

**MEMORANDUM OF AGREEMENT  
BETWEEN FORT THOMAS INDEPENDENT SCHOOL DISTRICT  
AND FORT THOMAS EDUCATION FOUNDATION, INC.**

This Memorandum of Agreement (“**MOA**”) is entered into by and between the Fort Thomas Education Foundation, Inc. (hereinafter referred to as “**FOUNDATION**”), its agents, assigns, employees, volunteers, and board, and the Fort Thomas Independent School District (hereinafter referred to as “**DISTRICT**”), its agents, assigns, employees, volunteers, and board of education, on this the \_\_\_ day of October, 2021.

**WHEREAS**, the **FOUNDATION** is a private, non-profit corporation operated for the purpose of supporting educational excellence of the public schools for Fort Thomas, Kentucky by helping to provide funds beyond the operating budget for educational programs and activities for students and staff; and

**WHEREAS**, the Fort Thomas Independent School District is a school district and body politic with the authority to accept, receive, and administer gifts, grants, conveyances, devices and bequests of real property and to convey, sell, lease, rent and enter into contracts necessary to such activities; and,

**WHEREAS**, the **FOUNDATION** has gifted to the **DISTRICT**, the property located at 2504 Memorial Parkway (hereinafter referred to as the “**PROPERTY**”), to be used for school purposes; and

**WHEREAS**, the **DISTRICT** deems that the **FOUNDATION**’s activities to be of tremendous benefit to the **DISTRICT**’s students and its educational mission, and further deems that such efforts by the **FOUNDATION** are more than adequate for the **DISTRICT’S** support of the **FOUNDATION**’s efforts through the use of **DISTRICT** office space and

equipment on the first floor of the **PROPERTY**. Said first floor shall hereinafter be referred to as the "**LEASED PREMISES**";

***NOW, THEREFORE, BE IT AGREED AS FOLLOWS:***

1. The **FOUNDATION** is a non-profit entity, wholly independent of the **DISTRICT**.

The **DISTRICT** derives direct and valuable consideration and benefit from the **FOUNDATION's** fundraising activities and its charitable giving, consistent with its by-laws, and its mission to enhance the educational opportunities for students in the **DISTRICT**. Based on the consideration conferred to the **DISTRICT** by the **FOUNDATION's** fundraising efforts, the **DISTRICT** will make the first floor of the **PROPERTY** available to the **FOUNDATION** for its use and enjoyment, including the use of office furniture and equipment (otherwise known as the **LEASED PREMISES**).

2. The **DISTRICT** shall provide reasonable, and necessary maintenance and custodial services for the **LEASED PREMISES**, and the common areas, and shall at its expense, provide all reasonable and necessary utilities, such as, gas, water, electricity, to the **LEASED PREMISES** and the common areas. Other utilities will be provided at the discretion of the **DISTRICT**. If the **FOUNDATION** requires custodial services for events or activities which occur outside of normal school hours, then the **FOUNDATION** shall make the necessary arrangements with the Superintendent of the **DISTRICT**, or the Superintendent's designee.
3. The **DISTRICT** shall maintain an inventory of the equipment and furniture provided to the **FOUNDATION** under this MOA. At its option, the **DISTRICT** may provide local and long-distance telephone access and equipment, and

infrastructure (wiring, etc. ) to support the **FOUNDATION's** dedicated e-mail account that is separate from the **DISTRICT's** e-mail system. The furniture and equipment provided by the **DISTRICT** shall remain property of the **DISTRICT** at all times and shall not be used in any manner which violates State or Federal laws or regulations, or the policies of the **DISTRICT**.

4. The **FOUNDATION** will use the office space and equipment provided under this MOA in a manner consistent with the **DISTRICT's** building hours and procedures for use of **DISTRICT**-owned facilities, including security requirements, access, and like matters. It is recognized that the **FOUNDATION** may have to use its office space and equipment after normal school hours in order to conduct fundraising or networking activities. In those instances, the **FOUNDATION** shall work with the Superintendent of the **DISTRICT** to make arrangements for the use and security of the building during these after-hour activities.
5. The term of this contract shall be for the remainder of the 2022 fiscal year, and will automatically renew each year on July 1 for a full one year term. The **DISTRICT** shall notify the **FOUNDATION** by May 1 annually if this MOA will not be renewed for the ensuing year. If the **DISTRICT** fails to inform the **FOUNDATION** that the MOA will not be renewed, then this MOA shall be deemed to remain in effect for the following school year. NOTWITHSTANDING, the foregoing, the parties may terminate the MOA as outlined below:
  - a. Should the **DISTRICT** determine that it needs the **LEASED PREMISES** for its own needs at any time, the **DISTRICT** will in good faith provide the **FOUNDATION** with alternative, suitable office space, at a level sufficient

to maintain administrative support of the **FOUNDATION**, and the **FOUNDATION**'s consent to said alternative, suitable office space shall not be unreasonably withheld. At such time, the **LEASED PREMISES** provided under this MOA shall be vacated by the **FOUNDATION** within 60 days of the date of such written notice provided by the **DISTRICT** to the **FOUNDATION**, given alternative, suitable office space has been identified and provided by the **DISTRICT**.

- b. Either party to this MOA may terminate this MOA upon sixty (60) days written notice to the other party for any reason or no reason.
- c. The **DISTRICT** may terminate this MOA immediately if the **FOUNDATION** or any person(s) acting under the control of the **FOUNDATION** have violated **DISTRICT** use of property, security protocols, confidentiality, or privacy; and written notification of said violations have been provided by the **DISTRICT**.

- 6. **FOUNDATION** employees, volunteers, or contractors are not "school officials" for purposes of the Family Educational Rights and Privacy Act (FERPA), 20 USC Sec. 1232g and do not have access to confidential student information. The term "confidential student information" as used in this MOA means any and all student education records protected by FERPA and all other similar federal and state law in accordance with the **DISTRICT**'s policies. Such confidential student information shall not be disclosed to a **FOUNDATION** employee, volunteer, or contractor, absent express written permission of the student's parent/guardian or student, if the student is over the age of 18. In the event that confidential

student information is inadvertently disclosed to the **FOUNDATION**, the parties shall cooperate to create safeguards to protect and secure the confidential student information.

7. Except in instances of gross negligence or willful or wanton misconduct by the **DISTRICT**, the **FOUNDATION** will indemnify and save harmless the **DISTRICT** from and against any loss, cost, or damage resulting from injury to persons or property occurring on the **LEASED PREMISES** during the term of this MOA, or any extension or renewal term thereof, including, but not limited to any claims, damages, or demands arising from the serving of or consumption of alcohol on the **LEASED PREMISES**. The **FOUNDATION** shall maintain and pay for liability insurance protecting the **FOUNDATION** and the **DISTRICT**, as those respective interests appear or may appear, each with the same effect as if separately insured, against any claim for damage or injury to persons or property occurring on the **LEASED PREMISES**. The policy of public liability insurance shall include a provision protecting the **FOUNDATION** and **DISTRICT**, its employees, board of education and agents, as its respective interests appear or may appear, in the minimum amount of \$1,000,000.00 in the aggregate; and \$500,000.00 for property damage. A certificate of such policy shall be issued and delivered to the **DISTRICT** upon request.
8. The parties recognize that from time to time the **FOUNDATION** may host events or activities on the **LEASED PREMISES** where alcohol is served or consumed. Said events or activities shall only occur after normal school hours or when school is not in session. Prior to hosting an event or an activity where alcohol is

served or consumed on the **LEASED PREMISES** the **FOUNDATION** shall secure the approval of the Superintendent of the DISTRICT and execute a rental agreement for said event or activity in compliance with Board Policy 05.31. In addition to the liability insurance and indemnification required under Paragraph 6 of this MOA, the **FOUNDATION** shall comply with all state, federal, and local laws and regulations governing alcohol use, distribution, sale, and/or consumption in connection with the use of the **LEASED PREMISES**.

9. The **FOUNDATION** shall comply with all School District COVID-19 directives and mandates, including, masking, distancing, and if necessary, any limitations on building access.

ENTERED INTO THIS \_\_\_ DAY OF OCTOBER, 2021 BY AND BETWEEN THE FORT THOMAS INDEPENDENT SCHOOL DISTRICT AND THE FORT THOMAS EDUCATION FOUNDATION, INC..

***SIGNATURES:***

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**Superintendent**

Approved by the Board of Education of the Fort Thomas Independent School District on the \_\_\_ day of \_\_\_\_\_, 2021.

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**Foundation Chair**

Approved by the Board of Directors of the Fort Thomas Education Foundation on the \_\_\_ day of \_\_\_\_\_, 2021.