


This Agreement for services ("Agreement") made and entered into by and between Florida Virtual School (hereafter referred to as "FLVS") having principal offices at 2145 Metrocenter Blvd., Orlando, Florida 32835; and the School Board of Clay County (hereinafter referred to as "Customer"), having principal offices at 900 Walnut Street, Green Cove Springs, Florida 32043.

This Agreement sets out the terms by which the Customer may use FLVS Licensed Materials. The "FLVS Franchise License Terms and Conditions" on the following pages of the document and the attached Appendix A all incorporated herein as a part of this Agreement. These documents constitute the entire agreement between the parties with respect to the subject matter hereof. This Agreement supersedes and cancels any prior agreements and/or understandings between the parties concerning the subject matter. There are no provisions, representations, undertakings, agreements, or collateral agreements between the parties other than as set forth in this Agreement.

The parties by their authorized representatives have entered into this Agreement as of the **1st** day of **July, 2010** (the "Effective Date").

Florida Virtual School

Licensee

Signature 
 Name Julie Young
 Title President and CEO
 Date 5-26-10

Signature _____
 Name _____
 Title Superintendent
 Date _____

FLVS Franchise License
TERMS AND CONDITIONS

ARTICLE 1- INTERPRETATION

1.1 DEFINITIONS

In this Agreement and in Appendix A the following terms shall have the respective meanings ascribed to them as follows:

- (a) **"Affiliate"** means with respect to any person, and other person directly or indirectly controlling, controlled by, or under common control of such person. "Control" as used here means the legal, beneficial or equitable ownership, directly or indirectly, of more than 50% of the aggregate of all voting interests in such entity.
- (b) **"Business Days"** means Monday through Friday excluding any day, which is a nationally observed holiday in both the United States of American and Canada.
- (c) **"Business Hours"** means 8:00 a.m. – 8:00 p.m. Eastern Time on Business Days.
- (d) **"Components"** mean the components of the FLVS Software referred to in Appendix A.
- (e) **"Confidential Information"** means (i) all information of either party or its Affiliates or of third persons to whom the party owes a duty of confidence that is marked confidential, restricted or proprietary or that it may reasonably be considered as confidential from its nature or from the circumstances surrounding its disclosure; and (ii) the Licensed Materials.
- (f) **"Content Licenses"** means the utilization licenses and associated restrictions with respect to the Licensed Course Content granted to Customer hereunder which are set forth in Appendix A.
- (g) **"Customization"** means a client customizable area is provided which includes: 1) a communication policy, 2) drop policy, 3) netiquette recommendations, 4) pace charts, 5) student resource page, 6) optional contact and help pages, 7) state and national standards.
- (h) **"Data"** means customer information entered into the licensed products to include but not limited to student, staff, school, and parent information.
- (i) **"Billable Enrollment"** any student on active status in VSA for a minimum of 28 days. If a student is active in VSA for 28 days, FLVS will bill the Customer for the student, regardless of the student's status upon Customer's receipt of invoice.
- (j) **"FLVS proprietary products"** includes but is not limited to FLVS course content and the FLVS Virtual School Administrator product.
- (k) **"Intellectual Property Rights"** includes all worldwide intellectual and industrial property rights including all rights in each country to copyrights, trademarks, service marks, patents, inventions, industrial designs, trade secrets, trade dress and all other proprietary rights.
- (l) **"Learning Management System, or LMS"** means the software based system ("Platform") that must be utilized to access the Licensed Course Content.
- (m) **"License"** means Customer's license to use the Licensed Materials described in Appendix A.
- (n) **"License Fees"** means the license fees to be paid by the Customer to FLVS, which are described in Section 4.1.
- (o) **"Licensed Course Content"** means the Components of the FLVS Course Content in object code format licensed to Customer hereunder and described in Appendix A and such additional 3rd party Components required as part of the FLVS Course Content.

- (p) **"Licensed Materials"** means the Licensed Course Content, LMS, Virtual School Administrator, Documentation and included Renewal Releases and updates, which FLVS and (LMS Software) may from time to time provide to Customer.
- (q) **"Platform Provider"** means learning management system provider.

"Virtual School Administrator (VSA) License" means the licenses and associated restrictions with respect to the Licensed Virtual School Administrator.

ARTICLE 2-LICENSE

2.1 LICENSED MATERIALS

2.1.1 - Course Content and Materials

- (a) Subject to the provisions of this Agreement including the provisions of Article 8, FLVS hereby grants to Customer and Customer hereby accepts from FLVS the personal, non-transferable and non-exclusive Franchise License to use the Licensed Materials for Customer's internal business purposes in accordance with FLVS Licenses.
- (b) FLVS Virtual School Administrator will be used as the registration and student information management system.
- (c) Florida Virtual School courses will only be delivered on FLVS approved learning management systems.

ARTICLE 3-DELIVERY AND INSTALLATION

3.1 Delivery of Licensed Materials

FLVS agrees to deliver to Customer one (1) copy of the most current release available by request of the Licensed Materials. The Documentation will be provided solely in the English Language except in cases where FLVS has specifically provided for foreign language documentation.

3.2 Software Security

- (a) The customer will ensure all reasonable measures are taken to protect the Licensed Materials from any unauthorized use.
- (b) FLVS will ensure all reasonable measures are taken to protect the Customer Data while in use at the FLVS site. Reasonable measures include, but are not limited to, the Customer Data being stored on a secure server in a secured building behind an internet firewall with role-based level password protection for any and all access to such data.

3.3 Background Screening

As a public school, FLVS complies with all statutes regarding background screening of employees, in accordance with Florida law.

ARTICLE 4-PRICE AND PAYMENT TERMS

4.1 License Fees

- (a) Customer shall pay to FLVS the license fees described in Appendix A (the "License Fees"). The License Fees shall be due and paid as provided for in Appendix A. Failure to pay the license fees when due shall be grounds for the immediate termination or suspension of all services due by FLVS hereunder.

- (b) All overdue (90+ days) accounts will be subjected to a 10% late fee, and may be denied access to FLVS' Content and the licensing agreement will be suspended until payment is received by FLVS.

ARTICLE 5-PROPRIETARY RIGHTS AND CONFIDENTIAL INFORMATION

5.1 Title to Licensed Materials

Customer acknowledges and agrees that FLVS, licensors of FLVS, and the Platform Provider shall retain all right, title and interest in and to the Licensed Materials and all copies thereof, including, without limitation, the Intellectual Property Rights therein, and that nothing herein transfers or conveys to Customer any ownership right, title or interest in or to the Licensed Materials or to any copy thereof or any license right with respect to the Intellectual Property Rights therein.

Nothing in this agreement shall be construed as conferring upon the licensee any right or interest in Florida Virtual School's or the Platform Provider's intellectual property or in their registration or in any designs, copyrights, patents, trade names, signs, emblems, insignia, symbols and slogans or other marks used in connection with the software other than as provided in this agreement.

ARTICLE 6-WARRANTIES OF FLVS

6.1 Limit of Liability

- (a) For any breach or default by FLVS of any of the provisions of this agreement, or with respect to any claim arising herefrom or related hereto, FLVS's entire liability, regardless of the form of action, whether based on contract or tort, including negligence, shall in no event exceed (I) the amount paid by customer hereunder for the licensed materials, (II) the amount paid by customer for the renewal service that is the subject of the claim if the claim relates to a breach or default by FLVS of the provisions of article 7, (III) the amount paid by customer for the installation service that is the subject of the claim if the claim relates to a breach or default by FLVS of the provisions of this agreement pertaining to installation service, or (IV) in the aggregate with respect to all claims under or related to this agreement, the amount paid by customer under this agreement.
- (b) In no event will FLVS be liable for special, incidental, indirect, or consequential loss or damage, lost business revenue, loss of profits, loss of data, failure to realize expected profits or savings or any claim against customer by another person (even if FLVS has been advised of the possibility of any such damage).
- (c) FLVS shall be liable to customer as expressly provided in this agreement but shall have no other obligation, duty, or liability whatsoever in contract, tort or otherwise to customer including any liability for negligence. The limitations, exclusions and disclaimers in this agreement shall apply irrespective of the nature of the cause of action, demand, or action, by customer, including but not limited to breach of contract, negligence, tort, or any other legal theory and shall survive a fundamental breach or breaches or the failure of the essential purpose of this agreement or of any remedy contained herein.

ARTICLE 7- TERM AND TERMINATION

7.1 Term

This Agreement shall be effective on the Effective Date for a period of one (1) year and shall be terminable in accordance with this Article.

7.2 Termination

Either party may by notice in writing terminate this Agreement if (i) the other party breaches or fails to observe or perform any of its obligations set out in this Agreement, including failure to pay franchise and/or training fees, and fails to cure such breach or failure within thirty (30) days after written notice; or (ii) either party becomes insolvent, or makes an assignment for the general benefit of creditors, or any proceedings are commenced by or against either party under any bankruptcy or insolvency laws or if proceedings for the appointment of a trustee, custodian, receiver, or receiver manager for either party are commenced, or if either part ceases or threatens to cease to carry on business; or (iii) upon ninety (90) days written notice by FLVS or customer to the other party of its termination of the agreement.

ARTICLE 8- GENERAL

8.1 Force Majeure

If the performance of this Agreement, or any obligation thereunder except the making of payments hereunder is prevented, restricted, or interfered with by reason of: fire, flood, earthquake, explosion or other casualty or accident or act of God; strikes or labor disputes; inability to procure or obtain delivery of parts, supplies, power, equipment or software from suppliers, war or other violence; any law, order, regulation, ordinance, demand or requirement of any governmental authority; or any other act or condition whatsoever beyond the reasonable control of the affected party. The party so affected, upon giving prompt notice to the other party, shall be excused from such performance to the extent of such prevention, restriction or interference; provided, however, that the party so affected shall take all reasonable steps to avoid or remove such cause of nonperformance and shall resume performance hereunder with dispatch whenever such causes are removed.

8.2 Public Relations

Customer agrees to make itself available as a third party reference for FLVS and to comment on the quality of services (including course content) performed by FLVS, as reasonably requested from time to time by FLVS. Customer gives permission to FLVS to use Customer's name in a representative Customer list, and in any marketing collateral, case studies, and press releases. Customer will allow FLVS to post Customer's corporate logo on the FLVS Website. Customer agrees to participate in FLVS Media Training and customer agrees to co-branding. Customer agrees to use only FLVS collateral or FLVS approved collateral in all public relations efforts.

8.3 FLVS Policy Adherence

The FLVS Franchise agrees that during the term of this agreement the Franchisee and its employees will adhere to all FLVS policies regarding course delivery, instructional practices, and student management. The policies may be found at www.flvs.net. This

policy includes the Franchise Managers' participation in Franchise Leadership training in July and the FLVS Staff Conference in the Fall.

APPENDIX A

The Components, which are the subject of the FLVS Franchise License, including FLVS course content, 3rd party components, FLVS Virtual School Administrator Registration and Student Information System, and the Learning Management System granted to Customer and the fees payable to FLVS hereunder are as follows:

1. Licensed Materials

Customer may only utilize the above Components in the following School District: Clay County. The Effective Date for this license is **July 1, 2010** and is in effect until **June 30, 2011**

2. Fees

\$50.00 per billable half-credit enrollment with no minimum number of enrollments

3. Optional Fees

\$65.00 per half credit enrollment for:

Gaming courses (if available)

- Conspiracy Code American History (Course Code 2100310)
- Conspiracy Code Intensive Reading (Course Code 1000410)

\$165.00 per half credit enrollment for:

- Drivers Education / Traffic Safety (Course Code 1900300)

\$5.00 per half credit enrollment for:

- Formative Quality Assurance for virtual teacher classroom walk-throughs

4. Payment Schedule for billable enrollments served:

November 1, 2010 due on or before November 30, 2010

May 30, 2011 due on or before June 30, 2011