

## SERVICE AGREEMENT PS CUSTOMIZATION MANAGER

This agreement for the provision of PowerSchool Customization Manager Services ("Agreement") is entered into between **META Solutions** ("Provider") and the Mountain View Whisman Schools ("Customer").

**I. Term.** This Agreement shall become effective upon signature with services to be provided starting July 1, 2021 through and until June 30, 2022.

### **II. Description of Services:** Extended Support

#### **A. Deliverables.**

1. Access to META Customizations Catalog download and installation assistance;
2. Monthly releases and release notes as provided for enhancements, bug fixes and new customizations;
3. District Leader Web Help Desk support via [ps.customizations@metasolutions.net](mailto:ps.customizations@metasolutions.net);
4. Initial training on the use of the Customization Catalog and use of customizations is included. If needed, additional training could be provided at an extended service rate of \$75.00 per hour remotely or \$100.00 per hour on-site for the META PowerSchool Customizations Catalog.

#### **B. Responsibilities.**

Customer agrees to obtain at its own expense the additional service(s), software program(s), and equipment or device(s) necessary for the transmission or receipt of computer service(s) at its location(s), excluding those specifically supplied herein; those referenced additional services and items include, but are not limited to, microcomputers, suitable data sets and telephone line service or other applicable data communications facilities including connections to other facilities of Customer. Alternatively, these services can be supplied by META through the execution of a separate agreement at additional cost.

**III. Fees.** For the services defined herein, and in accord with the terms of the Agreement, Customer shall pay META \$1.00 per student, as evidenced by a valid purchase order ("P.O") from Customer and according to META's quarterly invoice terms.

### **IV. Additional Terms.**

- A. **Change Orders.** Changes to an Agreement 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. META represents and warrants that it shall: (i) perform all services provided under this Agreement 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, META represents and warrants that it has all rights, titles, licenses, permissions and approvals necessary to perform its obligations (including the Services) under this Agreement. META, in conjunction with its personnel, shall determine the method, manner, and means of performing the Services. The Customer may not control the manner or determine the method of accomplishing the Services. The Customer may, however, require personnel of META to observe at all times the written security and safety policies of Customer. In addition, the Customer 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. Except as otherwise specified herein, META shall, in its sole discretion, determine the assignment of its personnel for providing the Services. META shall endeavor to honor a request for a specific associate, subject to staffing or scheduling considerations. META shall require that all META employees and agents shall at all times comply with Customer's health, safety, security, and environmental practices, policies and procedures while on a Customer owned or operated site. Customer may request that META remove any META employees or agents not so complying.
- D. Warranties. Other than those explicitly provided for in writing herein, META makes no other warranty, express or implied, with respect to the Products or Services. META 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 META OF ANY SAMPLES OR DEMONSTRATIONS, ANY COURSE OF DEALING, COURSE OF PERFORMANCE OR USAGE OF TRADE.
- E. PROPERTY
1. Any hardware and/or software installed by Provider in regards to the Services provided under this Agreement remain the property of the Provider. In the event this Agreement is terminated, Customer agrees to permit Provider to remove any such hardware and/or software as soon as may be reasonably practicable after the date of termination.
  2. Any data files shall remain the property of Customer. In the event this Agreement is terminated, Provider agrees to return all available files to Customer as soon as may be reasonably practicable after the date of termination.
- F. Successors. This Agreement shall be binding upon and shall inure to the benefit of the parties hereto and their respective successors.

- G. Assignments. This Agreement and the rights, duties, and/or responsibilities herein may not be assigned to another individual or entity without the written consent of the non-assigning party to this Agreement.
- H. Modification, Waiver, Discharge, etc. This Agreement may not be discharged, changed or modified in any manner, except by an instrument in writing signed by both parties. The failure of either party to enforce at any time any of the provision(s) of this Agreement shall not be construed to be a waiver of any provision(s), nor in any way to affect the validity of this Agreement or any part hereof or the right of either party hereto to enforce each and every such provision. No waiver of any breach of this Agreement shall be held to be a waiver of any other or subsequent breach. Furthermore, the term of any purchase order, invoice or like document issued in conjunction with the Service to be provided herein shall not serve to add to or modify the terms of this Agreement.
- I. Captions. The captions in this Agreement are inserted only as a matter of convenience and as a reference, and in no way define, limit or describe the scope or intent of this Agreement or any of the provisions hereof.
- J. Rights of Persons Not Parties. Nothing contained in this Agreement shall be deemed to create rights in persons not parties hereto, including Users as defined by this Agreement.
- K. Severability. If any provision of this Agreement or the application thereof to any persons or circumstances shall, for any reason or to any extent, be held invalid or unenforceable, the remainder of this Agreement and the application of such provision to such other persons or circumstances shall not be affected thereby, but rather shall be enforced to the greatest extent permitted by law.
- L. Entire Agreement. This Agreement, together with the documents referred to herein, shall constitute the entire agreement between the parties with respect to the subject matter hereof and shall supersede all previous negotiations, commitments and writings with respect to such subject matter.
- M. Counterparts. This Agreement may be executed in several counterparts, all of which taken together shall constitute one single agreement between the parties hereto.
- N. Construction. This Agreement and its validity, interpretation and effect shall be construed in accordance with and governed by the laws of the State of Ohio, without regard to conflict of laws provisions. The parties have participated jointly in the negotiation and drafting of this Agreement. If any ambiguity or question of intent or interpretation arises, this Agreement shall be construed as if drafted jointly by the parties and no presumption or burden of proof shall arise favoring any party by virtue of authorship of any specific provisions of the Agreement. When used in this Agreement, the terms “include” or “including” shall mean including without limitation. Unless the context requires otherwise, any reference to the masculine, feminine, and neuter genders include one another.
- O. Compliance with Law. Each party agrees to comply with all governmental laws and regulations applicable to the use of the Services. Customer agrees to provide such written evidence of the approval of this Agreement as may be required by law.
- P. Fully Understand and Freely Enter. The undersigned hereby acknowledge that they have read and understand the foregoing, including the sections regarding warranties and

limitations on liability. The parties to this Agreement also acknowledge that the execution of this Agreement is a free and voluntary act, done in belief that the Agreement is fair and reasonable. Finally, the parties acknowledge that they have had the right and opportunity to consult with and obtain the advice of independent legal counsel of the parties' own choosing in the negotiation and execution of this Agreement.

**V. Authorization**

\_\_\_\_\_  
Mountain View Whisman Schools Authorized Signature

\_\_\_\_\_  
Date

\_\_\_\_\_  
META Authorized Signature

\_\_\_\_\_  
Date