

PROFESSIONAL SERVICES AGREEMENT

This Agreement is dated as of the Effective Date as set forth in Section 15 below and is by and between the Board of Education of Township High School District 113, Lake County, Illinois (the "Board") and Ken Fishbain (the "Consultant").

1. **Engagement of Consultant.** The Board desires to engage the Consultant, on a *pro bono* basis, to serve as consultant to the Board in a general capacity, providing guidance on matters before the Board. The Consultant shall be engaged for a period of one calendar year from the effective date of this Agreement.
2. **No Disclosure of Confidential Information.** The term "confidential information" shall mean information in the possession or under the control of the Board relating to the educational, employee, student record, technical, business, or corporate affairs of the School District; School District students, School District property; user information, including, without limitation, any information pertaining to usage of the School District's computer system, including and without limitation, any information obtained from server logs or other records of electronic or machine readable form; and the existence of, and terms and conditions of, this Agreement. The Consultant acknowledges that he shall, in performing the services for the Board under this Agreement, have access to or be directly or indirectly exposed to Confidential Information. The Consultant shall maintain the confidentiality of all Confidential Information and shall not disclose or use such Confidential Information without the express prior written consent of President and Vice-President of the Board.
3. **Return of Confidential Information and School District Property.** Upon the termination of this Agreement, the Consultant shall return all Confidential Information and other property, documentation, or records belonging to the School District to the Superintendent.
4. **FOIA.** As an independent contractor of the School District, records in the possession of the Consultant related to this Agreement may be subject to the Illinois Freedom of Information Act ("FOIA"), 5 ILCS 140/5-1 et seq.; 5 ILCS 140/7(2). The Consultant, at the Consultant's cost, shall immediately provide the School District with any such records requested by the School District to timely respond to any FOIA request received by the School District. The School District will review all such records to determine whether FOIA exemptions apply before disclosing the records, such that information properly exempt as proprietary or prohibited from release by other laws or exempt for other reasons will not be released. If the Consultant refuses to provide a record that is the subject of a FOIA request to the School District and the Attorney General or a court of competent jurisdiction subsequently requires the release of the record or penalizes the School District in any way, the Consultant shall reimburse the School District for all costs, including attorneys' fees, incurred by the School District related to the FOIA request and records at issue.

5. **Mutual Indemnification.** Consultant agrees to reimburse defense costs, indemnify, and hold harmless the Board from and against all injuries, loss, causes of action, claims, liability, damages, or judgments, including costs, expenses, and attorneys' fees, to the extent arising from (1) Consultant's negligent acts and/or errors and/or omissions in the performance of the Services; or (2) Consultant's violation of law. The Board agrees to indemnify the Consultant for any and all claims arising out of the Consultant's performance of the services provided under this Agreement.
6. **Relationship of the Parties.** The Consultant shall act as an independent contractor in providing and performing the Services. Nothing in, nor done pursuant to, this Agreement shall be construed to create the relationship of principal and agent, employer and employee, partners, or joint venturers between the School District and the Consultant.
7. **Conflict of Interest.** The Consultant represents and certifies that, to the best of its knowledge, (1) no School District employee or agent is interested in the business of the Consultant or this Agreement; (2) as of the date of this Agreement, the Consultant does not have any interest that would conflict in any manner or degree with the performance of the obligations under this Agreement; and (3) neither the Consultant nor any person employed by or associated with the Consultant shall at any time during the term of this Agreement obtain or acquire any interest that would conflict in any manner or degree with the performance of the obligations under this Agreement.
8. **Termination.** Notwithstanding any other provision hereof, the Board may terminate this Agreement at any time upon 30 days prior written notice to the Consultant.
9. **Amendment.** No amendment or modification to this Agreement shall be effective unless and until the amendment or modification is in writing, properly approved in accordance with applicable procedures, and executed.
10. **Assignment.** This Agreement may not be assigned by the Board or by the Consultant.
11. **Notice.** All notices required or permitted to be given under this Agreement shall be in writing and shall be delivered personally and via electronic mail. Notices and communications to the Board shall be addressed to, and delivered to, the following:

Dr. Chala Holland, Superintendent
cholland@dist113.org

Notices and communications to the Consultant shall be addressed to, and delivered to the following:

Ken Fishbain
kenfishbain@gmail.com

