

## **PLATO LEARNING, INC. CORPORATE GOVERNANCE GUIDELINES**

The Company's business and affairs are conducted by its employees, management, and its Chief Executive Officer ("CEO"). These guidelines reflect practices the Board of Directors ("Board") has developed to facilitate the management of the business and affairs of PLATO Learning, Inc. ("the Company") under the Board's direction. The guidelines supplement the provisions of the Company's Articles and By-laws. These guidelines, the Board committee charters, the Company's code of business conduct and other materials deemed appropriate will be made available to shareholders, through the Company's web site. The Board will revise these guidelines from time to time.

**1. Roles and Responsibilities of Board.** The basic responsibility of the directors is to exercise their business judgment to act in what they reasonably believe to be in the best interests of the Company and its shareholders. The Board is elected by the shareholders to oversee management performance and to assure that long-term interests of the shareholders are being served. The Board has four scheduled meetings a year at which it reviews and discusses reports by management on the performance of the Company, its plans and prospects, as well as immediate issues facing the Company. Board members are expected to devote sufficient time and effort necessary to understand the Company's business and financial strategies and challenges. Other basic duties and responsibilities of the directors include attending Board meetings, preparing for meetings by advance review of any meeting materials and actively participating in Board discussions. Directors are also expected to make themselves available outside of Board meetings for advice and consultation and ensure that their other responsibilities do not materially interfere with their responsibilities as directors of the Company. Directors are expected to attend substantially all Board and committee meetings of which the directors are members, but not less than 75% of such meetings, and are also expected to attend the annual meeting of shareholders.

**2. Committee Composition and Function.** The current committees of the Board are the Audit Committee, the Compensation Committee, the Nominating & Governance Committee and the Marketing Committee. Such additional or replacement committees or ad-hoc committees may be established as the Board determines is necessary or desirable in light of the Company's circumstances at any particular time and the Board's desire to most effectively utilize directors' time, experience and expertise. According to the bylaws of the Company and subject to the requirements of the Securities and Exchange Commission ("the SEC") and the Nasdaq Stock Market, the Board, or in the absence of a designation by the Board, each committee, may designate one or more directors as alternate members of the committee, who may replace any absent or disqualified member at any meeting of the committee. The roles and responsibilities of each Board committee are as provided in each committee's charter. The Nominating & Governance Committee reviews and makes recommendations to the Board on committee and chairperson assignments of each committee, and the Board fills vacancies on the committees. The membership of each committee is rotated from time to time. The Nominating & Governance Committee shall consider on a periodic basis whether it is in the Company's best interest to rotate chairs and/or members within and among committees. All members of the Committees of the Board serve at the pleasure of the Board. A committee member shall be automatically removed without further action of the Board if a member ceases to be a director of the Company or is found by the Board to no longer be an independent director. If any serious problems are identified with a committee member, the Nominating & Governance Committee shall work with such person to resolve such problems or, if necessary, seek such person's resignation or recommend to the Board such person's removal from the applicable committee(s). The Committee chairs report the highlights of their meetings to the full Board following meetings of the respective Committee.

**3. Independent Directors on the Board and Committees.** The rules of the Nasdaq Stock Market require that a majority of the directors must be independent. The objective criteria required to be applied in connection with director independence determination is set forth in Exhibit A. The Company will disclose its determinations on Board member independence.

**4. Assessment of Board Size, Classes and Composition.** The Board of Directors shall consist of not less than three (3) or more than eleven (11) directors. The exact number shall be determined from time to time by resolution adopted by the affirmative vote of a majority of the directors in office at the time of adoption of such resolution. The Board is divided into three classes that serve staggered three-year terms and are as nearly equal in number as reasonably possible. The Nominating & Governance Committee shall review and make recommendations to the Board regarding the appropriate composition of the Board, total size, classes of the Board, and number of employee-directors.

**5. Board Leadership.** The Board, in its discretion, may choose a Chairman of the Board of Directors (who must be a director). The Board shall be presided over by the Chairman of the Board of Directors, or in his or her absence by the Vice Chairman or in his or her absence by the CEO or in his or her absence by a chairman chosen at the meeting. The Chairman of the Nominating & Governance Committee shall also act as the Presiding Director and serve as chair of the executive sessions of the independent directors of the Board.

**6. Board and Committee Meetings, Agendas and Minutes.** The Board and committees meet at regularly scheduled meetings and special meetings, including telephonic meetings, during the year at which it reviews and discusses the Company's performance, plans and prospects, and reports by committee chairs of committee activities. Appropriate officers of the company may be invited to attend the general session of Board meetings to report on business and other topics of interest to the Board. The independent directors also meet in executive session at each regularly scheduled Board meeting with the Presiding Director serving as chair.

The agenda for any Board meeting shall be developed by the Chairman of the Board and CEO, and the Presiding Director may review with the CEO between regularly scheduled meetings of the Board the agenda and plan for subsequent regularly scheduled meetings of the Board. The Presiding Director, together with the members of the Nominating & Governance Committee, shall develop the agendas for the regular sessions of the independent directors. The agenda for any committee meeting shall be developed by the chair of the respective committee, working as needed with the Chairman of the Board and members of management. Any director, in the case of the Board agenda, or any committee member, in the case of a committee agenda, is free to direct the inclusion of additional items on the agenda.

The Board and committees shall prepare regular minutes of its meetings that contain information regarding actions, discussions and decisions taken at the meeting and submit to the Board and the respective committee at their next meetings. After the Board or respective committee approves the minutes, the final minutes and all written consents executed by its members shall be filed with the Company records.

**7. Director Candidates and Qualifications.** Directors should possess the highest personal and professional ethics, integrity and values, and be committed to representing the long-term interests of the shareholders. The Nominating & Governance Committee is responsible for developing and recommending to the Board with the direct input from the CEO, specific guidelines and criteria

regarding qualifications required of potential nominees for Board membership, and the selection process that will attract qualified candidates to serve on the Board. The Nominating & Governance Committee reviews the qualifications of and screens, approves and recommends to the Board those persons to be nominated for membership on the Board in the event of a vacancy on the Board. The Nominating & Governance Committee identifies and considers potential director candidates who shall be submitted to the shareholders for election at each annual meeting of shareholders; and the nominees for Directors to be elected by the Board to fill vacancies and newly created directorships in connection with an increase in the size of the Board, which occur other than at the time of the annual meeting of shareholders. In fulfilling the above responsibilities, the Nominating & Governance Committee shall seek individuals whose background, knowledge and experience shall assist the Board in furthering the interests of the Corporation and its shareholders. The criteria weighed in the Director selection process include factors such as industry knowledge and experience, public company experience, academic or research institution experiences, government entity experience, finance experience, independence from conflict or direct economic relationship with the Company, ability to attend Board meetings regularly and devote an appropriate amount of effort in preparation for those meetings, diversity, current employment, and other board memberships. The invitation to join the Board is extended on behalf of the Board by the Chairman of the Board and/or the Chief Executive Officer as appropriate.

**8. Resignation, Removal, Vacancies, and Other Board Memberships.** Directors may resign at any time upon written notice to the Board. Any director or the entire Board may be removed, for cause, as stated in the Company's by-laws. A director who has a change in employment or becomes a board member of a for-profit entity is required to tender his or her resignation. The Nominating & Governance Committee will then evaluate the change in position and a majority of the remaining directors will determine whether to accept or decline the resignation. If a majority of the remaining directors determine to decline the resignation, the director will remain on the Board. Any member of the Board to whom this policy applies shall excuse himself or herself from such deliberations. The Board may remove a Board member or a committee member from membership on a committee at any time with or without cause.

Directors shall serve as a director of no more than three publicly traded companies and are encouraged to limit the number of other boards (excluding non-profit) on which they serve, taking into account potential board attendance, participation and effectiveness on these boards. Independent Directors should also advise the Chairman of the Board and the Chairman of the Nominating & Governance Committee in advance of accepting an invitation to serve on another publicly traded company board.

**9. Ethics, Conflicts of Interest, Insider Trading and Related Persons Transactions.** The Board, officers, employees and associates of the Company should act ethically at all times and adhere to Company policies, including, without limitation, the Code of Business Conduct and Ethics ("code"), the Financial Code of Ethics, the Concern Reporting Resolution, Insider Trading Policy, and the Policy on Related Person Transactions. The Board must approve any waiver of the code for senior executives or Directors, and any such waiver must be promptly disclosed to shareholders in accordance with relevant laws and Nasdaq listing standards. In addition, under SEC rules and Nasdaq listing standards, the Company will disclose the existence of any related person transactions as described in Section 404(a) of Regulation S-K and Rule 4350 (h) of the NASDAQ Marketplace Rules.

If an actual or potential conflict of interest arises for a Director, the Director will promptly inform the Chairman of the Board who will bring the matter to the attention of the Board. If a significant conflict exists and cannot be resolved, the Director is expected to resign. Each Director will excuse himself or herself from any discussion or decision affecting his or her personal business or professional interests.

The Board shall resolve any ethical or conflict of interest issue involving the CEO, and the CEO shall resolve any ethical or conflict of interest issue involving any other officer of the Company and inform the Board of his action.

**10. Terms and Retirement.** The Board shall be divided into three (3) classes, which are as equal as possible in size. One class of directors will be elected each year by shareholders at the annual meeting of shareholders, such that each class of Directors are elected to three-year terms. At each annual meeting of stockholders (i) directors elected to succeed those directors whose terms then expire shall be elected for a term of office to expire at the third succeeding annual meeting of shareholders after their election, and (ii) if authorized by a resolution of the Board of Directors, directors may be elected to fill any vacancy on the Board, regardless of how such vacancy shall have been created. Any director elected to fill a vacancy not resulting from an increase in the number of directors shall have the same remaining term as that of his or her predecessor. Shareholders may propose nominees for consideration by the Nominating & Governance Committee by submitting the names and supporting information according to the deadlines set forth in the Company's proxy statement for its most recent annual meeting to: Secretary, PLATO Learning, Inc., 10801 Nesbitt Ave So., Bloomington, MN 55437.

The Nominating & Governance Committee reviews and recommends to the Board the retirement policy for directors covering factors such as retirement age, length of service, or change in occupation. Any director shall not be nominated for re-election as a director at the next annual meeting following their current three-year term in which they have reached either (i) twelve years service as a director or (ii) the director's seventieth (70<sup>th</sup>) birthday. No person who has attained the age of 70 years before the first day of the proposed term of office may become a nominee for election as a director or an appointee as director to fill any vacancy on the Board whether such vacancy is created by death, retirement or expansion of the Board.

**11. Non-management Director Compensation.** The Company believes that compensation for non-management directors should be competitive and should encourage ownership of the Company's stock through the payment of a portion of director compensation in stock and/or options to purchase stock. In the discretion of the Board, the directors may be paid their expenses, if any, and a fixed sum for attendance at each meeting of the Board and standing committee that they serve, and may receive a stated salary for serving as directors or any other form of compensation deemed appropriate. The Compensation Committee reviews and recommends to the Board any changes to the components and amount of compensation for the Board. Any changes in either must be approved by the full Board. Management directors serving on the Board will not receive any additional compensation for their service as directors.

**12. Annual Evaluation of Board Performance.** The Nominating & Governance Committee shall establish and oversee the process for the annual self-evaluation of the performance of the Board as a whole and provide feedback to the Board on how the directors and the Board are functioning, and the Board will discuss the results of its evaluation process.

**13. Evaluation of the Chief Executive Officer and Other Executive Officers.** The Nominating & Governance Committee shall review and make recommendations to the Board regarding the process for the Board to evaluate the performance of the CEO. Non-management directors shall meet annually to evaluate the performance of the CEO. The results of this evaluation shall be communicated to the CEO by the chairperson of the Nominating & Governance Committee or his or her designee. The evaluation shall be based on objective criteria developed by the Nominating & Governance

Committee. The Compensation Committee considers the evaluations and establishes the compensation for the CEO. The CEO shall evaluate the performance of the other executive officers and the Compensation Committee considers the evaluations and establishes the compensation for the other executive officers based on these evaluations.

**14. Succession Planning and Management Development.** There should be an annual report by the CEO to the Board on management succession planning and the Company's program for management development. The CEO should also, on a continuing basis, recommend a successor should he/she be unexpectedly disabled. The Nominating & Governance Committee shall be responsible for reviewing, determining and recommending to the Board the Company's succession plan. The Nominating & Governance Committee also has responsibility for evaluating and recommending to the Board successors to the CEO and inside-director positions when required.

**15. Director Orientation, Strategic Matters, and Education.** The CEO will oversee an orientation process for new directors, and for periodically providing materials or briefing sessions for all directors on subjects that would assist them in discharging their duties. The board oversees the Company's strategies and routinely reviews strategic matters and the Company's objectives. Annually, directors shall meet with senior management on the Company's strategic plans, the financial statements, and its key policies and practices. Board members are also strongly encouraged to attend seminars, conferences, and other continuing education programs designed for directors of public companies.

**16. Access to Independent Advisors and Management.** The Board and its committees shall have the right at any time to retain independent outside financial, legal or other advisors. The Board and its committees shall have access to any officer, manager or employee within the Company at any time while conducting its business.

**17. Board's Interaction with Shareholders, Institutional Investors, Analysts, Press and Customers.** The Board believes that in most instances, management should speak for the Company in accordance with the Company's public disclosure practices. Directors receiving inquiries about the Company should interact with press and other third parties only in concurrence with the Chief Executive Officer or his designee and in accordance with Regulation FD. Shareholders desiring to communicate with the non-management members of the Board may do so by directing correspondence to our Chief Executive Officer or Chief Financial Officer with a request to forward the same to the intended recipient. Alternatively, shareholders can direct correspondence to the Board, or any of its members, in care of the Company at the Company address. All such communications will be forwarded to the intended recipient unopened

## EXHIBIT A

### **Independent Director**

Under Nasdaq listing standards, a director is considered independent only if the director is not an officer or employee of the company and the company's board affirmatively determines that the director does not have any relationship which would interfere with the exercise of independent judgment in carrying out the responsibilities of a director. The objective criteria required to be applied by boards of Nasdaq listed companies in connection with director independence determinations are set forth below:

"Independent Director" means a person other than an executive officer or employee of the Company or any other individual having a relationship which, in the opinion of the Company's Board of Directors, would interfere with the exercise of independent judgment in carrying out the responsibilities of a director. The following persons shall not be considered independent:

- a. a director who is, or at any time during the past three years was, employed by the Company or by any parent or subsidiary of the Company;
- b. a director who accepted or who has a Family Member who accepted any compensation from the Company in excess of \$120,000 during any period of twelve consecutive months within the three years preceding the determination of independence, other than the following:
  - (i) compensation for board or board committee service;
  - (ii) compensation paid to a Family Member who is an employee (other than an executive officer) of the Company; or
  - (iii) benefits under a tax-qualified retirement plan, or non-discretionary compensation.

Provided, however, that in addition to the requirements contained in this paragraph (B), audit committee members are also subject to additional, more stringent requirements under Rule 4350(d).

- c. a director who is a Family Member of an individual who is, or at any time during the past three years was, employed by the Company as an executive officer;
- d. a director who is, or has a Family Member who is, a partner in, or a controlling shareholder or an executive officer of, any organization to which the Company made, or from which the Company received, payments for property or services in the current or any past three fiscal years that exceed 5% of the recipient's consolidated gross revenues for that year, or \$200,000, whichever is more, other than the following:
  - (i) payments arising solely from investments in the Company's securities; or
  - (ii) payments under non-discretionary charitable contribution matching programs.
- e. a director of the Company who is, or has a Family Member who is, employed as an executive officer of another entity where at any time during the past three years any of the executive officers of the Company serve on the Compensation Committee of such other entity; or
- f. a director who is, or has a Family Member who is, a current partner of the Company's outside auditor, or was a partner or employee of the Company's outside auditor who worked on the Company's audit for any time during any of the past three years.

“Family Member” means a person’s spouse, parents, children and siblings, whether by blood, marriage or adoption, or anyone residing in such person’s home.

“Company” means any parent or subsidiary in a consolidated group with the company.

Nasdaq listed companies have a grace period in which to cure noncompliance with Nasdaq’s director independence requirements if the noncompliance is due to a vacancy on the board or one director ceasing to be independent due to circumstances beyond the director’s control. In such instances, the company must regain compliance by the earlier of its next annual meeting or one year from the occurrence of the event that led to the noncompliance. If relying on this cure period the Company must notify Nasdaq immediately upon learning of the event or circumstance that caused the noncompliance.

### **Additional Independence Standards Applicable to the Audit Committee.**

A member may not have participated in the preparation of the financial statements of the company or any current subsidiary of the company during the past three years; and satisfy the requirements of Exchange Act Rule 10A-3(b)(1), as listed below:

To be considered independent under Exchange Act Rule 10A-3(b)(1), a director who is an audit committee member may not, other than in his or her capacity as a member of the audit committee, the board or any other board committee

- accept directly or indirectly any consulting, advisory or other compensatory fee from the issuer or any subsidiary (excluding, unless applicable listing criteria provide otherwise, receipt of fixed amounts of compensation under a retirement plan (including deferred compensation) for period service with the issuer, provided that such compensation is not contingent in any way on continued service; or
- be an affiliated person of the issuer or any subsidiary thereof.

Audit Committee members must

- be able to read and understand a company’s fundamental financial statements, and
- not have participated in the preparation of the listed company’s (or its subsidiaries’) financial statements at any time during the past three years.

Audit Committees must include at least one member who has (i) past employment experience in finance or accounting, (ii) requisite professional accounting certifications, or (iii) any other comparable experience that results in the individual’s financial sophistication.

An Audit Committee financial expert is a person who

- understands generally accepted accounting principles and financial statements;
- is able to assess the general application of such principles in connection with the accounting for estimates, accruals and reserves;
- has experience preparing, auditing, analyzing or evaluating financial statements that present a breadth and level of complexity of accounting issues that are generally comparable to the breadth and complexity of issues that can reasonably be expected to be raised by the issuer’s

financial statements, or experience actively supervising one or more persons engaged in such activities;

- understands internal control over financial reporting; and
- understands audit committee functions; and

has acquired such attributes through

- education and experience as a principal financial officer, principal accounting officer, controller, public accountant or auditor, or experience in one or more positions that involve the performance of similar functions;
- experience actively supervising a principal financial officer, principal accounting officer, controller, public accountant, auditor or person performing similar functions;
- experience overseeing or assessing the performance of companies or public accountants with respect to the preparation, auditing or evaluation of financial statements; or
- other relevant experience.

### **Additional Independence Standards Applicable to the Compensation Committee.**

In order for the Compensation Committee to grant share based compensation for securities transactions between the Company and officers and directors of the Company to be exempt from Section 16(b) of the Exchange Act, committee members must satisfy the requirements for “non-employee directors” under Exchange Act Rule 16b-3(b)(3), as follows:

- is not currently an officer or employee of the issuer or a parent subsidiary of the issuer;
- does not receive compensation in excess of the amount that would be required to be disclosed under Item 404(a) of the SEC Regulation S-K (currently \$60,000, but increasing to \$120,000 under revised Item 404(a)), either directly or indirectly, from the issuer or a parent or subsidiary of the issuer, for services rendered as a consultant or in any capacity other than as a director;
- does not possess an interest in any other related person transaction for which disclosure would be required under Item 404(a) of SEC Regulation S-K; and
- is not engaged in a business relationship for which disclosure would be required under Item 404(b) of SEC Regulation S-K.

Also, Committee members must qualify as “outside directors” for purposes of Section 162(m) of the Internal Revenue Code if the issuer desired to preserve the deductibility under that section of certain compensation paid to executive officers, as follows:

- is not a current employee of the company;
- is not a former employee of the company who received compensation for prior services (other than benefits under a tax-qualified retirement plan) during the taxable year;
- has not, at any time, been an officer of the company or a current affiliate of the company; and
- does not receive remuneration from the company, either directly or indirectly, in any capacity other than as a director. For this purpose, remuneration includes any payment (other than certain *de minimis* remuneration) in exchange for goods or services received, directly or indirectly, by the director personally or any entity in which the director has a beneficial ownership interest of greater than 50%.