

## HOPEY'S HEART FOUNDATION CPR TRAINING DONATION AGREEMENT

This Hopey's Heart Foundation CPR Training Donation Agreement ("Agreement") is entered into and effective as of \_\_\_/\_\_\_/\_\_\_ by and between the Hopey's Heart Foundation ("Foundation") and \_\_\_\_\_ ("Donee").

WHEREAS, sudden cardiac death caused by sudden cardiac arrest (SCA) is a leading cause of death in the U.S. and can strike young people participating in athletic activities at schools, community centers, and recreation centers.

WHEREAS, placing automated external defibrillators (AEDs) in schools, community centers, and recreation centers and training people in cardio pulmonary resuscitation ("CPR") may help increase the chances of saving the lives of young athletes experiencing SCA in these environments.

WHEREAS, the Foundation is donating a CPR training session provided by a third party provider of such trainings (each a "Training") to selected nonprofit schools, community centers, and recreation centers who have applied for such donations.

WHEREAS, Donee represents to the Foundation that it is 501(c)(3) tax-exempt entity or another type of nonprofit entity.

WHEREAS, Donee wishes to receive a Training donated by the Foundation.

WHEREAS, the Foundation requires all donees to enter into this Agreement as a condition of receiving a Training donation.

NOW, THEREFORE, in consideration of the foregoing recitals, and intending to be legally bound, the parties agree as follows:

1. Recitals. The foregoing recitals are incorporated into and made a material part of this Agreement.

2. Obligations of the Foundation. Subject to the terms of this Agreement, the Foundation agrees to donate a Training to Donee without cost. The Training may be attended by up to twelve individuals affiliated with and selected by Donee (collectively, "Participants").

3. Obligations of Donee. In consideration for the receipt of the donated Training, Donee hereby:

3.1. Understands, acknowledges and agrees that the Foundation is not, pursuant to this Agreement or its Training donation, assuming responsibility for the Training or any aspect of Donee's use, attempted use, or non-use of the Training and information provided at the Training or in the Training materials, CPR or an AED (by Participants or others), and/or any AED program Donee has or develops.

3.2. Understands, acknowledges and agrees that the Training is in no way associated with or endorsed by the Foundation other than the Foundation paying for the Training.

3.3. Assumes sole and exclusive responsibility for all aspects of Donee's use, attempted use, or non-use of the Training and information provided at the Training or in the Training materials, CPR or an AED (by Participants or others), and/or any AED program Donee has or develops.

3.4. Acknowledges and agrees that the Foundation has not and will not be providing Donee with any medical advice or advice regarding the use of CPR, an AED or any AED program Donee has or develops.

Donee understands that there may be risks associated with the use of CPR and AEDs and fully accepts such risks. Donee further acknowledges that the Foundation does not recommend or endorse any specific CPR training, physicians, AED products, procedures, AED program design, opinions, or other information that may be mentioned in the Training, the Training Materials, the Training grant application form, this Agreement, the Foundation website, links from the Foundation website, or offered by any person or entity affiliated in any way with the Foundation.

3.5. UNDERSTANDS, ACKNOWLEDGES AND AGREES THAT (i) ANY TRAINING AND TRAINING MATERIALS PROVIDED BY OR THROUGH THE FOUNDATION ARE PROVIDED "AS IS" WITHOUT ANY REPRESENTATIONS OR WARRANTIES OF ANY KIND WHATSOEVER WHETHER EXPRESS OR IMPLIED; (ii) THE TRAINING AND TRAINING MATERIALS TO BE DONATED WILL BE PROVIDED BY ONE OR MORE SERVICE PROVIDERS, DEPENDING ON AVAILABILITY, COST, PROMOTIONS OR OTHER FACTORS; (iii) THE FOUNDATION DOES NOT ENDORSE ANY PARTICULAR SERVICE PROVIDER AND THE FACT THAT A TRAINING AND TRAINING MATERIALS ARE PROVIDED BY A CERTAIN SERVICE PROVIDER SHOULD NOT BE CONSTRUED AS AN ENDORSEMENT BY THE FOUNDATION AS TO QUALITY, FITNESS FOR A PARTICULAR PURPOSE OR OTHERWISE.

3.6. Agrees to comply with all applicable laws, regulations, and standards of care governing the use of CPR and AEDs in non-medical, school, community center, and/or recreation center settings.

3.7. Agrees to schedule a Training via the Foundation's website within one month of being awarded a Training and understands that failure to do so may result in forfeiture of the Training in the Foundation's sole discretion. Donee is expected (subject to availability of the third party training provider) to complete the Training within six months of the award.

3.8 The Foundation requests (but does not require) that Donee provide the Foundation with one or more photographs of the Training for use on the Foundation's website and other promotional materials in furtherance of the Foundation's mission. By sending such photograph(s) to the Foundation, Donee grants the Foundation a license to use the photograph(s) for such purposes and represents that it has the permission of the photographer(s) and the permission of all persons in the photograph(s) to grant the Foundation such license.

4. Waiver, Release, and Indemnification by Donee. Donee, on behalf of itself and its Participants, directors, officers, agents, employees, representatives, and assigns hereby:

4.1. Releases, waives, discharges, and covenants not to sue the Foundation, or its current and past directors, trustees, officers, agents, affiliates, subsidiaries, employees, representatives, and assigns (collectively referred to as "Releasees") from any and all liability to Donee (or any other person or entity) for any loss or damage and any claims or demands on account of any injury (including death) or damage of any kind whatsoever that results from the acceptance, use, attempted use, or non-use of the Training, information provided at the Training or in Training materials, CPR or an AED (by Participants or others), and/or the operation of any AED program Donee has or develops, whether caused by the negligence of Releasees or otherwise.

4.2. Agrees to indemnify, save, and hold harmless the Releasees from any injury (including death) loss, liability, damage, or costs (including attorneys' fees), costs of any actual or threatened suit, action complaint or settlement, and any direct, consequential, special, incidental, punitive, or indirect damages

of any kind that arise out of or are related to the use, attempted use, or non-use of the Training, information provided at the Training or in the Training Materials, CPR or an AED (by Participants or others), and/or the operation of any AED program Donee has or develops. Donee acknowledges and agrees that this shall include injury (including death), loss, liability, damage, and costs that result from the use, attempted use, or non-use of the Training, information provided at the Training or in the Training materials, CPR or an AED by any party, including untrained individuals and members of the public unrelated to Donee or any AED program Donee has or develops.

4.3. Assumes full and exclusive responsibility for any injury, death, or damage that arises out of or is related to the use, attempted use, or non-use of the Training, information provided at the Training or the Training materials, CPR or an AED (by Participants or others), and/or the operation of any AED program Donee has or develops.

5. Severability. Donee acknowledges and agrees that this Agreement is intended to be as broad and inclusive as is permitted by law and if any portion of this Agreement is held invalid, and further agrees that the balance shall, notwithstanding, continue in full legal force and effect.

6. Notice. Any and all notices required or permitted by this Agreement shall be deemed delivered if (i) delivered personally, (ii) transmitted by electronic facsimile/email, or (iii) mailed by registered or certified mail or express mail, postage prepaid to a party at its principal place of business listed on the signature line or at such other address as may be designated by the party from time to time.

7. Entire Agreement. This written Agreement constitutes the entire and complete agreement between the parties and supersedes any prior oral or written agreements between the parties as to the Agreement's subject matter. It is expressly agreed that there are no verbal understandings or agreements which in any way change the terms, covenants, and conditions of this Agreement.

8. Binding Effect. Subject to the provisions set forth in this Agreement, this Agreement shall be binding upon and inure to the benefit of the parties hereto and upon their respective successors, parent entities, subsidiaries, affiliates, trustees, directors, officers, agents, attorneys, insurers, employees, representatives, assigns, successors, plan administrators, and all persons acting by, through, under, or in concert with them, past and present.

9. Amendment. Unless otherwise specifically provided in this Agreement, no amendment, modification, or supplement to this Agreement shall be valid or binding unless set out in writing and executed by the parties in the same manner as the execution of this Agreement.

10. Strict Performance. No waiver by either party of any provision of this Agreement shall be deemed to have been made unless such waiver be in writing signed by the waiving party. The failure of either party to insist upon the strict performance of any of the covenants or conditions of this Agreement, or to exercise any option conferred, shall not be construed as waiving or relinquishing for the future any such covenants, conditions, or options, but the same shall continue and remain in full force and effect.

11. Governing Law and Venue. This Agreement is executed in the State of New York and shall be construed in accordance with the internal laws of the State of New York (without reference to conflicts of law statutes or decisions). Any action brought to enforce or interpret this Agreement shall be brought only in federal or state court having competent jurisdiction and sitting in New York, New York, and the parties consent to such venue and jurisdiction.

12. Voluntary Agreement. This Agreement contains important legal commitments, releases and waivers. By signing below, the signatories acknowledge that they fully understand the terms of this Agreement and are entering into it knowingly and voluntarily. This Agreement shall not be construed against either party as the drafter.

13. Authorized Agents. The parties acknowledge that they are duly authorized to enter into this Agreement and that this Agreement is being signed by agents duly authorized to act on their respective behalf. Donee further represents and warrants that no higher authority such as a Chancellor, other official at as Board of Education, or other person is required to sign this Agreement in order for it to be legal binding on Donee.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the date first written above.

**Hopey's Heart Foundation**

Signature:

Name:

Title:

**Donee**

Signature:

Name:

Title:

Donee Name: