

**JOINT POWERS AGREEMENT
ESTABLISHING A DISTANCE LEARNING PROGRAM**

THIS AGREEMENT is made pursuant to Minn. Stat. §471.59 which authorizes local governmental units and school districts to jointly and cooperatively exercise any power common to any of the member parties.

**ARTICLE I.
PARTIES**

The parties to this agreement are the following governmental units and political subdivisions of the State of Minnesota:

See attached Exhibit A, which is incorporated herein by this reference.

**ARTICLE II.
GENERAL PURPOSE**

The general purpose of this Agreement is to create a body hereinafter referred to as **INFINITY**, with a board to organize, manage, undertake, implement and accomplish all of the programs, purposes and functions designed and intended to establish and provide accredited on-line or distance learning opportunities and programs for member students who seek educational experience and credits outside of the traditional learning environment. The on-line and distance learning opportunities and programs developed are to be of a quality and efficacy which would meet the academic and graduation requirements of member, units and better assure students of their transferability.

**ARTICLE III.
JOINT GOVERNING BOARD**

Section 1. Creation. A **joint board**, hereinafter called and referred to as the **INFINITY board**, shall be formed and created as set forth and provided herein.

Section 2. Members. The **INFINITY joint powers board** shall consist of no less than six (6) and no more than fifteen (15) members, with one member being selected and appointed by the governing board of each school district represented on the executive council (refer to Article VIII., EXECUTIVE COUNCIL contained herein). The members selected shall be a board member from that member district. The chair and vice chair(s) of the executive council shall also be considered voting members of this **joint powers board**.

Section 3. Vacancies. A vacancy occurs on the **INFINITY joint powers board** upon the happening of any one of the following:

- a) The member or party by whom the member was appointed no longer is represented on the executive council;
- b) Resignation or death of a member of the board;
- c) A member is no longer employed by or associated with the governmental unit by whom the appointment was made;
- d) The member's appointment to the **INFINITY joint powers board** is rescinded or terminated by a two-thirds vote of the full membership of the board of the governmental unit which made the appointment.

When a vacancy occurs, it shall be filled within 30 days by the governmental unit which is eligible to make the appointment, with eligibility being determined by membership in the executive council.

Section 4. Expenses. All members of the **joint powers board** shall serve without compensation or reimbursement for any expenses incurred in the performance of the duties contemplated by this agreement.

ARTICLE IV. MEETINGS

Section 1. Regular Meetings. The **INFINITY joint powers board** shall meet quarterly at a time, date and site to be determined and set by the **joint powers board** at its first meeting; and thereafter determined on an annual basis.

Section 2. Special Meetings. Special meetings of the **INFINITY joint powers board** may be called by the chairperson, or any two (2) other members of the board, upon three (3) days written notice to each member of the board. Such notice shall contain the date, time, place, and purpose of the special meeting.

Section 3. Open Meeting Compliance. All meetings of the **INFINITY joint powers board**, or any of its committees, shall be in full compliance and accord with the Minnesota Open Meeting Law requirements.

Section 4. Quorum. A quorum of the **INFINITY joint powers board** shall consist of a majority of the full membership of the board. A quorum shall be necessary to conduct or transact any business. If a quorum is not present, no

business can or shall be conducted. A majority of those present shall be necessary for approval or passage, unless otherwise provided herein. Abstentions shall be considered as a vote with the majority of those voting on an issue or matter.

Section 5. Executive Director Attendance. If an executive director is hired and/or employed by the **INFINITY joint powers board**, the executive director shall attend all regular meetings and those special and committee meetings as directed by the board.

Section 6. Minutes. Written minutes shall be kept and maintained at each meeting of the **INFINITY joint powers board**, and shall be approved by the board at its next regular meeting. Copies of all minutes, whether or not formally approved by the board, and notices of all meetings, shall be provided to the parties to this agreement upon request, and, if requested, without unnecessary delay.

ARTICLE V. OFFICERS AND ADMINISTRATIVE ISSUES

Section 1. Election. At the first meeting of the **INFINITY joint powers board**, and at its first regular meeting [in January] of each year thereafter, the board shall elect from its membership the following: a chairperson, a vice-chairperson, a secretary who will maintain minutes of all meetings and of all business conducted, and a treasurer who will keep accurate record of all accounts, receipts, and expenditures. The offices of secretary and treasurer may

be combined and/or delegated. The treasurer's position shall be properly bonded (as shall the executive director, if one is hired).

Section 2. Fiscal Agent, Funds, Expenditures, Authorized Signatures.

a) The **INFINITY joint powers board** may name one or more federally insured banks or savings institutions as official depositories, and the treasurer shall promptly deposit all funds in said depositories as the chief fiscal officer of the board and the guardian of its funds. However, at its option, the **joint powers board** may, on an annual basis, contract for fiscal and/or financial services with any one of the parties to this agreement. Any such fiscal or financial agent or representative must comply with the laws of the state of Minnesota with regard to the depositing and holding of public funds.

b) No expenditures shall be made by any employee or officer of the **joint powers board** without being formally approved by the board at a properly conducted meeting. No bills or claims shall be paid unless and until approved by the **joint powers board**. However, the **joint powers board** may give the executive council prior or subsequent authority to make expenditures and/or pay bills and claims that were clearly within the budget approved by the **joint powers board**.

c) All checks or drafts shall require the signature of both the treasurer and chairperson, but the **joint powers board** may develop a procedure providing for the signatures of other officers in the absence of the treasurer or chairperson. However, in no event shall a check or draft be issued without the signature of two officers.

Section 3. Terms of Office. **Joint powers board** officers shall hold office for a term of one year. A vacancy in an office shall be filled from the membership of the **joint powers board** by a majority vote, and the officer shall serve for the remainder of the unexpired term of the vacated office.

Section 4. Rules, Regulations, By-Laws, and Policies.

a) The **INFINITY joint powers board** shall adopt such rules, regulations, by-laws, policies and procedures as it may deem necessary and proper to carry out its affairs, purpose, and mission. However, no rules, regulations, by-laws, policies or procedures shall be adopted which conflict with the provisions of this agreement, or with federal or state law, rules or regulations.

b) All rules, regulations, by-laws, policies and procedures, and any amendments or changes thereto, must be approved by a majority of the full membership of the **joint powers board**, and not a majority of a quorum.

**ARTICLE VI.
GENERAL POWERS AND DUTIES OF THE
INFINITY JOINT POWERS BOARD**

Section 1. General Powers.

a) The **INFINITY joint powers board** shall have and exercise all powers which may be necessary to enable it to perform and carry out the powers, duties, and responsibilities necessary and appropriate to fulfill its general purpose and its specific mission

b) The **joint powers board** shall develop, adopt, and implement all policies and procedures necessary to carry out and accomplish the initiatives,

goals, and desired outcomes intended and contemplated by its general purpose and mission.

c) The **joint powers board** shall have the power to make cooperative agreements with any other governmental units or non-profit corporations not parties to this agreement when such agreements would prove advantageous and beneficial to carrying out and fulfilling its general purpose and mission.

Section 2. Personnel.

a) The **INFINITY joint powers board** shall have the power to employ an individual to serve as executive director of and for its services and programs, and to help and direct the board and executive council in carrying out their respective purposes and mission. The salary and benefits paid to the executive director shall annually be determined by the **joint powers board**. The hiring and employment of the executive director must be approved by at least a majority of the full membership of the **INFINITY joint powers board**. The job description and qualifications of the executive director shall be determined by the **joint powers board** and approved by a majority of the full membership of the **joint powers board**.

The **joint powers board** shall negotiate and enter into a written contract with the executive director. The employment rights of the executive director shall be subject to and governed by Minnesota Statutes §122A.40.

b) The **INFINITY joint powers board** shall also have the power to hire and employ other personnel in order to carry out its duties, purpose and mission.

Each such action to hire shall require the vote of a majority of the full membership of the board.

c) The **INFINITY joint powers board** shall establish and adopt non-discriminatory procedures and policies with regard to the hiring and employment of an executive director and any other employees. Any and all vacancies must be properly posted and advertised, and all hiring practices shall be in compliance with federal and state law, rule and regulation.

d) Any volunteers working in any of the **INFINITY** programs or activities must have approval of a majority of the full membership of the **Executive Council**.

e) All individuals hired or employed by the **joint powers board**, including the executive director, and any volunteers working in any of its programs, must undergo and successfully complete both a criminal history background check and an employment background check as a condition to being offered employment prior to performing services.

f) The **INFINITY joint powers board** shall establish such personnel policies, job descriptions and qualifications as it deems necessary and appropriate to apply to the executive director and other employees and staff.

g) The executive director and all other staff and personnel shall be considered employees of the **INFINITY joint powers board**, and shall not be considered as employees of any member of or party to this agreement.

h) The salary, workers' compensation insurance, other benefits, and other expenses of the executive director and all other staff and personnel shall be

paid from the funds of the **INFINITY joint powers board** in accordance with the provisions of this agreement.

i) The **INFINITY joint powers board** shall supervise and oversee the position of executive director. All other staff and personnel hired by the **joint powers board** shall be supervised by the executive council. However, should an executive director be hired, the executive director shall have immediate supervisory responsibilities over other staff and personnel with the executive council having overall supervision.

j) Any professional employee falling within the definition of a teacher as set forth in Minn. Stat. §122A.40, Subd. 1, shall sign and execute a contract with the **INFINITY joint powers board**, and shall have employment rights as set forth in and by said statute.

All other employees hired by the **joint powers board** shall have employment rights as set forth in and provided by PELRA.

If any employee or group of employees properly organize under and pursuant to state and/or federal law for purpose of collectively bargaining, the provisions of any collective bargaining agreement, to the extent not inconsistent with law or administrative or agency rule, shall prevail.

k) Neither the executive director nor any other employee of the **joint powers board** shall have the power or authority to in any way bind the **INFINITY joint powers board**, or any of the parties to this agreement, to any agreement or contract, or to the expenditure of any funds, or to create any other form of debt or legal obligation.

Section 3. Contracts.

a) The **INFINITY joint powers board** may contract for and make purchases of materials, supplies, equipment, services, including financial, accounting, bookkeeping or administrative services, and such other items as it may deem necessary to carry out its purpose and mission. All such contracts, when required by law, may only be made or let in full compliance and in accordance with the letter and spirit of the Uniform Municipal Contracting Act and/or other competitive bidding requirements. It shall be the responsibility of the **joint powers board** to make certain, as far as possible, that it is getting the best bargain for the smallest expenditure.

b) Any contracts entered into by the **INFINITY joint powers board** shall not extend beyond the legal existence of the **joint powers board**, and must contain language specifying that the contract and underlying obligation is the sole responsibility of the **joint powers board**.

c) The **INFINITY joint powers board** may not deficit spend unless this agreement is amended.

d) The **INFINITY joint powers board** has no power to issue bonds, borrow money, pledge assets, or to otherwise create any indebtedness, except as provided above.

e) The **INFINITY joint powers board** may delegate some or all of the contracting responsibilities to the executive council when and where consistent with the budget adopted by the **joint powers board**. Under such circumstances, the executive council is bound by the provisions herein.

Section 4. Insurance.

a) The **INFINITY joint powers board** shall obtain Comprehensive General Liability and Errors-and-Omissions insurance protecting itself, its officers, executive council, executive director, and other employees and volunteers, against liability claims which may arise in the ordinary course of carrying-out and conducting its mission, purpose and programs, in amounts which must comply with the minimum requirements of Minn. Stat. §466.04. All such policy(s) shall name the parties hereto as additional named insureds to the extent possible.

Said policy(s) shall provide for thirty (30) days notice of cancellation to the parties hereto, and provide for the ability of the parties hereto to pay premiums in the event of non-payment by the **INFINITY joint powers board**.

b) The **INFINITY joint powers board** can either purchase insurance directly, participate in a pooled insurance program with other public entities or governmental units, or acquire its insurance as a rider or in addition to the insurance coverages of any one of the parties to this agreement. But it must be considered a separate, named insured.

c) The **INFINITY joint powers board** shall also obtain and maintain workers' compensation insurance for its executive director and all other employees, and automobile liability insurance for any vehicle owned or leased by the **joint powers board**.

ARTICLE VII. FINANCIAL MATTERS

Section 1. Funding and Revenue. Funding and revenue for the **INFINITY joint powers entity** may come from various sources, including but not limited to, grants and gifts. However, it shall be the primary responsibility of the parties to this agreement to adequately fund the **INFINITY joint powers board** and its programs. The total amount necessary to fund the **INFINITY joint powers** shall be determined on an annual basis, but may be examined and readjusted as necessary as determined by the **joint powers board**.

Section 2. Budget. The **INFINITY joint powers board** shall submit a proposed budget and comprehensive program report to each party hereto annually. The comprehensive program report shall set forth the proposed plans and programs for the ensuing school year. Each party shall have 45 days to review and comment on the proposed budget and program report. The budget and program report shall be utilized by the **joint powers board** to determine the expected funding and contribution of each of the parties for the subsequent year. The **INFINITY joint powers board** shall only spend more than that which has been budgeted when there are sufficient other revenues to guaranty that the board shall not deficit spend in a fiscal year.

The **INFINITY joint powers board** may set, establish, collect and receive charges and users fees in conjunction with any of its programs. Any such charges and fees must be approved by a majority of the full membership of the **joint powers board**. Any funds derived in this fashion shall be considered in

and during the budgeting process to determine the contribution obligation of the parties hereto.

Section 3. Reserve Funds. The **INFINITY joint powers board** may accumulate reasonable reserve funds for the purpose of operating its services and programs, and it may invest such funds not currently needed for program operation in a manner consistent with, and subject to, the laws of the state of Minnesota applicable to cities, counties and school districts.

Section 4. Fiscal Year. The fiscal year of the **joint powers board** shall be as determined by the board and its fiscal agent, if any.

Section 4. Annual Audit. An audit of all funds and accounts of the **INFINITY joint powers board** shall be made annually, with the cost of said audit to be at the expense of the **INFINITY joint powers board**. Said audit must be conducted by an auditing firm familiar with auditing practices and procedures accepted, recognized and approved by the state of Minnesota. A copy of said audit shall be provided to each of the parties hereto upon request.

ARTICLE VIII. EXECUTIVE COUNCIL

Section 1. Purpose and powers. The day-to-day care, management, and operational control of the **INFINITY** programs will be vested in the executive council, subject to policies adopted, and oversight, by the **INFINITY joint powers board**. All expenditures are subject to budgetary approval by the joint powers board and subsequent review or ratification.

Section 2. Members. Regional representation on the executive council shall be based on MASA Region District involvement as of April 15 of each calendar year. Representation shall be reviewed and eligibility determined at the May executive council meeting. Executive council members shall be selected at MASA Region meetings. Members agree to place the **INFINITY** executive council election on the regular MASA agenda.

Section 3. Terms. Terms on the executive council will be for two years, with odd-numbered regions selecting membership in September of odd years to be seated in January, and even-numbered regions selecting membership in September of even years to be seated in January.

Section 4. Vacancies. Should a majority of the executive council determine that a vacancy exists, the vacancy can be filled by an appointment by a majority vote of the executive council for the remainder of the unexpired term.

Section 4. Quorum. A quorum of the executive council shall consist of a majority of the full membership of the council. A quorum shall be necessary to conduct or transact any business. If a quorum is not present, no business can or shall be conducted. A majority of those present shall be necessary for approval or passage, unless otherwise permitted by the **joint powers board**. Abstentions in voting shall be considered as a vote with the majority of those voting on an issue or matter.

Section 5. Specific Powers and Authority of the Executive Council. The executive council shall be involved with the making and implementation of unified

and cooperative proposals for funding, development, and the establishment of on-line or distance learning programs and services in the name of **INFINITY**.

The executive council shall carry out those powers and duties granted to it by the **joint powers board**, and its powers and duties shall always be subject to the review and modification by the **joint powers board**.

ARTICLE IX. DURATION

Section 1. Continuing Existence. This agreement and the **joint powers board** created thereby shall continue in existence from year-to-year until terminated at any time by a majority vote of the full board or council of all of the parties hereto.

Section 2. Withdrawal of Parties. Any party may withdraw from this agreement by giving 120 days written notice of the party's intent to do so. The effective date of withdrawal shall be considered to be on the 121st day following the receipt of the required written notice of the intent to withdraw. Said written notice shall be given to each of the other parties to this agreement.

A withdrawing party shall continue to give contributions and comply with this agreement through the effective date of withdrawal. Should a member of that party hold office either on the **joint powers board** or the executive council, the term of office of that member shall cease to exist on the effective date of withdrawal and a vacancy may be declared. Notice of withdrawal may be rescinded in written form at any time prior to the effective date of withdrawal.

Any withdrawing party shall continue to be held responsible for any liabilities and obligations incurred prior to the effective date of withdrawal.

Section 3. Division of Assets.

a) Upon Termination of this Agreement.

Upon termination or dissolution of this agreement, all real and personal property of the **INFINITY joint powers board** shall be utilized, as a first priority, to pay off any existing or contingent liabilities. Upon the payment of all existing and contingent liabilities, any and all surplus monies and property shall be returned to the remaining parties to this agreement in equal amounts, or as otherwise agreed upon by the parties.

b) Upon Withdrawal.

Should a party withdraw from this agreement in accordance with Article IX., Section 2), that party shall waive and forego any right or interest it shall have in and to the real or personal property of the **INFINITY joint powers entity**.

**ARTICLE X.
DISPUTE AND DEFAULT PROCEDURE**

Section 1. Disputes.

If any party shall fail or refuse to fulfill or fully perform any obligation or covenant required by this agreement, or should there be any unresolved dispute or disagreement among or between the parties as to the interpretation or application of the terms of this agreement, the parties agree that the matter shall be submitted to binding arbitration in accordance with the procedures of the Bureau of Mediation Services of the state of Minnesota.

Section 2. Arbitration Procedure

a) Any party seeking arbitration must provide a written statement to all the other parties to this agreement clearly setting forth and outlining the dispute or disagreement, the issues being raised, and the remedy sought. Within thirty (30) days of the receipt of the written statement, the parties agree to meet, mediate and attempt to informally resolve the matter. If resolution cannot be reached within thirty (30) days thereafter, the party(s) submitting the written statement may petition for arbitration through the Minnesota Bureau of Mediation Services (BMS). BMS shall submit a list of seven potential arbitrators. The parties shall, within fifteen (15) days of receipt of this list, rank each of the potential arbitrators by number, with one being the highest, etc. The arbitrator having the highest ranking among all the parties shall be selected as the arbitrator in the matter. However, the parties may, by unanimous agreement, select one (1) arbitrator from the list, or may select any other qualified individual(s).

b) Within thirty (30) days after the selection of the arbitrator, the arbitrator shall commence a hearing on the dispute. The hearing may be recorded or transcribed at the request and expense of any party. The public shall be given notice of the hearing, and the hearing shall be open to the public. The arbitrator shall prepare written findings and make a written decision within thirty (30) days of the close of the hearing, and the arbitrator's decision shall be served by mail upon all the parties to this agreement.

Section 3. Arbitrator's Authority. The arbitrator shall have no right to amend, modify, nullify, ignore, add to, or subtract from, the terms and conditions of this agreement. The arbitrator shall consider and decide only the specific issue(s) submitted in the written statement, and shall have no authority to make a decision on any other issues not so submitted. The arbitrator shall be without power to make a decision contrary to, or inconsistent with, or modifying or varying in any way, those laws, rules or regulations pertaining to the parties hereto and all governmental units in the state of Minnesota.

Section 4. Costs of Arbitration. Each party shall pay its own costs and attorney's fees associated with the arbitration process, except as otherwise provided herein.

Section 5. Judicial Relief. Any party may seek judicial relief to the extent authorized by Minn. Stat. §572.08 through §572.30, as amended, or where any party fails to participate in a good faith and timely fashion in the arbitration process as set forth herein. If judicial relief is sought to compel a party to participate in good faith and in a timely fashion in the arbitration process, after said party has refused and failed to do so, costs, including reasonable attorney's fees, may be awarded to the prevailing party(s). In any other effort to seek judicial relief, each party shall pay its own costs and attorney's fees.

ARTICLE XI.

GENERAL PROVISIONS

Section 1. Amendments. This Agreement may be amended from time to time, but any such amendment must be in written form, and approved by all of the parties to the Agreement.

Section 2. New Members. Any new governmental unit, or other entity contemplated by Minn. Stat. §471.59 may be added to this agreement by receiving the approval of two-thirds of all of the other parties to this agreement. Once approved, the contribution and other obligations of the new member(s) shall be set forth in written fashion by amending this agreement, and the new member(s) shall be fully obligated and bound by the terms of this agreement.

Section 3. Address for Service of Notices and Documents. All notices, statements, or other written documents required to be given under this agreement shall be in written form, and shall be considered and received if delivered personally or if deposited in the United States First Class Mail, postage prepaid, as follows:

See attached Exhibit A which lists all member districts and their current addresses, which is incorporated herein.

Section 4. Savings Clause. Should any provision of this agreement be found unlawful or invalid, the other provisions of this agreement shall remain in full force and effect if, by doing so, the purpose of this agreement, taken as a whole, can be reached, fulfilled, and made operative. Should any provision be found unlawful or invalid, the parties shall attempt to agree upon an amendment to this

agreement to replace that portion that has been determined to be unlawful or invalid.

**ARTICLE XII.
EFFECTIVE DATE**

It is intended that this agreement shall be effective upon approval of the boards of each party hereto and the signing of this agreement by the authorized representatives of each said party.

**ARTICLE XIII.
COUNTERPARTS**

This Joint Powers Agreement may be executed in any number of counterparts, each of which, taken together, shall constitute one Agreement.

IN WITNESS WHEREOF, each party executed this Agreement pursuant to the authority of resolutions passed and approved by their respective governing bodies, which are incorporated herein by this reference.

INDEPENDENT SCHOOL DISTRICT NO. 912

Dated: May 19, 2008

By _____
Chair of School Board

By _____
Clerk

(Separate page for each signature)

EXHIBIT "A"

Current Members:

ISD No. 0001, Aitkin
ISD No. 0314, Braham
ISD No. 0181, Brainerd
ISD No. 0911, Cambridge-Isanti
ISD No. 2144, Chisago Lakes
ISD No. 0182, Crosby-Ironton
ISD No. 0317, Deer River
ISD No. 2580, East Central
ISD No. 0698, Floodwood
ISD No. 0318, Grand Rapids
ISD No. 0316, Greenway
ISD No. 2165, Hinkley Finlayson
ISD No. 0002, Hill City
ISD No. 0738, Holdingford
ISD No. 0473, Isle
ISD No. 0482, Little Falls
ISD No. 2753, Long Prairie/Grey Eagle
ISD No. 0912, Milaca
ISD No. 0332, Mora
ISD No. 0319, Nashwauk-Keewatin
ISD No. , Nay-Ah-Shing
ISD No. 0118, Northland Community
ISD No. 0333, Ogilvie
ISD No. 0480, Onamia
ISD No. 0186, Pequot Lakes
ISD No. 0484, Pierz
ISD No. 0116, Pillager
ISD No. 0578, Pine City
ISD No. 2174, Pine River Backus
ISD No. 0477, Princeton
ISD No. 0485, Royalton
ISD No. 0139, Rush City
ISD No. 0363, South Koochiching
ISD No. 0742, St. Cloud
ISD No. 0486, Swanville
ISD No. 0487, Upsala
ISD No. 0347, Willmar
ISD No. 0345, New London-Spicer

Exhibit "A"