



EmbraceEP® Contract

Embrace®
PO Box 305
Highland, IL 62249

Northwest Suburban Special Education
Organization (NSSEO)
799 West Kensington Road
Mount Prospect, IL 60056

The following is an EmbraceEP® Contract (hereinafter “contract” or “agreement”) for software, website hosting, and support services. This contract is made between Brecht’s Database Solutions, Inc. d/b/a Embrace® (hereinafter “Embrace®”, “We”, “Us” or “Licensor”) Northwest Suburban Special Education Organization (NSSEO) (hereinafter “You”, “Your” or “Licensee”).

EMBRACE®
EmbraceEP® (INDIVIDUAL EDUCATION PROGRAM)
WEBSITE LICENSE AGREEMENT

NOTICE TO USER: PLEASE READ THIS AGREEMENT CAREFULLY. BY USING ALL OR ANY PORTION OF THE WEBSITE YOU ACCEPT ALL THE TERMS AND CONDITIONS OF THIS AGREEMENT.

YOU AGREE THAT THIS AGREEMENT IS LIKE ANY WRITTEN NEGOTIATED AGREEMENT SIGNED BY YOU. THIS AGREEMENT IS ENFORCEABLE AGAINST YOU AND ANY LEGAL ENTITY THAT OBTAINS ACCESS THROUGH LICENSEE TO THE WEBSITE AND ON WHOSE BEHALF IT IS USED. IF YOU DO NOT AGREE TO THE TERMS OF THIS AGREEMENT, DO NOT EXECUTE THIS CONTRACT OR USE ANY OF OUR PRODUCTS OR WEBSITE.

Embrace® owns all intellectual property in/on the Embrace® website (hereafter “website”) and its related Embrace® software (hereafter “software”). Embrace® agrees to allow you and/or your authorized agents to login and access the website and use our software only in accordance with the terms of this Agreement. Any unauthorized access or use of Embrace’s products is cause for immediate termination of your access to its products by all means available to us.

1. LICENSE TO ACCESS WEBSITE. As long as you obtained access to the website from Embrace® and as long as you comply with the terms of this and any other Agreement you have with Embrace®, Embrace® grants you a non-exclusive license to use the website in the manner and for the term and purposes described below.

2. INTELLECTUAL PROPERTY OWNERSHIP. The website and its related software are the intellectual property of and are owned by Embrace®. The structure, organization, and code of the website and its related software contain valuable trade secrets and confidential information of Embrace®. Except as expressly stated herein, this Agreement does not grant you any intellectual property rights whatsoever in the website and its related software and all rights are reserved by Embrace®. Embrace® warrants that no third party has any claim to any trademark, patent, or proprietary interest in any services Embrace® provides to you. Embrace® will defend, hold harmless, and indemnify you from any claims brought by a third party against you to the extent based on an allegation that the Embrace® website, software or database infringe any U.S. patent, copyright, trademark, trade secret or other proprietary right of a third party. Any form, database, or software that is altered, conceived, made, or developed in whole or in part by Embrace® (including any developed jointly with you) during or as a result of our relationship with you shall become and remain the sole and exclusive property of Embrace®. You agree to make no claim in the rights or ownership of any such form, database or software.

To the extent that any custom form is created by Embrace® for you, based upon any prior form, template or exemplar provided by you, you warrant and represent to Embrace® that you created said form(s) or have the legal right to use said form(s). You agree to indemnify Embrace® for any third-party claims for infringement, misappropriation or other violation of any third-party’s intellectual property rights where such claims are made against Embrace® for forms, templates or exemplars created based upon material provided by you to Embrace®.

3. RESTRICTIONS. You may not copy, modify, adapt or translate any Embrace® software. You may not reverse engineer, decompile, disassemble, or otherwise attempt to discover the source code of any Embrace® software. You may not rent, lease, sell, sublicense, assign or transfer your rights in the website, or authorize any portion of the website and its related software to be copied onto another individual or legal entity’s computer except as may be permitted herein. You may not allow access or use of our website or software for any other purpose than agreed to in advance between Embrace® and you.

4. LIMITED WARRANTY. Embrace® warrants to the District that the website will permit the District’s users to produce, fill-out, and print the IEP forms published by the Illinois State Board of Education for the period of time outlined in the current contract. All warranty claims must be made within the current contract period. If the Services do not perform as warranted, Embrace® will use reasonable efforts, consistent with industry standards, to cure the Defect in accordance with the Embrace® current support process in effect at the time of the Defect. All warranty claims must be made within the current contract period. If the website or software does not perform as above, the entire liability of Embrace® and your sole and exclusive remedy will be limited to a prorated refund of the license fee you have paid Embrace®. This limited warranty, the warranty against non-infringement of intellectual property rights, and Embrace’s indemnification for a breach are the only warranties provided by Embrace®. Embrace® expressly disclaims all other warranties, either expressed or implied, including but not limited to implied warranties of

merchantability and fitness for a particular purpose with regard to the website, software and accompanying written materials.

5. DISCLAIMER. Embrace® does not warrant to the licensee that the forms that may be produced from the website will comply with federal or state laws or regulations, including those which limit the extent to which the information may be disclosed to third parties. Embrace® will take all commercially reasonable steps to provide an uninterrupted, timely, secure, and error-free website. Nonetheless, Embrace® makes no warranty or representation that (a) the website will be uninterrupted, timely, secure, or error-free; or (b) the results that may be obtained from the use of the website will be accurate or reliable.

6. DISTRICT E-SIGNATURE USAGE. Embrace® has the ability to include electronic signatures. If your District is using electronic signatures in the Embrace® system it agrees to hold Embrace® harmless against any and all claims that may arise out of the use of this feature. If you choose not to use electronic signatures for either your staff or all meeting attendees, you must notify your implementation specialist and verify that they are not available in your system.

All Parties shall ensure that the person entering an e-signature onto any Embrace® document is an authorized signatory. The e-signature of any Party or Person is to be considered as an original signature, and the document transmitted is to be considered to have the same binding effect as an original signature on an original document. All e- signatures shall be subject to the Uniform Electronic Transactions Act and/or any similar State statutes which have jurisdiction over the transactions of the Parties; this applies to any Parties or end-user's use of Embrace® software's electronic signature functionality. District, and any person using electronic signature functionality, agrees to hold Embrace® harmless for any and all claims which may arise out of their use of that feature. Documents which contain e-signatures may be preserved by Embrace® longer than the duration of the Agreement for the purposes of enforcement of rights and obligations. Any form or document (including this Agreement) signed electronically between the Parties is to be treated as an original document. All Parties hereto shall ensure that the person entering an e-signature onto any Embrace® document is an authorized signatory. The e-signature of any Party or Person is to be considered as an original signature, and the document transmitted is to be considered to have the same binding effect as an original signature on an original document.

7. LIMITATION OF LIABILITY. Except as otherwise stated herein, Embrace® will not be liable to you for any loss, damages, claims, or costs whatsoever including any consequential, indirect or incidental damages, any lost profits or lost savings, any damages resulting from business interruption, personal injury or failure to meet any duty of care, or claims by a third party.

8. SERVICES PROVIDED: Embrace® agrees to provide the following services:

- Website access to the licensee for all ISBE required IEP forms and Notice and Consent forms
- Objectives bank with over 4,000 objectives
- Built in Illinois Learning Standards and Core Standards for inclusion on Goal pages
- I-Star FACTS tracking form
- Restrictive access to the website to allow for multiple levels of users, providing each level with only the access that they need
- Servers, security, and hosting to ensure that our programs are secure, fast, and available
- Multiple support channels available to all users

- A user management system will be included allowing a system administrator to create new users, edit existing users, and delete users
- Secure socket layer (“SSL”) and session tracking for user authorization (the SSL is the component of the software which encrypts the information going between the website and the user, and confirms the identity of the host and the user)
- Website hosting
- Maintenance and updates
- Daily backups
- Website updates as necessary to maintain Illinois State Board of Education required forms
- 99.99% uptime guarantee

9. IEP YEARLY COSTS. Website access is per IEP student per year. Student count used for price calculation is the most recent iStar December child count. “Read Only Users” such as regular education staff are free if added and trained by the district. This contract is for a one year period from July 1, 2024 to June 30, 2025. (Prices apply to individual districts, cooperatives, joint agreements, and associations.) Custom forms and/or programs, if requested, are an additional cost and will be billed on an individual basis.

Program Subscription	Price	QTY	Subtotal
EmbraceIEP® Annual Subscription Annual Subscription Fee	\$7,938.00	1	\$7,938.00
			\$7,938.00
Additional Components Per District (Annual Fee)			
Behavior Incident Reporting	\$630.00	1	\$630.00
			\$630.00
Additional Services Per District (Annual Fee)			
SFTP (Secure File Transfer Protocol) Student Import	\$500.00	1	\$500.00
Single Sign-On Services: SAML (Security Assertion Markup Language) User Authentication	\$500.00	1	\$500.00
			\$1,000.00

Subtotal **\$9,568.00**

Total Cost for 24-25 School Year \$9,568.00

All quoted prices apply to individual districts, cooperatives, joint agreements, and associations. Custom forms, software and/or programs are available from Embrace® and, if requested, will be subject to a separate Agreement between you and us. Customized work is an additional cost and will be billed separately.

10. GENERAL PROVISIONS. If any part of this Agreement is found void and unenforceable, it will not affect the validity of the balance of this Agreement, which will remain valid and enforceable according to its terms.

11. **INDEMNITY.** Notwithstanding any language contained in this Agreement, the District agrees to indemnify Embrace® from any and all third-party liabilities, losses, actions, damages, or claims (including all reasonable expenses, costs, and attorney fees) directly arising out of the District's breach of this contract or negligent act(s) or omission(s). Notwithstanding any language contained in this Agreement, Embrace® agrees to indemnify the District from any and all third-party liabilities, losses, actions, damages, or claims (including all reasonable expenses, costs, and attorney fees) directly arising out of Embrace's® breach of this contract or Embrace's® negligent act(s) or omission(s).

12. **DURATION.** This contract for website access to EmbraceEP® is for a 1 year period.

13. **CONTRACT RENEWAL.** In the event that you renew the contract, we will enter into a Renewal Contract with you on an annual basis. The terms of this Master Contract shall apply to any renewal unless specifically noted otherwise in the written Renewal Contract.

14. **INSURANCE.** Embrace® shall procure and maintain through an insurance company or companies licensed to conduct business in Illinois insurance with coverage and limits as specified below or greater. Embrace® shall notify Licensee 30 days in advance of the termination, cancellation or material amendment to policy. Upon execution of this contract, and at anytime during the term of this contract or any extension thereof, Licensee may request and Embrace® shall furnish to Licensee certificate(s) of insurance, policies, and endorsements reflecting the required coverages.

The type and minimum limits of insurance required are as follows:

Type	Limits
Commercial General Liability	
1. Per Occurrence:	\$1,000,000
2. Aggregate:	\$2,000,000
Cyber Liability	\$5,000,000

15. **TERMINATION.** Either party may terminate this contract for cause by providing the other party with seven (7) days' notice of any breach of this contract. The contract will be terminated at the end of the seven (7) day period unless the party in breach cures the breach within the seven (7) day period. Either party may also terminate this contract for convenience by providing the other party with thirty (30) days written notice. In the event that Either party terminates the contract before June 30, 2025, Embrace® shall provide a pro rata refund to Licensee of the annual fee for all payments that Licensee has paid. Said refund shall be paid within thirty (30) days of the termination date. This refund will not include payments for Training, implementation costs and any additional customization which has been performed at client request.

16. **RETURN/DESTRUCTION OF LICENSEE DATA.** Upon expiration of the term of the Agreement, upon the earlier termination of the Agreement for any reason, or upon Licensee's request, Licensor covenants and agrees that it will maintain your database information and provide read-only access (Read-Only access includes the ability to download and print PDFs as well as to run reports on previously entered data) of data and any documents for one (1) year from the date of termination of this Contract or subsequent failure to renew. At the end of the one (1) year read only time-frame, or sooner at Licensee request, Embrace® will remove any and all on-line access to Licensee data. Embrace® maintains long-term, off-site, encrypted backups that data which may exist for up to 7 years. Encryption keys used for off-site backups are stored on a separate network from the backup file itself. Data on long-term, off-site backups are preserved for legal/audit purposes. Embrace® acknowledges and agrees that any off site, encrypted backup data

remains subject to the student record maintenance and access rules set forth in State and federal law and will continue to preserve and protect the privacy of that information consistent with those laws until such time as the data is destroyed. Embrace® is not responsible for the loss of any information after termination or failure to renew the Agreement.

17. ENTIRE AGREEMENT. This Agreement constitutes the entire Agreement and understanding between the parties in relation to the subject matter hereof and there are no premises, representations, conditions, provisions, or terms related thereto other than those set forth in this Agreement. Any changes hereto must be in writing and signed by authorized representatives of both parties.

18. GOVERNING LAW. This Agreement will be governed by and construed in accordance with the laws of the State of Illinois.

19. DISPUTE RESOLUTION. In the event of any dispute or claim arising out of or related to this Agreement, the parties shall, as soon as reasonably practicable after receiving written notice from the other party of the dispute, meet and confer in good faith regarding such dispute at a mutually agreeable time and place. The obligation to meet and confer does not obligate either party to agree to any compromise or resolution of the dispute. The meet and confer process shall be considered a settlement negotiation for purposes all applicable laws and shall be conducted confidentially and without prejudice to either party's rights to pursue legal remedies through the judicial system. The parties may agree to utilize the services of a mediator through the American Arbitration Association to facilitate meet and confer discussions and agree to jointly and equally share the expenses of the mediator. If the parties fail to resolve any dispute for any reason within 30 days after a party provides written notice of a dispute, either party may file suit.

20. NOTICE. Any notice required by this contract shall be directed in writing via certified mail and electronic mail (if listed below) to:

To Embrace:

August R. Brecht
President
Brecht's Database Solutions, Inc.
PO Box 305
Highland, IL 62249
Gus@embraceeducation.com

To Licensee:

Eric Murray
Technology Coordinator
Northwest Suburban Special Education Organization (NSSEO)
799 West Kensington Road
Mount Prospect, IL 60056
Emurray@nsseo.org

With a copy to:

Donald K. Schoemaker
UB Greensfelder, LLP
821 W. Highway 50, Suite 303
O'Fallon, IL 62269
DSchoemaker@ubglaw.com

With a copy to:

Engler Callaway Baasten & Sruga LLC
2215 York Road, Suite 400
Oak Brook, IL 60523
arogers@ecbslaw.com

21. **VENUE.** Both parties agree that venue for any dispute arising under this Agreement is proper in a court of law in the Circuit Courts of Cook County, Illinois or, if applicable, the United States District Court for the Northern District of Illinois.

22. **CAPTIONS.** The captions for the paragraphs of this Agreement shall not be deemed to have legal significance and are simply designed as an aid in reading and to represent the general terms of the paragraph involved.

23. **BENEFIT.** This Agreement shall be binding upon and inure to the benefit of the parties, their successors, assigns, beneficiaries, heirs, executors, administrators, and legal representatives.

Licensor:

Brecht's Database Solutions, Inc. d/b/a EMBRACE®

FEIN: 20-4100129

August R. Brecht, President

August Brecht

Licensee:

Northwest Suburban Special Education Organization (NSSEO)

FEIN:

Eric Murray, Technology Coordinator

Eric Murray

KLF

Signature Certificate

Reference number: DD4F3-ACXMT-DXQVX-NBW7Q

Signer

Timestamp

Signature

August Brecht

Email: gus@embraceeducation.com

Sent: 31 May 2024 16:01:48 UTC
Viewed: 31 May 2024 16:08:07 UTC
Signed: 31 May 2024 16:08:18 UTC



Recipient Verification:

✓ Email verified 31 May 2024 16:08:07 UTC

IP address: 97.86.201.39
Location: Fairview Heights, United States

Eric Murray

Email: emurray@nsseo.org

Sent: 31 May 2024 16:01:48 UTC
Viewed: 31 May 2024 17:43:26 UTC
Signed: 03 Jun 2024 13:59:09 UTC



Recipient Verification:

✓ Email verified 31 May 2024 17:43:26 UTC

IP address: 50.207.247.150
Location: Mount Prospect, United States

Document completed by all parties on:

03 Jun 2024 13:59:09 UTC

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Signed with PandaDoc

PandaDoc is a document workflow and certified eSignature solution trusted by 50,000+ companies worldwide.

