

Service Agreement
Between
North Coast Council
and
Brecksville-Broadview Heights City Schools

This Agreement is made and entered into as of the 1st day of July 2013 by and between the North Coast Council (“NCC”) and the Brecksville-Broadview Heights City Schools (the “District”).

In consideration of the agreements and representations set forth hereinafter, NCC and the District hereby agree as follows:

1. **Term.** The term of this Agreement shall be one (1) year, beginning July 1, 2013 and ending June 30, 2014. Notwithstanding the foregoing, this Agreement shall automatically terminate, without further action, upon the District’s withdrawal as a Member of NCC in accordance with NCC’s By-Laws as approved by the NCC Membership.

2. **Services.**

a. Upon request by the District, NCC shall provide to the District any or all services that are described on Exhibit A attached hereto and made a part hereof.

b. NCC shall provide support for its services during its normal business hours, defined as 7:30 a.m. EST to 4:30 p.m. EST, Monday through Friday exclusive of holidays as established by the Educational Service Center of Cuyahoga County.

Upon request from the District, NCC may provide service and support outside normal business hours. Such service shall be provided at the sole discretion of NCC and at an additional cost to the District agreed upon in writing prior to the service being provided.

c. NCC shall make every effort to maintain a minimum application availability of 98% during regular business hours. NCC shall make every effort to maintain

application availability of 90% outside of regular business hours exclusive of regularly scheduled maintenance and backup.

d. NCC shall complete system maintenance, system upgrades and system installations affecting system availability outside normal business hours unless any such maintenance, upgrade or installation is necessary because of an unexpected system failure caused by events beyond NCC's control, or supporting vendors are not available outside normal business hours. Notification of every planned system outage shall be made at least twenty-four (24) hours in advance of the outage. Notification of system maintenance, system upgrades and system installations affecting system availability will be provided to the designated District representative via e-mail and in the system greeting displayed during system logon. In the event of an unexpected system failure, NCC will contact a designated District representative via telephone to advise that the system is available for use.

e. NCC shall install all new versions, updates and patches within timeframes specified by the software producer. NCC will also maintain an appropriate application environment.

f. NCC, at the request of a NCC advisory committee, shall evaluate new applications and services for the benefit of the District.

g. NCC shall maintain a regular backup schedule including at a minimum nightly data backup maintained on a thirty-day rotation, and monthly system backup maintained on a twelve-month rotation. NCC shall restore data from backup as required by the District.

h. NCC shall provide training to appropriate personnel of the District to the extent necessary for the District to perform system functions and procedures and to create system reports. NCC will offer training for "new users" upon request of the District.

NCC shall also maintain training attendance and survey results for periodic reporting to NCC's Board of Directors.

i. NCC shall provide, and maintain, appropriate and timely documentation to authorized users of the District where documentation is made available to NCC by supporting vendors. This documentation shall be made available in electronic and hardcopy format as appropriate.

j. Quality of service shall be determined by an overall customer satisfaction of 80% or greater. NCC shall evaluate the quality of service via any of the following:

1. Quarterly Advisory and Board of Director meetings;
2. Periodic customer surveys;
3. Training evaluation forms;
4. Other methods as determined appropriate.

k. If requested by the District in writing, NCC shall plan and coordinate the District's ordering and installation, at the District's cost, of proper equipment and telephone lines, and shall provide information to the District to assist in obtaining necessary forms.

l. The District shall make its personnel and records available to NCC to the extent necessary to facilitate the planning, training and implementation process.

m. The District will designate appropriate and qualified personnel for training and access to NCC's systems and services.

n. The District shall notify the designated NCC Support Personnel regarding application and network issues.

o. The District shall notify NCC of relevant staff changes, including all individuals that are granted access to NCC's networks, systems, and applications.

p. The District shall participate in quality of service measuring activities as outlined previously, including but not limited to, Advisory meetings, periodic customer surveys and training evaluation forms.

q. The District shall contact NCC personnel or representatives in the following order as needed regarding service issues:

1. NCC's designated Support Personnel via e-mail or telephone;
2. NCC's designated Coordinator responsible for the Service Area via e-mail or telephone;
3. NCC's designated Director responsible for the Service Area via e-mail or telephone;
4. NCC's Executive Director via e-mail or telephone; and
5. NCC's Chairman of the Board of Directors via e-mail or telephone.

3. Limited Liability.

a. NCC shall not be liable to the District for failure to provide any service unless such failure is due to the negligence of NCC. In such event, the District's exclusive remedy shall be as follows:

NCC shall re-create the reports incident to such service if the same can be reasonably performed and if the District provides NCC with any source data necessary for such work. If such work cannot be performed by NCC for any reason, the District shall be entitled to reimbursement by NCC of all costs incurred by the District to recover or reconstruct all lost data, in such form as necessary for the District's purposes, in an amount not to exceed the amount paid by the District for such service.

b. Use of any information obtained through the NCC network is at the District's risk. NCC specifically denies any responsibility for the accuracy or quality of such information.

c. The District recognizes and acknowledges that NCC does not make any warranties, express or implied, including without limitation any warranty of

merchantability or fitness for a particular purpose, with respect to the network, its services or features. Furthermore, the District agrees that NCC shall not be liable for any special, incidental, indirect, or consequential damages or for the loss of profit, revenue, or data arising out of the District's use of, or inability to use, the network, even if NCC shall have been advised of the possibility of the potential damage or loss.

d. NCC shall not be liable for any losses, damages, or costs incurred as a result of the errors or omissions of the District, its employees or agents. Furthermore, NCC shall not be liable for failure to perform if such failure is due to causes or conditions beyond its control.

4. Confidentiality.

a. NCC shall exercise reasonable care in preserving and protecting the confidentiality of information and materials furnished to it by the District.

b. NCC shall not disclose any material, information or data concerning the District's operation to any person or entity without the District's prior written consent, except as required by law and as necessary or appropriate for NCC to carry out its proper functions.

c. The District shall not disclose to any person or entity any material, information or data obtained from NCC, whether through use of the computer system or otherwise, without NCC's prior written consent, except as required by law and as necessary or appropriate for the District to carry out its proper functions.

5. Property.

a. All tapes, disk packs, computer programs, written procedures and similar items utilized or developed by NCC in connection with this Agreement shall at all times be the property of NCC.

b. All data files shall remain the property of the District, subject to NCC's Data System Security Policy. Within ninety (90) days after the expiration or termination of

this Agreement and receipt of payment for any outstanding charges, including conversion and/or transmission charges, by NCC from the District, NCC shall return all available data files to the District. The files shall be returned in the form of an OpenVMS backup save set on a nine track magnetic tape or other media at the sole discretion of NCC.

6. Charges.

a. The District shall pay NCC for services in accordance with Exhibit A hereto. Service charges shall be based on the number of students in the District. The “number of students” is defined as the total head count per report “EMS-EDTADM-School Enrollment-First Full Week in October.” Service charges will be calculated utilizing the October ADM for the immediately prior fiscal year. Service charges are due and payable quarterly on or before the first day of July, October, January and April.

b. In addition to the service charges, the District shall be responsible to NCC for any and all costs of specified forms, rented equipment, equipment purchased on behalf of the District, equipment maintenance, and supplies incidental to the District's operation of the computer system, provided NCC has received the District's written approval prior to incurring such costs.

c. Upon termination and/or expiration of this agreement, the District shall be responsible to NCC for any and all costs associated with data conversion and/or transmission of district data on a time and materials basis.

7. Termination. The District shall notify the Executive Director in writing on or before July 15 of the Fiscal Year preceding the Fiscal Year in which the service agreement will be terminated. Failure to make notification will result in a termination charge equal to one year service charges plus any lost subsidy funding associated with providing stated services.

8. **Billing.** Charges for services shall be billed to the District on a quarterly basis, in advance. All incidental charges, if any, shall be billed on a quarterly basis, as incurred, except that equipment purchases shall be billed upon receipt of bills by NCC.

9. **Past Due Charges.** If the District fails to pay any service charge and/or incidental charge when due and thereafter fails to pay such charge within thirty (30) days after receipt from NCC of written notice of such nonpayment, NCC may suspend services at any time upon delivery of written notice to the District.

10. **Notice.** Any notice required or permitted to be given under this Agreement shall be sufficient if in writing and if sent by certified or registered mail, or personally delivered, and addressed as follows:

a. If to NCC, to:

5700 West Canal Road
Valley View, Ohio 44125
Attention: Executive Director

b. If to the District, to:

6638 Mill Road
Brecksville, OH 44141
Attention: Superintendent

Either party may, by notice given in accordance with this paragraph to the other party, designate another address or person for receipt by such person of notices hereunder.

11. **Entire Agreement.** This Agreement contains the entire agreement between the parties with respect to the subject matter hereof and supersedes all prior agreements, written or oral, with respect thereto.

12. **Amendment; Waiver.** This Agreement may be amended, superseded, cancelled, renewed or extended, and the terms hereof may be waived, only by a written instrument signed by both parties hereto or, in the case of a waiver, by the party waiving

compliance. No delay on the part of any party in exercising any right, power or privilege hereunder shall operate as a waiver thereof; no waiver on the part of any party of any such right, power or privilege shall preclude any other or further exercise thereof or the exercise of any other such right, power or privilege; and no single or partial exercise of any such right, power or privilege shall preclude any other or further exercise thereof or the exercise of any other such right, power or privilege.

13. Ohio Law. This Agreement shall be governed by and construed in accordance with the laws of the State of Ohio without regard to any such laws relating to choice or conflict of laws.

14. Assignment. Neither party hereto shall assign its rights under this Agreement without the prior written consent of the other party.

15. Headings. The headings in this Agreement are for reference only and shall not affect the interpretation of this Agreement.

16. Authority. NCC and the District hereby represent to each other that their respective undersigned officers are duly authorized to execute this Agreement. Upon request, either party shall provide to the other party written evidence of such authorization and/or approval of this Agreement.

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

Brecksville-Broadview Heights City Schools

North Coast Council

By: _____
Signature

By: _____
John W. Mitchell, Executive Director

Printed Name

And by: _____
Signature

Printed Name

NORTH COAST COUNCIL
EXHIBIT A

2013-2014 Fee Schedule for Members and Non-members

<u>Service / Product</u>	<u>Member</u>	<u>Unit</u>	<u>Non-Member</u>	<u>Unit</u>	<u>Comments</u>
<input checked="" type="checkbox"/> Core Services - Includes the following: <i>Fiscal Services, Student Services, EMIS Services and Library Services</i>	\$13.00	Per THC/year ¹	\$16.30	Per THC/year ¹	No Change
<input checked="" type="checkbox"/> License Costs ³					
<input checked="" type="checkbox"/> DASL/ProgressBook License	\$5.69	Per THC/year ¹	\$5.69	Per THC/year ¹	No Change
<input type="checkbox"/> PowerSchool License	\$4.50	Per THC/year ¹	\$4.50	Per THC/year ¹	Reflects Pearson's \$1.00 increase
<input checked="" type="checkbox"/> USAS/USPS/EIS License	\$0.00	Per THC/year ¹	\$0.00	Per THC/year ¹	No Change
<input checked="" type="checkbox"/> Capital Improvement Fee	\$1.00	Per THC/year ¹	Not Applicable		No Change
A la Carte Services					
<input type="checkbox"/> EMIS Services	\$0.50	Per THC/year ¹	\$0.65	Per THC/year ¹	No Change
<input type="checkbox"/> EMIS Helpdesk Support	Not Applicable		\$4,000.00	Per entity/year	Applies to community schools only
<input checked="" type="checkbox"/> IEP Software Services	\$1.50	Per THC/year ¹	\$1.50	Per THC/year ¹	No Change
<input type="checkbox"/> Fiscal Services	\$4.25	Per THC/year ¹	\$5.00	Per THC/year ¹	No Change
<input type="checkbox"/> Student Services	\$8.25	Per THC/year ¹	\$9.90	Per THC/year ¹	No Change
<input type="checkbox"/> INFOhio - Library Automation					
<input type="checkbox"/> Year 1	\$5.50	Per THC/year ¹	\$5.50	Per THC/year ¹	No Change
<input type="checkbox"/> Year 2	\$4.25	Per THC/year ¹	\$4.25	Per THC/year ¹	No Change
<input type="checkbox"/> Year 3	\$3.75	Per THC/year ¹	\$3.75	Per THC/year ¹	No Change
<input type="checkbox"/> On-Going	\$2.75	Per THC/year ¹	\$2.75	Per THC/year ¹	No Change
<input checked="" type="checkbox"/> OCIS Guidance Software	included in membership		Actual Cost		No Change
<input type="checkbox"/> Gale On-Line Resources	per OHIONET pricing ³		per OHIONET pricing		No Change
<input type="checkbox"/> Textbook Management Service ²	\$500.00	Per Building/year	\$500.00	Per Building/year	No Change
<input type="checkbox"/> INFOhio - SchoolRooms	Actual Cost		Actual Cost		No Change
<input checked="" type="checkbox"/> Internet Services	per member requirements		per district/school requirements		No Change
<input type="checkbox"/> OnBase Document Management	per member requirements		per district requirements		No Change
<input type="checkbox"/> Smart People HR Solution	per Smart Solutions pricing		per Smart Solutions pricing		No Change
<input type="checkbox"/> Individual Professional Development Suite	\$1,000.00	Per year	\$1,200.00	Per year	No Change

1 THC is defined as follows: "Total head count per report EMS-EDTADM-School Enrollment - First Full Week in October"

2 One-time setup fee of \$1,000 per district is required

3 Members receive an electronic resource credit of \$1.00 per high school THC