

**EMPLOYMENT AGREEMENT FOR
SUPERINTENDENT OF
THE DETROIT PUBLIC SCHOOLS COMMUNITY DISTRICT
BOARD OF EDUCATION**

~~THIS SUPERINTENDENT EMPLOYMENT AGREEMENT~~ (the "Agreement") is dated effective MAY 22, 2017 (the "Effective Date"), and is by and between the Detroit Public School Community District (the "District"), established pursuant to Public Act 192 of 2016, Board of Education (the "Board") and Dr. Nikolai Vitti (the "Superintendent").

RECITALS AND BACKGROUND

The Board and Superintendent acknowledge the following premises for this Agreement:

A. The Board by P.A. 192 and the Michigan Revised School Code operates, controls, and supervises public schools within the District;

B. The Board by law is responsible for appointing a superintendent to act as chief executive officer and chief education officer of the Board, to administer and manage the schools within the District, and to supervise instruction in the District;

C. The Board desires to employ Dr. Nikolai P. Vitti as Superintendent of the District, and Superintendent desires to undertake the employment under the terms and conditions set forth in this Agreement;

D. The Board, in selecting the Superintendent, is relying on the Superintendent's representation that there is no material negative change in his capabilities or legal authority to enter into this Agreement from that which existed at the time of his initial application for the position of Superintendent of the District, and that he is fully qualified to serve as such superintendent;

E. The efficient operation of the District requires respect for the chain of command and for confidentiality when lawfully required or otherwise appropriate;

F. The Board and the Superintendent desire to agree upon Superintendent's rights, responsibilities, and compensation that are equitable to both the Superintendent and the Board; and

G. The Board and Superintendent wish to reduce their agreement to writing; and this Agreement accordingly describes their relationship with each other, provides a basis for effective communication between the parties as they fulfill their respective governance and administrative functions and enhances administrative stability and continuity within the District.

TERMS, CONDITIONS, AND COVENANTS

Accordingly, on the foregoing premises, which are incorporated into the Agreement by this reference, and in consideration of the mutual covenants contained in this Agreement the Board and Superintendent agree as follows:

ARTICLE I

Agreement for Employment; Duration of Agreement

1.1 ***Agreement for Employment.*** The Board hereby appoints and employs Superintendent to serve as Superintendent of Schools for the District, and Superintendent hereby accepts that appointment and undertakes that employment.

1.2 ***Term.*** Superintendent's employment and the term of this Agreement shall commence on the Effective Date, and unless earlier extended or earlier terminated in accordance with the provisions of this Agreement, shall end at 11:59 p.m. on June 30, 2022 ("Agreement End Date"). The total term period shall be five (5) years. The Superintendent must have at least an overall "effective" evaluation after each Evaluation Period during the five-year term pursuant to the evaluation process in Article IV of this Agreement.

ARTICLE II

Superintendent's Duties and Obligations

2.1 ***Principal Duties and Obligations.*** The Superintendent is the chief education officer and chief executive officer of the District and is responsible for the duties and obligations of the Superintendent, including determining the manner in which the day-to-day operations of the District are conducted, and the Board is responsible for formulating goals, objectives, and policies for the operation of the District within prevailing fiscal constraints and for ensuring that the Superintendent effectively performs in achieving stated goals and objectives and in implementing those policies approved by the Board. Subject to the Board's responsibilities for the overall operation, management, and control of the District and to the extent permitted by federal and state law and regulation and lawfully negotiated labor agreements, Superintendent shall:

- (A) administer and manage the District's schools and supervise instruction in the District's schools;
- (B) exercise general oversight over the District, including directing staff, in order to determine problems and needs and recommend improvements;
- (C) assume administrative responsibility and leadership for the planning, selection, implementation, operation, supervision and evaluation of curriculum, professional development, school improvement strategies, programs, services and facilities of the District;
- (D) organize, reorganize and arrange central office, administrative and supervisory staff as he believes best serves the District;
- (E) have administrative authority and responsibility for the assignment, reassignment and evaluation of all personnel in the District;
- (F) directs and assigns employees of the District, and recommends to the Board the hire and termination of staff;
- (G) advise and counsel the Board on all educational matters and recommend to the Board for action such matters as should be acted upon;

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- (H) recommend to the Board for adoption such policies pertaining to the District as he may consider necessary for its more efficient operation;
- (I) develop and implement administrative regulations to implement policies adopted by the Board;
- (J) recommend to the Board the establishment, organization, and operation of such schools, classes, and services as are needed to provide adequate educational opportunities for all children of the District;
- (K) recommend to the Board procedures for implementing and maintaining a system of school improvement and education accountability as provided by statute and state board rules;
- (L) prepare and submit annual budgets for the District's operation, including but not limited to recommendations to the Board measures to provide for adequate educational facilities throughout the District in accordance with financial procedures established by law;
- (M) recommend to the Board annually any changes to the goals, objectives, and targets in the strategic plan (including the timeline, method, and estimated cost of implementation as applicable);
- (N) as part of the formal annual evaluation (described in Article IV hereafter), address accomplishments and areas of particular focus that may need improvement for the next school year;
- (O) use his best efforts to ensure that Board's policies are implemented and complied with, and that goals, objectives, performance, and other standards adopted by the Board are met;
- (P) keep the Board fully informed of District business and activities and provide the Board with such information and materials as the Board requests from time to time or as otherwise is reasonably required to evaluate proposals or recommendations made by the Superintendent to the Board, including, but is not limited to, informing in a timely manner the Board of significant school events or incidents;
- (Q) attend (or have his designee attend) all Board meetings and all Board committee meetings, as required;
- (R) perform such other duties and exercise such other responsibilities as are assigned to him by law, by regulations of the state board, and by lawful rules, regulations, and policies of the Board and as otherwise are incident to the office of Superintendent of Schools; and
- (S) attend such other City of Detroit and/or civic functions and activities as required related to the District's interest with the community serviced by the District.

2.2 Manner of Performance. Except as otherwise expressly provided by this Agreement, Superintendent at all times shall:

- (A) devote his full business time (reasonable vacation time and absence for sickness or similar disability excepted), attention, knowledge, and skill solely and exclusively to the business and interests of the Board and the District; and

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- (B) perform his duties and obligations faithfully, industriously, and to the best of his ability.

2.3 Additional Obligations. In addition to the duties and obligations set forth above, Superintendent shall:

- (A) not possess or acquire, directly or indirectly, any interest adverse to the District. If a question arises whether the Superintendent possesses or has acquired an interest that may be adverse to the District, the Superintendent will, as soon as practicable, fully disclose the possible adverse interest to the Board for its review and disposition, which disposition will be controlling;

- (B) obtain and maintain for himself, at District expense, all state and local professional and occupational certifications and licenses required by law to serve as Superintendent of Schools. Failure to provide necessary certification shall render this Agreement void, and any misrepresentation in the records shall be grounds for termination;

- (C) keep the Board President informed in advance of all travel and activities that take him out of the office for any extended period of time and maintain contact, as appropriate, with the District during such absences; and

- (D) keep abreast of the latest developments in educational theory, practice, management, and technology as is important to the interests of the District; and, to that end, maintain professional activities (including participation in local, state, and national educational organizations and programs as set forth below) as an essential aspect of the Superintendent's duties and responsibilities.

2.4 Professional Growth and Development Activities.

- (A) The Board shall pay the annual membership dues of Superintendent for a total of three (3) state and/or national professional education organizations and the annual membership dues to other organizations and associations upon the request of the Superintendent, and with the prior approval of the Board President, the Board shall pay conference fees and travel, including reasonable lodging, food and airfare, for the Superintendent to attend professional growth activities in compliance with MCL 380.387 of the Michigan Revised School Code; and

- (B) The Superintendent may undertake consultative work, speaking engagements, writing, lecturing, or other professional duties and obligations, with or without honorarium, when such activities are engaged in outside of normal work time for the District. Unless the Board gives prior consent, the Superintendent shall not undertake consultative work, speaking engagements, writing, lecturing, or other professional obligation that conflict with the District's goals, policies, and objectives.

2.5 Tenure. The Superintendent will not have or acquire tenure as Superintendent of the District or in any other administrative or assigned capacity. The District's failure to continue the Superintendent's employment after the term of this Agreement, or re-employ him in any other capacity, will not be considered a breach of this Agreement.

2.6 No Reassignment. Without the written consent of the Superintendent, the Board shall not reassign the Superintendent to any other position in the District.

ARTICLE III

Board/Superintendent Communications and Relationships

Prior to July 1, 2017, the Board and Superintendent shall meet to discuss and agree regarding the process and procedures for how they shall communicate and work together. Periodically thereafter, the Board and Superintendent shall meet to review the process and procedures regarding how they communicate and work together. In addition, the Board, individually and collectively, is encouraged to refer to the Superintendent, for his study, recommendations, and subsequent actions or reports as may be necessary, all significant complaints, and suggestions regarding operation of the District that are brought to its attention or which each Board member may have. Significant complaints by Board members regarding the performance of personnel shall be brought to the Superintendent in meetings with the Superintendent and shall be addressed by the Superintendent as promptly as feasible. Superintendent likewise shall report as promptly as feasible to the Board all such significant matters pertinent to the Board's responsibility to oversee the operation of the District.

ARTICLE IV

Annual Performance Goals and Evaluation

4.1 *Annual Performance Goals and Evaluation.*

(A) The Board will conduct an evaluation of the Superintendent's performance at a Board meeting in June of each academic school year (the "Evaluation Period"). The Board and the Superintendent shall meet in a closed session for the purpose of evaluation of the performance of the Superintendent unless the Board and Superintendent otherwise agree that it should be held in an open meeting. The Superintendent shall notify the Board of this deadline in writing, no later than May 1 of each academic school year. The Superintendent shall provide the Board a self-appraisal and any information related to the evaluation no less than thirty (30) days prior to the Board meeting. The evaluation shall be related to the duties of the Superintendent and the annual agreed-upon performance goals. The evaluation form shall provide for the opportunity for the Board to rate the Superintendent as "ineffective," "effective," or "highly effective." The evaluation shall be conducted in accordance with applicable state laws.

(B) No later than August 1 of each year of this Agreement, the Board and the Superintendent shall meet to develop and agree upon performance goals for each academic year of this Agreement and a form and process to be used for the Superintendent's evaluation. These goals shall be reduced to writing and shall be part of the criteria upon which the Superintendent's performance will be reviewed and evaluated for the upcoming academic school year. During the course of the year, the Board shall use its best efforts to informally communicate with the Superintendent his performance towards the goals and objectives established.

(C) The Board shall provide the Superintendent a copy of his written evaluation. The Superintendent shall have the right to submit a written reaction or response to the evaluation. To the extent allowed by law, unless the Superintendent expressly requests in writing, the evaluation of the Superintendent, including the discussion in executive session, the written evaluation and any response by the Superintendent, shall be considered confidential. If the Board determines that the Superintendent's performance is "ineffective" in any respect, the evaluation shall describe in reasonable detail specific instance of "ineffective" performance and recommendations for improvement. In all instances where the Board deems the Superintendent's performance to be "ineffective," should the Board desire, the Superintendent will be given a reasonable time to improve in the areas identified.

ARTICLE V
Superintendent's Compensation and Benefits

5.1 Annual Base Salary. The Superintendent will be paid an annual base salary in the sum of two hundred and ninety-five thousand dollars (\$295,000) for year 1 and for year 2 of the Agreement. In year 3, Superintendent will be paid the annual base salary in the sum of three hundred and three thousand dollars (\$303,000). In year 4, Superintendent will be paid the annual base salary in the sum of three hundred and twelve thousand dollars (\$312,000). In year 5, Superintendent will be paid an annual base salary in the sum of three hundred and twenty-two thousand dollars (\$322,000). The annual base salary shall be contingent on Superintendent maintaining at least an overall "effective" evaluation for each year of this Agreement. The annual base salary paid to the Superintendent shall be in bi-weekly installments during the term of this Agreement and after appropriate withholding consistent with the District's policies and procedures.

5.2 Automobile-Expense. For the term of this Agreement, the Superintendent shall receive a car allowance in the amount of nine thousand dollars (\$9000) (\$750 per month) per year.

5.3 Business and Travel Expenses. The District will pay or reimburse the Superintendent for reasonable and necessary business and travel expenses, such as meals and lodging, which are in keeping with the duties of the Superintendent and the office. Reimbursement for expenses shall be consistent with PA 192 of 2016 and other applicable law and travel expenses shall be consistent with Board policy regarding 12-month executive travel reimbursement.

5.4 Information Technology and Other Services. The District shall provide the Superintendent the technology necessary to carry out the duties and obligations of the Superintendent, including a smartphone, tablet, laptop, and any monthly charges associated with the use of such technology. The Superintendent will be entitled to receive certain car services customary to past superintendents.

5.5 Tax Sheltered Annuity. The District will, after each quarter of each year the Superintendent is employed by the District as the Superintendent of Schools, contribute twenty-five percent (25%) of twenty thousand dollars (\$20,000) on the Superintendent's behalf to a qualified tax-sheltered annuity plan or plans chosen by the Superintendent and approved by the Board.

5.6 Insurance. The Superintendent will be afforded the same medical, dental, vision and disability insurance available to other 12-month executives employed by the District, as such coverage now exists and may be modified from time to time. Contributions by the Superintendent shall be pursuant to state law, Public Act 152 of 2011.

5.7 Michigan Public School Employees Retirement System. The District shall pay into the Michigan Public School Employees Retirement System ("MPSERS") the percentage contribution of which the District is mandated by law to pay on behalf of its 12-month executives employed by the District who are member participants. The Superintendent shall be the beneficiary of the MPSERS contributions pursuant to state law.

5.8 Holidays. Superintendent shall be entitled to observe the same legal holidays as those observed by other 12-month executives of the District.

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5.9 Vacation. The Superintendent shall be entitled to accrue twenty-five (25) vacation days in each year of this Agreement, which shall accumulate pro rata with each pay period. Annually, at the Superintendent's request, he may be paid in lieu of vacation for up to ten (10) unused vacation days at his then per diem rate. At the termination of this Agreement, any unused vacation days shall be paid to the Superintendent at one-hundred percent (100%) of the Superintendent's per diem pay (per diem is calculated by dividing the Superintendent's annual base salary by the number of annual work days equivalent to two hundred and sixty (260) days per calendar year).

5.10 Sick Leave and Personal. The Board will provide the Superintendent with sick leave, leave without loss of pay, and holiday pay similar, but at least equal to that provided by the Board for other 12-month executives employed by the District.

5.11 Moving Expenses. In connection with the Superintendent's relocation, the Superintendent shall be paid a lump sum of twenty-five thousand dollars (\$25,000.00) to cover all reasonable moving expenses.

5.12 Temporary Living Expenses. During the first Agreement year, the District shall reimburse the Superintendent's temporary living expenses for up to four (4) months at three thousand dollars (\$3,000.00) per month (as evidenced by monthly invoices for payment to the District).

5.13 Relocation Travel Vouchers. The Superintendent will be entitled to receive up to a total of eight (8) "economy class" round-trip travel vouchers from Michigan to Florida for him and his family for relocation purposes.

5.14 Life Insurance. The District, at its cost, shall provide the Superintendent a term life insurance policy in the amount of three times (3x) his annual base salary. If the Superintendent elects to increase his policy amount, he may contribute, at his own expense, the cost difference between the then-applicable premiums and the "new" term life insurance policy premium amount. Upon termination or expiration of this Agreement, the Superintendent shall be entitled to maintain his insurance policy by assuming the payments for the active policy.

5.15. Additional Benefits. In addition to the benefits provided in this Agreement, the Superintendent shall be entitled to other benefits that 12-month executive employees receive pursuant to District policy.

ARTICLE VI

Indemnification and Reimbursement

6.1 Indemnification of Superintendent. The District agrees that it shall indemnify, defend, and hold harmless the Superintendent to the fullest extent permitted by applicable law from and against any and all liabilities including costs, claims, and expense incurred in defense of litigation or any administrative proceeding or action arising out of and in the course of the performance of his duties and responsibilities. Attorneys' fees and costs arising out of the employment of the Superintendent hereunder or in the capacity of serving as Superintendent is included, except to the extent arising out of or based on gross negligence or willful misconduct of the Superintendent. This provision shall survive termination of this Agreement.

(A) The District shall pay any judgment, fines, costs, or awards that may be entered against Superintendent in a civil action arising out of and in the course of the performance of his duties and responsibilities pursuant to this Agreement, except a judgment based on intentional wrong doing by Superintendent;

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(B) The District may, at its discretion, fulfill its obligation under this paragraph by purchasing appropriate insurance coverage for the benefit of the Superintendent or by including the Superintendent as a covered party under any contract providing errors and omissions insurance coverage purchased for the protection of the Board and the professional employees of the District;

(C) The Board may retain attorneys to represent the Superintendent in any proceeding for which he could seek indemnification under this paragraph, to the extent that damages are recoverable or a defense is provided, under any such contract of insurance;

(D) No individual member of the Board shall be personally liable for indemnifying and defending the Superintendent under this paragraph;

(E) The Board shall not be required to pay any costs of any legal proceedings in the event the Board and the Superintendent are adverse to each other in any such proceedings; and

(F) The Superintendent shall fully cooperate with the District in the defense of any and all demands, claims, suits, actions, and legal proceedings brought against the District.

ARTICLE VII
Termination of Agreement

7.1 *Mutual Agreement.* This Agreement may be terminated by the Board in writing upon such terms and conditions as may be mutually agreed upon.

7.2 *Disability.* Should the Superintendent be unable to perform the essential duties of his position because of a disability (as that term is defined in the American with Disabilities Act), with or without reasonable accommodations, for an aggregate of one hundred twenty (120) days in any three hundred sixty-five (365) consecutive day period, the Board, at its option, may terminate this Agreement, whereupon the respective rights, duties, and obligations of the parties shall thereby terminate. The Superintendent shall be entitled during said period of disability to the full benefit of short-term and long-term disability insurance benefits (subject to policy conditions) provided under this Agreement and shall be entitled to the full benefits of any available/unused sick leave days and any available unused vacation days. In the event of termination of this Agreement for disability, the Superintendent shall be entitled to any accrued and unpaid benefits and expenses as of the date of termination.

7.3 *Retirement or Death.* This Agreement shall be terminated upon the retirement or death of the Superintendent. In the event of termination on the retirement or death of the Superintendent, the Superintendent or his estate shall be entitled to any accrued and unpaid benefits as of the date of termination.

7.4 *Termination by District without Cause.* The Board retains the right to terminate this Agreement and the Superintendent's employment with the District at any time without cause during the term of this Agreement. Any such termination by the District shall be effective not less than sixty (60) days after the District gives the Superintendent written notice of termination. It is understood and agreed, however, that if the District terminates the employment of the Superintendent without cause within the first four (4) years of this Agreement, the Superintendent shall receive the equivalent of one (1) year's salary and health, dental and vision benefits as severance. If the District terminates the employment of the Superintendent during the fifth year of this Agreement, the Superintendent shall receive as compensation the balance of the payments due under this Agreement and health, dental and vision benefits as severance. It is

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understood and agreed that in the event of unilateral termination by the Board, the Superintendent will receive only the payments specified in this paragraph plus the amounts due for vacation leave under paragraph 5.9 and personal and sick payment consistent with District policy for other 12-month executives. It is further understood and agreed that, if this Agreement is terminated by the District without cause, the parties shall mutually release each other from all claims under this Agreement and as related to the employment of the Superintendent.

7.5 Termination for Good Cause. The Board may dismiss the Superintendent during the term of this Agreement for good cause as that term is applied under Michigan law. In the event the Superintendent is terminated for good cause, compensation shall be limited to the effective date of termination. For purposes of this Agreement, good cause is defined as: overall “ineffective” performance pursuant to Article IV of this Agreement; commission or omission of any act of fraud, embezzlement, theft, misappropriation, material breach of fiduciary duty or neglect of duties by the Superintendent in connection with carrying out his duties and obligations under this Agreement; or willful violation of the Board’s policies or District regulations. In the event that the Board seeks to terminate the Superintendent for cause, the Board shall provide him written notice of the basis of the proposed termination for cause of at least ten (10) working days before the proposed termination. This notice shall include the grounds for the proposed termination. The Board shall provide the Superintendent an opportunity for a meeting with the Board or its designee in regard to the proposed termination. In the event of termination of this Agreement for good cause, the Superintendent shall be entitled to be paid for any accrued and unpaid benefits and expenses as of the date of termination.

7.6 Termination by Superintendent. The Superintendent retains the right to terminate this Agreement and his employment with the District by providing not less than one hundred twenty (120) days advance written notice prior to the effective termination date. In the event of termination of this Agreement by the Superintendent, the Superintendent shall be entitled to any pay and benefits due as of the date of termination.

7.7 Retention Incentive. As an incentive for the Superintendent remaining at the District for the entire term of the Agreement, two (2) additional vacation days will be banked each month. Should the Superintendent remain at the District for five (5) years, on July 1, 2022, the accumulated vacation days will be paid in lieu.

7.8 Non-renewal of Agreement. Except as otherwise provided herein, non-renewal of this Agreement shall be in accordance with MCL 380.1229(1) of the Michigan Revised School Code.

ARTICLE VIII

Modification or Extension of Agreement

No modification of or amendment to this Agreement shall be valid unless reduced to writing and signed by both parties.

ARTICLE IX

Inapplicability of Collective-Bargaining Agreements

No collective-bargaining agreement to which the Board is a party shall in whole or in part govern, apply to, or be deemed part of or incorporated into this Agreement.

ARTICLE X
Venue

Any civil action arising out of this Agreement or the nonperformance or breach of any covenant contained in it shall be brought only in Wayne County, Michigan.

ARTICLE XI
Waiver

The Board's waiver of any breach of any term, condition, or covenant of this Agreement shall not constitute the waiver of any other breach of the same or any other term condition, or covenant of this Agreement.

ARTICLE XII
Severability of Provisions

If any provision of this Agreement or the application of any provision to any party or circumstance shall be prohibited by or invalid under applicable law, that provision shall be ineffective to the extent of such prohibition or invalidity without invalidating the remaining provisions of this Agreement or their application to other parties or circumstances.

ARTICLE XIII
Governing Law

This Agreement and the terms, conditions, and covenants contained in it shall be governed by and construed in accordance with the laws of the State of Michigan.

ARTICLE XIV
Notice

Any notice required to be given under this Agreement shall be delivered to the receiving party by personal delivery, certified mail, return receipt requested, or by overnight mail or courier service, to the following addresses:

If to the District, to:

If to Superintendent, to:

ARTICLE XV
Binding Agreement

Pursuant to the laws of the State of Michigan and the Board's By-laws, this Agreement shall not be binding upon the parties until approved by the Detroit Board of Education.

ARTICLE XVI
Integration of All Agreements and Understandings

16.1 Agreement. This Agreement contains the entire agreement between the Board and Superintendent. All prior agreements and understandings, whether written or oral, pertaining to the Board's employment of Superintendent are fully abrogated and of no further force and effect from and after the date of this Agreement.

16.2 Mutual Contribution. Regardless of which party or party's counsel prepared the original draft and subsequent revisions of this Agreement, Superintendent and the Board and their respective counsel have had equal opportunity to contribute to and have contributed to its contents, and this Agreement shall not be deemed to be the product of and, therefore, construed against either of them.

16.3 Full and Complete Agreement. The omission from this Agreement of a term or provision contained in an earlier draft of this Agreement shall have no evidentiary significance regarding the contractual intent of the parties.

ARTICLE XVII
Transition Period

The Superintendent has agreed to begin his role as the District's Superintendent on May 22, 2017, prior to the formal start date reflected in this Agreement. The parties agree that wages and benefits during the Transition Period will be paid on a pro rata basis as reflected in this Agreement.

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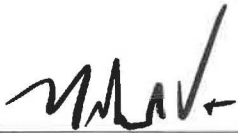
ARTICLE XVIII
Execution of Agreement

Approval of this Agreement will take place at and in accordance with Board policy and the Open Meetings Act. The Agreement may or may not be subject to approval pursuant to Public Act 181 of 2014.


IN WITNESS WHEREOF, the parties have affixed their signatures on the date and year first above written.

IN THE PRESENCE OF:

Mark Callen

By: 

Dr. Nikolai Vitti
Superintendent
Dated: 05/17/2017

The District
By: 

Dr. Iris Taylor
President of the Board
Dated: 05/22/17

Approved by Attorney Maree Sneed