

Brecht's Database Solutions, Inc.



PowerIEP Contract

Brecht's Database Solutions, Inc.
PO BOX 305
Highland, IL 62249

Mid-Valley Special Education Cooperative
1304 Robzheimer
St. Charles, IL 60174

The following is a IEP Contract (hereinafter "contract" or "agreement") for software, website hosting, and support services. This contract is made between Brecht's Database Solutions, Inc. (hereinafter "BDSI", "We", "Us" or "Licensor") and Mid-Valley Special Education Cooperative (hereinafter "You", "Your" or "Licensee"). This contract is in addition to the current contract between Mid-Valley and Brecht's Database Solutions, Inc. This contract is to add St. Charles CUSD #303 to the Mid-Valley PowerIEP site.

BRECHT'S DATABASE SOLUTIONS, INC. INDIVIDUAL EDUCATION PROGRAM ("IEP") 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 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.

BDSI owns all intellectual property in/on the BDSI website (hereafter "website") and its related BDSI software (hereafter "software"). BDSI 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 BDSI'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 BDSI and as long as you comply with the terms of this and any other Agreement

you have with BDSI, BDSI 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 BDSI. The structure, organization, and code of the website and its related software contain valuable trade secrets and confidential information of BDSI. 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 BDSI.

Any form, database, or software that is altered, conceived, made, or developed in whole or in part by BDSI (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 BDSI. You agree to make no claim in the rights or ownership of any such form, database or software.

3. **RESTRICTIONS.** You may not copy, modify, adapt or translate any BDSI software. You may not reverse engineer, decompile, disassemble, or otherwise attempt to discover the source code of any BDSI 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 BDSI and you.

4. **LIMITED WARRANTY.** Brecht's Database Solutions, Inc. warrants to the licensee that the website will permit the licensee to produce, fill-out, and print the IEP forms published by the Illinois State Board of Education for a period of (1) year from the date of purchase. All warranty claims must be made within such one (1) year period. If the website or software does not perform as above, the entire liability of BDSI and your sole and exclusive remedy will be limited to a prorated refund of the license fee you have paid BDSI. This limited warranty is the only warranty provided by BDSI. BDSI 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.** Your use of the website is at your sole risk. The website, including the information, services and content is provided on an "as is", "as available", and "with all faults" basis. BDSI makes no representations, warranties, conditions, or guarantees as to the usefulness, quality, suitability, truth, accuracy, or completeness of the website and/or the forms produced therefrom.

BDSI 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.

BDSI will take all commercially reasonable steps to provide an uninterrupted, timely, secure, and error-free website. Nonetheless, BDSI 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.

You assume all risk for any damage to your computer, computer systems, network or loss of data that results from using the website or software, including any damages resulting from computer viruses.

6. LIMITATION OF LIABILITY. In no event will BDSI 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.

7. SERVICES PROVIDED: Brecht's Database Solutions, Inc. 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
- iePoint 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
- On-line help manuals
- E-mail support for staff
- Phone support for designated staff
- 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
- 13 Days on site training

8. **IEP YEARLY COSTS.** Website access is per IEP student per year. “Read Only Users” such as regular education staff are free if added and trained by the district. The initial contract is for a one year period from July 1, 2017 to June 30, 2018. (This pricing is for adding St. Charles CUSD #303 to the Mid Valley Special Education Cooperative account) Custom forms and/or programs, if requested, are an additional cost and will be billed on an individual basis.

Program Subscription (2017-2018 SY)		District Price
PowerIEP	1,621 IEP students = (Annual fee for 1,601-1,680 IEP Students)	\$16,800.00
Less Discounted Cooperative Rate		\$1,805.75
Subtotal for IEP Annual Subscription - 1,621 students @ \$9.25 per student		\$14,994.25
Additional Components Per District (Annual Fee)		District Price
Power504	10% of Annual IEP Cost	\$1,680.00
Less Discounted Cooperative Rate		-\$180.57
Subtotal for Power504 Annual Subscription		\$1,499.43
TOTAL COST FOR 2017-2018 SCHOOL YEAR		\$16,493.68

9. **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.

10. **INDEMNITY.** You agree to hold us harmless from any and all liabilities, losses, actions, damages, or claims (including all reasonable expenses, costs, and attorney fees) arising out of or relating to any use of, or reliance on the website and its related software.

11. **DURATION.** This contract for website access to PowerIEP is for a three year period. All prices apply to individual districts, cooperatives, joint agreements, and associations.

Custom forms, software and/or programs are available from BDSI 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.

12. **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.

13. **NON-RENEWAL OF CONTRACT.** In the event that you do not enter into a Renewal Contract, Brecht’s Database Solutions, Inc. will maintain your database information for one (1) year from the date of termination of this Contract or subsequent failure to renew. BDSI is not responsible for the loss of any information after termination or failure to renew the Agreement on your behalf.

14. **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.

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

16. **ARBITRATION.** Any and all disputes between us and you shall be resolved through mandatory Arbitration under the American Arbitration Association Rules. All arbitrations shall be held in Highland, Illinois.

17. **VENUE.** We and you (through your signature on this Agreement) agree that the only venue(s) holding jurisdiction for any suit between the parties to compel or enforce arbitration of this Agreement or any Renewal is the Third Judicial Circuit, Madison County, Illinois or the United States District Court for the Southern District of Illinois.

18. **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.

19. **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.

FEIN: 20-4100129

BY:


August R. Brecht, President

LICENSEE:

MID-VALLEY SPECIAL EDUCATION COOPERATIVE

FEIN: _____

BY: _____

Dr. Don Schlomman,
Chair Mid-Valley Executive Advisory Board

BY: _____

Chair, District 303 Board of Education