MEMORANDUM OF UNDERSTANDING

BETWEEN THE

BOARD OF EDUCATION OF _____ SCHOOL DISTRICT NO. _____

AND THE

BOARD OF DIRECTORS OF _____ COMMUNITY FOUNDATION

THIS MEMORANDUM OF UNDERSTANDING, hereinafter known as the ("Agreement"), is entered into as of the _____day of _____, 202_, between the Board of Education of _____ School District No. _____, a body politic and corporate (hereinafter called the "School District"), and the Board of Directors of _____ Foundation, an Illinois not-for-profit corporation (hereinafter called the "Foundation") (the School District and the Foundation shall be collectively referred to as the "Parties").

Recitals

WHEREAS, the Foundation is an entity separate from the School District, incorporated under the Illinois General Not For Profit Corporation Act and recognized by the Internal Revenue Service as (i) a public charitable organization under section 509(a)(3) and (ii) exempt from federal income tax under section 501(c)(3) of the Internal Revenue Code;

WHEREAS, the Foundation was organized and operates for the principal purposes of supporting the needs of the School District in student assistance, fostering community engagement, aiding and assisting in the general cause of education at the School District, encouraging students to attend college through mentoring and scholarships, assisting students facing financial hardship, providing performing arts and cultural performances, and facilitating a community parent network and alumni association;

WHEREAS, the Foundation is dedicated to fundraising and addressing the long-term academic and other institutional priorities of the School District;

WHEREAS, the School District desires that the Foundation continue to support the School District, including its fundraising services directed toward expanding and enhancing the educational, community, and service goals and capabilities of the School District, and further desires to provide support to the Foundation to advance the Foundation's and the School District's common objectives and purposes; and

WHEREAS, the School District and the Foundation desire to set forth the mutual commitments, terms and conditions of their relationship, including the recitals set forth above which are adopted by reference and incorporated to this Memorandum of Understanding;

NOW, THEREFORE, in consideration of the foregoing premises and the terms and conditions hereinafter provided, the parties agree as follows:

ARTICLE I

Governance and Foundation Board of Directors

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The Foundation and the School District are independently governed and each has a separate process for selection of their leadership.

A. The School District is governed by the Board of Education of _____ School District No. ____ which is composed of elected individuals who represent the residents of School District No. ____. The Board of Education is responsible for defining the role and mission of the School District; evaluating institutional performance and leadership; supervising the operations of the School District; setting priorities, budgets and long-term plans for the School District; the employment, compensation, and evaluation of the School District's employees; and is legally accountable for the performance and oversight of all aspects of the School District. The Board of Education is also responsible for complying with all other duties and responsibilities required by the Illinois School Code.

B. The Foundation is governed by its Board of Directors who shall act in accordance with the Foundation's Bylaws. The Foundation shall have officers, including its President, Vice President, a Treasurer, a Secretary, and such other officers as may be elected in accordance with the Bylaws. The Foundation's Board of Directors is responsible for the control and management of all assets of the Foundation, including the prudent management of all gifts; appointing or electing officers; and for the performance and oversight of all aspects of the Foundation's operations based on a comprehensive set of Bylaws that clearly address the Foundation Board's fiduciary responsibilities, including expectations of all individual Foundation Board members to comply with ethical guidelines and policies.

C. The Parties agree that the Foundation's Board of Directors shall include the following *ex officio* members: (1) the School District's Superintendent and (2) the School District's Assistant Superintendent for Business who shall serve as the Foundation Treasurer.

D. To ensure effective achievement of the understandings in this Agreement, the School District's Board of Education and the Foundation's Board of Directors, and their respective administrators and officers, shall continue open communication in order to foster productive relationships and maintain alignment of priorities.

ARTICLE II

Foundation Employees

A. The Parties agree that because the Foundation was organized and operates for the principal purpose of supporting the needs of the School District, and because the Foundation employees may be present on the School District's premises, the School District has a significant interest in ensuring that the Foundation's employees perform their duties to the satisfaction of the School District and comply with all School District policies.

B. The Foundation shall submit any candidate for employment to the School District's Superintendent for review and approval. The Superintendent must approve any

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Foundation candidate for employment before the Foundation can hire that candidate.

C. All Foundation employees shall be subject to the School District's policies, including, but not limited to, the School District's hiring and personnel policies. Foundation employees shall be subject to the discipline or discharge according to the terms of their employment contract and/or any applicable School District policies.

D. The School District's Superintendent or designee shall have the right to supervise, evaluate, and discipline Foundation employees, and to direct any Foundation employee's duties, assignments, and tasks.

E. The Foundation shall not terminate any Foundation employee who is concurrently employed by the School District without the Superintendent's or Assistant Superintendent for Business's approval. The School District shall not terminate any School District employee who is concurrently employed by the Foundation without providing advance notice to the Foundation.

F. If the Parties agree to share the salary of any employee, the Parties shall each pay a pro rata percentage of the employee's salary and benefits. The Parties may periodically review and revise the pro rata percentage of salary and benefits. If one Party's pro rata share of salary and benefits exceeds the percentage of work that the shared employee provided to that Party, the Parties may treat the additional work or services rendered as an "in-kind" donation from one Party to the other.

G. Each Party shall be directly responsible for the compensation, benefits, payroll taxes, issuance of tax documents, and overall employment of that employee solely in accordance with that employee's contract or scope of employment with that respective Party.

ARTICLE III

Foundation's Responsibilities and Services

The Foundation agrees to be responsible for the following Foundation services:

A. To fulfill the Foundation's mission by fostering engagement between the School District and the District community, including businesses, civic leaders, community organizations, senior citizens, consortium schools, and all other community residents.

B. To provide education, access, and opportunities to the School District's students, employees, staff, and community members.

C. To provide scholarships to students of the School District, which will be awarded and administered through a scholarship application process mutually agreeable to the parties.

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D. To provide mentoring, tutoring, financial assistance, and other support to help students of the School District attend college.

E. To provide financial assistance and administer programs to help the School District's students in need and facilitate the School District's mission.

F. To receive, hold and administer gifts of property, real or personal, financial or otherwise, to be used exclusively for and on behalf of the School District, its faculty, students, and staff, according to the terms of any applicable gift agreement or other restriction. In the event the donor or transferor does not specify the terms for which the gift shall be used, then the Foundation shall administer and use the gift for the benefit of the School District according to the School District's needs and policies.

G. To hold, manage and distribute such assets in its possession for the dedicated purpose of supporting the mission of the School District.

H. To plan, direct and implement all phases of fundraising efforts, including special events, direct mail appeals, major and planned gift solicitations and corporate and foundation grants, as agreed to by the School District. To conduct such other fundraising campaigns as may be deemed necessary and desirable by the Foundation or requested by the School District.

I. To identify, evaluate and solicit active and prospective philanthropic contributors for the benefit of the School District. The Foundation shall act to secure for the benefit of the School District's students, faculty and programs, private monetary resources in the continuing quest for overall excellence.

J. To continue to promote the School District's best interests, when requested, within the region, state and nation. Further, the Foundation shall continue, when asked, to communicate, report, and counsel the School District on matters pertaining to the School District and community.

K. To keep complete, accurate and confidential financial records of donors and donor funds and make such records available to the School District and to provide access to such records in compliance with Foundation policies and applicable laws. If the Foundation receives from any third party a request for information or documents pursuant to the Freedom of Information Act ("FOIA") or otherwise, the Foundation shall immediately forward such request to the School District's FOIA Officer such that the School District can, in coordination with the Foundation, timely respond to or assist the Foundation in timely responding to such request in compliance with the FOIA.

L. To provide appropriate stewardship and acknowledgment to donors through timely correspondence and recognition.

M. To abide by ethical and legal practices in accordance with the Foundation's charitable IRS 501(c)(3) status.

N. To have a separate annual audit of financial records of the Foundation conducted by an auditing firm approved by the Board of the Foundation. The Foundation shall provide the School District with a copy of the audit. The Foundation Board

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President also shall prepare an annual written report that outlines the status of the Foundation, as required by the Foundation's Bylaws.

O. To develop gift acceptance guidelines and policies in accordance with the School District's mission, goals and objectives.

P. To establish seed grants for new program development for various departments of the School District and grants to the School District for the purpose of securing and stewarding institutional relationships and partnerships.

Q. To receive, hold, manage, invest, and disperse contributions of cash, securities, patents, copyrights, and other forms of property including immediately vesting gifts and deferred gifts that are contributed in the form of planned and deferred gift instruments and disposition or allocation of real estate or other forms of tangible property.

R. To disclose any terms, conditions, or limitations imposed by the donor or legal determination on any gift transferred or distributed to the School District, and permit the School District reasonable time to determine whether it can accept the gift based on such terms, conditions or limitations.

S. To transfer all gifts, assets, property, and funds received pursuant to Article III, Section F to the School District upon termination of this Agreement.

ARTICLE IV

School District's Responsibilities and Services

The School District may provide some or all of the following support services to the Foundation:

A. To provide the Foundation with appropriately furnished and equipped office space.

B. To pay for shared expenses for printing and promotional materials.

C. To provide the Foundation with administrative/office support personnel.

D. To assist with such marketing services, as necessary, for the Foundation to accomplish its goals.

E. To assist in the strategic aspects of promoting donor investment.

F. To provide information technology support, including software and hardware necessary for the Foundation to carry out its functions.

G. To contribute funds to the Foundation as approved by the School District Board of Education in furtherance of the Foundation's objectives, mission or programs.

H. To support the operations of the Foundation by assigning School District personnel to assist the Foundation when necessary, and in the School District's discretion.

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I. To provide accurate accounting for scholarship awards and for any expenses that will be paid from Foundation resources subject to prior approval of the Executive Director of the Foundation.

J. To create and enforce School District policies, where deemed necessary and appropriate, that support the Foundation's ability to respect the privacy and confidentiality of donor records.

K. To communicate institutional priorities and long-term plans to the Foundation as approved by the Board of Education and to include the Foundation as an active and prominent participant in the strategic planning for the School District.

L. To direct the School District Superintendent to assume a prominent role in Foundation fundraising activities.

M. To acknowledge that the Foundation is a separate entity from the School District with expertise in coordinating and in implementing all aspects of a resource development department and in maintaining a comprehensive, growing fund-raising program.

N. To comply with the terms, conditions, or limitations imposed by donors or legal determinations on any gift transferred from the Foundation. The School District will notify the Foundation of its agreement to accept a gift and will notify the Foundation of the reasons if it cannot accept a particular gift.

ARTICLE V

Duration of Agreement

The term of this Memorandum of Understanding shall begin on the ___ day of _____, 202__, and shall continue thereafter from year-to-year unless either party shall give to the other written notice of termination at least ninety (90) days before the intended date of termination. In the event this Agreement is terminated by either party, the Foundation shall continue to administer any agreements pursuant to existing guidelines in effect at the date of termination, or in the alternative, provide for the orderly transfer of responsibility to the School District. Anything to the foregoing notwithstanding, if the Foundation ceases to be an Internal Revenue Code 501(c)(3) organization or terminates or dissolves for any other reason, this Agreement shall immediately terminate and the Foundation will transfer its assets to the School District or another affiliated foundation supporting the School District that is organized an operated exclusively for charitable and educational purposes within the meaning of Code Section 501(c)(3).

ARTICLE VI

Additional Terms of Agreement

A. This Agreement may not be assigned without prior written consent of the parties.

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B. Any additional understandings or agreements may be agreed upon between the parties in writing as an amendment to this Memorandum.

C. If any part of this Memorandum of Understanding is declared void and unenforceable by a court or administrative decision, or statutory enactment, it will not affect the validity of the remaining provisions of this Memorandum of Understanding, which will remain valid and enforceable according to its terms.

* * * *

IN WITNESS WHEREOF, the parties have caused this Memorandum of Understanding to be executed by their duly authorized representatives as of the day and year first above written.

ATTEST: **BOARD OF EDUCATION OF _____ SCHOOL DISTRICT NO. ____**

By: _____
Board President

By: _____
Date

ATTEST: **BOARD OF DIRECTORS OF _____ COMMUNITY FOUNDATION**

By: _____
Board President

By: _____
Date

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