

SCHOOL DISTRICT No.71 (COMOX VALLEY)

DEFERRED SALARY LEAVE PLAN (1989)

- A. It is desired to establish for the benefit of employees a plan to enable them to fund leaves of absence from employment of not less than six consecutive months through deferral of salary on such terms as may be set out in this Plan.
- B. It is intended that this Plan qualify as a “prescribed plan” within the meaning of Regulation 6801 of the Income Tax Act (Canada).

The following sets out the terms of the Deferred Salary Leave Plan for eligible employees of the Board of School Trustees of School District No.71 (Comox Valley).

**1. DEFINITIONS**

“Accrued interest” means the amount of interest earned in accordance with clause 3.3 on the monies retained by the Board on behalf of the participant.

“Board” means the Board of School Trustees of School District No.71 (Comox Valley).

“School Year” means the 12-month period from July 1<sup>st</sup> to June 30<sup>th</sup>.

“Current compensation amount” means the total compensation payable by the Board to the participant for the school year, including his or her proper salary and all allowances in accordance with any agreements in force between the Board and any of its employee groups.

“Deferral period” shall be the number of years, not to exceed six (6) years, for which compensation is deferred in accordance with clause 3.1. To allow for the possible application of clauses 4.6 and 4.7, the original deferral period shall not exceed five (5) years.

“Deferred compensation amount” means the portion of the current compensation amount which is retained by the Board for a participant in each year in accordance with clause 3.1, and augmented from time to time by interest thereon calculated in accordance with clause 3.3, but less all interest paid to the participant in accordance with clause 3.5.

“Eligible employee” means an employee of the Board in continuing employment.

“Eligible financial institution” means any Canadian chartered bank, any trust company authorized to carry on business in the province of British Columbia, and any credit union authorized to carry on business in the Province of British Columbia and operating within the school district boundaries.

“Leave of absence” means the period described in clause 4.1.

“Memorandum of agreement” means the agreement described in Schedule ‘A’.

“Participant” means an eligible employee who has completed a memorandum of agreement and whose application for participation in the plan has been approved by the Board in accordance with clause 2.2.

“Plan” means the deferred salary leave plan set out herein and includes all amendments thereto.

## 2. APPLICATION

### Formal Application

2.1 In order to participate in the Plan, an eligible employee must make written application to the Board, by way of Schedule 'A', at least three (3) months prior to the requested commencement of deferrals under the Plan, stating the date when the eligible employee wishes the deferrals to commence.

### Approval

2.2 The approval of each application made under clause 2.1 shall rest in the sole discretion of the Board. The Board shall, at least one (1) month prior to the requested commencement of deferrals under the Plan, advise each applicant of the approval or disapproval of his or her application and, if the latter, provide an explanation therefor.

### Date of Participation

2.3 If the Board approves the application in accordance with clause 2.2, the participation of the eligible employee in the Plan will become effective on the date requested by the eligible employee, or, if such date is not agreed to by the Board, then on a date which is agreed to by the Board and the eligible employee.

## 3. FUNDING FOR LEAVE OF ABSENCE

Funding for leave of absence shall be as follows:

### Compensation Deferred

3.1 During each year of the deferral period, the participant will receive his or her current compensation amount, less the percentage amount which the participant has specified in the Memorandum of Agreement is to be retained by the Board, and less statutory deductions and other withholdings. Such percentage amount may be varied, subject to clause 3.2, by giving written notice to the Board at least one (1) month prior to July 1<sup>st</sup> in any year for the next or subsequent years.

### Maximum Percentage Deferred

3.2 The percentage of the annual current compensation amount deferred by the participant cannot exceed thirty-three and one-third (33 – 1/3) percent.

### Investment of Deferred Compensation

3.3 The monies retained by the Board for each participant in accordance with clause 3.2, including interest thereon (until paid out in accordance with clause 3.5), shall be pooled and shall be invested and reinvested by the Board in investments offered from time to time by an eligible financial institution. The monies retained shall be forwarded to the eligible financial institution. The Board shall choose such eligible financial institution, and in making such determination the Board shall not be liable to any participant for any investments made which are authorized by this clause.

### Insolvency

3.4 In the event that any of the monies retained and invested pursuant to the terms of this Plan be lost by reason of insolvency of the eligible financial institution, the Board shall not be obliged to pay the participants any further amounts in respect to services for the deferral period.

### Payment of Accrued Interest

3.5 The accrued interest shall be paid to each participant as soon after December 31<sup>st</sup> of each year as is possible.

### Reporting to Participants

3.6 No later than July 31<sup>st</sup> of each year, the Board shall report to each participant the deferred compensation amount held as at June 30<sup>th</sup>.

## **4. TAKING A LEAVE OF ABSENCE**

The taking of a leave of absence shall be governed by the following provisions:

### Minimum Length of Leave

4.1 The leave of absence shall be for not less than six (6) consecutive months, paralleling the school district's operational cycles.

### Manner of Payment During Leave

4.2 The time and manner of payment to the participant during the leave of absence shall be in accordance with a plan determined by the participant prior to the commencement of leave, but in any event payments shall not be made more frequently than payment of regular salaries, and all amounts payable shall be paid to the participant no later than the end of the first taxation year that commences after the end of the deferral period.

### Amount of Payment During Leave

4.3 The total of the payments to be made to a participant in accordance with clause 4.2 during a leave of absence shall be the deferred compensation amount retained by the Board, but less any monies required by law to be paid by the Board for or on behalf of a participant. The participant shall not receive any salary from the Board during the leave other than the deferred compensation amount.

### Benefit Premiums During Leave

4.4 A participant will be responsible for all benefit premium costs normally paid by both the employer and the employee during the period in which the participant takes leave of absence under this Plan.

### Canada Pension Plan Premiums During Leave

4.5 For the purposes of Canada Pension Plan premiums, the cost of both the employer and employee's portions during the period in which the participant takes leave of absence under this Plan, or after withdrawal from the Plan, where applicable, shall be borne by the participant.

### Board's Right to Refuse Leave

4.6 If the Board is unable to obtain a suitable replacement for a participant for the period of leave of absence specified in the Memorandum of Agreement, the Board, upon not less than six (6) months' notice prior to the scheduled date for the commencement of the leave, may in its discretion defer the leave of absence on one occasion only for up to one (1) year. In such case, the participant may choose to remain in the plan or may withdraw from the plan.

### Participant's Right to Defer Leave

4.7 Notwithstanding the period of leave specified in the Memorandum of Agreement, a participant may, on one occasion only, with the consent of the Board given not less than six (6) months prior to the scheduled date for the commencement of the leave, postpone such leave for up to one (1) year.

### Leave Of Absence

4.8 The leave of absence shall immediately follow the deferral period.

### Return to Employment

4.9 The participant shall return to employment with the Board or with an employer that participates in the same or a similar plan to fund leaves of absence, for a period not less than the period of leave.

## **5. WITHDRAWAL**

### Termination of Employment

5.1 A participant who ceases to be employed by the Board also terminates participation in the Plan.

### Withdrawal from Plan

5.2 A participant may withdraw from the plan upon giving written notice of withdrawal not less than six (6) months prior to the date on which the leave of absence is to commence.

### Payment

5.3 Upon termination of employment and/or withdrawal from the Plan, the Board shall pay to the participant the deferred compensation amount, including any unpaid interest, within sixty (60) days or, at the option of the participant, at a later date, but no later than the end of the first taxation year that commences immediately following the termination or withdrawal date. Upon such payment being made the Board shall have no further liability to the participant.

### Death of Participant

5.4 Should a participant die the Board shall, within sixty (60) days of notification of such death, pay any deferred compensation amount retained at the time of death to the participant's estate, subject to the Board receiving any necessary clearances and proofs normally required for payment to estates.

## 6. ADMINISTRATION

### Administrative Costs

6.1 The Board will bear the administrative expenses of the Plan.

### Limit of Liability

6.2 Notwithstanding any provisions of the Plan to the contrary, the duties of the Board and its officers hereunder are only such as are specifically provided, being entirely administrative in nature, so that the Board and its officers shall not be rendered liable as Trustee or otherwise responsible for:

- a. the repayment or return of the deferred compensation amount or other amounts to any participants, except those amounts received or returned from time to time from the eligible financial institution to the account of such participant, the loss of any monies received by the Board and paid to the eligible financial institution according to the provisions of the Plan being so paid on behalf of and at the risk of the participant;
- b. taking, holding, defending, enforcing, or seeing to the due performance or adequacy of, any security issued to the Board by the eligible financial institution or any contract or agreement made between the Board and the eligible financial institution;

and the Board and its officers shall at all times be indemnified and saved harmless by the participants, from time to time, from any such liability except for willful misconduct or gross negligence so long as the Board shall have acted in good faith.