

EMPLOYEE RETIREMENT INCENTIVE PLAN AGREEMENT

THIS EMPLOYEE RETIREMENT INCENTIVE PLAN SERVICES AGREEMENT (the "Agreement") is entered into as of this 12 day of March, 2012 by and between the Big Walnut Local School District Board of Education, a political subdivision of the State of Ohio (the "School Board") and Educators Preferred Corporation, a Michigan corporation ("EPC"), and is entered into with reference to the following:

RECITALS

- A. The School Board wishes to provide certain personnel with a retirement incentive program.
- B. EPC is a consultant and agent and administrator of certain incentive plans, which can benefit the School Board and its personnel.
- C. EPC is an independent contractor

AGREEMENTS

NOW, THEREFORE, the parties to this Agreement hereby mutually covenant and agree as follows:

1. ***Binding and Entire Agreement.*** This Agreement relating to the Board's Employee Retirement Incentive Plan (the "Plan" as per Exhibit A attached), constitutes a valid and binding agreement ("Agreement") between the School Board and EPC. This Agreement supersedes and supplants any and all previous agreements between the parties, written or oral. All amendments hereto shall be binding only if in writing and signed by both parties.
2. ***Scope of Services Provided by EPC.*** EPC shall serve as the recognized consultant and agent of record for the implementation of the Plan. In that capacity, EPC shall perform the following services for so long as such services are due under the Plan:
 - a. Prepare Feasibility Study and Plan Presentation(s).
 - b. Prepare draft or sample Plan documents, Release and Waiver of Claims Agreement, and all election forms for review by the School Board and its legal counsel.
 - c. Conduct retirement workshops and information meetings for eligible employees.
 - d. Print individual booklets which accurately explain the Plan.
 - e. Conduct individual meetings with eligible persons and spouses.
 - f. Perform timely preparation and delivery of billings to the School Board for covered participants.
 - g. Perform the following Plan services for participants, or arrange for the performance of the services by the insurance carrier with whom the School Board contracts to make the contributions on behalf of Plan participants to the School Board's 403b plan:
 - (i) Change of names and address.
 - (ii) Change of beneficiaries.
 - (iii) Processing of death claims and beneficiary disputes.
 - (iv) General Services: lost check searches and processing of replacement checks and electronic transfer of funds.
 - (v) Tax Withholding, as it may become necessary in the event that a Plan payment must be made other than to the School Board's 403b plan.
 - h. Secure a benefit funding and administration contract with MetLife for the benefit of the School Board and to which the School Board will be a party, which will authorize MetLife to hold money for Plan participants in escrow and require MetLife to deposit or contribute monthly payments on behalf of each participant to the School Board's 403b plan. The School Board acknowledges that EPC cannot guarantee rates nor availability of the underlying group administration contract until the contract is issued, but reserves the right to terminate this Agreement in the event that an underlying group administration contract satisfactory to the Board cannot be obtained.
 - i. Present status reports to the Superintendent and Treasurer of the School Board, and/or its designees, as reasonably requested or required.
 - j. Perform such additional services not explicitly listed above, but reasonably necessary for the implementation and administration of the Plan throughout the five to eight year benefit period, such as additional counseling appointments, reports regarding counseling progress, re-prints of documents, photocopies of documents, plan participation reports, calculation of early billing payment discounts, billing summaries, communications to Plan Participants as requested by the School Board's Superintendent and carbon copies of documents to tax and legal counsel for review.

3. **Term.** This Agreement has been entered as of March 12, 2012. The Agreement shall be in force until the obligations of both parties are fulfilled.
4. **Compensation and Payment.** The School Board, upon approval of this Agreement, agrees to make a pre-payment or deposit to EPC in the amount of \$5,000.00, which shall be fully credited towards the amounts due below. It is not an additional fee, but a pre-pay deposit. In exchange for the consulting services provided by EPC hereunder, the School Board shall pay to EPC the total sum of \$660 (i.e. \$220 per year) for each participant electing and accepted into the Plan if the School Board pays for the plan over three years, or the total sum of \$550 (i.e. \$275 per year) for each participant electing and accepted into the Plan if the School Board pays for the plan over two years or a one time fee of \$450 for each participant if the Plan is paid for in one year. The consulting fee is meant to accommodate such things as plan structure development, data analysis, feasibility study sessions, meetings and presentations with administration, bargaining groups, Board of Education, Committees, etc., as well as draft document preparation throughout the window period of election regarding the Plan.

In addition, the School Board shall pay to EPC the amounts to be forwarded to MetLife that are necessary to secure a benefit funding and administration contract with MetLife as provided in paragraph 2(h) above contingent on a contract satisfactory to the School Board being obtained. EPC shall act as a conduit to forward School Board funds for Plan participants to MetLife and shall not hold Board funds for any longer than is required for such purpose, but in no event longer than two (2) business days. EPC shall provide written notification to the School Board when funds are transferred to MetLife, reflecting the date of transfer. If EPC holds Board funds for longer than two (2) business days, then EPC shall compensate the Board in an amount equal to 1% of the funds held for each day held beyond two (2) business days. Such funds as are held briefly in escrow by EPC shall not be the property of EPC. The amounts due in each of the billing years shall be determined and finalized in August 2012, or 60-90 days before benefits begin, whichever is earlier, and communicated immediately to the School Board in the form of a detailed annual invoice. These payments shall be due within 30 days of the School Board's receipt of the annual invoice. Upon receipt of each payment into the escrow account, the funds shall be forwarded to MetLife as recited above.

Administration Expenses Paid by Underwriting Insurance Carrier – MetLife underwrites the benefit payment to participants based on funding of the benefit by the School Board. A benefit administration contract agreement between MetLife and the School Board will be issued by MetLife before the Board's first plan funding payment will be due in September 2012. MetLife utilizes EPC to execute all daily administration and participant interactions and communications such as producing complete enrollment packages for all eligible staff members, one-on-one counseling sessions, daily on-line reporting to the School Board on enrollment status, organization and delivery of executed eligible staff plan documents for School Board final execution, final roster verification for each Plan participant, performing timely preparation and delivery of billings for covered participants, securing a group benefit administration contract to assure monthly payments to participants after the close of the window period, address changes, questions, photocopies, lost check searches, tax withholding changes, changes in bank or fund depository information, death claims, beneficiary changes, coordination with banks and Post Employment 403(b) providers, securing document storage and retrieval, and the like throughout the entire benefit payout period. EPC shall also perform such additional services not explicitly listed above, but reasonably necessary for the implementation and administration of the Plan throughout the five to eight year benefit period, such as additional counseling appointments, counseling progress reports, re-prints of documents, photocopies of documents, plan participation reports, calculation of early billing payment discounts, and billing summaries. The guaranteeing insurance carrier may allocate up to eight percent of the Plan cost to EPC to be the primary administrator of the Plan throughout the entire five to eight year period. As illustrated in the feasibility study, this administration expense is incorporated in the Plan cost and fulfills any and all administration costs for the life of the Plan.

For the above compensation, EPC performs or arranges for the performance of the consulting, implementation and administration of the Plan and the underwriting company assures monthly benefits to Plan participants.

The School Board shall pay out such funds as are due to EPC or as are due in escrow to EPC according to the annual invoice received by the School Board in connection therewith. The School

Board reserves the right to request from EPC early billing payment discounts any time throughout the billing period.

Medicare MATCH: MetLife will send a separate Medicare match invoice to the School Board in each of the years that the benefits are paid to the employee, for those employees deemed by the School Board to require Medicare withholding for Plan benefits, which applies to Group 2 participants only.

5. **Indemnification.** EPC shall indemnify and save harmless the School Board for any damage to any property or persons caused by or arising out of or by reasons of any act of EPC or its employees in connection with or incident to any services provided under the Plan or this Agreement. The School Board and its employees, directors, members, and agents, acknowledges that Educators Preferred Corporation and its agents or representatives shall have no liability regarding the tax consequences of payments under this Plan. The School Board also discharges EPC from any and all claims, actions, damages, agreements, contracts, commitments arising out of the employees' separation from employment, including actions regarding age discrimination and actions arising out of any claims by Plan participants as a result of the School Board's cancellation, termination, or nonpayment of any benefit hereunder. This discharge is not applicable to any cancellation, termination, or nonpayment of any benefit caused directly by EPC without the authorization of the School Board.
6. **Further Assurances.** The parties agree to perform such further acts and to execute such further documents as may be reasonably necessary to carry out the purpose and intent of this Agreement.
7. **Attorneys' Fees.** If either party hereto shall bring suit to enforce the terms and provisions hereof or to recover damages for breach; the prevailing party shall be entitled to recover from the other party all costs, expenses and reasonable attorneys' fees incurred in connection with the exercise by the prevailing party of its rights and remedies hereunder as may be allowed under Ohio law. This paragraph does not create any rights that are not already recognized and provided for under Ohio law. The amount of the attorneys' fees, if any, is to be determined by the Court without a jury. For the purpose of this paragraph, the term prevailing party shall mean, in the case of the claimant, one who is successful in obtaining substantially all of the relief sought, and in the case of the defendant or respondent, one who is successful in denying substantially all of the relief sought by the claimant.
8. **Notices.** Any notice to be given hereunder shall be given in writing and delivered in person or forwarded by certified mail, postage prepaid, at the addresses indicated below, unless the party giving such notice has been notified of a change of such address. Notices shall be deemed received three (3) days after being mailed as set forth below or upon receipt if delivered in person.

School Board:
Big Walnut Local School District
Felicia Drummey
Treasurer
70 North Walnut Street
Galena, OH 43021

EPC
EDUCATORS PREFERRED CORPORATION
Merry Kelly, President
26877 Northwestern Highway, Suite 305
Southfield, MI 48033

With a copy to:

With a copy to:
Steven Schwartz, Esq.
Sommers, Schwartz, PC
2000 Town Center, Ste. 900
Southfield, MI 48075-1100

9. **Successor and Assignment of Agreement.** This Agreement shall be binding upon and inure to the benefit of the successors in interest and assigns of the parties hereto. No assignment of this Agreement shall be permitted without the express written approval of the non-assigning party.
9. **Waiver.** Neither the failure of nor any delay on the part of either party to exercise any right, remedy, power or privilege under this Agreement shall operate as a waiver thereof, nor shall any single or partial exercise of any right, remedy, power or privilege preclude any other privilege, nor shall any waiver of any right, remedy, power or privilege with respect to any occurrence be construed as a

waiver of any right, remedy, power or privilege with respect to any other occurrence. No waiver shall be effective unless it is in writing and is signed by the party asserted to have granted such waiver.

- 11. **Construction.** The language and all parts of this Agreement shall be construed as a whole according to its fair meaning. The parties acknowledge that each party has reviewed this Agreement and has had the opportunity to have it reviewed by its attorney. The headings in this Agreement are for convenience only and are not to be construed as a part of this Agreement or in any way defining, limiting or amplifying the provisions hereof.
- 12. **Governing Law, Jurisdiction and Venue.** The terms and provisions of this Agreement shall be governed by and construed in accordance with, and interpreted under the laws of the State of Ohio. The parties hereto agree and consent that Ohio has jurisdiction over this Agreement and any action brought in connection therewith shall be brought in the appropriate court in Ohio.
- 13. **Invalidity.** Invalidity or unenforceability of any covenant, term or condition of this Agreement or any portion of any covenant, term or condition or portion hereof, shall not revoke this Agreement and the remaining terms and conditions hereof shall remain in effect as if such invalid or unenforceable covenant, term or condition (or portion thereof) were not contained herein.
- 14. **Counterparts.** This Agreement may be executed in any number of counterparts, each of which shall be deemed to be an original as against any party whose signature appears hereon, and all of which shall together constitute one and the same instrument. This Agreement shall become binding when one or more counterparts hereof, individually or taken together, shall bear the signatures of all of the parties reflected hereon as signatories.
- 16. **Laws and Regulations.** EPC and its employees shall at all times comply with all applicable laws, ordinances, statutes, rules, and regulations including those relating to wages, hours, and safety.

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

BIG WALNUT LOCAL SCHOOL DISTRICT

EDUCATORS PREFERRED CORPORATION

By _____

By _____

Its _____

Its _____

Dated _____

Dated _____

By _____

Its _____

Dated _____