

INSTRUCTIONAL SERVICE AGREEMENT

**By and Between
Malverne UFSD and Mineola UFSD**

THIS AGREEMENT made this _____ day of _____, 2022 by and between BOARD OF EDUCATION OF THE MALVERNE UNION FREE SCHOOL DISTRICT (hereinafter referred to as the "SENDING SCHOOL DISTRICT"), having its principal place of business located 301 Wicks Lane, Malverne, New York 11565, and BOARD OF EDUCATION OF MINEOLA UNION FREE SCHOOL DISTRICT (hereinafter referred to as the "RECEIVING SCHOOL DISTRICT"), having its principal place of business for purposes of this Agreement at 2400 Jericho Turnpike, Garden City Park, NY 11040.

WITNESSETH:

WHEREAS, pursuant to Education Law § 4402(2)(b)(2), the SENDING SCHOOL DISTRICT is authorized by law to contract for special education programs and services for students resident in its own district and in need of such services with other public school districts, boards of cooperative educational services ("BOCES"), private schools approved by the Commissioner of Education and special act school districts; and

WHEREAS, the SENDING SCHOOL DISTRICT desires that RECEIVING SCHOOL DISTRICT provide instruction to the student(s) to be enrolled through this Agreement in the program operated by RECEIVING SCHOOL DISTRICT; and

WHEREAS, RECEIVING SCHOOL DISTRICT warrants that it has reviewed the individualized education program ("IEP") of each student to be enrolled in its program, and represents that it will provide the level of services identified in the IEP to meet the needs of such student(s); and

WHEREAS, the RECEIVING SCHOOL DISTRICT is capable of and willing to provide instruction to the student(s) the SENDING SCHOOL DISTRICT is enrolling through this Agreement in the program(s) operated by RECEIVING SCHOOL DISTRICT;

NOW THEREFORE, in consideration of the mutual promises and covenants contained in this Agreement, the parties hereto mutually agree as follows:

1. **TERM OF AGREEMENT**: This Agreement shall be in effect for the period of July 1, 2022 to June 30, 2023, regardless of the date executed, unless terminated earlier, as set forth herein.
2. **SCOPE OF SERVICES**: During the term of this Agreement, the RECEIVING SCHOOL DISTRICT shall provide a special education program and/or services to the student(s) listed in Appendix A of this Agreement.

RECEIVING SCHOOL DISTRICT shall provide adequate instruction, related services and/or a facility to the student(s) during the school year. The education provided by RECEIVING SCHOOL DISTRICT shall be appropriate to the mental ability and physical

condition of the student(s), and in accordance with Commissioner's Regulations, all applicable Federal, State and local statutes, rules and ordinances. The RECEIVING SCHOOL DISTRICT agrees to provide services in accordance with the regulations of the New York Commissioner of Education and of the Board of Regents, using only professionals certified by the New York State Education Department. The RECEIVING SCHOOL DISTRICT agrees to provide the student(s) who are the subject of this Agreement with the special education program(s) and/or related service(s) in accordance with each student's IEP.

In the event that the SENDING SCHOOL DISTRICT, upon the recommendation of its CSE, wishes to modify the instructional program and/or related services (i.e. type, frequency and/or location) provided to the student(s) during the term of the Agreement, the SENDING SCHOOL DISTRICT shall present its request for such modification(s) to the RECEIVING SCHOOL DISTRICT. The RECEIVING SCHOOL DISTRICT shall review such request and shall determine whether it is able to meet such request. The RECEIVING SCHOOL DISTRICT shall notify the SENDING SCHOOL DISTRICT of its determination within ten (10) business days and shall advise same of any changes in cost associated with any modification(s) made to the program and/or services. Any agreement with respect to an increase or decrease in related services or change of program shall be in writing and shall be made an addendum to this Agreement.

3. **PAYMENT SCHEDULE:** In full consideration for the educational services to be rendered by the RECEIVING SCHOOL DISTRICT to the SENDING SCHOOL DISTRICT for the period of this Agreement, upon presentment of an invoice by the RECEIVING SCHOOL DISTRICT, the SENDING SCHOOL DISTRICT will pay to the RECEIVING SCHOOL DISTRICT for each student the tuition rate set by the New York State Education Department. If the tuition rates for this school year are not available at the beginning of the school year, the SENDING SCHOOL DISTRICT shall pay the rates applicable to the previous school year until new rates are set, at which time the parties shall adjust future tuition payments so that the RECEIVING SCHOOL DISTRICT will be paid in accordance with the rates applicable to the current school year.

SENDING SCHOOL DISTRICT reserves the right to add or delete a child from the list of the student(s) covered by this Agreement at any time during the school term. Enrollment for any period less than one (1) month shall be prorated. Any overpayments will be reimbursed by RECEIVING SCHOOL DISTRICT to the SENDING SCHOOL DISTRICT.

4. **INVOICE DUE ON MONTHLY BASIS:** RECEIVING SCHOOL DISTRICT will submit an invoice for services rendered on a monthly basis, and payment to RECEIVING SCHOOL DISTRICT shall be made within thirty (30) days from receipt of invoice from RECEIVING SCHOOL DISTRICT. SENDING SCHOOL DISTRICT shall give RECEIVING SCHOOL DISTRICT notice of any invoice dispute within twenty (20) days of its receipt and reserves the right to withhold payment pending the resolution of this dispute. Failure to dispute any invoice shall not be deemed as an acceptance and does not act as a waiver of SENDING SCHOOL DISTRICT's rights or prevent SENDING SCHOOL DISTRICT from availing itself of any remedy or course of action it has at law or in equity at a later date.

5. **INDEPENDENT CONTRACTOR:** All employees of RECEIVING SCHOOL DISTRICT shall be deemed employees of RECEIVING SCHOOL DISTRICT for all purposes and

RECEIVING SCHOOL DISTRICT alone shall be responsible for their work, personal conduct, direction, and compensation. RECEIVING SCHOOL DISTRICT acknowledges that it will not hold itself, its officers, employees and/or agents out as employees of SENDING SCHOOL DISTRICT. RECEIVING SCHOOL DISTRICT is retained by SENDING SCHOOL DISTRICT only for the purposes and to the extent set forth in this Agreement, and its relationship to SENDING SCHOOL DISTRICT shall, during the periods of its services hereunder, be that of an independent contractor. RECEIVING SCHOOL DISTRICT shall not be considered as having employee status and shall not be entitled to participate in any of SENDING SCHOOL DISTRICT's workers' compensation, retirement, fringe benefits, unemployment insurance, liability insurance, disability insurance, or other similar employee benefit programs. Similarly, RECEIVING SCHOOL DISTRICT, its officers, its employees and/or agents shall not be considered as having employee status for the purposes of any other rights, privileges or benefits derived from employment by SENDING SCHOOL DISTRICT. RECEIVING SCHOOL DISTRICT agrees that this Agreement does not confer benefits of any nature whatsoever upon it other than payment for services provided herein. RECEIVING SCHOOL DISTRICT shall not assert any claim for additional benefits of any nature, including, but not limited to, unemployment compensation benefits, by reason of the services to be performed pursuant to this Agreement. RECEIVING SCHOOL DISTRICT shall not be entitled to assert any claim to entitlements pursuant to any collective bargaining agreement now or hereafter in effect between SENDING SCHOOL DISTRICT and its employees.

6. **RESPONSIBILITY FOR PAYMENT OF SERVICES:** No parent or guardian or any other person shall be required to make any payment for services on behalf of any student covered by this Agreement. RECEIVING SCHOOL DISTRICT and its employees shall not share or accept any fee or gratuity from the student or student's family for service provided pursuant to this Agreement.

7. **SCHOOL DISTRICT'S RIGHT TO EXAMINE ACCOUNTING RECORDS:** SENDING SCHOOL DISTRICT shall have the right to examine any and all accounting records as they pertain to tuition and related service costs. For purposes of this Agreement, the definition and calculation of enrollment and attendance shall be determined by SENDING SCHOOL DISTRICT, in accordance with section 175.6 of the Regulations of the Commissioner of Education.

8. **SAVE LEGISLATION:** RECEIVING SCHOOL DISTRICT understands and agrees that it is responsible for complying with all applicable Federal, State, local statutes, rules, and ordinances including the New York State Safe Schools Against Violence in Education (SAVE) legislation. RECEIVING SCHOOL DISTRICT shall adhere to all requirements and protocols as established by SENDING SCHOOL DISTRICT and the New York State Education Department: to wit, but not limited to, fingerprinting. RECEIVING SCHOOL DISTRICT further agrees and understands that all individuals providing services under this Agreement must be cleared by the New York State Education Department in accordance with the provisions contained in the SAVE Legislation prior to providing services to SENDING SCHOOL DISTRICT. In the event that RECEIVING SCHOOL DISTRICT utilizes a provider who has not obtained fingerprinting clearance with the New York State Education Department, SENDING SCHOOL DISTRICT shall have the right to immediately terminate this Agreement.

9. **ATTENDANCE RECORDS:** RECEIVING SCHOOL DISTRICT shall maintain daily

attendance records which shall be submitted to SENDING SCHOOL DISTRICT at the end of each month. If a student has been absent for a period of five (5) or more consecutive days, the attendance record shall indicate the reason for that absence.

10. **REPORTS OF STUDENTS:** RECEIVING SCHOOL DISTRICT shall obtain whatever releases or other legal documents that are necessary in order that RECEIVING SCHOOL DISTRICT may render full and complete reports concerning the education and progress of the student(s) covered by the terms of this Agreement. The full responsibility for obtaining such clearances rests on RECEIVING SCHOOL DISTRICT. Any failure to carry out such responsibility shall permit the Commissioner of Education to withdraw approval for the placement of such student in such program, in which event this Agreement shall be canceled forthwith in regard to such student for whom such releases are not submitted.

11. **REPORTS TO STATE:** RECEIVING SCHOOL DISTRICT hereby agrees to furnish to the State all reports, audits, etc. required to make determinations as to eligibility under the provisions of the Regulations of the Commissioner of Education. Such materials shall be furnished at such times as are required by the State. Failure to submit required materials within ten (10) days of demand or as required by regulations shall constitute grounds for the SENDING SCHOOL DISTRICT to terminate this Agreement. RECEIVING SCHOOL DISTRICT agrees to provide the State access to all relevant records which the State requires to determine either RECEIVING SCHOOL DISTRICT's or SENDING SCHOOL DISTRICT's compliance with applicable Federal or State statutes or regulations with the effect of law, which regulate either the execution of the Agreement or the performance of obligations under the Agreement. RECEIVING SCHOOL DISTRICT agrees to retain all materials and records relevant to the execution or performance of the Agreement in accordance with the provision of section 74.21 of volume 34 of the Code of Federal Regulations, but in no event less than six (6) years from the date of this Agreement.

12. **REPORTS TO SCHOOL DISTRICT:** RECEIVING SCHOOL DISTRICT hereby agrees to furnish written reports of each student's educational progress to SENDING SCHOOL DISTRICT. RECEIVING SCHOOL DISTRICT will render such reports to SENDING SCHOOL DISTRICT at any time that such reports are made to the parents of the student(s) covered by the terms of this Agreement, and will render such additional reports as may be required by the SENDING SCHOOL DISTRICT. At a minimum, all reports shall be furnished at the end of each semester, i.e., January 31st and June 30th. Any and all reports shall be furnished upon termination of the Agreement. RECEIVING SCHOOL DISTRICT shall provide such additional information concerning each student's progress as may be required by SENDING SCHOOL DISTRICT.

13. **COMMISSIONER VISITS:** RECEIVING SCHOOL DISTRICT shall be subject to the visitation of the Commissioner of Education or his/her designated representative(s).

14. **VISITS BY SENDING SCHOOL DISTRICT:** The RECEIVING SCHOOL DISTRICT agrees to permit a representative or representatives of the Committee on Special Education of the SENDING SCHOOL DISTRICT to visit RECEIVING SCHOOL DISTRICT and observe SENDING SCHOOL DISTRICT's students in the program in which the student(s) is/are enrolled at RECEIVING SCHOOL DISTRICT if reasonable prior notice of the visit is provided to RECEIVING SCHOOL DISTRICT.

15. **CSE MEETINGS**: The RECEIVING SCHOOL DISTRICT agrees to make relevant personnel available to participate in person or by telephone in meetings of the SENDING SCHOOL DISTRICT's Committee on Special Education for the student(s) enrolled in RECEIVING SCHOOL DISTRICT by SENDING SCHOOL DISTRICT if reasonable prior notice of such meetings is provided to the RECEIVING SCHOOL DISTRICT.

16. **AUTHORIZATION OF SCHOOL DISTRICT**: RECEIVING SCHOOL DISTRICT shall coordinate all instruction of SENDING SCHOOL DISTRICT's student(s) through the Office of Special Education and Pupil Personnel Services of SENDING SCHOOL DISTRICT.

17. **STUDENT DISCIPLINE**: RECEIVING SCHOOL DISTRICT agrees that all disciplinary measures for disabled students will be conducted in accordance with applicable Federal, State and local laws, rules and regulations.

18. **STUDENT TRANSPORTATION**: The SENDING SCHOOL DISTRICT shall be responsible for providing all students listed in Appendix A of the Agreement with transportation to and from school.

19. **STUDENT PRESCRIPTIONS**: Where applicable, SENDING SCHOOL DISTRICT shall obtain all medical prescriptions from the parent/guardian of student(s) referred to RECEIVING SCHOOL DISTRICT. SENDING SCHOOL DISTRICT shall forward copies of these prescriptions to RECEIVING SCHOOL DISTRICT upon its written request.

20. **TERMINATION FOR CAUSE**: This Agreement may be terminated for cause by either party upon thirty (30) days written notice to the other party. In the event of such termination, the parties will adjust the accounts due and payable to RECEIVING SCHOOL DISTRICT for services rendered. RECEIVING SCHOOL DISTRICT will not incur any additional expenses upon receipt of SENDING SCHOOL DISTRICT's notification that RECEIVING SCHOOL DISTRICT's services have been terminated. Upon any such termination, the parties shall endeavor in an orderly manner to wind down activities hereunder. In the event of termination, all reports and services due to SENDING SCHOOL DISTRICT must be completed by RECEIVING SCHOOL DISTRICT within thirty (30) days of the termination date. Following the expiration or termination of this Agreement, RECEIVING SCHOOL DISTRICT shall have no further obligation to provide a placement, a program or any services to the SENDING SCHOOL DISTRICT's student(s) enrolled through this Agreement unless required by State and Federal laws and regulations when the parent or guardian of such a student invokes pendency as part of an Impartial Hearing. In the event of such pendency placement the SENDING SCHOOL DISTRICT shall remain responsible for payment of tuition to the RECEIVING SCHOOL DISTRICT.

21. **TERMINATION FOR CONVENIENCE**: This Agreement may be terminated for convenience by either party upon sixty (60) days written notice to the other party. In the event of such termination, the parties will adjust the accounts due and payable to RECEIVING SCHOOL DISTRICT for services rendered. RECEIVING SCHOOL DISTRICT will not incur any additional expenses upon receipt of SENDING SCHOOL DISTRICT's notification that RECEIVING SCHOOL DISTRICT's services have been terminated. Upon any such termination, the parties shall endeavor in an orderly manner to wind down activities hereunder. In the event

of termination, all reports and services due to SENDING SCHOOL DISTRICT must be completed by RECEIVING SCHOOL DISTRICT within thirty (30) days of the termination date. Following the expiration or termination of this Agreement, RECEIVING SCHOOL DISTRICT shall have no further obligation to provide a placement, a program or any services to the SENDING SCHOOL DISTRICT's student(s) enrolled through this Agreement unless required by State and Federal laws and regulations when the parent or guardian of such a student invokes pendency as part of an Impartial Hearing. In the event of such pendency placement the SENDING SCHOOL DISTRICT shall remain responsible for payment of tuition to the RECEIVING SCHOOL DISTRICT.

22. **CONFIDENTIALITY:** RECEIVING SCHOOL DISTRICT, its employees, and/or agents agree that all information obtained in connection with the services provided for in this Agreement is deemed confidential information. RECEIVING SCHOOL DISTRICT, its employees, and/or agents shall not use, publish, discuss, disclose or communicate the contents of such information, directly or indirectly with third parties, except as provided for in this Agreement. RECEIVING SCHOOL DISTRICT further agrees that any information received by RECEIVING SCHOOL DISTRICT, its employees, and/or agents during the course of the services provided pursuant to this Agreement which concerns the personal, financial, or other affairs of SENDING SCHOOL DISTRICT, its employees, agents, clients, and/or students will be treated by RECEIVING SCHOOL DISTRICT, its employees, and/or agents in full confidence and will not be revealed to any other persons, firms, or organizations. The parties further agree that the terms and conditions set forth in this paragraph shall survive the expiration and/or termination of this Agreement.

23. **HIPAA:** Both parties to this Agreement understand that they may receive and/or come into contact with *protected health information* as defined by the Health Insurance Portability and Accountability Act of 1996 (HIPAA). The Parties hereby acknowledge their respective responsibilities to protect the confidentiality of such information.

24. **INDEMNIFICATION and HOLD HARMLESS PROVISION:** Both parties further agree that they shall defend, indemnify and hold harmless the other party to the Agreement including its Board of Education, officers, directors, agents and employees for all loss, costs, damages and expenses, including attorneys' fees, judgments, fines and amounts paid in settlement in connection with a terminated, pending or completed action, suit or proceeding arising from any act, error or omission, misstatement, misleading statement, neglect or breach of duties by the other party to this Agreement or any of its Board of Education members, its officers, directors, agents or employees taken or made with respect to this Agreement.

25. **INSURANCE PROVISION:** RECEIVING SCHOOL DISTRICT shall purchase from and maintain in a company or companies lawfully licensed to do business in the State of New York such insurance as will protect RECEIVING SCHOOL DISTRICT and SENDING SCHOOL DISTRICT from claims for which RECEIVING SCHOOL DISTRICT may be legally liable, whether such operations be by RECEIVING SCHOOL DISTRICT or by anyone directly or indirectly employed by it, or by anyone for whose acts it may be liable. Notwithstanding any terms, conditions or provisions in any other writing between the parties, RECEIVING SCHOOL DISTRICT hereby agrees to effectuate the naming of SENDING SCHOOL DISTRICT as an unrestricted additional insured on RECEIVING SCHOOL DISTRICT's insurance policies, with the exception of workers' compensation and professional liability. If the policy is written

on a claims-made basis, the retroactive date must precede the date of this Agreement. The policy naming SENDING SCHOOL DISTRICT as an additional insured shall:

- a. Be purchased from an A.M. Best A- rated insurer, authorized to conduct business in New York State and licensed and admitted to issue insurance in New York State.
- b. Contain a provision that provides SENDING SCHOOL DISTRICT with 30-days prior written notice of cancellation of any of RECEIVING SCHOOL DISTRICT'S insurance policies.
- c. State that RECEIVING SCHOOL DISTRICT's coverage shall be primary and non-contributory coverage for SENDING SCHOOL DISTRICT, its Board of Education, officers, employees and volunteers.
- d. SENDING SCHOOL DISTRICT shall be listed as an additional insured by using endorsement CG 20 26 or equivalent. The certificate must state that this endorsement is being used. If another endorsement is used, a copy shall be included with the certificate of insurance. The decision to accept another endorsement rests solely with SENDING SCHOOL DISTRICT.
- e. The certificate of insurance must describe the services provided by RECEIVING SCHOOL DISTRICT that are covered by the liability policies.
- f. Required Insurance:
 - i. Commercial General Liability Insurance: \$1,000,000 per occurrence/ \$2,000,000 aggregate with no exclusions for athletic participants and with proof of coverage for sexual misconduct no less than \$1,000,000.
 - ii. Automobile Liability: \$1,000,000 combined single limit for owned, hired, borrowed and non-owned motor vehicles.
 - iii. Workers' Compensation and N.Y.S. Disability: Statutory Workers' Compensation (C105.2 or U-26.3), Employers' Liability and N.Y.S. Disability Benefits Insurance (DB-120.1) for all employees. Proof of coverage must be on the approved specific form, as required by the New York State Workers' Compensation Board. ACORD certificates are not acceptable proof of Workers' Compensation Insurance of Disability Benefits Insurance.
 - iv. Professional Errors and Omissions Insurance: \$2,000,000 per occurrence/ \$2,000,000 aggregate for the professional acts of RECEIVING SCHOOL DISTRICT performed under this Agreement for SENDING SCHOOL DISTRICT. If written on a "claims-made" basis, the retroactive date must pre-date the inception of this Agreement. Coverage shall remain in effect for two (2) years following the completion of the professional acts of RECEIVING SCHOOL DISTRICT performed under the Agreement.
 - v. Umbrella/Excess Insurance: \$3,000,000 each occurrence and aggregate. Umbrella/Excess coverage shall be on a follow-form basis over the required Commercial General Liability and Professional Liability coverage.

- g. In the event that any of the insurance coverage to be provided by RECEIVING SCHOOL DISTRICT contains a deductible, RECEIVING SCHOOL DISTRICT shall indemnify and hold SENDING SCHOOL DISTRICT harmless from the payment of such deductible, which deductible shall in all circumstances remain the sole obligation and expense of RECEIVING SCHOOL DISTRICT.
- h. RECEIVING SCHOOL DISTRICT shall provide the SENDING SCHOOL DISTRICT with evidence of the above insurance requirements upon execution of the within Agreement. RECEIVING SCHOOL DISTRICT further acknowledges that its failure to obtain or keep current the insurance coverage required by this Agreement shall constitute a material breach of this Agreement and subjects RECEIVING SCHOOL DISTRICT to liability for damages including, but not limited to, direct, indirect, consequential, special and any other damages SENDING SCHOOL DISTRICT sustains as a result of this breach. In addition, RECEIVING SCHOOL DISTRICT shall be responsible for the indemnification to SCHOOL DISTRICT of any and all costs associated with such lapse in coverage including, but not limited to, reasonable attorneys' fees. At the SENDING SCHOOL DISTRICT's request, the RECEIVING SCHOOL DISTRICT shall provide a copy of the declaration page of the liability and umbrella policies with a list of endorsements and forms. At the SENDING SCHOOL DISTRICT's request, the RECEIVING SCHOOL DISTRICT also will provide a copy of the policy endorsements and forms. The failure of the SENDING SCHOOL DISTRICT to object to the contents of the evidence of insurance(s) or the absence of same shall not be deemed a waiver of any and all rights held by the SENDING SCHOOL DISTRICT.

26. **NOTICES:** Any notices to be given under this Agreement by either party to the other may be effected by personal delivery in writing or by mail, registered or certified, postage prepaid with return receipt requested. Each party may change the address by written notice in accordance with this paragraph. Notices delivered personally will be deemed communicated as of actual receipt; mailed notices will be deemed communicated as of three (3) days after mailing. Notice shall be delivered or mailed to:

MALVERNE UNION FREE SCHOOL DISTRICT
301 Wicks Lane
Malverne, New York 11565
ATTN: Assistant Superintendent for Business

MINEOLA UNION FREE SCHOOL DISTRICT
2400 Jericho Turnpike
Garden City Park, New York 11040
ATTN: Assistant Superintendent for
Business and Operations

27. **ASSIGNMENT OF CONTRACT:** RECEIVING SCHOOL DISTRICT shall not assign, transfer or convey any of its respective rights or obligations under this Agreement without the prior written consent of SENDING SCHOOL DISTRICT.

28. **DISCRIMINATION:** Services provided pursuant to this Agreement shall be provided without regard to a student's actual or perceived race, creed, color, weight, gender, sex, sexual orientation, national origin, ethnic group, religious practice, religion, age or disability.

29. **GOVERNING LAW:** This Agreement shall be governed by the laws of the State of New York. Any litigation between the parties shall be venued in a court of competent jurisdiction in the County of Westchester in the State of New York.

30. **SEVERABILITY:** If any term, provision, covenant or condition of this Agreement, or the application thereof to any person, place or circumstance, shall be held by a court of competent jurisdiction to be invalid, unenforceable or void, the remainder of this Agreement and such term, provision, covenant or condition as applied to other persons, places and circumstances shall remain in full force and effect.

31. **NO PRIOR AGREEMENTS:** This Agreement constitutes the full and complete agreement between SENDING SCHOOL DISTRICT and RECEIVING SCHOOL DISTRICT, and supersedes all prior written and oral agreements, commitments or understandings with respect thereto. This Agreement may not be altered, changed, added to, deleted from or modified except through the mutual written consent of the parties.

32. **AGREEMENT CONSTRUCTION:** This Agreement has been arrived at mutually and is not to be construed against any party hereto as being the drafter hereof or causing the same to be drafted.

33. **REPRESENTATIONS AND WARRANTIES:** RECEIVING SCHOOL DISTRICT represents and warrants: 1) that RECEIVING SCHOOL DISTRICT has no obligations, legal or otherwise, inconsistent with the terms of this Agreement; 2) that the performance of the services to be provided in this Agreement does not and will not violate any applicable law, rule or regulation or any proprietary or other right of any third party; and 3) that RECEIVING SCHOOL DISTRICT has not entered into or will not enter into any agreement (whether oral or written) in conflict with this Agreement.

34. **AMENDMENT:** This Agreement may be amended only in a writing that is signed by both parties.

35. **NONWAIVER:** No action or failure to act by RECEIVING SCHOOL DISTRICT or SENDING SCHOOL DISTRICT shall constitute a waiver of a right or duty afforded them under the Agreement, nor shall such action or failure to act constitute approval of or

acquiescence in a breach thereunder, except as may be specifically agreed in writing.

36. **COUNTERPARTS:** This Agreement may be executed in counterparts, each of which shall be deemed an original and all of which taken together shall constitute one and the same agreement. An executed counterpart transmitted by facsimile or scanned and transmitted by email, when so delivered, shall be deemed an original

37. **AUTHORITY TO ENTER AGREEMENT:** The undersigned representative of RECEIVING SCHOOL DISTRICT hereby represents and warrants that the undersigned is an official, officer, director, or agent of RECEIVING SCHOOL DISTRICT with full legal rights, power and authority to enter into this Agreement on behalf of RECEIVING SCHOOL DISTRICT and bind RECEIVING SCHOOL DISTRICT with respect to the obligations enforceable against RECEIVING SCHOOL DISTRICT in accordance with its terms. The undersigned representative of SENDING SCHOOL DISTRICT hereby represents and warrants that the undersigned is an official, officer, director, or agent of SENDING SCHOOL DISTRICT with full legal rights, power and authority to enter into this Agreement on behalf of SENDING SCHOOL DISTRICT and bind SENDING SCHOOL DISTRICT with respect to the obligations enforceable against SENDING SCHOOL DISTRICT in accordance with its terms.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement the day and year first above written.

MALVERNE UNION FREE SCHOOL DISTRICT

Date: _____

By: _____

Print Name: _____

Title: _____

Tax Identification #: _____

MINEOLA UNION FREE SCHOOL DISTRICT

Date: _____

By: _____

Margaret Ballantyne-Mannion, Ph.D.
President of the Board of Education