2. Deadline Extensions. The Claimant and District may extend any claim filing deadline by mutual written consent.

Section 10.3. Rights after Appeal. If the Claimant is dissatisfied with the District's review of the decision, the Claimant has the right to file suit in a federal or state court, which suit must be filed within twelve (12) calendar months immediately following the date of such District's decision. No action may be brought for benefits provided by this Agreement or to enforce any right hereunder until after a claim has been submitted to and determined by the District and all appeal rights under this Agreement have been exhausted. This means that all claims under this Agreement must be appealed under this Agreement before any suit for benefits may be filed by the Claimant in federal or state court. The Claimant's beneficiary must follow the same claims procedure in the event of the Claimant's death.

For purposes of submitting claims pursuant to the claims procedure set forth in this Article 10 (but not for any other purpose) the District is hereby designated as the Plan Administrator of this Agreement.

ARTICLE 11. MISCELLANEOUS

Section 11.1. No Guaranty of Employment. The adoption and maintenance of the terms under this Agreement shall not be deemed to be a contract of employment between District and Superintendent. Nothing contained in this Agreement shall give Superintendent the right to be retained in the employ of District or to interfere with the right of District to discharge Superintendent at any time subject to the terms of the Employment Agreement, nor shall it give District the right to require Superintendent to remain in its employ or to interfere with Superintendent's right to terminate his employment at any time subject to the terms of the Employment Agreement.

Section 11.2. Alienation Prohibited. No benefit payable at any time under this Agreement shall be subject in any manner to alienation, sale, transfer, assignment, pledge, attachment, or encumbrance of any kind.

Section 11.3. Applicable Law. This Agreement and all rights under this Agreement shall be governed by and construed according to Section 457(f) of the Code and by the laws of the State of South Dakota, except to the extent preempted by federal law.

Section 11.4. Benefits and Burdens. This Agreement shall be binding upon and inure to the benefit of Superintendent and his personal representatives and the District and any successor organization which shall succeed to substantially all of its assets and business.

Section 11.5. Severability. If this Agreement shall ever be determined by the Internal Revenue Service to be void, then those amounts of the Accrued Balance which are treated as taxable income by the Internal Revenue Service at the time of voiding this Agreement will be paid to Superintendent. Any remaining Accrued Balance in Book Account No. 1 at the time of such voiding shall be distributed to Superintendent according to Article 6.

Section 11.6. Entire Agreement. This Agreement constitutes the entire agreement between the Superintendent and District as it relates to the Nonqualified Deferred Compensation Agreement referenced in Section 4G of the Employment Agreement.

Section 11.7. Counterparts. This Agreement may be executed in counterparts, each of which shall be deemed an original, and all of which, taken together shall constitute one in the same agreement.

IN WITNESS WHEREOF, District and Superintendent have caused this Agreement to be duly executed effective on the day and year first above written.

SIOUX FALLS SCHOOL DISTRICT 49-5

By Carly Reiter
Carly Reiter, Board President

By Todd Vik
Todd Vik, District Business Manager

Superintendent

James L. Nold
Dr. James L. Nold

