

North East Florida Educational Consortium

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Dr. James A. Surrency
Executive Director

AGREEMENT #765-12-020

AGREEMENT # 765-12-020 BETWEEN THE SCHOOL BOARD OF CLAY COUNTY, HEREIN REFERRED TO AS THE BOARD, AND THE DISTRICT SCHOOL BOARD OF PUTNAM COUNTY ON BEHALF OF THE NORTH EAST FLORIDA EDUCATIONAL CONSORTIUM, HEREIN REFERRED TO AS THE CONTRACTOR, TO PROVIDE THE NAVIGATOR PLUS SYSTEM AND RELATED SUPPORT SERVICES:

I. OBLIGATIONS OF THE CONTRACTOR:

The North East Florida Educational Consortium agrees to the following:

- A. To provide no cost access to the Plan module contained within the Navigator Plus System. The Plan module is accessed through a single district managed security module that controls user access and permissions. Access to the module by users will be available at three levels; Classroom, School, and District. In addition, districts will have access to any additional upgrades and/or enhancements developed for the Plan module.
- B. To provide timely implementation and application technical support to appointed district contacts for technical and instructional issues such as data format, data transfer, and user assistance.
- C. To provide two days of advanced, on-site or web-based training sessions to specifically address district needs.
- D. To provide districts with the opportunity to participate in the Navigator Plus User Group. The Navigator Plus User Group will operate in an advisory capacity and will meet quarterly. Each district will have the opportunity to nominate representatives to the Navigator Plus User Group.
- E. To provide a secure process and environment for submission of all student and staff data needed for Navigator Plus.

II. OBLIGATIONS OF THE BOARD:

The Clay County School Board agrees:

- A. To designate the following staff member _____, to act as the district appointed contact for instructional issues and content.
- B. To designate the following staff member _____, to act as the district appointed technical contact/security officer for local administrative function support.

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- C. To supply an extract of all required data in the specified file format/layout for use in nightly district data updates.
- D. Respond in a timely manner to requests for the submission of all data in specified formats and extracts needed to operate Navigator Plus.
- E. To cooperate expeditiously in all matters requiring concurrence or approval in order that the contractor will not be unduly delayed in performing contractual obligations.
- F. This contractual attachment is incorporated into and subject to all terms and conditions of the master contractual agreement.

III. TERM:

This Agreement shall remain in effect for a term of one (1) year from said date and shall automatically be renewed for subsequent one (1) year terms on the anniversary date unless modified or terminated by agreement of the parties.

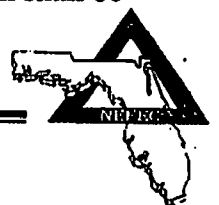
This agreement may be terminated by either party upon thirty (30) days written notice should the other party fail substantially to perform in accordance with its terms through no fault of the party initiating the termination.

IV. LIMITATION OF LIABILITY, WARRANTY, APPLICABLE LAW:

The Consortium shall not be liable to the Board or any third party for any incidental, indirect, exemplary, special or consequential damages, under any circumstances, including, but not limited to, lost revenue or savings, loss of goodwill, or the loss of use of any data, even if the Consortium had been advised of, knew, or should have known, of the possibility thereof. Under no circumstances shall the Consortium's aggregate cumulative liability hereunder, whether in contract, tort, or otherwise, exceed the total amount of fees actually paid by the Board under this annual agreement. The Board acknowledges that the fees paid reflect the allocation of risk set forth in this agreement and that the Consortium would not enter into this agreement without these limitations on its liability.

All software and services are provided "as is" without any warranty whatsoever, including but not limited to any functionality. The Board recognizes that the "as is" clause of this agreement is an important part of the basis of this agreement, without which the Consortium would not have agreed to enter this agreement. Consortium disclaims all warranties, express, implied, or statutory, regarding the software and services, including any warranties of merchantability, fitness for a particular purpose, title, and non-infringement. No representation or other affirmation of fact regarding software and services shall be deemed a warranty for any purpose or give rise to any liability whatsoever. The Board acknowledges that they have relied on no warranties or statements other than as may be set forth herein. It is understood that this agreement includes a release of all known and unknown claims. The Consortium warrants that any works provided under the agreement do not violate the copyright rights of any third parties and assumes liability for any claims relating to copyright infringement.

This Agreement and any dispute arising hereunder shall be construed in accordance with the laws of the State of Florida without regard to principles of conflict of laws. For the purpose of this Agreement, the Board consents to the personal jurisdiction and venue of the state and federal courts located in Palatka, Florida. If any provision of this Agreement is prohibited by law or held to be unenforceable, the remaining provisions hereof shall not be affected, and this Agreement shall continue in full force and effect as if such unenforceable provision had never constituted a part hereof, and the unenforceable provision shall be



automatically amended to so as to best accomplish the objectives of such unenforceable provision within the limits of applicable law. This Agreement may be executed in counterparts, each of which shall be deemed an original but all of which together shall constitute the same instrument. Any waiver of a provision of this Agreement must be in writing and signed by the party to be charged. A valid waiver hereunder shall not be interpreted to be a waiver of that obligation in the future or any other obligation under this Agreement. This Agreement constitutes the entire agreement between the parties related to the subject matter hereof, supersedes any prior or contemporaneous agreement between the parties relating to the software and services and shall not be changed except by written agreement signed by an officer of the Consortium.

IN WITNESS WHEREOF, the parties hereto, by the undersigned authorized to bind said parties, set their hands and seal on this the ___ day of _____ 2011.

APPROVED AND RECOMMENDED FOR SIGNING

School Board of Clay County

District School Board of Putnam County

by Ben Wortham, Superintendent

by Tom Townsend, Superintendent

Dated: _____

Dated: _____

by Frank Farrell, Chairperson

by C.L. Overturf, Jr., Chairperson

Dated: _____

Dated: _____

North East Florida Educational Consortium

by James A. Surrency, Ed.D., Executive Director

Dated: _____

