MEMORANDUM OF AGREEMENT
between
[NAME] SCHOOL DISTRICT
and
[NAME] EDUCATIONAL SUPPORT PERSONNEL ASSOCIATION

This **Memorandum of Agreement** (“MOA”) is made by and betweenthe **[Name] School District** (“District”) and the **[Name] Educational Support Personnel Association** (“Association”). The District and the Association shall be referred to collectively as the “Parties”.

**WHEREAS,** the Parties are bound by a Collective Bargaining Agreement (“CBA”); and

**WHEREAS,** on March 13, 2020, Governor Tom Wolf ordered all Pennsylvania public schools to close for 10 school days, effective March 16, 2020; and

**WHEREAS**, both the District and the Association are desirous of working together to provide the best educational services the District can offer during this global pandemic of COVID-19;

**WHEREAS**, both parties agree that it is in everyone's best interest to work together and maintain the integrity of the educational institution;

**WHEREAS**, both parties recognize that under these extraordinary times certain norms and manner of doing business will need to temporarily change;

**WHEREAS,** the Parties recognize that non-teaching staff have no statutory right to pay while school is closed, but the District desires to maintain their pay for these two weeks; and

**WHEREAS,** it is not clear that the Fair Labor Standards Act, 29 U.S.C. Sec. 201, *et seq.* (“FLSA”), allows a pre-payment of wages that would foreclose a claim for additional wages when hours are actually worked; and

**WHEREAS,** it is possible the District will be required to open for instruction past the currently scheduled end of the school year, and non-teaching staff will be required to work those days; and

**WHEREAS,** neither the Association nor individual employees may be required to waive any rights they may have under the FLSA;

**NOW THEREFORE,** the Parties mutually agree as follows:

1. **Incorporate by Reference.** The foregoing recitals are incorporated by reference as if fully set forth herein.
2. **Hourly Employees.** The Parties agree that hourly employees will continue to receive the wages set forth in the Collective Bargaining Agreement (hereinafter “CBA”), regardless of whether the employee is currently working as a result the school closing due to COVID-19 work restrictions. The District reserves the right to cease payment for non—working hourly employees at will.
3. **Wage.** The wages will remain as set forth in the CBA.
4. **Time Made Up.** The Association agrees that should the school time be made up and the contractual work hours are met, those receiving the paid time off will not receive payment again for the made up days. The maximum payment the employee will receive is the amount of work hours set forth in the CBA or job description.
5. **FLSA**. The Association hereby agrees to indemnify and defend the District from any claims filed by non-teaching staff under the FLSA requesting pay for hours worked past the currently scheduled end of the school year.
6. **Extension of Agreement.** In the event the closure is extended beyond two weeks, the Parties shall confer as soon as possible to determine whether the terms of this Agreement shall be extended.
7. **Merger Clause.** This MOA constitutes the full agreement between the District and the Association relevant to the school closing for COVID-19 virus and hourly employees. No addendum or supplement to this MOA shall be enforceable unless in writing and signed by all Parties.
8. **No Precedent.** This MOA does not constitute a practice or precedent nor is it a waiver of any rights by either party.
9. **Successors and Assigns.** This MOU shall be binding upon the Parties thereto, their successors, and assigns and shall remain intact until implementation is complete.

**THEREFORE,** the Parties intending to be legally bound hereby, the representatives of the Parties set their hands this \_\_\_\_\_\_ day of March, 2020.

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| **[NAME] EDUCATIONAL****SUPPORT PERSONNEL ASSOCIATION** | **[NAME] SCHOOL DISTRICT****BOARD OF EDUCATION** |
| By: |  | By: |  |
|  | President |  | President |
| By: |  | By: |  |
|  | Secretary |  | Secretary |