



KPU Board of Governors - Regular Meeting

Date: June 28, 2023

Time: 4:00 pm – 5:10 pm

**Room: Surrey Campus
Cedar Boardroom G2110**

Board of Governors – Regular Meeting Agenda

Date: June 28, 2023

Time: 4:00– 5:10 pm

Surrey Campus

Cedar Boardroom G2110

Attending: Ivy Chen (Chair), Rhiannon Bennett (Vice Chair), Kwuntiltunaat (Kim) Baird, Michael Chang, Alan Davis, Bob Davis, Kelly Fredrick, Ishant Goyal, Amos Kambere, Muhammad Afzal Malik, Takashi Sato, Harman Preet Singh, Waheed Taiwo, Jack Wong

Regrets: Mohammed Mahabub, Zena Mitchell

M = Motion to Approve
D = Discussion
I = Information
E = Education

Presenters & Administrative Resources: Laurie Clancy, Brent Elliott, Chervahun Emilien, Randall Heidt, Jennifer Jordon, Ranminder Kaur, Nadia Mallay, Lori McElroy, Diane Purvey, Peter Smailes, Keri Spindler

4:00 pm Regular Board Meeting
Closed Board Meeting to follow
In camera Debriefing Session to follow

Agenda Item	Resource	Action	Time	Page
1. Call to Order & Introductory Remarks	Ivy Chen		4:00-4:01	
We respectfully acknowledge that we live, work and study at KPU on the traditional and ancestral lands of the Coast Salish peoples, including those of the Kwantlen First Nation, who graciously bestowed their name on this university.				
2. Approval of Agenda	Ivy Chen	M	4:01-4:02	3
MOTION: THAT the Board of Governors approve the regular meeting agenda for June 28, 2023.				
3. Conflict of Interest	Ivy Chen		4:02-4:03	
4. Consent Agenda	Ivy Chen	M	4:03-4:04	7
4.1. Minutes of the May 24, 2023 Regular Board of Governors Meeting				8
4.2. Ellucian Advisor - Procurement over 200k	Chervahun Emilien	M		19

MOTION: THAT the Board of Governors approve the following items on the Consent Agenda:

4.1. Minutes of the May 24, 2023 Regular Board of Governors Meeting.

4.2. Ellucian Advisor - Procurement over 200k, as recommended by the Board Finance Committee.

5. Annual Report to the Board on the Sexual Violence & Misconduct Policy	Jennifer Jordon	I	4:04-4:14	23
6. Governance Committee Report				
6.1. Committee Chair Report	Ivy Chen	I	4:14-4:15	
6.2. Accountability Plan & Report 2022/23	Lori McElroy	M	4:15-4:25	37

MOTION: THAT the Board of Governors approve the Board of Governors approve the 2022/23 Accountability Plan & Report for submission to the Ministry of Post-Secondary Education and Future Skills as recommended by the Board Governance Committee.

6.3. Board Appointments: appointed and elected members	Keri Spindler	I	4:25-4:26	
7. Human Resources Committee Report				
7.1. Committee Chair Report	Rhiannon Bennett	I	4:26-4:27	
8. Audit Committee Report				
8.1. Committee Chair Report	Jack Wong	I	4:27-4:28	
8.2. Management Discussion and Analysis	Chervahun Emilien	M	4:28-4:33	39

MOTION: THAT the Board of Governors approve the draft Management Discussion and Analysis for the year ended March 31, 2023, as recommended by the Board Audit Committee.

9. Finance Committee Report				
9.1. Committee Chair Report	Jack Wong	I	4:33-4:34	
9.2. FY 2024-25 University Draft Budget Principles and Priorities	Chervahun Emilien	M	4:34-4:44	41

MOTION: THAT the Board of Governors approve the budget principles and priorities for FY 2024–25, as recommended by the Board Finance Committee.

9.3. General Security Agreement (GSA) between KPU and KPU Communities Corporation (KPUCC)	Chervahun Emilien	M	4:44-4:49	49
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MOTION: THAT the Board of Governors approve the General Security Agreement (GSA) between Kwantlen Polytechnic University and KPU Communities Corporation, as recommended by the Board Finance Committee.

9.4. Renewal of License Agreement at KPU Richmond with MLENA	Brent Elliott	M	4:49-4:52	61
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MOTION: THAT the Board of Governors approve the renewal of an existing Licence Agreement between the Maple Leaf Education North America (“MLENA”) and KPU, for the term July 31st 2023 to July 31st 2024, having determined that the licenced disposal will not affect the future delivery of educational programs, as recommended by the Board Finance Committee.

10. President’s Report 10.1. Report to the Board	Alan Davis	I	4:52-4:55
11. Provost’s Report 11.1. Report to the Board	Diane Purvey	I	4:55-4:58
12. Senate Report – meeting held on May 29, 2023	Alan Davis	I	4:58-4:59
13. 2023 Mandate Letter from the Ministry of Post-Secondary Education and Future Skills	Ivy Chen	D	4:59-5:01
14. Next Meeting Agenda Contribution	Ivy Chen	D	5:01-5:02
15. For the Good of the Order	All	D	5:02-5:03
16. Feedback on the Meeting	All	D	5:03-5:04
17. Closing Remarks	Ivy Chen		5:04-5:05
18. Election of the Chair and Vice Chair	Keri Spindler	Election	5:05-5:08

19. Appendix:			
19.1. Report to the Board of Governors	N/A	I	5:08-5:09
19.2. President's Annual Policy Report – Status update			
19.3. Phase One Postings:			
• GV4 Signing Authority			
• IM10 Records and Information Management			
• RS2 Integrity in Research and Scholarship			
• RS3 Indirect Costs of Research&RS4 Administration and Control of Research and Special Funds			
• RS7 Governance and Administration of Research Centres and Institutes			
• HR8 Employee Exchange/Secondment Leaves			
• HR21 Respectful Workplace			
20. Next Meeting: Regular Board Meeting Wednesday, September 27, 2023 IN PERSON MEETING or MS TEAM - TBD 4:00 – 7:00 pm	Ivy Chen		5:09-5:10
21. Adjournment	Ivy Chen		5:10

BOARD OF GOVERNORS - REGULAR MEETING

Agenda Number: #4

Meeting Date: *June 28, 2023*

Presenter(s): *Ivy Chen*

AGENDA TITLE: Consent Agenda

ACTION REQUESTED: Motion

RECOMMENDED RESOLUTION

THAT the Board of Governors approve the following items on the Consent Agenda:

4.1. Minutes of the May 24, 2023 Regular Board of Governors Meeting.

4.2. Ellucian Advisor - Procurement over 200k, as recommended by the Board Finance Committee.

Attachments

1. Minutes of the May 24, 2023 Regular Board of Governors Meeting
2. Ellucian Advisor - Procurement over 200k

Submitted by

Ranminder Kaur, Executive Assistant to the Board of Governors

Date submitted

June 19, 2023

BOARD OF GOVERNORS - REGULAR MEETING

Regular Meeting Minutes

May 24, 2023

Via Microsoft Teams

Present: Board

Ivy Chen / Chair
Michael Chang
Alan Davis / President & Vice
Chancellor
Bob Davis
Ishant Goyal
Mohammed Mahabub
Takashi Sato
Harman Preet Singh
Waheed Taiwo
Jack Wong

University G7 members

Laurie Clancy / VP, Human Resources
Chervahun Emilien / Chief Financial Officer
Randall Heidt / VP, External Affairs
Zena Mitchell / VP, Students
Diane Purvey / Provost & VP, Academic
Peter Smailes / VP, Administration

Presenters and Administrative Resources

Gayle Bedard / Associate Vice President of
Indigenous Leadership, Innovation and
Partnerships
Brett Favaro / Dean, Faculty of Science and
Horticulture
Ranminder Kaur / Confidential Assistant to the
Board of Governors
Dr. Lori McElroy / AVP, Planning and
Accountability
Keri Spindler / University Secretary & Executive
Assistant to the President & Vice Chancellor

Regrets: Rhiannon Bennett / Vice Chair
Amos Kambere
Kim (Kwuntiltunaat) Baird /
Chancellor
Kelly Fredrick
Muhammad Afzal Malik

Jennifer Duprey / General Counsel

**1. Call to Order and
Introductory Remarks**

The Chair called the meeting to order at 4:06pm.
The Chair acknowledged KPU's commitment to reconciliation
and recognition that that we live, work and study at KPU on the
traditional and ancestral lands of the Coast Salish peoples,
including those of the Kwantlen First Nation, who graciously
bestowed their name on this university.

2. Approval of Agenda

Motion #19-22/23

**MOVED, SECONDED AND CARRIED THAT the Board of
Governors approve the regular meeting agenda for May 24,
2023.**

3. **Conflict of Interest** No other conflict of Interest was declared.
4. **Approval of Consent Agenda** **Motion #20-22/23**
MOVED, SECONDED AND CARRIED the Board of Governors approve the Board of Governors approve the following items on the Consent Agenda:
 - 4.1. **Minutes of the March 29, 2023 Regular Board of Governors Meeting.**
 - 4.2. **Approve the reappointment of KPMG LLP as External Auditor for the 2023/24 reporting year as recommended by the Board Audit Committee.**
 - 4.3. **Program revisions to the Bachelor of Science, Major in Health Science, Cooperative Education Option and the Bachelor of Science (Honours), Major in Health Science, Co-operative Education Option programs, effective September 2023 as recommended by the Board Governance Committee.**
 - 4.4. **Approve the discontinuances to the following eight Citations in Horticulture Technology: Arboriculture, Foundation in Landscape Design, Introduction to Sustainable Horticulture, Landscape Plant Health, Production Facilities, Production Plant Health, Residential Lawn Care, Turfgrass Pest Management, effective September 2023 as recommended by the Board Governance Committee.**

AND
THAT the Board of Governors receive the following item for information:

 - 4.5. **Amendment to KSA Annual Fee Change Letter: 2023-2024 Academic Year.**
5. **Governance Committee Report**
 - 5.1. ***Committee Chair Report***

Committee Chair, Ms. Chen advised the Governance Committee met on May 10, 2023 and received an update on Phase One posting for various policies.

Members noted that the other item discussed at the meeting is on the agenda.
 - 5.2. ***xé?elł KPU Pathway to Systemic Transformation***

Dr. Davis introduced Gayle Bedard, AVP of Indigenous Leadership, Innovation and Partnerships and commented that Gayle Bedard has developed xé?elł KPU pathway document and its purpose is to advance reconciliation with the Indigenous Peoples of these lands through systemic transformation of the institution which has been developed with close collaboration

with the Indigenous Advisory Committee and Indigenous members of the KPU community.

Dr. Davis noted that management is asking the Board to endorse the document which in itself is a strong statement as it has actually been approved by the people who will be impacted most by it.

Gayle Bedard commented that when she joined KPU eight months ago, the KPU pathway document was already in its final stages however, it needed some additions to ensure that the authentic voices of the indigenous peoples were reflected in the document. Gayle mentioned that the document has been reviewed by several groups, including Indigenous employees and students at KPU.

Gayle Bedard mentioned that the KPU pathway document statement includes:

- Safe and respectful dialogue
- Examine beliefs and biases
- Open to Community
- Indigenous Voices Matter
- Holistic Learning and Wellbeing
- Weaving Indigenous Worldviews

Gayle Bedard commented that further revision have been done and the goals will be referred to as pathway and actions referred as steps in the latest version of the KPU pathway document.

Gayle Bedard briefed members on the pathways and steps within the document.

Members noted that the launch of the KPU pathway document will take place on June 20th. Gayle Bedard noted that KPU is looking to bring in the Indigenous community for the launch with Chief Harley Chappell being the Master of Ceremony for the day. The program for the day will also include a celebration of National Indigenous Peoples Day which will be recognized in Canada on June 21st.

Motion #21-22/23

MOVED, SECONDED AND CARRIED THAT the Board of Governors endorse the xé?elł Pathways to Systemic Transformation, as recommended by the Board Governance Committee.

Gayle Bedard left the meeting.

5.3. Vision 2026

Dr. McElroy presented the report and commented that following the consultations, Vision 2026 was modified and is presented here for approval. Dr. McElroy mentioned that a new goal on health and wellness of students and employees has been added, a new set of values have been developed, and improvements in wording have been made throughout the document. Members noted that the revised values articulate how KPU will endeavor to align our actions with our values. Members noted that the wording for goal B1 from 'Foster environmental sustainability through our offerings, research and operations' to read 'Foster cultural, social and environmental sustainability through our offerings, research and operations'.

Members noted that an additional bullet has been added under A2. Goal: We will enrich the experience of our employees to include

- A respectful workplace where all employees are treated with dignity and respect and are free from discrimination, bullying and harassment

Dr. Davis mentioned that this is a workplan for the next 3 years and it will give the incoming President some time before they need to create a new strategic plan.

Dr. Davis commended Dr. McElroy for her work on Vision 2026. Dr. Davis also commended Ms. Teresa Smith from Human Resources who worked closely to develop the Values Statement which is the major new addition to Vision 2026.

Motion #22-22/23

MOVED, SECONDED AND CARRIED THAT the Board of Governors approve Vision 2026, as recommended by the Board Governance Committee.

6. Human Resources Committee Report

6.1. Committee Chair Report

The Board Chair, Ms. Chen, advised that the Human Resources Committee met on May 11, 2023 and that there was nothing to report.

7. Audit Committee Report

7.1. Committee Chair Report

Committee Chair, Mr. Mahabub, advised that the Audit Committee met on May 16, 2023 and received update on engagement activities.

7.2. Draft Consolidated Financial Statements for Year ended March 31, 2023

Ms. Emilien presented the draft Consolidated Financial Statements for Year ended March 31, 2023 and highlighted the Statement of Financial Position, Statement of Operations and Notes to the Financial Statements. Ms. Emilien noted that the draft Consolidated Financial Statements was prepared by KPU management in accordance with Public Sector Accounting Standards. Members noted that the draft Consolidated Financial Statements were audited by KPU's external auditor, KPMG.

Ms. Emilien noted that the presented report says consolidated financial statements instead of financial statements. This is because KPU has fully consolidated the Community Trust into KPU's financials this year. The Trust had minimal activity with an amount of \$260 thousand in expenses which has been combined with KPU's expenses. The Trust had \$4.6 million in assets which has been combined with KPU's assets. Members noted that \$4.6 million was left over from the \$5 million Promissory Note that KPU gave to the Trust.

Ms. Emilien commented that the draft audited consolidated financial statements show an annual surplus of \$7.7 million. Ms. Emilien mentioned that KPU was aiming for \$5 million however, due to a few last-minute adjustments and detection of recognizing revenue for KPU's shared recovery mandate relating to Collective Agreements, the annual surplus was a little higher. Ms. Emilien commented that this helps reduce KPU's total net debt for the year. Members noted that the Ministry is aware of the additional \$2 million that KPU is reporting this year.

Members noted that a draft copy of the Independent Auditor's Report, which highlights an unqualified opinion from KPMG LLP is also included in the draft consolidated financial statements.

Ms. Emilien commented that KPU adopted a new accounting standard in fiscal 2023 and asset retirement obligations standard as of April 1, 2022. Ms. Emilien noted that this standard requires KPU to report the legal obligations associated with the retirement of tangible capital assets. However, KPU adopted the Standard with a modified retroactive application. Members noted that the University has recorded asset retirement obligations for the removal of hazardous material from some of the University's buildings. Ms. Emilien commented that the undiscounted estimated cash flows required to settle

the obligations are approximately \$3,074 to be paid during the fiscal years 2024 to 2034.

Ms. Emilien mentioned that details of the restatement is listed under Notes 2 and 3 of the draft consolidated financial statements.

Ms. Emilien commented that the presentation of expenses in the statement of operations and accumulated operating surpluses has been changed this year and is now reported by function.

Ms. Emilien noted that the management discussion and analysis accompanying the financial statements will be presented at a future meeting of the Audit Committee.

The Chair of Audit Committee, Mr. Mahabub commented that the external auditor, KPMG in their In Camera with the Audit Committee commented that they were extremely satisfied with how the auditing process went with KPU management mainly, Ms. Emilien and her team. Mr. Mahabub commended Ms. Emilien for working with the external auditor and producing a thorough draft consolidated financial statements.

Motion #23-22/23

MOVED, SECONDED AND CARRIED THAT the Board of Governors approve the draft Financial Statements for Year Ended March 31, 2023 as recommended by the Board Audit Committee.

8. Finance Committee Report

8.1. Committee Chair Report

Committee Chair, Mr. Mahabub, advised that the Finance Committee met on May 16, 2023, and noted that all items discussed at the meeting are on the agenda.

8.2. Draft Board Response to Senate FY2023/24 Budget Letter

Ms. Emilien presented the Draft Board Response to Senate FY 2023-24 Budget Recommendations noting that the budget is developed in consultation with the Senate Standing Committee on University Budget (SSCUB) and the Senate Standing Committee on Academic Planning & Priorities (SSCAPP). Members noted that SSCUB and SSCAPP evaluate the proposed budget to ensure that it aligns with the academic and strategic priorities of KPU. In turn, the committees jointly present their recommendations to Senate.

Ms. Emilien noted that Senate endorsed the FY2023-24 budget and agreed that the budgetary key themes were in alignment with KPU's budget tenets and priorities. Members noted that no recommendations were provided by Senate for improvement or enhancement of the budget process.

Ms. Emilien noted that the draft letter attached is to thank Senate and the Senate Standing Committee on University Budget (SSCUB) for their recommendation of the FY 2023-24 budget to the Board.

Motion #24-22/23

MOVED, SECONDED AND CARRIED THAT the Board of Governors approve the draft Financial Statements for Year Ended March 31, 2023 as recommended by the Board Audit Committee.

8.3. Renewal of License Agreement with City of Delta for Paterson Park

Mr. Elliott presented the report and commented that KPU had an agreement with the City of Delta since 2020 to permit the community use of Paterson Park. Member noted that last year the license was extended for 1 year in June 2022. Mr. Elliott noted that the new License Agreement presented for approval will supersede and replace the Original License Agreement, with a term of 1 year commencing on June 1, 2023 and terminating on the May 31, 2024. Mr. Elliott commented that the License Agreement can be terminated by either party upon thirty days' written notice.

Mr. Elliott noted, following discussions with the executives, the proposal is for one year instead of multi-year (typically for 24 months) to give the KPU Community Trust flexibility with that particular site so the Trust can have a conversation with the City of Delta to explore a plan for the full 24 acres of land.

Motion #25-22/23

MOVED, SECONDED AND CARRIED THAT the Board of Governors approve the renewal of the existing Licence Agreement between the City of Delta and KPU for the City's use of Paterson Park for a further one-year period from June 1st 2023 to May 31st 2024, as recommended by the Board Finance Committee.

9. President's Report

9.1. Report to the Board

Dr. Davis advised members on the significant number of activities around KPU and commented that there is lot to celebrate as students graduate. Members noted that KPU hosted the BFA grad show, creative writing celebration, and a number of presentations by the Wilson School of Design to name a few.

Dr. Davis commented that the summer semester has started and there are over 10,500 students on campus this summer. Members noted that there is an increase in domestic enrollment by 3% and international is up by 1%; overall 2% increase in headcount and 4% increase in FTEs.

Dr. Davis noted that he attended a conference in Montreal where Dr. Candy Ho from KPU gave a presentation on Phase 1 of the United Nations Sustainable Development Goals (SDG) Project which was well received by the attendees.

Dr. Davis mentioned that him along with Dr. Purvey, Dr. Kozak, and Dr. Sayed did a presentation on 'Fostering a Culture of Equity and Inclusion at KPU' at Polytechnics Canada in mid-May.

Dr. Davis noted that Dr. Nadia Mallay, incoming VP, Equity & Inclusive Communities attended President's Circle at KPU on May 23rd and met the senior team. Members noted that Dr. Mallay will be joining KPU officially on June 26, 2023.

10. Provost's Report

10.1. Report to the Board

Dr. Purvey updated members on the following Faculty members for their achievements:

- John Belisle, Faculty of Design Instruction – members noted that John's design was recently accepted for stamp issued by Canada Post. It was noted that money raised by selling the stamps will go towards Children Charities. Dr. Purvey commented that it was John's fifteenth stamp that was accepted by Canada Post which is a great way for KPU to be out in the community.
- Shelley Boyd, Dean, Faculty of Arts – Dr. Purvey commented that Shelley recently had a book published called 'Canadian Literary Fare' in which Shelley and the co-author explores why food matters in Canadian fiction, drama, and poetry. Members noted that one of the chapters is on Kraft Dinners where Shelley mentions that in Canadian literature Kraft Dinner often represents loneliness, poverty, or colonialism.

11. University Secretary's Report

11.1. Board of Governors Chair and Vice Chair Elections

Mrs. Spindler mentioned that this agenda item is an official notice that the Board Office will be holding an election for the Chair and Vice Chair positions at the June 28th Board meeting.

Members noted that those positions are only open to the appointed members of the Board. Mrs. Spindler commented that any member who may be interested in putting their name forward to either position to reach out to Ms. Chen, Ms. Bennett or the Board Office.

Mrs. Spindler mentioned that if any elected members are interesting in nominating some of the those to either of the position, to reach out to those members to have discussion in advance of the June meeting so that they are aware of it.

12. Senate Reports

Dr. Davis advised that the Senate Reports were prepared by Dr. Amy Jeon, Senate Vice-Chair and was included in the meeting package.

13. Next Meeting Agenda Contribution

Board members were asked to send contributions for the next meeting agenda to the Board Office at least two weeks in advance of the meeting.

14. For the Good of the Order

There were no additional items identified.

15. Feedback on the Meeting

There was no feedback on the meeting.

16. Closing Remarks

The Chair, Ms. Chen thanked everyone, including Board Members for attending and contributing to the discussions.

17. Appendix

17.1. Spring Election Results

Spring Election Results was received.

17.2. Sustainable Development Goals (SDG) Project

Sustainable Development Goals were received.

18. Next Meeting

The next meeting has been scheduled for Wednesday, June 28, 2023. Members noted that in-person meeting will be held at KPU Surrey and members will have an opportunity to network prior to the meeting starting at 4:00pm.

19. Adjournment

The meeting adjourned at 4:51pm.

Board Chair

BOARD OF GOVERNORS - REGULAR MEETING

Agenda Number: 4.2

Meeting Date: June 28, 2023

Presenter(s): Chervahun Emilien

AGENDA TITLE: New Procurement greater than \$200,000 - Ellucian Advise software

ACTION REQUESTED: Motion

RECOMMENDED RESOLUTION

THAT the Board of Governors approve, subject to budgetary approval, an additional procurement opportunity greater than \$200,000 as recommended by the Board Finance Committee.

COMMITTEE REPORT

At its meeting on June 20, 2023, the Board Finance Committee recommended that the Board of Governors approve, subject to budgetary approval, an additional procurement opportunity greater than \$200,000 related to Ellucian Advise software.

Context and Background

Per KPU Procurement Policy AD3, requisitions over \$200,000 require Board approval. The pre-approval will enable Procurement Services to commence work on the required due diligence and necessary procurement strategies to ensure projects continue moving ahead with minimal disruption.

The Board of Governors recently approved ongoing contracts and new projects for the 2024 budget; however, since that time an additional project has been brought forward to the attention of the Office of the CFO and Procurement Services.

One-time-only (OTO) budget was approved for Ellucian CRM Advise software in FY24, however procurement of a contract requires consideration of the total cost of ownership, which in this case is ongoing. Approval is being sought to proceed with procuring the software in FY24 on a five-year agreement, based on the following:

- Procurement will proceed based on an agreement for one year with language specific to ongoing budget being available.

- A budget ask will be advanced through the FY25 formal budget process for an ongoing budget enhancement to support the ongoing maintenance of the software purchase.

Ellucian CRM Advise is a Banner plugin with CRM capabilities and integration options that supports the effectiveness and efficiency of KPU academic advising, early alert administration, student communications, and holistic student care. Advise will empower all KPU academic advising teams to focus resources on at-risk students and enable personalized and targeted student communication. It also removes barriers to KPU's immediate strategic and operational priority of transitioning to Banner Cloud away from resource-intensive customizations to the Banner student information system.

Key Messages

1. The software will contribute towards strengthening student success and retention strategies by identifying student risk factors, measuring against success benchmarks, and tracking results. It will also provide academic advisors with a performance tool to make informed decisions about using resources in an impactful way.
2. Implementation of this program is supported by a partnership between Student Affairs and IT and it has been noted as a high-priority item by KPU's Chief Information Officer.
3. Expenses incurred beyond the current year will be subject to budgetary approval.
4. Outcomes of procurement are communicated through regular Chief Financial Officer Board updates.

Resource Requirements

Total cost of ownership of this software over five years is at least \$816,772 as the contract will be in US dollars and could fluctuate given foreign exchange volatility.

Implications/Risks

Continued use of the current custom forms for academic advising could impede KPU's transition to Banner Cloud and SAAS model, both of which are current and imminent key infrastructure projects.

Initial financial and human resource investments made towards this project will be lost if unable to proceed with procurement.

Consultations

1. Board of Governors – established process previously approved.

Attachments

N/A

Submitted by:

Chervahun Emilien, Chief Financial Officer

Date submitted:

June 9, 2023

BOARD OF GOVERNORS - REGULAR MEETING

Agenda Number: #5

Meeting Date: June 28, 2023

Presenter(s): Jennifer Jordan

AGENDA TITLE: *Annual Report to the Board on the Sexual Violence & Misconduct Policy*

ACTION REQUESTED: Information

RECOMMENDED RESOLUTION

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COMMITTEE REPORT

For Secretariat Use Only

Context and Background

On May 19, 2016, the Government of British Columbia passed the Sexual Violence and Misconduct Policy Act in an effort to make campuses safer and more responsive to the needs of victims/survivors of sexualized violence and sexual misconduct. The Act requires every BC post-secondary university, college and institute to develop, implement and make publicly available on the institution's website, a sexual misconduct policy. SR14, KPU's Sexual Violence and Misconduct Policy, was approved by the Board of Governors on April 22, 2017. Section 6(2) of the Sexual Violence and Misconduct Policy Act instructs:

Each year, the president of a post-secondary institution must report to the governing body on the implementation of the post-secondary institution's sexual misconduct policy.

The following report has been drafted by the Director Student Rights and Responsibilities, in consultation with KPU's SVM Advisory Group, to inform the President and Board of Governors of policy-related activities that have taken place over the past year.

Key Messages

1. This is a report of the major activities undertaken in support of this policy from June 1, 2022 to May 31 2023 under the four categories of: 1) prevention; 2) response; 3) policy review; and, 4) data and reporting.

Resource Requirements

BC's Sexual Violence and Misconduct Policy Act instructs that each year the president of a post-secondary institution must report to the governing body on the implementation of the post-secondary institution's sexual violence misconduct policy.

Implications/Risks

The filing of this report is in compliance with the Sexual Violence and Misconduct Policy Act.

Consultations

1. KPU's SVM Advisory Group
2. SRRO
3. OPA
4. PUE

Attachments

1. Annual Report to the Board of Governors on KPU's Sexual Violence and Misconduct Policy (SR14)
 2. SSS – SVM Report_2022 (attachment to the Annual Report)
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Submitted by

Jennifer Jordan

Date submitted

June 6, 2023



Annual Report to the Board of Governors

**On KPU's Sexual Violence and Misconduct Policy
(SR14)**

June 2023



BACKGROUND and INTRODUCTION

The Director Student Rights and Responsibilities, in consultation with KPU's Sexual Violence and Misconduct (SVM) Advisory Group, is proud to present the following report to inform the President and Board of Governors of policy-related activities that have taken place over the past year.

On May 19, 2016, the Government of British Columbia passed the *Sexual Violence and Misconduct Policy Act* and KPU's Sexual Violence and Misconduct Policy (SR14) was approved by the Board of Governors on April 22, 2017. KPU's Policy [SR14](#) and its related [Procedures](#) address how members of the University community will respond to a Disclosure and/or Complaint and/or Report, and provides guidance on where to report an incident of Sexual Violence and Misconduct. Each year, according to the Act, an annual report to the University Community outlining the implementation of the University's sexual violence and misconduct policy is to be presented to the Board. This annual report encompasses the time period between June 1, 2022 – May 31, 2023.

In reporting on KPU's approach to this work it is important to provide some background on the Provincial landscape in which this work is embedded. The scope of possible incidents that Post-Secondary Institutions (PSIs) are tasked with addressing is broad but despite the scope being the same for all PSIs there are dramatic differences between each institution; for example, there is institutional variation in geography, size, and composition. The legislation gave PSIs the autonomy to develop policy and procedures that reflected their own institutional realities.

Situating KPU within the Provincial context, the scope of our policy is the whole University Community: employees and students. As such, both Human Resources and the Student Rights and Responsibilities Office (SRRO) have a role in administering SR14's policy and procedures. The SRRO works with Human Resource Services regarding any reports or incidents involving both employees and students. Reports involving only employees are managed by the Interim Director, People Relations and Labour Relations Specialists.

The SRRO provides [support and education](#) to the KPU community about Policy SR14. The Office employs a victim-centered/trauma-informed approach as per the guiding principles of the Policy and engages in the following activities:

1. Sexual misconduct prevention (promotes awareness, delivers education and training workshops);
2. Sexual misconduct response (provides support, conducts investigations, facilitates accommodations, applies restorative practices for informal or alternative resolution);
3. Policy review;
4. Data and reporting.

It is important to note the The SRRO is *not* a sexual assault centre. Nor is it exclusively a Sexualized Violence Prevention / Response Office. Larger institutions have Centres and / or Offices dedicated solely to SVM. At KPU the SRRO has a broader mandate which includes administering policy ST7 (Student Non-Academic Misconduct); and, handling reports of students displaying behaviours of concern which sometimes involves risk and threat assessment. The SRRO Director Chairs KPU's SVM Advisory Group, the Behaviour Intervention Team (BIT), and Co-chairs the Threat Assessment Team (TAT).

KPU has an established SVM Advisory Group that meets approximately twice per semester and whose membership *typically* consists of:

- Director, Student Rights and Responsibilities (Chair)
- Interim Director, People Relations
- Director, Risk and Security
- AVP, Student Affairs
- Vice President, Students

The purpose of this group is to review any information, incidents or practices that may impact the ongoing implementation of KPU SR14 Policy and Procedures. In so doing, the Advisory Group will consider sexual violence and misconduct in the context of federal, provincial and local government legislation, (existing and pending) alongside prudent and promising practices in the sector related to sexual violence and misconduct.

June 1, 2022 – May 31, 2023 ACTIVITIES

The work of the SRRO is informed by specialized training, involvement in various Communities of Practice, learnings from the national Courage to Act project, viewing webinars, attending conferences and undertaking readings of current literature. A significant change in 2023 is that the SRRO hired a third Student Rights and Responsibilities Liaison in November 2022. Therefore, the SRRO is now staffed with a Director and three Student Rights and Responsibilities Liaisons (SRRLs). All are in permanent full-time roles and provide service to all five KPU campuses. The SRRO is housed under the Division of Student Affairs with the Director reporting to the Associate VP, Student Affairs.

The major activities undertaken in support of Policy SR14 from June 1, 2022 to May 31, 2023 fall into the following four categories:

1. Sexual misconduct prevention (promote awareness, deliver education and training workshops);
2. Sexual misconduct response (provide support, conduct investigations, facilitate accommodations, apply restorative practices for informal or alternative resolution);
3. Policy review; and,
4. Data and reporting.

1. SEXUAL MISCONDUCT PREVENTION

It is the mission of the SRRO to promote a community of care and respect; as such, we make our office visible by forming relationships with other departments and participating at various events and initiatives as appropriate throughout the year. Examples of this include delivering workshops during THRIVE month and at various Orientation events.

The SRRO manages a webpage specific to Sexual Violence and Misconduct which is available at www.kpu.ca/sexual-misconduct and provides [education and awareness](#); for example, the short video on “how to receive a disclosure” is available in English, Mandarin and Punjabi. The SRRO can deliver on-demand workshops on topics that include: 1) How to receive a disclosure; 2) Bystander awareness; and 3) Consent and healthy relationships or a condensed version touching on all three topics. Links to the SRRO webpage, which then links to the Sexual Violence and Misconduct webpage, are available on KPU’s Safe App, the MySSP App and International’s iCent App.

SRRO's activities this past year specific to prevention included:

1. Adapted the [Safer Campuses for Everyone Sexual Violence Prevention and Response Training for B.C. Post-Secondary Institutions](https://www.kpu.ca/student-rights-responsibilities/safer-campuses-for-everyone) for KPU's use on a Moodle test-site. The asynchronous, online modules went live in April 2023 and the SRRO is developing a roll-out plan for promoting this to students. You can access these modules at <https://www.kpu.ca/student-rights-responsibilities/safer-campuses-for-everyone>.
2. The Director of the SRRO attended the Council of University Executives dinner hosted by The Conference Board of Canada on November 3, 2022. The dinner was titled "Breaking the Culture of Silence: Fighting Gender-Based Violence & Misconduct at Canadian Universities". The objectives of the dinner were to convene Canada's university executives to engage in candid discussion of gender-based violence (GBV) and misconduct on campus. The focus was to provide an open forum for sharing successful policies, strategies and approaches, lessons learned, and goals for the future. This was a fantastic learning and networking opportunity for KPU as there were representatives from The Conference Board of Canada and institutions such as Brock, York, University of Toronto, University of Ottawa, TMU and McMaster.
3. The SRRO participated in, and the Director sat on the panel for, the KSA-sponsored in-person event "Our Bodies, Our Minds" facilitated by Art with Impact and held at Surrey campus on November 23, 2022.
4. The SRRO Director and KPU instructor Alana Abramson continue to schedule and host the Restorative Justice Post-Secondary Collective (RJ-PSEC) and its sub-groups, one of which continues to explore restorative practices as a response to sexualized violence. A [Wordpress site](#) has been developed that serves as a national repository of relevant information and literature specific to RJ and sexualized violence.
5. The SRRL's delivered workshops and participated in tabling* opportunities:
*tabling is when the SRRO sets up a table at KPU events and engages with students to promote the services of the office.

Workshop: Consent, Bystander Intervention, and How to receive a disclosure of sexual violence			
Student Group	~ # of Participants	Employee Group	~ # of Participants
Nursing Cohort (May 2022)	30	Faculty of Arts department	25
Orientation Leaders (August 2022)	90	Faculty of Trades and Technology	25
First Year Festival workshop (September 2022)	1	EACS department	20
Nursing Cohort (September 2022)	30		
Traditional Chinese Medicine Cohort (September 2022)	20		
Orientation Leaders (December 2022)	20		
Nursing Cohort (January 2023)	30		
KSA (May 2023)	25		

Tabling: Awareness and Prevention of Sexual Violence			
New student orientation (September 2022)	30		
New student orientation (January 2023)	25		
TOTAL	301		70

2. SEXUAL MISCONDUCT RESPONSE

The SRRO serves as a conduit to [internal supports and external resources](#) with expertise in sexual and domestic violence, health, and community support. The SRRO has made connections with community organizations such as MOSAIC, Surrey Women’s Centre and DIVERSEcity which expands our knowledge of supports and resources available externally to KPU students.

During the reporting period (June 2022 to May 2023), the SRRO worked with 13 students who connected with the SRRO for support on issues that had an element of sexual violence and misconduct. Disclosures may be happening elsewhere on campus that are not reported to the SRRO. As such, this number may not be representative of actual instances; rather, this number represents students whom have interacted with the SRRO.

Issues included things such as:

- stalking
- inappropriate and unwanted flirting/attention and persistence
- sexual violence and misconduct incident, sometimes historic and not connected to KPU, with students wanting support and accommodations
- sexual assault, not connected to KPU
- sexual assault where there was a connection to KPU
- inappropriate touching
- inappropriate comments
- inappropriate comments in an online environment

Students who disclose information to the SRRO are given information on the options available to them; both support and resolution options. In some instances, students are seeking some form of accountability from the person alleged to have caused harm or else options to avoid future contact or interactions with that person. In other instances the help sought includes forms of support and/or academic accommodations.

3. POLICY REVIEW

PSFS SV Advisory Group:

The Director of the SRRO is an inaugural and ongoing member of the SV Advisory Group that is coordinated by the Ministry of Post Secondary Education and Future Skills (PSFS). This group meets monthly and is the main connection point between PSFS; BC post-secondary institutions (PSIs); student groups / associations; and, community organizations specializing in sexualized violence. The main purposes of the group are to:

- Provide ongoing and annual recommendations and feedback to PSFS on its strategic direction, programs, and initiatives, relating to efforts at preventing and responding to sexualized violence in the post-secondary education system.
- Consult with various stakeholder groups, including students, post-secondary institutions, and community organizations on matters related to sexualized violence in the post-secondary education system.
- Provide guidance to affiliated SV Working Groups.

In 2023, this group revised and updated its Terms of Reference, recruited new members, and participated in policy review consultations organized by the Ministry.

Sexual Violence and Misconduct (SR14) Policy Review:

2023 would have been the year PSIs were to undertake a comprehensive review and consultation of their SVM policies and the SRRO was prepared to facilitate this process; however, this comprehensive review has been postponed due to Ministry activity. In late Spring 2022, the PSFS announced that they would be undertaking a review of all the sexualized violence policies at post-secondary institutions across the province and that key findings may have the potential to inform legislative amendments to the Sexual Violence and Misconduct Policy Act. The consultations began in the Summer of 2022 and continued through the fall. Preliminary findings were communicated to the SV Advisory Group in spring 2023 and it is anticipated that proposed amendments to the Act will be put forth to the Legislature by the fall of 2023. Depending on what happens in the Legislature, there may be changes made to the Act. As such, policy SR14 will undergo a comprehensive review after any legislation changes have occurred, spring 2024 at the earliest, as changes to the legislation may necessitate changes to policy SR14. As a result, policy SR14 underwent a cursory review in 2023 to ensure accuracy of information which resulted in some links to information being updated and the effective date of the policy was updated to May 3, 2023.

Conflict of Interest (HR1) Policy Review:

KPU's Policy SR14 lays out the principles and *general* procedures for how sexual violence and misconduct is dealt with at KPU and is aligned with already existing KPU policies relating to investigations of student non-academic misconduct (policy ST7) and employee conflict of interest (policy HR1). KPU's Conflict of Interest Policy and Procedures (HR1) was revised and underwent the policy review process. The updated policy and procedures, with accompanying guidelines, came into effect in July 2023. The important addition to this policy (in relation to this annual report) is that HR1 now includes consensual romantic or sexual relationship guidelines.

4. DATA AND REPORTING

PSFS Working Group on Data and Reporting:

The Director of the SRRO is also a member of a Ministry coordinated Working Group on Data and Reporting. In the past year this group has drafted a Guide for PSIs called "Creating a Culture of Accountability: A Guide to Data & Reporting on Sexualized Violence at Post-Secondary Institutions in British Columbia". This Guide is in the final review stage with a planned release to PSIs in fall 2023. The purpose of the Guide is to support staff and administrators' in BC PSIs responsible for sexualized violence (SV) policy in preparing and disseminating their annual report. The Guide also articulates the complexities of public data and reporting for PSIs which includes:

1. Lack of consistent definitions in policies across public PSIs;
2. Varying institutional practices in data collection;

3. Varying institutional resourcing and capacities;
4. Concerns regarding the communication and public interpretation of data; and,
5. Data collection and reporting constraints due to privacy legislation.

KPU's Guidelines in Reporting Investigations:

Under KPU Policy SR14 (Sexual Violence and Misconduct) individuals can disclose, report and/or complain:

Disclosure:

A report of Sexual Violence and Misconduct by a Victim/Survivor, that does not constitute a Complaint.

Report:

A report of Sexual Violence and Misconduct by someone other than the Victim/Survivor, that does not constitute a Complaint.

Complaint:

A complaint that a person has committed an act of Sexual Violence and Misconduct contrary to the Policy.

Disclosures, Reports and Complaints under KPU Policy SR14 include an element of one or more of the following: Indecent Exposure, Sexual Assault, Sexual Exploitation, Sexual Harassment, Sexual Violence and Misconduct, Stalking and Voyeurism.

As the policy allows individuals to disclose and seek support for incidents that have no connection to KPU other than the individual has chosen to disclose to someone at KPU; and, anyone at any time can receive a disclosure or report of sexualized violence that may not be shared with the SRRO or Human Resources, KPU has established guidelines on what will be publicly reported on. Disclosures and reports will not be reported on. Only the number of investigations commenced arising from a formal complaint, that involves an element of policy SR14 and has a KPU connection, will be publicly reported. Additionally, as Victims/Survivors and Respondents have privacy rights under the Freedom of Information and Protection of Privacy Act (BC) to which KPU is subject, KPU will only report on investigations when the number of investigations reaches a minimum of five (5) for the reporting period. This is in order to prevent divulging information that could reveal the identities of Victims/Survivors and Respondents. Where the number of investigations is fewer than five (5), the entry for that year will read "Below threshold for reporting". For the period of this report, we did not reach the minimum threshold of 5 investigations.

Number of Investigations Commenced by Student Rights and Responsibilities and/or Human Resources that involves an element of policy SR14 and has a KPU connection.	
Year	Number of Investigations
2018	Below threshold for reporting
2019	Below threshold for reporting
2020	5
2021	Below threshold for reporting
2022	Below threshold for reporting

Student Perceptions of Sexual Violence at KPU:

KPU's Student Satisfaction Survey, administered in fall 2022 by the Office of Planning & Accountability (OPA), included three questions about Student Perceptions of Sexual Violence at KPU.

Question 1 asked survey participants whether they wanted to view the questions on sexual violence and misconduct. 3,633 students opted in to answer the SVM questions (refer to the table below).

Question 2 asked how often students hear about or see five specific behaviours (see attached pdf document, results chart for question 2). Of the students that opted in to answer, over 90% of students responded to each question that they "never" or "rarely" hear about or see these behaviours occurring.

Question 3 asked how strongly students agree or disagree with two statements: The first statement was "I know where to go to file a sexual violence or misconduct complaint". 1,963 students agreed with this. The second statement was "I feel safe from sexual violence at KPU"; 3,176 students agreed with this statement and only 3% reported that they did not feel safe from sexual violence at KPU.

427 students who either disagreed or were neutral to the question "I feel safe from sexual violence at KPU" were asked the following open-ended question:

"You indicated you don't feel fully safe from sexual violence at KPU. What could KPU do to improve in this area?"

There were 265 comments to this question. The SRRO (not OPA) reviewed and themed the comments.

- The themes discerned are shown in the table below with some examples of the nature of comments made within each theme.
- The number of comments associated with each theme (note that some comments are counted under more than one theme so reflect a number slightly higher than the 265 actual comments).
- See the following table for a breakdown of the themes

2022 Student Satisfaction Survey: Sexual Violence and Misconduct Responses	
# of students enrolled in fall 2022	15,087
# of students who participated in the SSS	5,968
# of students who opted in to answer the SVM section of the survey	3,633
# of comments provided in answer to the open-ended question: "You indicated you don't feel fully safe from sexual violence at KPU. What could KPU do to improve in this area?"	265
Themes discerned from the responses w. some examples	
# of comments about <u>security of the campus(es)</u> . There were several comments made about 'outsiders' hanging around campus and that 'outsiders' should not be allowed (the assumption is that 'outsiders' is referring to non-students). Some comments said there should be more Security Officers walking around, there should be better lighting in walkways and parking areas and more security cameras. Some comments mentioned that at certain times campuses can be almost deserted and that makes them feel unsafe.	83
# of comments where <u>no suggestions were offered and no concerns specific to KPU were expressed</u> . Many students answered that they were unsure of how to answer how KPU could improve or had no ideas to offer. Some students expressed that as females they always feel unsafe as sexual violence can happen anywhere at any time.	74
# of comments about <u>education and awareness</u> . Some comments said there should be more initiatives to raise awareness. Some suggested more posters, whereas others said posters	30

don't help. A few comments said educational programming on this topic should be mandatory for students. Some comments said it should be more obvious where and how to report.	
# of comments about <u>reporting and policy</u> . A number of comments were about not knowing where to report. There were a few comments around having a zero tolerance policy. There were some comments about promoting the services of the SRRO to students more and having more and varied posters on campus with the SRRO's contact information on the posters.	29
# of comments about the <u>cultural climate</u> at KPU specifically around large groups of males, who the commenters were assuming were international students. The commenters expressed that groups of males, exhibiting behaviours of staring at female students and / or making comments made for unwelcoming and uncomfortable environments. The Surrey campus and Tim Hortons area were specifically mentioned in a couple of comments.	21
# of comments about <u>consequences</u> and that KPU should be promoting the consequences for perpetrating sexual misconduct.	7
# of comments about <u>KPU employees perpetrating sexual misconduct</u> .	4
# of comments about <u>lack of inclusivity for LGBTQ2+ and Trans students</u> ; e.g. being misgendered, experiencing homophobia and wanting more single-stall washrooms.	4
# of comments classified as <u>'other'</u> (don't fit into one of the other themes). These comments were to have less group projects, offer self-defense courses at KPU and have the ability to block other students on Moodle.	3

GOALS FOR JUNE 2023 – MAY 2024

- Director maintains role on provincial SV Advisory Group and concludes the launch of the Guide that is the culmination of work done by the Data and Reporting Working Group.
- Develop a plan for fulsome policy review and consultation process which is anticipated to commence in spring/summer 2024 and likely extend into 2025.
- Roll-out messaging to the KPU Community promoting the launch of the online, asynchronous Safer Campuses for Everyone modules. Pursue having the completion of all modules receive some level of digital badging.
- Enhance information available to students around anonymous / confidential reporting.
- Pursue having the questions regarding students' perceptions of sexual violence at KPU included annually in KPU's Student Satisfaction Survey to provide year over year data.
- Strive to increase the number of KPU students who state they somewhat or strongly agree that they know where to go to file a sexual violence or misconduct complaint in the Student Satisfaction Survey.

2022 KPU Student Satisfaction Survey: Sexual Violence and Misconduct

This survey was sent to all 15,087 students enrolled at KPU in Fall 2022.¹ From October 17 to November 13, 5,968 students participated; this is a response rate of 40%. This report provides results on students' experiences and perceptions of sexual violence and misconduct (SVM) at KPU, broken down by domestic/international status. An asterisk (*) denotes that a question could not be skipped. Note that approximately one third of survey respondents preferred to skip over the SVM-related survey section, and therefore couldn't see or respond to Q2 and Q3. Given this high percentage, it is possible that the results of these questions could be skewed (i.e., they could be less representative of the student body as a whole).

1. *The next questions relate to your experience at KPU regarding inappropriate sexual behaviour. Do you want to answer these questions?

	Domestic		International		All	
	Count	%	Count	%	Count	%
Yes	2066	67%	1567	65%	3633	66%
No	1026	33%	861	35%	1887	34%
Total	3092	100%	2428	100%	5520	100%

2. How often have you experienced the following situations at KPU?

		Domestic		International		All	
		Count	%	Count	%	Count	%
I hear about or see people making jokes related to sexual violence or making inappropriate sexual comments	Never	1619	79%	1219	78%	2838	79%
	Rarely	281	14%	220	14%	501	14%
	Sometimes	129	6%	102	7%	231	6%
	Often	23	1%	19	1%	42	1%
	Total	2052	100%	1560	100%	3612	100%
I hear about or see online communications between people where they make sexual remarks about students	Never	1816	89%	1308	84%	3124	87%
	Rarely	162	8%	149	10%	311	9%
	Sometimes	55	3%	76	5%	131	4%
	Often	17	1%	23	1%	40	1%
	Total	2050	100%	1556	100%	3606	100%
I hear about or see inappropriate or sexual photos or videos of students shared by people without their consent	Never	1926	94%	1437	92%	3363	93%
	Rarely	96	5%	79	5%	175	5%
	Sometimes	22	1%	32	2%	54	1%
	Often	5	0%	6	0%	11	0%
	Total	2049	100%	1554	100%	3603	100%
I hear about or see students being exposed to unwanted physical contact of a sexual nature	Never	1864	91%	1415	91%	3279	91%
	Rarely	135	7%	91	6%	226	6%
	Sometimes	37	2%	34	2%	71	2%
	Often	12	1%	12	1%	24	1%
	Total	2048	100%	1552	100%	3600	100%

¹ Excludes students exclusively in Continuing & Professional Studies, and those in the dual credit program.

		Domestic		International		All	
		Count	%	Count	%	Count	%
I hear about or see students being pressured for dates or sexual activity	Never	1828	89%	1346	87%	3174	88%
	Rarely	157	8%	123	8%	280	8%
	Sometimes	52	3%	69	4%	121	3%
	Often	11	1%	18	1%	29	1%
	Total	2048	100%	1556	100%	3604	100%

3. How much do you agree or disagree with the following statements about KPU?

		Domestic		International		All	
		Count	%	Count	%	Count	%
I know where to go to file a sexual violence or misconduct complaint	Strongly disagree	328	16%	141	9%	469	13%
	Somewhat disagree	403	20%	151	10%	554	15%
	Neither agree nor disagree	388	19%	228	15%	616	17%
	Somewhat agree	568	28%	445	29%	1013	28%
	Strongly agree	366	18%	584	38%	950	26%
	Total	2053	100%	1549	100%	3602	100%
I feel safe from sexual violence at KPU	Strongly disagree	17	1%	22	1%	39	1%
	Somewhat disagree	61	3%	22	1%	83	2%
	Neither agree nor disagree	219	11%	86	6%	305	8%
	Somewhat agree	590	29%	356	23%	946	26%
	Strongly agree	1166	57%	1064	69%	2230	62%
	Total	2053	100%	1550	100%	3603	100%

BOARD OF GOVERNORS - REGULAR MEETING

Agenda Number: #6.2

Meeting Date: June 28, 2023

Presenter(s): Dr. Lori McElroy

AGENDA TITLE: 2022/23 Accountability Plan & Report

ACTION REQUESTED: Motion

RECOMMENDED RESOLUTION

THAT the Board of Governors approve the 2022/23 Accountability Plan & Report for submission to the Ministry of Post-Secondary Education and Future Skills as recommended by the Board Governance Committee.

COMMITTEE REPORT

At its meeting on June 7, 2023, the Board Governance Committee recommended that the Board of Governors approve the 2022/23 Accountability Plan and Report for submission to the Ministry of Post-Secondary Education and Future Skills.

Context and Background

The Accountability Plan & Report is an annual report that fulfills the requirements of the Ministry of Post-Secondary Education and Future Skills (PSFS) Accountability Framework. The purpose of the Framework is two-fold:

- To ensure individual public post-secondary institutions are accountable to government, their boards, students and the public for their performance related to ensuring students receive quality educational opportunities relevant to their needs and the needs of the labour market; and
- To ensure the Ministry is accountable to the public for the performance of the public post-secondary education system in BC, with the aim that it should benefit all BC residents by ensuring the system's ongoing contribution to social and economic development.

Once approved by PSFS, the report is posted on both the Ministry's and KPU's websites. This is expected in late fall 2023.

Key Messages

1. The report requires approval by the KPU Board of Governors prior to submission to the Ministry. It must be submitted by July 14.
2. The Strategic Priorities section details how we addressed both the Ministry priorities assigned to KPU, as well as KPU's own priorities to address our strategic goals.
3. The 2022/23 Draft Accountability Plan & Report is attached. The report is complete except for the following (which have been highlighted in yellow in the report):
 - 3.1. The data for metric 13 won't be finalized until later in June.
 - 3.2. The Financial Context section will be provided by Finance once approved by the Board. The Accountability Statement can't be finalized until we have this information.
 - 3.3. Appendix A: Report on TRC and UNDRIP, has been mostly updated, but we are still collecting information to update or add to this.
4. The report will undergo thorough copy editing and formatting before submission to the Ministry.

Resource Requirements

N/A

Implications/Risks

Failing to submit a complete Accountability Plan & Report to PSFS by July 14, 2023 could have a negative impact on our reputation with the Ministry.

Consultations

The content of this report is a collaborative effort across KPU. Deans provide content for the Faculty profiles. Marketing is creating the cover and provided the student and alumni award recipient profiles, as well as all photos in the report. Senior leaders helped identify content and sources to address the strategic priorities, and a number of people, including faculty, administrators and staff, provided written submissions on the strategic priorities. The Office of Planning & Accountability edited the submissions, analyzed data and created the rest of the content.

Attachments

1. [Draft 2022/23 Accountability Plan & Report](#)
-

Submitted by

Dr. Lori McElroy

Date submitted

June 15, 2023

BOARD OF GOVERNORS - REGULAR MEETING

Agenda Number: #8.2

Meeting Date: June 28, 2023

Presenter(s): Chervahun Emilien

AGENDA TITLE: *Management Discussion and Analysis for the year ended March 31, 2023*

ACTION REQUESTED: Motion

RECOMMENDED RESOLUTION

THAT the Board of Governors approve the draft Management Discussion and Analysis for the year ended March 31, 2023, as recommended by the Board Audit Committee.

COMMITTEE REPORT

At its meeting on June 20, 2023, the Board Audit Committee recommended that the Board of Governors approve the draft Management Discussion and Analysis for the year ended March 31, 2023.

Context and Background

As per Section 13 of the Board Governance Manual, the Audit Committee reviews and recommends to the Board of Governors approval of the management discussion and analysis (“MD&A”) that accompanies the audited financial statements.

Kwantlen Polytechnic University’s (“KPU” or the “University”) audited consolidated financial statements for the year ended March 31, 2023 were approved by the Board of Governors on May 24, 2023; however, it did not include the MD&A section.

The MD&A is a core element of the financial statements reporting package. It is a powerful communication tool for management to describe how the financial statements were prepared, as well as how the University performed and what it expects for the future. It also allows management to explain about the financial position and strategy of the University.

Key Messages

1. The MD&A provides a narrative explanation, through the eyes of management, on KPU’s financial condition.

2. The University continues to maintain surpluses each year and has a strong cash balance that allows it to meet its day to day obligations, along with positive cash flows to support ongoing strategic opportunities. Net debt has decreased steadily over the past five years indicating an overall improved financial condition.
3. The MD&A has been reviewed by the external auditors, KPMG, as an accurate representation of the annual financial results.

Resource Requirements

N/A

Implications/Risks

N/A

Consultations

1. University Executive
2. KPMG LLP

Attachments

1. [Draft Management Discussion and Analysis for the Year Ended March 31, 2023](#)
-

Submitted by

Chervahun Emilien, Chief Financial Officer

Date submitted

June 9, 2023

BOARD OF GOVERNORS - REGULAR MEETING

Agenda Number: #9.2

Meeting Date: June 28, 2023

Presenter(s): Chervahun Emilien

AGENDA TITLE: FY 2024-25 University Draft Budget Principles and Priorities

ACTION REQUESTED: Motion

RECOMMENDED RESOLUTION

THAT the Board of Governors approve the budget principles and priorities for FY 2024–25, as recommended by the Board Finance Committee.

COMMITTEE REPORT

At its meeting on June 20, 2023, the Board Finance Committee recommended that the Board of Governors approve the budget principles and priorities for FY 2024-25.

Context and Background

The annual budget process is cyclical and begins shortly into a new fiscal year. Before the budget components can be decided on, the principles and priorities on which the budget is based need to be confirmed and shared with all stakeholders,

Key Messages

1. The budget principles and priorities are used to guide and support decision making throughout the budget process.
2. The strategic priorities from Vision 2026 are being incorporated into the budget priorities to help ensure that the University is working towards the same goals.
3. A balanced budget is recommended for 2024-25 fiscal year. All budget principles and priorities will need to be achieved within the balanced budget framework
4. The 2024-25 budget principles and priorities pave the way to looking at wholistic initiatives and future impacts as opposed to considering a one-year cycle.

Resource Requirements

N/A

Implications/Risks

N/A

Consultations

1. University Executive
2. President's University Executive
3. Senate Standing Committee on University Budget
4. Senate

Attachments

1. Draft FY 2024-25 Draft Budget Principles and Priorities
 2. Draft FY2024-25 Principles and Priorities Comparison to Prior Year
-

Submitted by

Chervahun Emilien, Chief Financial Officer

Date submitted

June 9, 2023

Budget Principles and Priorities Fiscal Year 2024-25

	Proposed Budget Principle FY 2024-25	Proposed Budget Priority FY 2024-25
1	An incremental budget model will be used. Incremental changes will reflect KPU's strategic priorities and the priorities and the mandate established by the provincial Government.	KPU's strategic priorities align with Vision 2026. Refer to Note (1) below.
2	The budget will be based on conservative but realistic enrolment assumptions for domestic and international students, and will address student enrolment needs and demands.	A realistic set of assumptions must be adopted regarding enrolment expectations to create a foundational assumption for the development of the budget.
3	The budget will support KPU's core activities of teaching, learning, research and services as well as its supporting functions. To this end, the budget will provide predictability and stability.	The University Budget will continue to support teaching and learning, and scholarly activities.
4	New projects, activities and organizational changes will be funded over the lifecycle of the activity and so may span fiscal years as required.	All activities must be funded over the lifecycle of the activity, initiative or project to ensure adequate funding over the life of the activity, initiative or project. Approved projects will have budget spanning fiscal years, where appropriate and will consider long term operating needs. KPU will continue to proceed with caution on any new projects and initiatives with a focus on cost recovery or strategic program development.
5	The budget will include an appropriate contingency.	Maintain a contingency budget to respond to unanticipated revenue downturns as well as inflationary pressures.

6	The University budget will be balanced, and will ensure financial stability and sustainability.	The FY 2024-25 budget will consider unexpected changes and future year impacts of budget decisions and therefore the long-term continuity of the University.
7	Capital expenditures will not increase self-funded annual amortization to more than 5%.	Capital asset investments in support of key areas such as teaching and learning, IT, research and innovation support will continue to be high priority to the extent capital asset funds allocation is available after ensuring refreshes and strategic capital priorities have been addressed.
8	Ancillary Services will be budgeted to balance student experience with financial stability.	Ancillary Services, has historically been a modest profit centre for the institution; however, the revenues of ancillary services have not returned to pre-pandemic levels due to reduced activity on campus. Budget decisions will be based on balancing the student experience and financial stability.

Note 1: KPU's strategic priorities align with Vision 2026 as listed below:

Planning - Build a 5-year Financial Plan, position KPU as a global institution, develop a new approach to serving mature learners, plan for student housing, rethink use of space to reflect Activity Based Work

Improvement- Complete the establishment of the Office of Inclusive Communities, continue building supports for research and scholarship, continue to support teaching excellence and innovation, invest more in student financial aid, reinforce health and wellness support systems, continue progress on implementing the Sustainability Plan

New Initiatives - Invest in short-term, competency-based courses, build out polytechnic university programs and offerings, enhance safety and security to anticipate the next emergency, KPU Communities Trust

Budget Principles and Priorities Fiscal Year 2024-25

	Budget Principle FY 2023-24	Budget Priority FY 2023-24	Proposed Budget Principle FY 2024-25	Proposed Budget Priority FY 2024-25
1	Budget changes shall reflect the needs of the University and the priorities and the mandate established by the provincial Government	Budget changes across portfolios, including new budget or reallocations, will consider operational needs and institutional resources.	An incremental budget model will be used. Incremental changes will reflect KPU's strategic priorities and the priorities and the mandate established by the provincial Government.	KPU's strategic priorities align with Vision 2026. Refer to Note (1) below.
2	Budget models must be based on enrolment drivers	A set of assumptions must be adopted regarding enrolment expectations to create a foundational assumption for the development of the budget and to address growing waitlists.	The budget will be based on conservative but realistic enrolment assumptions for domestic and international students, and will address student enrolment needs and demands.	A realistic set of assumptions must be adopted regarding enrolment expectations to create a foundational assumption for the development of the budget.
3	Support for continuity of teaching, learning, research and the student experience	The University Budget will continue to support existing levels of staffing, core teaching and learning, scholarly activities and the student experience.	The budget will support KPU's core activities of teaching, learning, research and services as well as its supporting functions. To this end, the budget will provide predictability and stability.	The University Budget will continue to support teaching and learning, and scholarly activities.

4	Predictability for faculties	The University Budget will provide predictability for faculties by being built on a roll-forward budget basis. Incremental changes will be made to reflect budget changes for strategic priorities.	Refer to (1) above for incremental budget changes and (3) above for inclusion of predictability.	
5	All new activities must be funded on a lifecycle basis	All activities must be funded over the lifecycle of the activity, initiative or project to ensure adequate funding over the life of the activity, initiative or project. Approved projects will have budget spanning fiscal years, where appropriate. KPU will continue to proceed with caution on any new projects and initiatives with a focus on cost recovery or strategic program development.	New projects, activities and organizational changes will be funded over the lifecycle of the activity and so may span fiscal years as required.	All activities must be funded over the lifecycle of the activity, initiative or project to ensure adequate funding over the life of the activity, initiative or project. Approved projects will have budget spanning fiscal years, where appropriate and will consider long term operating needs. KPU will continue to proceed with caution on any new projects and initiatives with a focus on cost recovery or strategic program development.
6	KPU will maintain sufficient contingency budget to respond to unanticipated pressures	KPU has historically maintained contingency budget to respond to unanticipated revenue downturns as well as inflationary pressures.	The budget will include an appropriate contingency.	Maintain a contingency budget to respond to unanticipated revenue downturns as well as inflationary pressures.

7	Ensure financial sustainability for the university	The 2023 – 2024 fiscal budget will be balanced.	The University budget will be balanced, and will ensure financial stability and sustainability.	The 2024 – 2025 budget will consider unexpected changes and future year impacts of budget decisions and therefore the long-term continuity of the University.
8	International tuition and enrolment should be forecast in a moderately conservative but realistic manner and maintained at desired levels	KPU is reliant on international tuition as a revenue stream, and efforts to control and predict this stream are critical. KPU shall be conservative in budgeting international revenue, while allowing flexibility in the projection model to reflect ever changing situational facts surrounding international student enrollment in the current environment.	This priority is captured in (2) above.	
9	Capital expenditures should not increase self-funded annual amortization expense to more than 5%	Capital asset investments in support of key areas such as teaching and learning, IT, research and innovation support will continue to be high priority to the extent capital asset funds allocation is available after ensuring refreshes and strategic priorities have been addressed.	Capital expenditures will not increase self-funded annual amortization to more than 5%	Capital asset investments in support of key areas such as teaching and learning, IT, research and innovation support will continue to be high priority to the extent capital asset funds allocation is available after ensuring refreshes and strategic capital priorities have been addressed.

10	Ancillary services will be budgeted with the aim of balancing student experience and financial stability	Ancillary services has historically been a modest profit centre for the institution; however, the revenues of ancillary services were negatively impacted due to the pandemic. A return to profitability in the ancillary services portfolio is anticipated with “New KPU” and will have confirmation of this in the Fall semester.	Ancillary Services will be budgeted to balance student experience with financial stability	Ancillary Services, has historically been a modest profit centre for the institution; however, the revenues of ancillary services have not returned to pre-pandemic levels due to reduced activity on campus. Budget decisions will be based on balancing the student experience and financial stability.
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Note 1: KPU’s strategic priorities align with Vision 2026 as listed below:

Planning - Build a 5-year Financial Plan, position KPU as a global institution, develop a new approach to serving mature learners, plan for student housing, rethink use of space to reflect Activity Based Work

Improvement- Complete the establishment of the Office of Inclusive Communities, continue building supports for research and scholarship, continue to support teaching excellence and innovation, invest more in student financial aid, reinforce health and wellness support systems, continue progress on implementing the Sustainability Plan

New Initiatives - Invest in short-term, competency-based courses, build out polytechnic university programs and offerings, enhance safety and security to anticipate the next emergency, KPU Communities Trust

BOARD OF GOVERNORS - REGULAR MEETING

Agenda Number: #9.3

Meeting Date: June 28, 2023

Presenter(s): Chervahun Emilien

AGENDA TITLE: General Security Agreement between Kwantlen Polytechnic University and KPU Communities Corporation

ACTION REQUESTED: Motion

RECOMMENDED RESOLUTION

THAT the Board of Governors approve the General Security Agreement (GSA) between Kwantlen Polytechnic University and KPU Communities Corporation, as recommended by the Board Finance Committee.

COMMITTEE REPORT

At its meeting on June 20, 2023, the Board Finance Committee recommended that the Board of Governors approve the General Security Agreement (GSA) between Kwantlen Polytechnic University and KPU Communities Corporation.

Context and Background

The development of a property trust, its planned implementation and operationalization, including Kwantlen Polytechnic University (“KPU”) providing start-up financing, were previously approved by the Board of Governors.

On May 22, 2022, KPU Communities Corporation (“KPUCC”), a wholly-owned subsidiary of KPU was incorporated as a separate legal entity and on June 1, 2022 a trust deed was executed and appointed KPUCC as trustee of KPU Communities Trust (the “Trust”). The purpose of the Trust is to create revenue generating opportunities to support academic endeavors and enhance student experience and well-being for KPU.

On June 14, 2022, the Board of Governors approved an operating loan, between KPU and KPUCC, to move forward with initial operations for the Trust.

A draft general security agreement (the “GSA”) was prepared between KPU and KPUCC (together, the “Parties”) in connection with the advance of an operating loan to protect KPU by giving a security

interest in the assets of KPUCC. The GSA also provides the terms and conditions and determines the representations, warranties, covenants and terms of repayment for any security interest identified in the GSA between the Parties. In 2022, a promissory note between KPU and KPUCC was agreed to that outlines the terms of the operating loan. KPU and KPUCC may enter into other security interest arrangements which would be documented in accordance with the terms and conditions of the GSA.

Key Messages

1. The GSA runs a five-year term and will be registered which will allow KPU to conduct collateral searches if needed.
2. Any security interest or loan pursuant to the GSA will be an arm's length transaction.
3. The GSA provides terms and conditions and security in the case of default for the promissory note which has already been executed.

Resource Requirements

N/A

Implications/Risks

In the event of a default, there is risk that KPU may not recover any or all indebted amounts or be able to sufficiently recall a security interest granted by KPUCC in the near future given the current status of the Trust.

Consultations

1. KPU - Office of General Counsel

Attachments

1. Draft General Security Agreement between Kwantlen Polytechnic University and Kwantlen Communities Corporation.

Submitted by

Chervahun Emilien, Chief Financial Officer

Date submitted

June 9, 2023

GENERAL SECURITY AGREEMENT

TO: Kwantlen Polytechnic University
(the “**Secured Party**”)

FROM: KPU Communities Corporation
(the “**Debtor**”)

1. DEFINITIONS

All capitalized terms used in this Agreement and in any schedules attached hereto shall, except where defined herein, be interpreted pursuant to their respective meanings when used in the *Personal Property Security Act* of British Columbia, as in force at the date of this Agreement, which Act including amendments thereto and any Act substituted therefor and amendments thereto is herein defined as the “**PPSA**”.

2. SECURITY INTEREST

As continuing security for the payment and performance of all debts, liabilities and obligations of the Debtor to the Secured Party howsoever arising (present and future, absolute and contingent, direct and indirect) (the “**Indebtedness**”) and for value received, the receipt and sufficiency of which the Debtor acknowledges, the Debtor grants, assigns, mortgages, pledges and charges, as and by way of a specific mortgage, pledge and charge, and grants a Security Interest to and in favour of the Secured Party in the undertaking of the Debtor and in all personal property of the Debtor referred to in Schedule A and in all Proceeds and renewals thereof, accessions thereto and substitutions therefor (the “**Collateral**”). The Debtor warrants and acknowledges to and in favour of the Secured Party that:

- (a) the parties intend the Security Interest hereby constituted in the Debtor’s existing property to attach upon execution and delivery hereof;
- (b) the parties intend the Security Interest created in after-acquired property of the Debtor to attach at the same time as the Debtor acquires rights in the said after- acquired property;
and
- (c) value has been given.

3. CONTINUOUS INTEREST

The mortgage, pledge, charge and Security Interest hereby created shall be a continuous charge notwithstanding the Indebtedness may be fluctuating and even may from time to time, and at any time, be, or have been, reduced to a nil balance and notwithstanding monies advanced may be repaid and further advances made to or to the order of the Debtor or in respect of which the Debtor is liable.

4. AUTHORIZED DEALING WITH COLLATERAL

Until Default, or until the Secured Party provides written notice to the contrary to the Debtor, the Debtor may deal with the Collateral in the ordinary course of the Debtor’s business in any manner not inconsistent with the provisions of this Agreement, provided that the Debtor may not, and agrees that it will not, without the prior written consent of the Secured Party:

- (a) sell or dispose of any of the Collateral otherwise than for fair market value in the ordinary course of the Debtor's business as it is presently conducted and for the purpose of carrying on that business, or
- (b) create, grant or incur any Security Interest, lien, assessment, mortgage, charge or encumbrance upon any of the Collateral which ranks or purports to rank, or is capable of being enforced in priority to or equally with the Security Interest granted under this Agreement, except Purchase Money Security Interests and Leases incurred in the ordinary course of the Debtor's business.

Nothing in this paragraph creates a postponement or subordination of any priority of the Secured Party in any of the Collateral in favour of any present or future holder of a security interest in any of the Collateral.

If the Collateral comprises any Securities, Chattel Paper, Instruments, Money or Documents of Title, the Debtor will, upon request, deliver the same to the Secured Party and will allow the Secured Party to retain possession of the same.

5. REPRESENTATIONS AND WARRANTIES OF THE DEBTOR

The Debtor hereby represents and warrants, and so long as this Agreement remains in effect shall be deemed to continuously represent and warrant, with the Secured Party that:

- (a) the Collateral is located in the Province of British Columbia unless otherwise indicated on Schedule B;
- (b) the Collateral, except as previously communicated to the Secured Party in writing, does not consist of goods that are of a kind that are normally used in more than one jurisdiction;
- (c) the Debtor's place of business, or if more than one place of business, the Debtor's chief executive office, is located in the Province of British Columbia;
- (d) the Collateral is owned by the Debtor free of all Security Interests, mortgages, liens, claims, charges or other encumbrances (hereinafter collectively called "**Encumbrances**"), save for those Encumbrances shown on Schedule C hereto;
- (e) each Account, Chattel Paper and Instrument constituting Collateral is enforceable in accordance with its terms against the party obligated to pay the same (the "**Account Debtor**") and the amount represented by the Debtor to the Secured Party from time to time as owing by each Account Debtor will be the correct amount actually and unconditionally owing from such Account Debtor;
- (f) the Debtor has full power and authority to conduct its business and own its properties in all jurisdictions in which the Debtor carries on business and has full power and authority to execute, deliver and perform all of its obligations under this Agreement;
- (g) this Agreement when duly executed and delivered by the Debtor will constitute a legal, valid and binding obligation of the Debtor, subject only that such enforcement may be limited by bankruptcy, insolvency and any other laws of general application affecting creditors' rights and by rules of equity governing enforceability by specific performance;

- (h) there is no provision in any agreement to which the Debtor is a party, nor to the knowledge of the Debtor is there any statute, rule or regulation, or any judgment, decree or order of any court, binding on the Debtor which would be contravened by the execution and delivery of this Agreement;
- (i) there is no litigation, proceeding or dispute pending, or to the knowledge of the Debtor threatened, against or affecting the Debtor or the Collateral, the adverse determination of which might materially and adversely affect the Debtor's financial condition or operations or impair the Debtor's ability to perform its obligations hereunder; and
- (j) the names of the Debtor are accurately and fully set out above, and the Debtor is not, and has never been, known by any other names.

6. COVENANTS OF THE DEBTOR

The Debtor hereby covenants with the Secured Party that:

- (a) the Debtor owns and will maintain the Collateral free of Encumbrances, except those described in Schedule B hereto, or hereafter approved in writing by the Secured Party prior to their creation or assumption, and will defend title to the Collateral for the benefit of the Secured Party against the claims and demands of all persons;
- (b) the Debtor will maintain the Collateral in good condition and repair and will not allow the value of the Collateral to be impaired, and will permit the Secured Party or such person as the Secured Party may from time to time appoint to enter into any premises where the Collateral may be kept to view its condition;
- (c) the Debtor will conduct its business in a proper and business-like manner and will keep, in accordance with generally accepted accounting principles, consistently applied, proper books of account and records of its business, and upon request will furnish access to its books and records at all reasonable times, and will give to the Secured Party any information which it may reasonably require relating to the Debtor's business;
- (d) the Debtor will punctually pay all rents, taxes, rates and assessments lawfully assessed or imposed upon any property or income of the Debtor and will punctually pay all debts and obligations to labourers, workmen, employees, contractors, subcontractors, suppliers of materials and other debts which, when unpaid, might under the laws of Canada or any province of Canada have priority over the Security Interest granted by this Agreement;
- (e) the Debtor will punctually make all payments and perform all obligations in any agreement charging the property of the Debtor and in any leases, licenses and other agreements to which the Debtor is a party so as to preserve and protect the Collateral and its value;
- (f) the Debtor will immediately give notice to the Secured Party of:
 - (i) any change in the location of the Collateral;
 - (ii) the details of any material acquisition or disposition of Collateral (whether authorized by the Secured Party or not);
 - (iii) any material loss of or damage to Collateral;

- (iv) the details of any claims or litigation affecting materially the Debtor or the Collateral;
or
- (v) any change of its name;
- (g) the Debtor will insure and keep insured against loss or damage by fire or other insurable hazards the Collateral to the extent of its full insurable value, and will maintain all such other insurance as the Secured Party may reasonably require. The loss under the policies of insurance will be made payable to the Secured Party as its interest may appear and will be written by an insurance company approved by the Secured Party in terms satisfactory to the Secured Party and the Debtor will provide the Secured Party with copies of the same. The Debtor will pay all premiums and other sums of money necessary for such purposes as they become due and deliver to the Secured Party proof of said payment, and will not allow anything to be done by which the policies may become vitiated. Upon the happening of any loss or damage the Debtor will furnish at its expense all necessary proofs and will do all necessary acts to enable the Secured Party to obtain payment of the insurance monies. Without limiting the foregoing, the Debtor will comply with all written instructions issued from time to time by the Secured Party regarding insurance coverage of the Debtor and the Collateral, at the Debtor's sole cost;
- (h) the Debtor will observe the requirements of any governmental authority with respect to the Collateral;
- (i) the Debtor will not remove any of the Collateral from British Columbia without prior written consent of the Secured Party;
- (j) the Debtor will not permit the Collateral to become affixed to real or other personal property without the prior consent of the Secured Party in writing, and will obtain and deliver to the Secured Party such waivers regarding the Collateral as the Secured Party may reasonably request from any owner, landlord or mortgagee of the premises;
- (k) the Secured Party may pay or satisfy any Encumbrance created in respect of any Collateral, or any sum necessary to be paid to clear title to such Collateral, and
- (l) the Debtor agrees to repay the same on demand, plus interest thereon at a rate equal to the highest rate of interest payable by the Debtor on any portion of the Indebtedness; and
- (m) the Secured Party may from time to time specify to the Debtor in writing affirmative covenants and restrictions to be performed and observed by the Debtor in respect of provision of financial information, payment of dividends, capital expenditures, incurring additional obligations, reduction of capital, distribution of assets, amalgamation, repayment of loans, lending of money, sale and other disposition of assets and/or such other matters as the Secured Party may think fit, and the Debtor agrees to perform and observe such affirmative and negative covenants and restrictions to the same extent and effect as if the same were fully set forth in this Agreement.

7. DEFAULT

The happening of any of the following shall constitute Default under this Agreement:

- (a) the Debtor fails to pay, when due, the Indebtedness or any part thereof or to perform when due any other obligation to the Secured Party, whether contained herein or in any other agreement with the Secured Party;
- (b) the Debtor fails when due to perform any obligation to any other person, and such failure is not cured within 30 days of the date the Debtor first knew or should have known of such failure;
- (c) any representation or warranty made in this Agreement or any other document or report furnished to the Secured Party in respect of the Debtor or the Collateral proves to have been or to have become false or materially misleading;
- (d) the Debtor ceases or demonstrates an intention to cease to carry on business or disposes or purports to dispose of all or a substantial part of its assets;
- (e) any of the licenses, permits or approvals granted by any government or any governmental authority and essential to the business of the Debtor is withdrawn, cancelled or significantly altered;
- (f) an order is made or a resolution passed for winding up the Debtor, or a petition is filed for the winding up, dissolution, liquidation or amalgamation of the Debtor;
- (g) the Debtor becomes insolvent or makes an assignment or proposal for the benefit of its creditors, or a Bankruptcy Petition or Receiving Order is filed or made against the Debtor, or a Receiver of the Debtor or any part of its property is appointed, or the Debtor commits or demonstrates an intention to commit any act of bankruptcy, or the Debtor otherwise becomes subject to the provisions of the Bankruptcy Act or any other Act for the benefit of its creditors;
- (h) any execution, sequestration, extent or distress or any other like process is levied or enforced, or becomes enforceable against any property of the Debtor, or a Secured Party takes possession of any of the Debtor's property;
- (i) any material adverse change occurs in the financial position of the Debtor; or
- (j) the Secured Party, in good faith and on commercially reasonable grounds, considers that it is insecure, or that the prospect of payment or performance by the Debtor of the Indebtedness is or is about to be impaired, or that the Collateral is or is about to be placed in jeopardy.

8. REMEDIES

On Default:

- (a) the Secured Party may seize or otherwise take possession of the Collateral or any part thereof and sell the same by public or private sale at such price and upon such terms as the Secured Party in its sole discretion may determine and the proceeds of such sale less all costs and expenses of the Secured Party (including costs as between a solicitor and its own client on a full indemnity basis) shall be applied on the Indebtedness and the surplus, if any, shall be disposed of according to law;

- (b) the Secured Party has the right to enforce this Agreement by any method provided for in this Agreement and as permitted by law, and to dispose of the Collateral by any method permitted by law, including disposal by lease or deferred payment;
- (c) the Secured Party may appoint any person or persons, whether an officer or employee or not of the Secured Party, to be a Receiver of any Collateral, and may remove any person so appointed and appoint another in his stead. The term “**Receiver**” as used in this Agreement includes a Receiver-Manager;
- (d) any Receiver will have the power:
 - (i) to take possession of any Collateral and for that purpose to take any proceedings, in the name of the Debtor or otherwise;
 - (ii) to carry on or concur in carrying on the business of the Debtor;
 - (iii) to sell or lease any Collateral;
 - (iv) to make any arrangement or compromise which it may think expedient in the interest of the Secured Party;
 - (v) to pay all liabilities and expenses connected with the Collateral, including the cost of insurance and payment of taxes or other charges incurred in obtaining, maintaining possession of and preserving the Collateral, and the same shall be added to the Indebtedness and secured by the Collateral;
 - (vi) to hold as additional security any increase or profits resulting from the Collateral;
 - (vii) to exercise all rights that the Secured Party have under this Agreement or otherwise at law; and
 - (viii) with the consent of the Secured Party in writing, to borrow money for the purpose of carrying on the business of the Debtor or for the maintenance or protection of the Collateral or any part thereof or for other purposes approved by the Secured Party, and any amount so borrowed together with interest thereon shall form a charge upon the Collateral in priority to the Security Interest created by this Agreement;
- (e) the Debtor hereby appoints each Receiver appointed by the Secured Party to be its attorney to effect sale or lease of any Collateral and any deed, lease, agreement or other document signed by a Receiver under his seal pursuant hereto will have the same effect as if it were under the seal of the Debtor;
- (f) any Receiver will be deemed to be the agent of the Debtor, and the Debtor will be solely responsible for his acts or defaults and for his remuneration and expenses, and the Secured Party will not be in any way responsible for any misconduct or negligence on the part of any Receiver;
- (g) neither the Secured Party nor the Receiver will be required to take any steps to preserve any rights against other parties pursuant to any Chattel Paper, Security, or Instrument constituting the Collateral or any part of it;

- (h) neither the Secured Party nor the Receiver is required to keep Collateral identifiable; or
- (i) the Secured Party may use the Collateral in any manner as it in its sole discretion deems advisable.

9. COLLECTION OF DEBTS

Before or after Default, the Secured Party may notify all or any Account Debtors of the Security Interest and may also direct such Account Debtors to make all payments on Collateral to the Secured Party. The Debtor acknowledges that any payments on or other proceeds of Collateral received by the Debtor from Account Debtors, whether before or after notification of this Security Interest to Account Debtors and after default under this Agreement, shall be received and held by the Debtor in trust for the Secured Party and shall be turned over to the Secured Party on request. The Debtor shall furnish the Secured Party with all information which may assist in the collection of all Accounts and any other monies or debts due to the Debtor.

10. SECURITIES

If Collateral at any time includes Securities, the Debtor authorizes and appoints the Secured Party as its attorney and agent to transfer the same or any part thereof into its own name or that of its nominee(s) so that the Secured Party or its nominee(s) may appear on record as the sole owner thereof; provided that, until Default, the Secured Party shall deliver promptly to the Debtor all notices or other communications received by it or its nominee(s) as such registered owner and, upon demand and receipt of payment of any necessary expenses thereof, shall issue to the Debtor or its order a proxy to vote and take all action with respect to such Securities. After Default, the Debtor waives all rights to receive any notices or communications received by the Secured Party or its nominee(s) as such registered owner and agrees that no proxy issued by the Secured Party to the Debtor or to its order as aforesaid shall thereafter be effective.

11. ACCELERATION

In the event of Default, the Secured Party, in its sole discretion, may without demand or notice of any kind, declare all or any of the Indebtedness which is not by its terms payable on demand, to be immediately due and payable.

12. NOTICE

Any notice or demand required or permitted to be made or given by the Secured Party to the Debtor may be validly served by leaving the same or by mailing the same by prepaid registered mail addressed to the Debtor at the last known address of the Debtor or of any officer or director thereof, as shown on the records of the Secured Party, and in the case of mailing such notice or demand shall be deemed to have been received by the Debtor on the third business day following the date of mailing.

13. COSTS AND EXPENSES

The Debtor agrees to pay all costs, charges and expenses reasonably incurred by the Secured Party or any Receiver appointed by it (including, but without restricting the generality of the foregoing, legal fees as between a solicitor and client on a full indemnity basis), in preparing, registering or enforcing this Agreement, taking custody of, preserving, repairing, maintaining, processing, preparing for disposition and disposing of Collateral and in enforcing or collecting the Indebtedness and all such costs, charges and expenses together with any monies owing as a result of any borrowing by the Secured Party or any Receiver appointed by it shall be a first charge on the proceeds of realization, collection or disposition of Collateral and shall be secured hereby.

14. MISCELLANEOUS

- (a) Without limiting any other right of the Secured Party, whenever the debts and liabilities of the Debtor to the Secured Party are immediately due and payable, or the Secured Party has the right to declare the debts and liabilities to be immediately due and payable, whether or not it has been so declared, the Secured Party may, in its sole discretion, set-off against the debts and liabilities any and all monies then owed by the Secured Party to the Debtor in any capacity, whether due or not due, and the Secured Party shall be deemed to have exercised such right of set-off immediately at the time of making its decision to do so even though any charge therefor is made or entered on the Secured Party' records subsequent thereto.
- (b) The Secured Party may grant extensions of time and other indulgences, take and give up security, accept compositions, compound, compromise, settle, grant releases and discharges and otherwise deal with the Debtor, sureties and others and with Collateral and other security as the Secured Party may see fit without prejudice to the liability of the Debtor or the Secured Party' right to hold and realize the Security Interest. The Secured Party may demand, collect and sue on Collateral in either the Debtor's or the Secured Party' name, at the Secured Party' option, and may endorse the Debtor's name on any and all cheques, commercial paper, and any other Instruments pertaining to or constituting Collateral.
- (c) Upon the Debtor's failure to perform any of its duties under this Agreement, the Secured Party may, but shall not be obligated to, perform any such duties, and the Debtor will pay to the Secured Party, upon demand, an amount equal to the expense incurred by the Secured Party in so doing with interest thereon from the date such expense is incurred at a rate equal to the highest rate of interest payable by the Debtor on any portion of the Indebtedness.
- (d) This Agreement shall enure to the benefit of and be binding upon the parties hereto and their respective successors and assigns. In any action brought by an assignee of this Agreement or the Security Interest created hereunder or any part thereof, the Debtor shall not assert against the assignee any claim or defence which the Debtor now has or hereafter may have against the Secured Party.
- (e) If more than one person executes this Agreement as the Debtor the obligations of such persons hereunder shall be joint and several.
- (f) This Agreement is in addition to and not in substitution for any other security or securities now or hereafter held by the Secured Party and all such other securities shall remain in full force and effect.
- (g) The Debtor further agrees to execute and deliver to the Secured Party such further assurances and conveyances and supplemental deeds as may be necessary to properly carry out the intention of this Agreement, as determined by the Secured Party, or as may be required by the Secured Party from time to time.
- (h) After Default, the Secured Party may from time to time apply and re-apply, notwithstanding any previous application, in any such manner as it, in its sole discretion, sees fit, any monies received by it from the Debtor or as a result of any enforcement or recovery proceedings, in or toward payment of any portion of the Indebtedness.

15. INTERPRETATION

- (a) If a portion of this Agreement is wholly or partially invalid, then this Agreement will be interpreted as if the invalid portion had not been a part of it.
- (b) Where the context so requires, the singular number shall be read as if the plural were expressed and the provisions hereof shall be read with all grammatical changes necessary depending upon the person referred to being male, female, or body corporate.
- (c) The last day of any term reserved by any lease or agreement to lease is excepted out of the Security Interest hereby created and does not form part of the Collateral, but the Debtor shall stand possessed of such last day in trust to assign same to any person acquiring such term.
- (d) This Agreement will be interpreted in accordance with the laws of the Province of British Columbia, and the Debtor irrevocably agrees that any suit or proceeding with respect to any matters arising out of or in connection with this Agreement may be brought in the courts of the Province of British Columbia or in any court of competent jurisdiction, as the Secured Party may elect, and the Debtor agrees to attorn to the same.

16. COPY OF AGREEMENT

The Debtor hereby acknowledges receipt of a copy of this Agreement, and waives any right it may have to receive a Financing Statement, Financing Change Statement, or Verification Statement relating to it.

IN WITNESS WHEREOF the Debtor has executed this Agreement effective this __ day of _____, 2023.

KPU COMMUNITIES CORPORATION

Per: _____
Authorized Signatory

Per: _____
Authorized Signatory

SCHEDULE A

All of the Debtor's present and after acquired personal property (including but not limited to Equipment, Inventory, Accounts, Chattel Paper, Documents of Title, Goods, Intangibles, Investment Property, Money and Fixtures) and any proceeds thereof.

SCHEDULE B

N/A

SCHEDULE C

N/A

DRAFT

BOARD OF GOVERNORS - REGULAR MEETING

Agenda Number: #9.4

Meeting Date: June 28, 2023

Presenter(s): Brent Elliott

AGENDA TITLE: Maple Leaf Education North America Licence Agreement

ACTION REQUESTED: Motion

RECOMMENDED RESOLUTION

THAT the Board Finance Committee approve the renewal of an existing Licence Agreement between the Maple Leaf Education North America (“MLENA”) and KPU, for the term July 31st 2023 to July 31st 2024, having determined that the licenced disposal will not affect the future delivery of educational programs, for recommendation to the Board of Governors.

COMMITTEE REPORT

At its meeting on June 20, 2023, the Board Finance Committee recommended that the Board of Governors approve the renewal of an existing Licence Agreement between the Maple Leaf Education North America (“MLENA”) and KPU, for the term July 31st 2023 to July 31st 2024, having determined that the licenced disposal will not affect the future delivery of educational programs.

Context and Background

Background:

In 2017, KPU entered into a Licence Agreement with Maple Leaf Education North America (“MLENA”) for 3,345 sq.ft. of classroom and office spaces within KPU’s Richmond Campus, at a rate of \$107,222/annum in Base Rent (\$32.05/sq. ft.), plus an additional \$12,115/annum in Operating Fees. The duration of the first Licence term was from July 31st 2017 to July 31st 2020. Starting in 2019, MLENA also began occupying an additional 1,065 sq.ft. of classroom space within the KPU Richmond campus, administered through a separate Facility Rental Agreement, bringing their total licenced floorspace to 4,410 sq.ft.

Within this first original Licence Agreement, a clause stated that KPU and MLENA would come to an agreement on whether a permanent facility for MLENA would be established on land owned by KPU by the end of the first Licence term. During initial discussions with KPU, MLENA had identified it was looking for a site which is approximately 10 acres. After internal investigations and thorough

discussions, it was established that none of KPU's available lands would be suitable for this use. This clause was eventually removed from the Agreement.

Following the expiry of the first Licence term in July 2020, a new Licence Agreement was created for the term July 31st 2020 to July 31st 2023. This new Agreement consolidated the additional 1,065 sq.ft. of space MLENA had previously been renting through the Facility Rental Agreement. To protect KPU's financial interests in the long term, a new clause was added to the second Licence Agreement stipulating that MLENA's fees would be increased annually by the Consumer Price Index ("CPI") rate published by Statistics Canada. Based on this new formula, the rental rates outlined under the second Licence Agreement were \$152,415.84 in Base Rent, and \$26,339.40 in Additional Fees for the first year, with the fees for the second and third year increasing proportionally by the published CPI rate. This second Licence Agreement was approved by KPU's Board of Governors at its meeting on June 24th 2020.

Discussion:

On March 27th 2023, Campus and Community Planning ("CCP") met with the new appointed President of MLENA to understand their interest in renewing the Licence Agreement for a third term. Previously, it had been concluded through discussions with KPU Executives that the space occupied by MLENA was not required for any immediate KPU program needs. While MLENA expressed definite interest in a renewal, it was also shared with KPU that MLENA would prefer to reduce its rented floor space by relinquishing the 1,065 sq.ft. of additional space which was added in the second Licence Agreement. Additionally, MLENA requested that the renewal term be for 1 year instead of 3, with two options for further 1-year renewals.

CCP has worked with KPU's external counsel and Organizational Risk Management department to revise the Licence Agreement to reflect these changes, creating a Second Amended and Restated Licence. Specifically, the following amendments represent the material changes made to the Agreement:

- The new Licence term has been set for 1 year, starting from July 31st 2023 to July 30th 2024;
- 2 options for a 1-year renewal have been added at MLENA's discretion, with written notification to KPU no longer than 6 months prior to the end date of each new term;
- The rental area outlined within the License Agreement has removed Offices 1810 and 1800 (totaling 1,065 sq.ft.), bringing the licenced area to 3,345 sq.ft.;
- The Annual Fees and Additional Fees have been revised to reflect the new square footage, subject to increase based on the latest published CPI rate published by Statistics Canada. Taking into account the annual CPI rate and the now reduced square footage, the anticipated Licence Fees for the new term July 31st 2023 to July 31st 2024 are as follows:
 - Annual Base Rent: \$124,628.69
 - Additional fees: \$21,537.43
- The Insurance section was revised to require that MLENA ensure that its subcontractors are fully insured, and that KPU be named as an additional insured with respect to any liability arising in the course of the subcontractor's obligations or performance;

- Fees for printing and copying have been updated based on the new rates published by the KPU Library;
- The correct address for MLENA has been updated; and
- The names of both KPU's and MLENA's signatories have been updated to reflect staffing changes.

Next Steps:

In terms of next steps, and with the Board's approval, CCP will prepare and submit a request to the Ministry of Post-Secondary Education and Future Skills ("PSFS"), for their approval to dispose of KPU's interest in the 3,345 sq. ft. of land through this Licence Agreement, as was previously completed in 2017 and 2020. The application to PSFS, following the Capital Asset Reference Guide ("CARG"), will consist of:

1. A copy of the proposed Licence Agreement;
2. A copy of the survey plan with the property to be disposed clearly outlined in red;
3. A legal description of the property including measurements;
4. A Board Resolution approving the request;
5. A Board-approved statement declaring that "the disposal will not affect the future delivery of educational programs";
 - *Please note: Items 4 and 5 can be combined through the recommended Board resolution above, attached to the CARG Package as an Extract of the Minutes.*
6. A statement from the Institution declaring that "the agreement(s) have been vetted by their legal advisor to ensure full protection of the Institution's rights and interests"; and
 - *Please note: A confirmation letter from KPU's General Counsel will be obtained and attached for this request.*
7. A First Nations Consultation Record if applicable.
 - *Please note: This requirement is not applicable to this request as the licensed areas are rooms within KPU's Richmond campus, not an individual land holding.*

KPU will be able to execute the agreement upon receipt of PSFS' approval.

Key Messages

1. MLENA has been licencing classroom and office spaces at KPU Richmond since July 31st 2017. Approval from the Board Finance Committee and the KPU Board of Governors is needed to extend this agreement for a 1-year term (July 31st 2023 to July 31st 2024) with an option for a 1-year renewal.

2. This disposal of interest in KPU's property through this Licence Agreement will require approval from the Ministry of Post-Secondary Education and Future Skills ("PSFS") through a CARG package, as was previously completed in 2017 and 2020.

Resource Requirements

Approval from the Board Finance Committee and the KPU Board of Governors is needed to extend this agreement for a 1-year term (July 31st 2023 to July 31st 2024), with 1 option for a 1-year renewal.

A CARG Package will need to be submitted to PSFS to obtain their approval over this disposition of KPU's lands, following approval from the Board of Governors.

Implications/Risks

The licensed use of the space within KPU's Richmond campus by MLENA generates a consistent annual source of revenue for KPU, yet poses a loss of some usable space within the Richmond campus for KPU for any future programs. MLENA's relinquishment of Offices 1800 and 1810 at KPU Richmond gives back 2 large classrooms for KPU's academic use.

Consultations

Consultations were completed with KPU's Organizational Risk Management Department, and KPU's external counsel.

Attachments

1. New Proposed Second Amended and Restated Licence Agreement between KPU and MLENA, dated May 31st 2023.

Submitted by

Natalia Finlay, Divisional Business Manager, Campus & Community Planning

Brent Elliott, Interim Associate Vice President, Campus & Community Planning

Peter Smailes, Vice President, Administration

Date submitted

June 9th 2023

SECOND AMENDED AND RESTATED LICENSE

This Agreement is made as of _____

BETWEEN: KWANTLEN POLYTECHNIC UNIVERSITY
12666 72nd Avenue, Surrey, BC V3W 2M8
(herein "KPU")

AND: MAPLE LEAF EDUCATION NORTH AMERICA LTD.
Room 1850 8771 Lansdowne Road Richmond, BC V6X 3X7
(herein "MLENA")

WHEREAS KPU is a special purpose teaching university established in British Columbia, Canada under the *University Act*, with campuses in Richmond, Surrey, Cloverdale and Langley;

AND WHEREAS MLENA is a company incorporated in British Columbia and is a wholly owned subsidiary of China Maple Leaf Educational Systems Ltd. ("CMLES");

AND WHEREAS CMLES operates high schools in China that are certified by the British Columbia government;

AND WHEREAS CMLES and MLENA desire to establish new secondary schools in North America and desire to establish a secondary school to be known as the Maple Leaf School-KPU (the "School") on KPU's campus in Richmond ("KPU Richmond") in order to assess whether they wish to establish a permanent secondary school on land owned by KPU;

AND WHEREAS the British Columbia Ministry of Education has approved the creation of the School;

AND WHEREAS KPU desires to work with MLENA with regard to the establishment of the School at KPU Richmond;

AND WHEREAS KPU and MLENA entered into a License dated May 31, 2017 (the "Original License") and an Amended and Restated License dated May 25th 2020 (the "First Amended and Restated License" and now wish to amend and restate the First Amended and Restated License by entering into this Second Amended and Restated License (the "Agreement").

NOW THEREFORE in return for the mutual promises set out below the parties agree as follows:

PART 1: CONTENT, TERM AND EXCLUSIVITY

1.1 Content

This Agreement has five Parts, plus one Schedule as follows:

Part 1: Content, Term and Exclusivity
Part 2: License of Premises
Part 3: Services to be Provided by KPU
Part 4: Obligations of MLENA
Part 5: General
Schedule A: Premises

1.2 Term

The term of the Original License was for three years commencing on July 31, 2017 and ceasing on July 30, 2020, which was extended by three additional years, ceasing on July 30, 2023. By

this Agreement, the term is extended by one year, from July 31, 2023 to July 30, 2024 (the "Term").

Provided in each case that MLENA is not then in default of this Agreement, MLENA shall have two options to extend the Term, in each case by one year, firstly from July 31, 2024 to July 30, 2025, and then from July 31, 2025 to July 30, 2026, in each case on the same terms and conditions of this Agreement, except (a) this option to extend the term shall be deemed deleted after the second such extension; and (b) the Annual Fee and Additional Fees (defined in Section 2.6 below) for each extended Term will be increased in each successive case by the latest annual inflation rate available and published by Statistics Canada as the Consumer Price Index specifically for British Columbia.

The first such option to extend must be exercised by written notice by MLENA to KPU on or before January 31, 2024, and the second such option to extend must be exercised by written notice by MLENA to KPU on or before January 31, 2025.

Each exercise of the option to extend is solely within MLENA's control, and nothing contained in this Agreement obligates or requires KPU to remind MLENA to exercise the option to extend. KPU's acceptance of any future Fees for the extended term will in no way be deemed a waiver of the requirement for MLENA to have given notice within the time limit specified in this section for extending the Term.

1.3 Exclusivity of Agreement

KPU confirms that this Agreement with MLENA provides MLENA with the exclusive right to operate a secondary school at KPU Richmond and for the duration of this Agreement KPU will not enter into any discussions with other educational providers to establish a K-12 school, either public or independent, at KPU Richmond.

1.4 KPU Board Approval

MLENA acknowledges and agrees that this Agreement is subject to the approval of the KPU Board of Governors by or before June 28th 2023. This condition is for the sole benefit of KPU, and may be removed or waived at any time. If the subject condition is not satisfied or waived within the time stipulated, then KPU will have no further obligation in connection with this Agreement and the First Amended and Restated License shall continue unamended until the expiry of the Term as defined in the First Amended and Restated License. In consideration of \$10.00 to be paid by KPU to MLENA and other good and valuable consideration, the receipt and sufficiency of which are acknowledged by MLENA, MLENA agrees not to revoke its agreement to this Agreement while it remains subject to the foregoing condition precedent.

PART 2: LICENSE OF PREMISES

2.1 License

KPU does hereby license to MLENA the space in the main building, KPU Richmond (the "Building") as outlined on Schedule A: Premises (the "Premises"), and MLENA accepts the license of the Premises on the terms set out in this Agreement. For greater certainty, under the Original License, the Premises was comprised of the area shown on page 1 and was expanded under the First Amended and Restated License to include Offices 1800 and 1810. Under this Agreement, the Premises shall exclude Offices 1800 and 1810. On the expiry of the term of the First Amended and Restated License, MLENA shall surrender possession of Offices 1800 and 1810 in compliance with Section 2.12 and 3.2 of the First Amended and Restated License.

MLENA will have exclusive use of the classrooms, office space, storage room and meeting

space that form part of the Premises and non-exclusive use of the hallway space that forms part of the Premises. The license created hereby is a contractual obligation only and does not constitute an interest in land that may be registered in the British Columbia Land Title Office.

2.2 Use of Premises

MLENA shall use the Premises only for the purpose of MLENA's office and for offering secondary school education to students in grades 10-12 and for no other purposes without KPU's consent, which consent may be withheld in KPU's sole discretion. The number of students will not exceed the KPU or BC Ministry of Education per student space requirements, whichever requirement is more restrictive.

2.3 Access by MLENA

MLENA, its students, teachers, administrators, contractors and invitees will be entitled to access the Premises, and the laboratories described in Section 3.6, and the cafeteria and library at KPU Richmond, only during the hours that KPU Richmond is open. Access by MLENA's contractors and invitees to facilities other than the Premises will be subject to the prior written approval of KPU acting reasonably. In the event that MLENA requires access to the Premises at times outside the normal opening hours of KPU Richmond, KPU will seek to accommodate such access subject to KPU's operational needs and requirements, including security requirements. Further, KPU hereby grants a license to MLENA, its students, teachers, administrators, contractors, and invitees over the common areas of the Building and KPU Richmond for the purposes of access to and from the Premises and the use of the public washroom facilities.

2.4 Renovations/Redecorations for MLENA

MLENA accepts the Premises on an as is/where is basis. Any future renovations/reddecorations of the Premises, and the costs therefore, may be agreed upon by the parties from time to time, and no such additional renovations/reddecorations will proceed unless and until such agreement is reached.

2.5 Furniture

MLENA will, at its sole cost and expense, provide all furniture and equipment for use in the Premises, unless otherwise provided in this Agreement or agreed to in writing by KPU. MLENA will comply with KPU's reasonable requirements with respect to the moving in and out of such furniture and equipment.

2.6 License Fee

Pursuant to the First Amended and Restated License, MLENA paid KPU an annual license fee (the "Annual Fee") as set out in Table 1 below, without any prior demand and without any deduction, abatement or set-off whatsoever.

In addition to the Annual Fee, MLENA paid to KPU as annual additional fees (the "Additional Fees") the amounts set out in Table 1 below. The Additional Fees include:

- costs of garbage collection and janitorial services including the janitorial services outlined in Section 3.8;
- costs of maintenance, repair and operation of the Premises and the Building including the common areas that MLENA is permitted to use pursuant to this Agreement,
- costs associated with the provision of domestic water, electrical power, sanitary sewer, heating, ventilating and air conditioning including the utilities outlined in Section 3.8;
- security services as outlined in Section 3.10;
- costs of snow removal; and
- IT services relating to KPU purchased and installed technology as outlined in Section 3.3.

(The Additional Fees together with the Annual Fee, the “Fees”).

TABLE 1

Annual Fees Paid by MLENA to Date - License Agreement Dated Jul. 2017 (3,345 SF)

	Annual Fee	Additional Fees	GST	Total Paid	Inflation Increase from Previous Year
07/31/2017 - 07/30/2018	\$107,222.04	\$12,114.96	\$5,966.85	\$125,303.85	-
07/31/2018 - 07/30/2019	\$109,398.64	\$15,022.55	\$6,221.06	\$130,642.25	2.03%
07/31/2019 - 07/30/2020	\$113,008.72	\$19,529.36	\$6,626.90	\$139,164.98	2.20%
	<u>\$329,629.40</u>	<u>\$46,666.87</u>	<u>\$18,814.81</u>	<u>\$395,111.08</u>	

Rental Fees Paid by MLENA to Date - Facility Rental Agreement Dated Aug. 2019 (1,065 SF)

	Annual Fee	Additional Fees	GST	Total Paid
09/01/2019 - 06/30/2020	\$30,734.68	\$4,343.06	\$1,753.89	\$36,831.63

Annual Fees Paid by MLENA to Date - License Agreement Dated Jul. 2020 (4,410 SF)

	Annual Fee	Additional Fees	GST	Total Paid	Inflation Increase from Previous Year
07/31/2020 - 07/30/2021	\$152,415.84	\$26,339.40	\$8,937.76	\$187,693.00	2.50%
07/31/2021 - 07/30/2022	\$155,979.36	\$26,955.24	\$9,146.73	\$192,081.33	2.34%
07/31/2022 - 07/30/2023	\$164,308.68	\$28,394.64	\$9,635.17	\$202,338.49	5.34%
	<u>\$472,703.88</u>	<u>\$81,689.28</u>	<u>\$27,719.66</u>	<u>\$582,112.82</u>	

MLENA shall pay to KPU the Annual Fee and Additional Fees for the period of July 31, 2023 to July 30, 2024 as set out in Table 2.

TABLE 2

Annual Fees To Be Paid by MLENA - License Agreement Dated Jul. 2023 (3,345 SF)

	Annual Fee	Additional Fees	GST	Total Due	Inflation Increase from Previous Year
07/31/2023 - 07/30/2024	\$124,628.69	\$21,537.43	\$7,308.31	\$153,474.43	5.34%*

* Subject to increase based on Consumer Price Index (CPI) determined at the beginning of each respective year.

Inflation will be calculated by using the rates that have been officially recognized and published by Statistics Canada as the Consumer Price Index specifically for British Columbia. This adjustment will use the latest annual rate available (i.e. as of the end of December of the previous year).

The Annual Fee and Additional Fees are payable in advance in equal monthly installments plus GST on the fifteenth day of each month during the Term of this Agreement.

2.7 Payment of Fees

The Fees and any other amount payable by MLENA to KPU under this Agreement shall be paid at KPU's address specified in Section 5.13 or at such other place as shall be designated by KPU in writing to MLENA. If requested by KPU, MLENA will provide KPU with payments for the amounts of the Fees which are payable under this Agreement via electronic funds transfer to a KPU account of KPU's choosing on or before the date such payments are due.

2.8 Property Tax

In the event that the applicable municipal authority assesses KPU any property taxes in respect of the Premises, MLENA will promptly reimburse KPU the full amount of such property taxes paid by KPU for each year that such property taxes are so assessed.

2.9 No Damage

MLENA will not do or permit to be done anything which damages the Premises, the Building, KPU Richmond or any portion thereof. In the event of any damage to the Premises, the Building or KPU Richmond or any improvement, fixture or equipment/furniture in the Premises that is the property of KPU is caused by MLENA or those for whom it is responsible for at law, then MLENA shall immediately, upon the request of KPU, repair such damage to the satisfaction of KPU. MLENA will not cause, or permit to be caused, any conduct which constitutes or, in the reasonable opinion of KPU, could constitute a nuisance to KPU or unreasonably disturb the use of the Building or KPU Richmond by anyone else. MLENA will keep the Premises in a neat and tidy condition, will not permit any refuse, recycling or debris to accumulate and will dispose of such refuse, recycling and debris in designated containers.

2.10 Right to Enter

KPU and any employee or agent of KPU will be entitled, at any reasonable time outside of the school hours of MLENA, and at any time during an emergency, to enter upon the Premises and examine the state of maintenance, repair and order of the Premises and all equipment and fixtures within the Premises. Further, KPU will be permitted to access the Premises for the purposes of maintenance and repair of any common facilities servicing the Building provided that KPU, except in the case of an emergency, will complete such work outside of the normal school hours of MLENA.

2.11 Improvements by MLENA

MLENA shall not make or cause to be made or erect in or to the Premises any installations, alterations, additions or partitions without submitting plans and specifications to KPU and obtaining KPU's prior written consent in each instance. Any work that is approved shall be carried out by MLENA in a good and workmanlike manner.

2.12 Removal and Restoration by MLENA

Upon the expiration or termination of this Agreement MLENA may remove any goods and equipment brought onto the Premises by MLENA and MLENA will repair any damage caused by such removal. No installations, improvements or alterations made to the Premises by either MLENA or KPU (at the request of MLENA) may be removed without KPU's prior written consent. Notwithstanding the foregoing, and subject to Section 3.2, upon the expiration or termination of this Agreement, KPU may require that MLENA remove installations, improvements or alterations made by MLENA or by KPU (at the request of MLENA) at MLENA's sole cost and may further require that MLENA repair any damage to the Premises occasioned by such removal. At the expiration or sooner termination of the Term, MLENA will leave the Premises in a neat, tidy, good and reasonable state of repair (reasonable wear and tear excepted).

2.13 Signage

MLENA will post signs on all doors to the classrooms and offices that comprise the Premises indicating that the Premises are occupied by the School and that only authorized access is permitted. MLENA will not post any other signs, pictures, notices or lettering visible from outside the Premises without first obtaining the consent in writing of KPU, which consent may be given subject to the parties agreeing to cost and responsibility for design, manufacturing, permitting, installation, maintenance, repair and replacement of same. Notwithstanding the foregoing, KPU recognizes and acknowledges that work product created by MLENA students as part of their schoolwork in classrooms may be visible through the classroom windows and can be displayed without the prior consent of KPU. The graphic design work of all signage is subject to prior written approval of KPU, which approval will not be unreasonably withheld.

2.14 Destruction of Premises

If the Premises are damaged or destroyed by any cause whatever, KPU will promptly commence repairs or rebuilding of the Premises. If, in the opinion of KPU's Executive Director of Facilities, acting reasonably, the Premises cannot be rebuilt or made fit for the purposes of MLENA under this Agreement within 90 days of the damage or destruction, then KPU, instead of repairing or rebuilding the Premises, or MLENA, instead of agreeing to await the repairing or rebuilding of the Premises, may terminate this Agreement including the License of Premises in Part 2 above by giving 30 days' written notice of termination to the other party. Upon expiration of such notice MLENA shall pay Fees up to the date of the damage to the Premises or if MLENA has prepaid Fees for a period after the date of the damage then MLENA shall be entitled to be repaid any such prepaid Fees for such period. If any damage renders the Premises unusable, in whole or in part, a proportionate abatement of the Fees shall be allowed from the date when the damage occurred until the date KPU completes such work.

2.15 Space Rental

If MLENA wishes to use space at KPU Richmond outside of the Premises and other facilities described herein that are available for booking by the public, MLENA will follow the KPU external room booking procedures then in place. MLENA will be entitled to the preferred partner discount then in place in relation to such bookings.

2.16 Continuous Occupancy

MLENA will utilize the entire Premises in the active and continuous operation of its business throughout the Term. Notwithstanding the foregoing, MLENA may reduce or cease active and continuous operation during the months of July and August, during statutory holidays in the Province of British Columbia, and during school holidays typically taken by secondary schools in the Province of British Columbia (such as Christmas break and Spring break). During any period that MLENA is permitted to reduce or cease active and continuous operation pursuant to this Section 2.16, KPU acknowledges and agrees that MLENA continues to have exclusive use of the Premises during such period.

PART 3: SERVICES TO BE PROVIDED BY KPU

3.1 WiFi

KPU will provide WiFi connectivity to the Premises at a level consistent with that provided to KPU users at KPU Richmond. MLENA will not install or use any wireless routers at the Premises. KPU will provide MLENA students, teachers and administrators with login credentials in order to access the WiFi at the Premises once they have completed a training session to be held with all such students, teachers and administrators (such session not to exceed 2 hours in length).

3.2 Digital-Ready Classroom

KPU will install equipment in order for the classrooms which form part of the Premises to be

digital-ready at a level consistent with that provided to KPU users at KPU Richmond (the "Technology Work"). The cost of the Technology Work will be paid by MLENA, and the exact equipment and timetable for installation will be agreed upon by MLENA and KPU prior to installation. MLENA students, teachers and administrators will use their own laptops in order to access the data projectors that are installed by KPU in such classrooms. MLENA will not install any additional hardware in such classrooms without the prior written approval of KPU. KPU will provide MLENA students, teachers and administrators with login credentials in order to access the equipment which is installed in such classrooms once they have completed a training session to be held with all such students, teachers and administrators (such session not to exceed 2 hours in length). Upon termination or expiration of this Agreement, MLENA will remove all equipment installed by KPU pursuant to this section 3.2 and repair any damage caused by MLENA as a result of such equipment removal at MLENA's cost, or, at KPU's option, will sell such equipment to KPU at a price to be agreed upon (taking reasonable depreciation into account).

3.3 Information Technology Services

KPU will provide access to MLENA teachers and administrators to use print and copy services at KPU Richmond. MLENA will be charged on a per page basis for printing and copying services at a rate of C\$0.10 per black and white page and C\$0.25 per colour page. Within fourteen (14) days of delivery of an invoice for printing and copying services to MLENA, MLENA will pay to KPU the amount set forth in such invoice. MLENA will not install any printers, scanners or other devices on the KPU network without KPU's prior written approval. If such approval is obtained, KPU will provide MLENA with reasonable support to connect and support these devices on the KPU network. The cost for such support is included in the Additional Fees outlined in Section 2.6.

3.4 Housing/Gym Access

MLENA acknowledges and agrees that KPU Richmond does not have a gym or student residence. As such, MLENA will be responsible for arranging any necessary or desired services relating to gym access and housing placement for its students, teachers and administrators.

3.5 Library Access

MLENA, its students, teachers and administrators will have access to the Coast Capital Savings Library at KPU Richmond (the "Library"). KPU will provide each MLENA student with a library card that will entitle him/her to borrow materials from the Library. Prior to the issuance of such library cards KPU and MLENA will agree upon appropriate privacy safeguards in relation to such cards and the sharing of information between KPU and MLENA, if any, which is necessary for the issuance of such cards. MLENA students will only access the Library under the supervision of a MLENA teacher or administrator. A KPU librarian, designated by KPU, will act as the liaison between the MLENA students, teachers and administrators and the staff in the Library. Fees for lost materials, damaged materials, or late return of materials will be charged to MLENA students in the normal course by KPU. If such fees are not paid by the deadline provided to a MLENA student, then MLENA shall be responsible for paying the outstanding fee(s) to KPU.

3.6 Science Lab Access

MLENA students, under the supervision of MLENA's science teacher, will be allowed reasonable use of KPU science labs during times when those labs are not in use by KPU students. Prior to the beginning of each school year during the Term of this Agreement, the hours of such access by MLENA students, teachers and administrators will be agreed upon between KPU and MLENA. KPU will provide MLENA with lab supplies and equipment required by such students, teachers and administrators for carrying out the academic requirements of

the School's science classes. KPU will then invoice MLENA for the cost of these supplies and MLENA will be responsible for the cost of any breakage. MLENA will pay such amounts within thirty (30) days of an invoice therefor. By the date that is thirty (30) days prior to the start of each semester during the Term, MLENA will prepare a list of supplies needed to meet the curriculum requirements of MLENA and provide this list to the appropriate science liaison at KPU. MLENA's science teacher is responsible for his/her own lab setup, take down and clean up and will be responsible to ensure that the lab is left in the same condition it was in upon arrival. All MLENA teachers who will have access to the KPU science labs will have undertaken appropriate lab safety training.

3.7 Parking

KPU offers monthly, semester and annual parking permits. MLENA students, teachers and administrators will be able to purchase permits online at <http://www.kpu.ca/parking-transit/permits>.

3.8 Utilities and Janitorial Services

KPU will provide heat, light and air conditioning to the Premises during normal business hours. KPU will provide janitorial services to the Premises at a level consistent with that provided at KPU facilities. The cost for such janitorial services is included in the Additional Fees outlined in Section 2.6.

3.9 Other Services

MLENA may make its own arrangements with the external third party provider that provides food services to KPU at KPU Richmond. Any such arrangement will be subject to KPU's prior written approval. MLENA may not permit any third party services provider to provide any services to the Premises without KPU's prior written approval.

3.10 Security

KPU will provide security services to the Premises at a level consistent with that provided at KPU facilities. The cost for such security services is included in the Additional Fees outlined in Section 2.6.

3.11 Privacy Compliance

KPU will treat personal information of MLENA students, teachers and administrators, whether supplied by MLENA or an individual directly, in accordance with the *BC Freedom of Information and Protection of Privacy Act*, as amended from time to time.

PART 4: OBLIGATIONS OF MLENA

4.1 Recruitment

MLENA acknowledges that it will be solely responsible for marketing, recruiting and selecting all students entering the School.

4.2 MLENA Students

MLENA students will be required to wear a school uniform at all times. Other than for visits to the washrooms, the cafeteria and the bookstore at KPU Richmond, MLENA students will not leave the Premises to attend at other parts of KPU Richmond during School hours without being accompanied by a MLENA teacher or administrator. MLENA acknowledges that the arrangements contemplated by the Agreement will result in the School's students, who are minors, being present on the campus of KPU where the students are predominantly adults.

4.3 MLENA's Personnel

MLENA is solely responsible for all aspects of employment and labour relations in connection

with its workforce. All of MLENA's employees shall be under the direct management and sole supervision of MLENA. MLENA shall be responsible for all of its own payroll functions and shall pay in a timely manner all salaries and benefits, taxes, employment insurance premiums, Canada Pension Plan premiums or contributions, Workers Compensation Act assessments and any other assessments or contributions that are payable to any governmental authority in respect of MLENA's employees.

4.4 MLENA Policies

MLENA acknowledges that it will be responsible for the behavior and wellbeing of the School's students, teachers, administrators, contractors and invitees while at KPU Richmond and/or on KPU property. Without limiting the generality of the foregoing, MLENA acknowledges that it is MLENA's responsibility to establish, implement and enforce appropriate policies and procedures to govern the conduct of MLENA's students, teachers, administrators, contractors and invitees while attending the School or accessing the Premises and other facilities covered by this Agreement.

4.5 KPU Policies

MLENA agrees to comply with, and to cause its students, teachers, administrators, contractors and invitees to comply with, all of KPU's policies of general application that are not inconsistent with this Agreement, including without limitation the following policies:

- IM3, Information and Educational Technology Usage Policy
- SR1, Consumption of Alcoholic Beverages and the Non-Medical Use of Drugs on University Premises;
- SR3, Smoke Free Campuses and Properties;
- SR7, Safety and Health; and
- SR8, Emergency Response to Inappropriate, Disruptive or Threatening Behavior.

KPU will provide copies of all applicable policies to MLENA for distribution to all MLENA employees and will provide MLENA with any updates or revisions to such policies.

4.6 Comply with Laws

MLENA shall comply with all applicable law including, without limitation, the *British Columbia Labour Relations Code*, the *Human Rights Code*, the *Employment Standards Act*, the *Workers Compensation Act* and the *Occupational Health and Safety Regulations* as amended from time to time. MLENA will obtain and maintain the status of the School as a Group 4 Independent School under the approval of the BC Ministry of Education in accordance with the *Independent School Act, BC* and shall obtain and maintain all approvals and/or accreditation requirements in respect of the School. MLENA will be solely responsible for ensuring that the School meets all of the BC Ministry of Education inspection and other requirements under the *Independent School Act, BC* or other applicable legislation.

4.7 Criminal Records Check

MLENA shall ensure that at all times it is in compliance with the requirements of the BC *Criminal Records Review Act* ("CRRA") for the purposes of preventing physical or sexual abuse of any person under the age of 19. MLENA will annually, in August, provide written confirmation to KPU that it is in compliance with the CRRA.

4.8 Insurance

MLENA must, without limiting MLENA's obligation or liabilities and at MLENA's own expense, purchase and maintain throughout the Term the following insurances with insurers licensed in Canada in forms and amounts acceptable to KPU:

- Commercial general liability in an amount not less than \$5,000,000.00 inclusive per occurrence against bodily injury, personal injury and property damage and including

contractual liability insurance in a form and of a nature broad enough to insure the obligations imposed upon MLENA under the terms of this Agreement and this insurance must:

- Include KPU as an additional insured; and
 - Include a cross liability clause.
- Tenant's legal liability endorsement on the commercial general liability insurance policy in an amount sufficient to replace that portion of the building licensed or rented by MLENA or, if such endorsement is unavailable, Tenant's legal liability insurance in an amount sufficient to replace that portion of the building licensed or rented by MLENA;
- "All risks" property insurance, including water damage and sewer backup, upon its furniture, fixtures and improvements and upon all other property in the Premises owned by MLENA or for which MLENA is legally liable, all in an amount equal to the full replacement value thereof, which amount in the event of a dispute shall be determined by KPU; and
- Such other insurance in such amounts and upon such terms as KPU may reasonably determine from time to time.

All insurance must be primary and not require the sharing of any loss by any insurer of KPU. The property insurance shall include KPU as an additional insured as its interests may appear and shall provide for waivers of the insurer's rights of subrogation as against KPU and those for whom KPU is in law responsible. All insurance must be endorsed to provide KPU with 30 days advance written notice of cancellation or material change. MLENA must provide KPU with evidence of all required insurance in the form of a completed Certificate of Insurance:

- At least 10 working days prior to the commencement of the Term;
- if the insurance expires before the end of the Term of this Agreement, at least 10 working days prior to such expiration; and
- Notwithstanding anything contained in this Section 4.8, if requested by KPU at any time, MLENA must provide to KPU certified copies of the required insurance policies.

MLENA shall provide, maintain, and pay for, any additional insurance which it is required by law to carry, or which it considers necessary to cover risks not otherwise covered by insurance specified in this Agreement in its sole discretion.

MLENA shall ensure that each of its subcontractors obtains all the necessary and appropriate insurance that a prudent person in the business of the subcontractor would maintain and that the University and Indemnified Parties are named as additional insured with respect to any liability arising in the course of performance of the subcontractor's obligations under the subcontract for the provision of the Deliverables.

4.9 Transfer of Personal Information

MLENA acknowledges that this Agreement requires it to provide to KPU certain personal information about MLENA students, teachers and/or administrators and will obtain all necessary consents, including pursuant to the BC *Personal Information Protection Act*, from MLENA students, teachers and/or administrators to permit such disclosures.

PART 5: GENERAL

5.1 Relationship between KPU and MLENA

The relationship between KPU and MLENA is only contractual as set out in this Agreement. This Agreement does not create nor establish any relationship as partners, joint ventures, employer and employee, master and servant or principal and agent. Neither party has any

right to make any commitments on behalf of the other party.

5.2 Representations - MLENA

MLENA represents and warrants to KPU that MLENA is duly incorporated and validly existing under the laws of the Province of British Columbia and that it has the full power and capacity to enter into this Agreement and to duly observe and perform all of its obligations outlined herein.

5.3 Freedom of Information

MLENA acknowledges that this Agreement and all information supplied by it to KPU relating to this Agreement is subject to the provisions of the BC *Freedom of Information and Protection of Privacy Act*, as amended from time to time. MLENA will document and manage its records including, without limitation, any personal information, in accordance with applicable provincial legislation.

5.4 Indemnification

Except to the extent caused by the gross negligence or willful misconduct of KPU or those for whom it is responsible for at law, MLENA will indemnify KPU and save KPU and its employees, agents, officers, representatives, contractors, permittees and invitees harmless from and against any and all claims, actions, damages, liability and/or expense (including legal fees on a solicitor-client basis) suffered or incurred and arising out of or as a result of or in connection with: (a) any breach by MLENA or those for whom it is responsible for at law of any covenant or agreement on the part of MLENA contained in this Agreement; (b) any loss of life, personal injury or damage to or loss of property occurring in, on or about the Premises; (c) any loss of life, personal injury or damage to or loss of property which is occasioned wholly or in part by any act or the negligence of MLENA, its agents, students, contractors, employees, licensees, permittees, invitees or those for whom it is responsible for at law.

Except to the extent caused by the negligence or willful misconduct of MLENA or those for whom it is responsible for at law, KPU will indemnify MLENA and save MLENA and its employees, agents, officers, representatives, contractors, permittees and invitees harmless from and against any and all claims, actions, damages, liability and/or expense (including legal fees on a solicitor-client basis) suffered or incurred and arising out of or as a result of or in connection with: (a) any breach by KPU or those for whom it is responsible for at law of any covenant or agreement on the part of KPU contained in this Agreement; (b) any loss of life, personal injury or damage to or loss of property which is occasioned wholly or in part by any act or the gross negligence of KPU, its agents, students, contractors, servants, employees, licensees, permittees, invitees or those for whom it is responsible for at law.

MLENA agrees that KPU shall not be liable for any for any bodily injury to or death of, or loss or damage to any property belonging to, MLENA or its employees, invitees, or licensees or any other person in, on, or about the Premises, the Building or KPU Richmond, or for any interruption of any business carried on in the Premises, and, without limiting the generality of the foregoing, in no event shall KPU be liable for: (a) any death or injury of any nature whatsoever that may be suffered or sustained by MLENA or by any employee, licensee, invitee, permittee, agent or customer of MLENA or by any other person in and about the Premises, the Building or KPU Richmond, from any causes whatsoever except to the extent caused by the gross negligence or wilful misconduct of KPU or those for whom it is responsible for at law, or for any loss or damage or injury to any property outside or within the Premises, the Building or KPU Richmond belonging to MLENA or its employees, agents, customers, licensees, invitees, permittees or any other person; or (b) any damage or inconvenience which may arise from repair, maintenance or alteration of any part of the Premises, the Building or KPU Richmond.

5.5 Default

If and whenever: (a) the Fees or any other payments hereby reserved, or any part thereof, shall not be paid when due; and (b) in the case of a breach, non-observance or non-performance of any of the covenants and agreements in this Agreement on the part of MLENA to be observed and performed other than the covenant to pay the Fees, and other payments hereunder which is not remedied within 14 days (or such longer period as is reasonably necessary provided that MLENA has commenced and is diligently pursuing the remedying of such default) after notice has been given by KPU specifying the default; or (c) the Term or any goods, chattels or equipment of MLENA shall be taken in execution or attachment for any cause whatever or MLENA becomes insolvent or commits an act of bankruptcy or becomes bankrupt or takes the benefit of any statute that may be in force for bankrupt or insolvent debtors or becomes involved in voluntary or involuntary winding up or dissolution or liquidation proceedings or if a receiver is appointed for the business, property, affairs or revenues of MLENA, then in each case it will be lawful for KPU at any time thereafter to terminate this Agreement and repossess the Premises and expel all persons and remove all property from the Premises without resort to legal process and without compensation to MLENA.

5.6 Force Majeure

If either KPU or MLENA fails to perform any term of this Agreement and such failure is due to an Event of Force Majeure (defined below), that failure will not be deemed to be a default under this Agreement. The party affected by an Event of Force Majeure will immediately notify the other party and will take all reasonable steps to minimize the extent and duration of the Event of Force Majeure. In this Agreement, "Event of Force Majeure" means any cause beyond the control of KPU or MLENA which prevents the performance by either party of any of its obligations under this Agreement not caused by its default or act or omission of that party. Events of Force Majeure include but are not limited to explosions, fires, accidents, local, regional or global outbreak of disease or other public health emergency, physical distancing or quarantine restrictions, tornado, flood, drought, war, strikes, lockouts, labour disputes, civil commotion, acts of the Queen's enemies, blockade or embargo, acts of God and any form of cyberattack, but excluding lack of or insufficient financial resources to discharge and pay any monetary obligations.

Dates or times of performance shall be extended to the extent of delays excused by an Event of Force Majeure, provided that the party whose performance is affected notifies the other promptly of the existence and nature of such delay shall, so far as practicable, use commercially reasonable efforts to minimize and mitigate the extent, effect and period of any such delay or non-performance.

5.7 Entire Agreement

This Agreement constitutes the entire agreement between the parties with regard to the subject matter herein and may only be amended in writing signed by both parties. With regard to the subject of this Agreement, neither party relies on any statement, representation, warranty or covenant made by, or on behalf of, the other party except as set out in this Agreement. The parties hereto hereby acknowledge and agree that upon the effective date of this Agreement, the First Amended and Restated License is of no further force or effect.

5.8 Trademarks and Logos

As and from May 31, 2017 until the end of the Term, KPU hereby licenses MLENA the right to use the word "KPU" in the phrase "Maple Leaf School-KPU" and "MLS-KPU" on the terms outlined in this Section 5.8. MLENA will not use any other KPU logo, trademark or official mark without KPU's prior written consent. KPU will not unreasonably withhold such consent provided the usage requested by MLENA makes it clear to those viewing it that MLENA and the School

are independent of KPU. MLENA will be entitled to use "KPU" in the phrase "Maple Leaf School-KPU" or "MLS-KPU" only in print on marketing materials, on signage, on branded clothing to identify and promote the School, provided that any such signage, branded clothing or other materials bearing the name KPU are approved by KPU prior to the use, distribution or sale of such signage, branded clothing or other material.

5.9 Choice of Law and Choice of Forum

This Agreement shall be governed by the laws of the Province of British Columbia and the laws of Canada applicable therein without regard to conflict of law principles. The courts of the Province of British Columbia will have exclusive jurisdiction over all disputes arising out of this Agreement and the parties hereto hereby attorn to the exclusive jurisdiction of such courts.

5.10 Headings

Headings are included in this Agreement for ease of convenience only and shall not impact the interpretation hereof.

5.11 Schedules

Each Schedule to this Agreement forms a part of this Agreement.

5.12 Assignment

MLENA will not directly or indirectly assign this Agreement or any interest herein, or sub-license all or any portion of the Premises to any person without the prior written consent of KPU, which consent may be withheld in KPU's sole discretion. MLENA will not change the effective control of MLENA, directly or indirectly by a sale, encumbrances or other disposition of shares or otherwise howsoever, without first obtaining the prior written consent of KPU. MLENA, will upon request of KPU, make available to KPU from time to time for inspection all books and records of MLENA which show the share ownership of MLENA and its shareholders.

5.13 Notice

Any notice required or permitted by this Agreement to be given shall be in writing and shall be deemed to have been duly given only if delivered by personal delivery, addressed as follows:

(a) If to KPU:

KWANTLEN POLYTECHNIC UNIVERSITY
12666 72nd Avenue, Surrey, BC V3W 2M8

Attention: Diane Purvey, Provost and Vice-President, Academic

With a copy to General Counsel and Campus & Community Planning

and:

(b) If to MLENA:

MAPLE LEAF EDUCATION NORTH AMERICA
Room 1850 8771 Lansdowne Road Richmond, BC V6X 3X7

Attention: Brad Helgason, President

or to such other address as either party may from time to time advise the other party in writing. Any such notice shall be deemed to have been given and received when

delivered.

5.14 Survival

Sections 5.4, 5.9 and this Section 5.14 shall survive the termination or expiration of this Agreement.

5.15 Time of the Essence

Time shall be of the essence of this Agreement.

5.16 Non-Waiver

Any condoning, waiving, excusing or overlooking by either party of any default, breach or non-observance by the other at any time or times of or in respect of any covenant, proviso or condition herein contained shall not operate as a waiver of that party's rights hereunder in respect of any subsequent default, breach or non-observance and no waiver shall be inferred from or implied by anything done or omitted by that party save only an express waiver in writing.

5.17 Severability

If any provision of this Agreement or the application thereof to any circumstances shall be held to be invalid or unenforceable, the remaining provisions of this Agreement or the application thereof to other circumstances shall not be affected thereby and shall be held valid and enforceable to the full extent permitted by law.

5.18 Counterparts

This Agreement may be executed in one or more counterparts or by facsimile or other means of electronic transmission and if so executed such counterparts or electronic transmissions shall be read and construed together as if they formed one document.

In WITNESS WHEREOF this Agreement has been duly signed by the parties as of the day and year first above written.

KWANTLEN POLYTECHNIC UNIVERSITY

**MAPLE LEAF EDUCATION NORTH
AMERICA LTD**

Alan Davis, PhD
President and Vice-Chancellor

Brad Helgason
President

Randall Heidt
Vice President, External Affairs

FACILITIES SERVICES

1805 - 1850

OFFICE 1810
49m²
(527ft²)

OFFICE 1800
49m²
(527ft²)

STAIR #5

OFFICE 1790
17m²

CLASSROOM 1780
54m²

ELEC. 1795
12m²

COMM. 1784
1m²

CLASSROOM 1820
58m²
(624ft²)

CLASSROOM 1830
73m²
(785ft²)

CLASSROOM 1840
75m²
(807ft²)

OFFICE 1815
17m²
(183ft²)

OFFICE 1805
6m²
(72ft²)

OFFICE 1825
14m²
(150ft²)

OFFICE 1735
7m²

WOMEN 1870
27m²

W.C. 1775
7m²

LOCKER 1765
7m²

MEN 1880
14m²

MAIL ROOM & COPY CENTRE 1835
61m²
(676ft²)

EMPL. LOUN. 1900
60m²

OFFICE 1850
56m²
(602ft²)

STAIR #6

STOR. 1848
9m²
(97ft²)

MTG. 1864
9m²
(97ft²)