



## EmbraceDS® 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 Embrace DS® Contract (hereinafter “contract” or “agreement”). This contract is made between Brecht’s Database Solutions, Inc. d/b/a Embrace® (hereinafter “Embrace®”, “We”, “Us” or “Licensor”) and Northwest Suburban Special Education Organization (NSSEO) (hereinafter “You”, “Your” or “Licensee”).

**EMBRACE®**  
**EmbraceDS®**  
**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 nonexclusive 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 licensee that the website will permit the licensee to produce, fill-out, and print the DS forms 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 staff completion of medical service sheets with respect to Medicaid billing.
- Restrictive access to the website to allowing for multiple levels of use, providing each level with only the access needed.
- 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).
- Web hosting.
- Daily backups.
- Maintain all student data in secure facility on secure servers.

- Maintenance and updates.
- Assistance with all Medicaid registration processes (Healthcare and Family Services, IMPACT, state vendor access, etc.).
- Initial and continued identification of Medicaid recipients using the Recipient Eligibility Verification System.
- Provide projected submission and reimbursement amounts based on practitioners' documented services.
- Notification of claims that cannot be submitted due to missing required information.
  - Missing Consent, prescriptions/referrals, supervisor signatures, provider rates, etc.
- Assist practitioners in registering NPI number in state IMPACT system.
- Evaluate claim adjudication notices for potential correction to maximize Medicaid interim reimbursements.
- Cross-reference data with the IEP system to track percentage of services to be provided against services delivered.
- Admin level access to multiple reports to assist district and practitioners with claiming efficiency.
- Multiple support channels available to all users.
- Support district with state vendor financial reporting to meet reimbursement requirements and deadlines.
  - Random Moment Time Sampling, practitioner Cost Pool allocations, federal fund reduction, etc.

## **9. DISTRICT RESPONSIBILITIES.**

- Identify staff that provide covered services and give them access to the EmbraceDS® software.
- Complete Annual Cost Report (reporting of staff salary and benefit information) in accordance with annual deadlines.
- Enter and maintain Provider Cost Pool Reporting in accordance with quarterly deadlines.
- Ensure that staff complete Random Moment Time Sampling as applicable.
- Obtain external data as required to complete claim submissions, including, but not limited to, parental consent to bill Medicaid, prescriptions/referrals, and supervisor signatures.
- Maintain the IEP system student data including using MEDI system to determine Medicaid eligibility and Medicaid numbers for students.
- Utilize EmbraceDS® reports to ensure practitioners enter claims accurately for services provided.
- Ensure referring providers have NPI number and number is registered in state IMPACT system.
- The LEA must verify that no practitioner providing service has been terminated, suspended, or barred from the Medicaid program. The lists of terminated, suspended, and barred practitioners are available at the following Websites. Both lists must be queried to obtain a complete list of terminated, suspended, or barred providers. <http://exclusions.oig.hhs.gov/> and <http://www.state.il.us/dpa/html/sbhs.htm>
- The LEA must maintain Practitioner credential records. These records must:
  - Be retained on the premises of the LEA.
  - Be current.
  - Include copies of all applicable licenses and certificates.
  - Include a list of current practitioners and associated license numbers.

**10. FEE-FOR-SERVICE WEBSITE YEARLY COSTS.** The contract is for a one year period from July 1, 2024 to June 30, 2025 (2024-2025 school year). (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 from your annual contract.

Program Subscription	Annual Fee
EmbraceDS® (Percentage Fee): 5% of HFS Reimbursements Facilitated by Embrace® *Payment of this fee to EmbraceDS® shall be subject to Medicaid’s reconciliation (Cost Settlement) process. Northwest Suburban Special Education Organization (NSSEO) shall issue any outstanding payments to EmbraceDS® promptly after each Medicaid reconciliation process/cycle.	5% of Reimbursements

Additional trainings can be added at the following cost:

Webinar sessions @ \$500.00 per session.

On-site training @ \$3,500.00 per trainer per day.

I acknowledge that the district will be invoiced separately for the cost of on-site training. (Please initial) \_\_\_\_\_

\*Additional webinar and on-site training sessions are available at the district’s request and will be invoiced at the current rate.

**11. 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.

**12. INDEMNITY.** Notwithstanding any language contained in this Agreement, you agree 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 your breach of this contract or negligent act(s) or omission(s). Notwithstanding any language contained in this Agreement, Embrace® agrees to indemnify you 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).

**13. DURATION.** This contract for website access to EmbraceDS® is for a 1 year period.

**14. 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.

**15. 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

**16. 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, 2023, 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.

**17. 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.

**18. 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.

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

**20. 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..

**21. 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  
O'Fallon, IL 62269  
DSchoemaker@ubglaw.com

With a copy to:

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

**22. 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.

**23. 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.

**24. 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)

**Licensor:**

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

FEIN:

Eric Murray, Technology Coordinator

*Eric Murray*

KLF



# Signature Certificate

Reference number: TZ5ND-4MLAK-Q7QOF-M5SFA

## Signer

## Timestamp

## Signature

### August Brecht

Email: gus@embraceeducation.com

Sent: 20 Jun 2024 21:29:10 UTC  
Viewed: 20 Jun 2024 21:32:49 UTC  
Signed: 20 Jun 2024 21:32:58 UTC



### Recipient Verification:

✓ Email verified 20 Jun 2024 21:32:49 UTC

IP address: 98.58.48.217  
Location: Naples, United States

### Eric Murray

Email: emurray@nsseo.org

Sent: 20 Jun 2024 21:29:10 UTC  
Viewed: 21 Jun 2024 13:17:34 UTC  
Signed: 21 Jun 2024 13:18:35 UTC



### Recipient Verification:

✓ Email verified 21 Jun 2024 13:17:34 UTC

IP address: 50.207.247.150  
Location: Mount Prospect, United States

Document completed by all parties on:

21 Jun 2024 13:18:35 UTC

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### Signed with PandaDoc

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

