

STATEMENT OF WORK: 14.2-PS CUSTOMIZATION

Tri-Rivers Educational Computer Association (“TRECA”) and Big Walnut Local Schools (“Client”) have entered into a Member Service Agreement for services, including but not limited to Core Services as identified in OAC § 3301-3-01(B)(5), effective July 1, 2012 (the “Agreement”). Client hereby engages TRECA, and TRECA agrees to provide the Extended Services described in this statement of work (“SOW”) in accord with the terms set forth in the Agreement. Any capitalized terms used in this SOW will have the meaning assigned them in this SOW, or, if not defined in this SOW, those assigned them in the Agreement.

I. Term. This Agreement shall be binding with services to be provided starting July 1, 2013 through and until June 30, 2016.

II. Service. TRECA shall provide the following services:

- A. **Locker Module.** Implementation of the locker module customization from the third party vendor including importing of data, training on features included in the customization and support for three years.
- B. **Attendance Tracking.** Implementation of the attendance tracker basic customization from the third party vendor plus the added options of two letters as well as the ability to print letters from the parent portal. Additional letters may be created at a cost of \$250 per letter.
- C. **Online Report Cards:** Creation and implementation of traditional and standards based report cards pursuant to the district’s specifications. This customization also includes the ability to mass print reports from the administration, teacher and parent portals.

III. Limitations.

TRECA shall not be responsible for any issue related to the PowerSchool software; however TRECA shall work with Pearson on the district’s behalf to resolve any such issue that may occur.

IV. Fees. For the services defined herein, and in accord with the terms of the Agreement, Big Walnut Local Schools shall pay TRECA **\$8,000.00** (USD) for the PowerSchool Supplemental Customization Bundle A, over the term of this Agreement payable over three years (year one: \$4,000; year two: \$2,000, year three: \$2,000) and according to TRECA’s quarterly billing/invoice terms.

V. Additional Terms.

- A. **Change Orders.** Changes to a SOW may only be made by written change orders (“Change Orders”), signed/authorized by the parties, setting forth the nature of the change and the specific amendment to the applicable portions of the Project Agreement, including a fee or hours required estimate for the revised Project scope. The terms and conditions of this Agreement may not be amended by a Change Order, but only by written amendment as provided in this Agreement.

- B. Performance. TRECA represents and warrants that it shall: (i) perform all services provided under this SOW in a timely, workmanlike manner consistent with industry standards reasonably applicable to the performance of such services; (ii) use adequate numbers of qualified individuals with suitable training, education, experience and skill in performing the services; and (iii) perform the services in an efficient and cost effective manner. In addition, TRECA represents and warrants that it has all rights, titles, licenses, permissions and approvals necessary to perform its obligations (including the Services) under this SOW. TRECA, in conjunction with its personnel, shall determine the method, manner, and means of performing the Services. The Client may not control the manner or determine the method of accomplishing the Services. The Client may, however, require personnel of TRECA to observe at all times the written security and safety policies of Client. In addition, the Client shall be entitled to exercise a broad general power of supervision and control over the provision of such Services to ensure satisfactory performance. This power of supervision shall include the right to inspect, make suggestions or recommendations as to the details of the Services, and request modifications to the scope of a work assignment.
- C. Assignment of Personnel. TRECA shall, in its sole discretion, determine the assignment of its personnel for providing the Services. TRECA shall endeavor to honor a request for a specific associate, subject to staffing or scheduling considerations. TRECA shall require that all TRECA employees and agents shall at all times comply with Customer's health, safety, security, and environmental practices, policies and procedures while on a Client owned or operated site. Client may request that TRECA remove any TRECA employees or agents not so complying.
- D. Warranties. Other than those explicitly provided for in writing herein, TRECA makes no other warranty, express or implied, with respect to the Products or Services. TRECA DISCLAIMS ANY WARRANTY WITH RESPECT TO THE MERCHANTABILITY OF THE PRODUCTS OR SERVICES OR THE FITNESS OF THE PRODUCTS FOR ANY PARTICULAR PURPOSE OR USE OF CUSTOMER AS WELL AS ANY EXPRESS OR IMPLIED WARRANTIES OR CONDITIONS ARISING THROUGH THE USE BY TRECA OF ANY SAMPLES OR DEMONSTRATIONS, ANY COURSE OF DEALING, COURSE OF PERFORMANCE OR USAGE OF TRADE.

VI. Miscellaneous.

- A. Neither party shall be liable to the other for any loss or damage which may be suffered by the other party, or for any failure to perform its obligations under the Agreement to the extent that such damage or failure is due to any cause beyond the first party's reasonable control including without limitation any act of God, inclement weather, failure or shortage of power supplies, flood, drought, lightning or fire, strike, lock-out, trade dispute or labor disturbance, the act or omission of Government, highway authorities, public telecommunications operators or other competent authority, war, military operations, or riot, difficulty, delay or failure in manufacture, production or supply by third parties of the Service Equipment or any part thereof.
- B. The following provisions define TRECA's entire liability with respect to claims arising in any way out of the provision of or failure to provide the service set out in this Agreement; with respect to any breach of its contractual obligations arising under the Agreement; and

any representations, statements, or tortuous act or omission including negligence or gross negligence arising under or in connection with this Agreement (including any liability for the acts or omissions of its employees, agents, and subcontractors; subsequently referred to as the “Event of Default”). TRECA shall not be liable, in respect of or arising out of an Event of Default or the performance, non-performance, or breach of its obligations under this Agreement, for any indirect, incidental, special or consequential damages, including loss of profits, goodwill, revenue, data, or use, incurred by Big Walnut Local Schools or by any third party whether in an action in contract or tort, even if such damages were foreseeable or TRECA had been advised of the possibility of such damages. TRECA, from time to time, will be requested to provide consultation related to service described within this Agreement. TRECA will use reasonable efforts in this regard. Big Walnut Local Schools acknowledges and agrees that the limitation of liability shall apply to such consultation. Without derogating from the other provisions of this section and this Agreement, TRECA’s liability for damages for breach of this Agreement shall in no event exceed the amounts received by TRECA under this Agreement.

- C. Big Walnut Local Schools agrees that it and its employees and students will not use any services under this Agreement in connection with any commercial, religious, or illegal purpose or activity. Big Walnut Local Schools further agrees that its use and that of its employees and students will be in accordance with TRECA’s conditions, rules, recommended Acceptable Usage Policy, and regulations as specified by manuals, User Guides, memoranda, or other means either supplied or made available to Big Walnut Local Schools. Big Walnut Local Schools will use its best efforts to inform its employees and students of these conditions, rules and regulations, and Big Walnut Local Schools will take actions, in cooperation with TRECA staff, to enforce compliance with those conditions, rules and regulations.

VII. Authorization

Big Walnut Local Schools Authorized Signature

Date

TRECA Authorized Signature

Date