

EDUCATION SERVICES AGREEMENT

This Education Services Agreement (hereinafter referred to as "Agreement") is entered into on this 27th day of June, 2023 by and between the Governing Board of the North Central Ohio Educational Service Center (hereinafter referred to as "NCOESC") and the Board of Education of the Tiffin City School District (hereinafter referred to as "Tiffin"). NCOESC and Tiffin may be hereinafter individually referred to as "Party" and collectively referred to as "Parties."

WHEREAS, the Tiffin Developmental Center (hereinafter referred to as "Center") is a residential facility as defined by R.C. 5123.19(A)(5)(a), a developmental center as defined by R.C. 5124.01, and an intermediate care facility as defined by R.C. 5124.01(DD), and is maintained and operated by the Ohio Department of Developmental Disabilities (hereinafter referred to as "Department"); and

WHEREAS, pursuant to R.C. 3313.64(B)(2), Tiffin is required to provide a free public education to the school-age residents of the Center (hereinafter referred to as "Residents"); and

WHEREAS, Tiffin desires that NCOESC assume its statutory obligation to provide a free public education to the Residents as the school district of service in accordance with the terms and conditions set forth herein; and

WHEREAS, NCOESC is willing to provide a free public education to the Residents in accordance with the terms and conditions set forth herein.

NOW, THEREFORE, for mutually acceptable consideration, the Parties hereby agree as follows:

1. NCOESC Responsibilities.

a. Provision of Education Services:

- i. NCOESC shall provide a free public education, including all necessary special education services, to the Residents in accordance with the applicable state and federal laws and regulations (hereinafter referred to as "Education Services").
- ii. As required by O.A.C. 5123:2-3-03, NCOESC shall provide the Education Services to the Residents in accordance with the individual service plans developed for the Residents by the Center and/or the Department.
- iii. In providing the Educational Services hereunder as the school district of service, all decisions, issues, and other matters pertaining to the provision of the Education Services shall be the sole responsibility of NCOESC and shall be within the sole discretion of NCOESC. The Parties acknowledge

that the decisions, issues, and other matters addressed in this subparagraph are subject to the approval of the school district of residence of the individual Residents.

- iv. NCOESC shall determine the appropriate educational placement for all Residents after conferring with Tiffin, the school district of residence of the individual Residents, and, as necessary, with the Center and/or the Department.

b. Personnel Providing Education Services:

- i. It shall be within NCOESC's sole discretion to determine the number of individuals and types of job positions that are needed to effectively provide the Education Services.
- ii. Unless NCOESC agrees otherwise, all individuals providing the Education Services, including but not limited to directors, supervisors, teachers, aides, related services personnel, and other ancillary personnel, shall be employed directly by NCOESC. It shall be within NCOESC's sole discretion to determine which individuals it employs to provide the Education Services. If NCOESC desires to employ an individual currently employed by Tiffin, Tiffin shall take all actions necessary (i.e. release of employee, scheduling accommodations, etc.) for such individual to be employed by NCOESC.
- iii. NCOESC reserves the right to contract with individuals and/or agencies to accommodate the needs required for Education Services.
- iv. All matters pertaining to the employment of the individuals providing the Education Services, including but not limited to the salary, fringe benefits, length of employment, job position, job duties, evaluation, assignment, discipline, promotion, demotion, layoff, and termination of such individuals, shall be within the sole discretion of NCOESC and shall be the sole responsibility of NCOESC.
- v. All individuals that NCOESC employs to provide the Education Services shall meet the qualification and training requirements set forth in O.A.C. 5123:2-3-01.
- vi. NCOESC shall conduct criminal background checks in accordance with R.C. 5123.081 and O.A.C. 5123-2-02 on all individuals it employs to provide the Education Services.
- vii. Center and/or Department personnel shall be solely responsible for restraining Residents. As such, NCOESC personnel shall only restrain Residents in extenuating circumstances. In such cases, NCOESC shall

complete the required documentation and provide a copy of said documentation to Tiffin, the Center, and the Department within twenty-four (24) hours of the incident. The restraining of Residents shall be in accordance with O.A.C. 5123:2-2-06.

2. Tiffin, Center, and Department Responsibilities.

a. Facilities, Equipment, and Materials:

- i. Tiffin, the Center, and/or the Department shall, at their sole cost and expense, purchase, provide, and maintain all facilities needed by NCOESC to adequately provide the Education Services, as determined by NCOESC, which shall include, but not be limited to, classrooms, offices, “in-home cottage” locations, gymnasiums, sensory rooms, and other necessary educational settings.
- ii. Tiffin, the Center, and/or the Department shall, at their sole cost and expense, purchase, provide, and maintain all equipment, furniture, supplies, and vehicles needed by NCOESC to adequately provide the Education Services, as determined by NCOESC, which shall include, but not be limited to, chairs, tables, computers, internet access, washer, dryer, stove, oven, gym equipment, sensory items, and student transportation vehicles. All existing equipment, furniture, and supplies shall remain at the Center for full use by NCOESC personnel. Prior to the Parties’ approval and execution of this Agreement, Tiffin shall conduct an inventory of said existing equipment, furniture, and supplies and provide a copy of the inventory list to NCOESC.
- iii. In the event NCOESC determines that additional equipment, furniture, supplies, and/or vehicles are necessary to deliver the Education Services, NCOESC shall, after consulting with Tiffin, acquire such items and charge Tiffin for the costs thereof.
- iv. Tiffin shall take all such actions as are necessary to ensure that the Center and/or the Department complies with the provisions set forth in Section 2(a) of this Agreement.

b. Operation of the Center:

- i. NCOESC shall not be responsible for admitting Residents to the Center or for discharging Residents from the Center.
- ii. NCOESC shall not be responsible for developing individual service plans for the Residents in accordance with O.A.C. 5123:2-3-03.

- iii. NCOESC shall not be responsible for restraining Residents, nor shall NCOESC be responsible for completing any required documentation pertaining to the restraint of a Resident.

c. Liability for Prior Claims:

- i. Tiffin shall be solely responsible and liable for all known and unknown complaints, investigations, lawsuits, claims, and charges that are based on acts or omissions pertaining to or occurring during Tiffin's provision of education-related services to the Residents (hereinafter referred to as "Prior Claims").
- ii. Tiffin shall defend, indemnify, and hold harmless NCOESC and NCOESC's governing board members, employees, and agents from all Prior Claims to the extent permitted by law.
- iii. Tiffin shall add NCOESC and NCOESC's governing board members, employees, and agents as additional insureds under its liability insurance policy to provide them with liability insurance coverage for all Prior Claims.

3. Training and Assistance.

Tiffin, along with the Center and/or the Department, as necessary, shall provide NCOESC personnel with all training and assistance that will be needed by them to adequately provide the Services and with all relevant records and information, such as the education records of the Residents, the individual service plans of the Residents, the educational placement of the Residents, the process by which Residents are admitted to and discharged from the Center, the process by which Residents are enrolled in and disenrolled from the Center's education program, the policies and rules which NCOESC personnel must comply with, and any new or anticipated admission of Residents. Tiffin shall take all such actions as are necessary to ensure that the Center and/or the Department complies with the provisions set forth in Section 3 of this Agreement.

4. Payment for Services.

a. Fees, Costs, and Expenses:

As consideration for NCOESC providing the Education Services, Tiffin shall pay all of the following fees, costs, and expenses to NCOESC (hereinafter collectively referred to as "Fees"):

- i. A fee in the amount of Four Hundred Ninety-Eight and 00/100 Dollars (\$498.00) per day for each Resident receiving Education Services. NCOESC reserves the right to review and amend this daily rate on an as

needed basis to reflect increases or decreases in the number of Residents receiving Education Services which cause a change in staffing needs.

- ii. The cost of all student-specific auxiliary expenses that are incurred by NCOESC from providing the Education Services, including, but not limited to, one-on-one aide(s), technology accessories to accommodate a particular Resident, and additional equipment not otherwise provided by Tiffin, the Center, or Department.
- iii. The cost of all workers compensation and unemployment compensation claims asserted by individuals that NCOESC employs to provide the Education Services, and the cost of any increase to NCOESC's workers compensation and unemployment compensation insurance premiums as a result of such claims.
- iv. All costs incurred by NCOESC to properly train individuals that NCOESC employs to provide the Education Services.
- v. All costs and expenses incurred by NCOESC from subcontracting any of its obligations under this Agreement to a third party.
- vi. All costs and expenses incurred by NCOESC from purchasing, obtaining, and/or maintaining any facilities, equipment, furniture, supplies, and vehicles needed by NCOESC to adequately provide the Education Services.
- vii. The cost of any increase to NCOESC's liability insurance policy as a result of providing the Education Services.
- viii. The cost of any additional insurance policies obtained by NCOESC as a result of providing the Education Services.
- ix. All legal costs and expenses, including but not limited to attorney's fees, incurred by NCOESC that arise from or are related to NCOESC providing the Education Services.
- x. The cost of all other expenses incurred by NCOESC as a result of providing the Education Services, including supervision from NCOESC employees.

b. Invoices:

Tiffin shall pay the Fees to NCOESC on a monthly basis. NCOESC shall issue invoices to Tiffin for payment of the Fees within the first ten (10) work days following the month in which the Fees were incurred, and Tiffin shall pay the

entire amount of each invoice by the last work day of the month in which the invoice was received.

c. Payment by Resident School Districts:

Tiffin shall retain the right to collect tuition and all other acceptable ancillary costs from the school districts of residence of the Residents receiving the Education Services in accordance with R.C. 3313.64(C). However, Tiffin's obligation to pay NCOESC for the Education Services shall not be contingent upon Tiffin receiving any such described or obligated payment(s) from a school district.

5. Term of Agreement.

a. Initial Term:

This Agreement shall be for an initial term of two (2) years, commencing on August 1, 2023 and ending on July 31, 2025 (hereinafter referred to as "Initial Term").

b. Renewal Terms:

Upon the expiration of the Initial Term, this Agreement shall automatically renew for successive one (1) year periods commencing on August 1st and ending on July 31st (hereinafter referred to as "Renewal Term").

c. Termination of Agreement:

Notwithstanding Sections 5(a) and 5(b) of this Agreement, NCOESC may terminate this Agreement without cause prior to the expiration of the Initial Term or any Renewal Term by providing Tiffin with at least thirty (30) days advance written notice of such termination. In the event that this Agreement is terminated, Tiffin shall pay all amounts owed to NCOESC for the Education Services provided through the effective date of the termination.

6. Cooperation.

Upon NCOESC's request, Tiffin shall provide, without charge, copies of all information, data, records, and/or reports which NCOESC deems necessary to provide the Education Services. Appropriate conferences shall also be scheduled at convenient times with essential administrative personnel of the Parties for the purpose of discussing necessary information.

7. Limitation on Warranties.

This Agreement is a service contract. Accordingly, NCOESC disclaims all expressed, implied, and/or statutory warranties, including but not limited to warranties of merchantability and fitness for a particular purpose, for the Education Services.

8. Compliance with Law.

The Parties shall comply with all applicable federal, state, and local laws, ordinances, codes, regulations, and policies, including but not limited to those governing the disclosure of confidential information regarding students and/or their family members, such as the Family Educational Rights and Privacy Act (20 U.S.C. §1232g).

9. Default.

If either Party fails to comply with any term or condition required by this Agreement, and said Party fails to remedy such noncompliance within thirty (30) days of the other Party's written notice thereof, then the non-defaulting Party may immediately terminate this Agreement and exercise any or all legal and equitable remedies available to it pursuant to law and the terms of this Agreement. A Party's exercise of any one or more rights or remedies shall not be taken to exclude or waive any other available rights or remedies.

10. Force Majeure.

Neither Party shall be responsible to the other for any losses or failure to perform its respective obligations under this Agreement when such loss or failure is caused by conditions beyond the Party's control, such as fire, explosion, water, act of God, civil disorder or disturbance, labor dispute, vandalism, war, riot, sabotage, weather or energy related closing, governmental regulations, or other similar causes.

11. No Waiver.

No failure of either Party to exercise any power reserved to it by this Agreement or to insist upon strict compliance by the other Party with any obligation or condition hereunder, and no custom or practice of the Parties at variance with the terms hereof, shall constitute a waiver of either Party's right to demand strict compliance with any of the terms of this Agreement. Waiver by either Party of any particular default shall not affect or impair either Party's right to exercise any or all of its rights and powers herein, nor shall that constitute a waiver by that Party of any right hereunder, or of its right upon any subsequent breach or default to terminate this Agreement prior to the expiration of its term.

12. Amendment.

This Agreement may not be reformed, altered, or modified in any way by any practice or course of dealing, but may be modified or amended only by an instrument in writing duly executed by both Parties.

13. Assignment

Neither Party may assign or otherwise transfer, voluntarily or by operation of law, this Agreement without the prior written consent of the other Party.

14. Entirety

This Agreement contains the entire agreement between the Parties, and there are no oral promises or other representations inducing its execution or qualifying its terms. Any prior service contract or similar type of agreement between the Parties, oral or written, is hereby superseded and terminated.

15. Governing Law

The laws of the state of Ohio shall govern the validity, performance, and enforcement of this Agreement.

16. Notices

Any notice required or permitted herein shall be in writing and deemed given if delivered personally or if sent via certified U.S. mail.

17. Severability

Each article, paragraph, provision, term, and condition of this Agreement, and any portions thereof, shall be considered severable. If, for any reason, any portion of this Agreement is determined to be invalid or contrary to any applicable law, rule, or regulation, the remaining portions of this Agreement shall be unimpaired, remain binding on the Parties, and continue to be given full force and effect.

18. Section Headings

The section headings contained in this Agreement are for convenience of reference only and shall not affect the meaning or interpretation of this Agreement.

IN WITNESS WHEREOF, the Parties have approved, ratified, and executed this Agreement on the date first written above.

Board of Education of the
Tiffin City School District:

By: _____
Board of Education President

By: _____
Treasurer

By: _____
Superintendent

Governing Board of the North Central
Ohio Educational Service Center:

By: Pamela Pinney
Governing Board President

By: Jennifer Hedrick
Treasurer

By: Brenda Kuhning
Superintendent