

SAN JOAQUIN COUNTY OFFICE OF EDUCATION
SPECIAL EDUCATION INFORMATION SYSTEM
LICENSE AGREEMENT

This License Agreement (“Agreement”) is entered into this 1st day of July, 2010, by and between the San Joaquin County Office of Education, a county office of education of the state of California, (hereinafter “Provider”) and the Mt. Diablo Unified School District Special Education Local Plan Area (hereinafter “Customer”), a special education local plan area of the state of California.

INTRODUCTION

WHEREAS, the Provider is the creator and owner of a web-based suite of tools, known as the Special Education Information System (hereinafter “SEIS”), for use by special education programs in formulating, updating, tracking, storing and reporting on student data and Individualized Education Plans (“IEP’s”).

WHEREAS, Customer is interested in contracting with Provider in order to use SEIS in Customer’s region.

NOW, THEREFORE, the Parties hereto agree as follows:

ARTICLE I
DEFINITIONS

1.1 “Administrative Contact” means the individual authorized by Customer to receive and provide information required to administer this Agreement.

1.2 “Agreement” means this License Agreement.

1.3 “Authorized User” means the individual(s) authorized to access SEIS on behalf of the Customer according to the terms of this Agreement.

1.4 “Customer Data” means documents, information and data submitted to Provider by Customer for processing through SEIS and/or documents, information and data input or maintained in SEIS by Customer.

1.5 “Effective Date” means the date set forth above, provided that this Agreement is fully executed by both the Provider and the Customer.

1.6 “IEP” means a special education student’s Individualized Education Plan, Individual Service Plan, or Individual Infant Service Plan.

1.7 “Password” means the License code provided to Customer’s Authorized Users to enable access to SEIS.

1.8 “Personal User Identification” means the identification code given to Customer’s Authorized Users.

1.9 “SEIS” means the Special Education Information System as more fully described in Appendix “A” which is hereby incorporated by reference as if fully set out herein.

1.10 “SEIS Component” means a component part of SEIS designed to perform a particular function as more fully described in Appendix “A.”

1.11 “SELPA” means Customer’s Special Education Local Plan Area.

1.12 “System Launch Date” means the earlier of: a) the date the SEIS system is ready for use by Customer at the conclusion of training as described in Section 2.3 of this Agreement; or b) ninety (90) days after the Effective Date.

1.13 “Training Unit” means one day of training, Administrator or Teacher, whether it is one single all day session or two half day sessions.

ARTICLE II SEIS SERVICES

2.1 Commencing on the Effective Date, Customer shall have the nonexclusive right, for the purposes and subject to the terms and conditions stated in this Agreement, for Customer’s Authorized Users to obtain access to and use SEIS at www.seis.org.

2.2 SEIS is a full-featured, multi-leveled system for managing IEPs consisting of the following SEIS Components as more fully described in Appendix “A”:

- (a) IEP Creation/Update Component
- (b) Goals/Objectives Library Component
- (c) IEP Team/Student Assignment Component
- (d) CASEMIS and Custom Reports Component
- (e) Records Retention and Archiving Component

2.3 Implementation Steps: The following steps will be undertaken to implement use of SEIS by the Customer after the Effective Date of this Agreement.

(a) Customer Data Submission and Loading: Customer submits to Provider the Customer Data for loading which meets the SEIS data structure specifications requested by Provider. Provider loads Customer Data elements into SEIS as follows:

- (1) Loading of Authorized Users
- (2) Loading of School Districts

(3) Loading of Schools

(4) Loading of Student demographic and CASEMIS data and Student/Teacher Assignments, if applicable.

Note: Any School District data and/or School data submitted to Provider for loading which does not meet the data-structure specifications requested by Provider may be subject to a new Agreement. Loading of any additional Student Data other than what is provided on the CASEMIS, may also be subject to a new Agreement if it does not meet the Provider's data-structure specifications.

(b) Training as more fully described in Appendix "B."

(1) Administrative Level Training.

(2) Teacher Training (Direct or Training of Trainers).

Administrator Level Training will be scheduled by the SELPA at least one (1) week prior to the launch of the system. Administrator Level Training sessions last approximately four to five hours and will be conducted in a computer lab setting with groups of 20 to 25 users. Administrator Level Training must be completed prior to Teacher Training. Under this Agreement, Provider will provide six (6) Training Units. If the number of total users (combined Administrators and Teachers) in the SELPA, exceeds the total number that can be trained in the six (6) Training Units, then Provider will implement a "Training of Trainers" model. Trainings for additional staff will be handled using a live Training of Trainers model combined with recorded training videos. Training videos will also be 'rolled-out' along with any new major change or feature in the system.

(c) System Launch Date.

2.4 Hosting, Enhancement And Maintenance.

(a) SEIS will be hosted for the Customer for a period of thirty six (36) months commencing with the System Launch Date.

(b) Customer shall select a set of IEP form which currently exists in SEIS for use by all users. If the Customer wants changes to any of the existing forms and/or additional forms, the forms can be customized for the Customer at a programming fee of \$2,000.00 per page and will be subject to a separate Agreement. Customizing of forms will result in a 6% increase of the annual maintenance fee per form, and is not to exceed 30%. SELPAs can choose to add any forms currently available in the system for no extra charge for programming or maintenance fee increases, as long as the forms are used as-is with no changes. Refer to Appendix "C" for a listing of optional services and associated charges, which can be selected by customer and added to this Agreement by amendment as agreed to in writing by both Provider and customer.

(c) Help Desk Services: Both telephone and online Help Desk service will be provided for the duration of this Agreement. Help Desk hours are Monday through Friday 8:00 a.m. through 5:00 p.m., excluding Provider's holidays. During these hours, Provider shall endeavor to respond to Help Desk inquires within 24 hours of receipt (weekends and holidays excluded).

(d) It is anticipated that enhancements to SEIS will be ongoing.

2.5 It is understood and agreed that maintenance may be required from time to time and Provider will endeavor to provide Customer with reasonable prior notice of such maintenance by posting such notice on the home page of SEIS. It is also understood that emergency maintenance may be required and, in such case, prior notice of such maintenance will not be provided to Customers.

ARTICLE III LICENSE FEE AND PAYMENT TERMS

3.1 **License Fee:** In consideration for the License of SEIS as provided herein, Customer agrees to pay Provider the License Fees based on a current year SELPA December 1 Count as reported to the state and specified below. In the event the Customer's most recent SELPA December 1 Count is greater than 4,999; the following fees shall be revised according to the Provider's then, current Fee Schedule:

(a) Year One License Fee and Set-up Fee (2010/2011 Fiscal Year): Thirty-Nine Thousand, Four Hundred, Fifty-Three Dollars (\$39,453)

(b) Year Two License Fee (2011/2012 Fiscal Year): Fifteen Thousand, Seven Hundred, Eighty-One Dollars (\$15,781)

(c) Year Three License Fee (2012/2013 Fiscal Year): Fifteen Thousand, Seven Hundred, Eighty-One Dollars (\$15,781)

3.2 Payment Terms:

(a) Year One License Fee And Set-up Fee: Customer shall be invoiced the earlier of: 1) Provider's initial receipt of Customer Data; or 2) the end of the fiscal year during which the Effective Date of this License occurred.

(b) Year Two License Fee: Customer shall be invoiced twelve (12) months after the Year One License Fee and Set Up Fee invoice date.

(c) Year Three License Fee: Customer shall be invoiced twenty four (24) months after the Year One License Fee and Set Up Fee invoice date.

(d) Customer shall remit payment to Provider within thirty (30) calendar days of Customer's receipt of invoices.

3.3 Cost Recovery:

(a) Provider, as a County Office of Education, is a public entity and hence, bills Customers on a cost recovery basis. In order to ensure that Customer charges keep pace with Provider's actual costs, License fees are reviewed and re-negotiated on a three-year cycle.

(b) The current SEIS Fee Schedule is attached hereto as Appendix "C."

ARTICLE IV TERM AND TERMINATION

4.1 This Agreement shall be in effect between the Provider and the Customer beginning with the Effective Date and terminating 36 months from the System Launch Date.

4.2 Either Provider or Customer may terminate this Agreement upon at least thirty (30) days prior written notice to the other party, with such termination to be effective at the end of the current period for which Customer has paid License Fees when the notice of termination is provided. Within thirty (30) days of the effective date of termination of this Agreement, Provider shall return Customer Data to Customer in an ASCII delimited file format or such other mutually agreeable format.

4.3 The provisions under which this Agreement may be terminated shall be in addition to any and all other legal remedies which either party may have for the enforcement of any and all terms hereof, and do not in any way limit any other legal remedy such party may have.

ARTICLE V CONTENT AND USE OF SEIS

5.1 The Customer shall have the right to provide Customer Data to Provider for inclusion in SEIS as follows:

(a) Customer is authorized to submit Customer Data to SEIS. By submission of Customer Data to Provider, Customer grants Provider a nonexclusive, royalty-free license to include the Customer Data in Provider's SEIS for use by Customer's Authorized Users of SEIS, with such use to include, but not be limited to copying, displaying, modifying, and preparation of reports under the terms and conditions of this Agreement.

(b) Customer hereby warrants and represents that such Customer Data does not violate any intellectual property rights or privacy rights of third parties. Customer hereby agrees to indemnify, defend and hold harmless Provider from any and all liability associated with Provider's inclusion of Customer Data in SEIS. Customer further assumes sole responsibility for compliance with all intellectual property and privacy laws by any Authorized Users of the customer.

5.2 Customer shall have the right to possession of its Customer Data at all times during the term of this Agreement and immediately on the termination of this Agreement.

**ARTICLE VI
PROVIDER'S PROPRIETARY RIGHTS IN
SEIS/NONDISCLOSURE**

6.1 Customer acknowledges that SEIS is the property of the Provider and that the value of SEIS is in part determined by the Provider's ability to limit access to and use of SEIS.

6.2 With the exception of Non-public agencies and/or service providers in which the Customer's students are placed, the Customer agrees not to disclose or make available to any third party any of Provider's proprietary property to which Customer is granted access pursuant to this Agreement, including, without limitation, manuals and instructions for operation of SEIS, knowledge of operating methods, Passwords, Personal User Identification, and the names and designations of any equipment comprising the system.

6.3 To further protect the Provider's Proprietary Rights in SEIS, Customer agrees to restrict access to SEIS to Customer's Authorized Users. In addition, Customer agrees to advise each Authorized User before he or she receives access to SEIS, of the obligations of Customer under this Agreement and require each Authorized User to maintain those obligations.

6.4 SEIS and all supporting documentation shall remain the property of the Provider.

**ARTICLE VII
PROTECTION OF PRIVATE CUSTOMER DATA**

7.1 Customer and Provider recognize that some Customer Data relates to pupils in the SELPA and are confidential pursuant to relevant federal and state law, including but not limited to 20 USC section 1232(g) and Education Code sections 49060, *et seq.* Both Customer and Provider certify they will each abide by all applicable state and federal laws concerning confidential student records.

7.2 Customer shall inform each Authorized User of the need to protect Customer Data containing private student information. Customer agrees not to disclose or make available to any third party any private student information to which Customer's Authorized users are granted access pursuant to this Agreement.

7.3 To further protect Customer Data, Customer agrees to restrict access to SEIS to Customer's Authorized Users. In addition, Customer agrees to advise each Authorized User before he or she receives access to SEIS, of the obligations of Customer under this Agreement, and require each Authorized User to maintain those obligations.

7.4 Customer Data shall remain the property of Customer.

7.5 Provider will use its best effort to protect Customer Data from changes or physical loss or destruction through the operation of its computer system or by its personnel. "Best efforts" shall include weekly backup of all input provided by Customer and offsite storage of backup material for a 30-day period.

**ARTICLE VIII
PERSONAL USER IDENTIFICATION AND PASSWORD PROVIDED**

8.1 Customer's Authorized Users shall gain access to SEIS via the Internet through the Authorized Users' Personal User Identification and Password.

8.2 Immediately following the initial data loading of Authorized Users, Customer shall assume sole responsibility for the management of Personal User Identification and Passwords for all Customers' Authorized Users. The Customers' Administrative Contact, or designee at either the SELPA or school district level, shall be responsible for ensuring that Personal User Identification and Passwords are provided only to Authorized Users and for managing, disabling or authorizing new Authorized Users Personal User Identification and Passwords.

**ARTICLE IX
PASSWORD USE AND SECURITY**

9.1 Customer agrees to assume sole responsibility for the security of the Passwords issued to it. Customer is solely responsible for disabling lost or stolen Passwords and Personal User Identification and for disabling user accounts that are no longer active.

**ARTICLE X
LIABILITY FOR FAILURES OR DELAYS**

10.1 Customer agrees that Provider shall not be liable for any delays or failures in performance or for any interruption of Provider's service and further agrees to indemnify and hold Provider harmless from any loss or claims or loss arising out of the use of Provider's service or any materials provided under this Agreement.

**ARTICLE XI
WARRANTY DISCLAIMER**

11.1 PROVIDER MAKES NO REPRESENTATIONS OR WARRANTIES OF ANY KIND WITH RESPECT TO SERVICES OR DATA MADE AVAILABLE BY PROVIDER, INCLUDING BUT NOT LIMITED TO THE WARRANTIES OF FITNESS FOR A PARTICULAR PURPOSE OR MERCHANTABILITY. PROVIDER ASSUMES NO RESPONSIBILITY IN CONNECTION WITH THE USE OF ANY OF THE SERVICES OR DATA MADE AVAILABLE BY PROVIDER. CUSTOMER AGREES THAT PROVIDER SHALL NOT BE LIABLE FOR ANY SPECIAL, INCIDENTAL, INDIRECT, PUNITIVE, OR CONSEQUENTIAL DAMAGES OR FOR THE LOSS OF PROFIT, REVENUE OR DATA ARISING OUT OF THE SUBJECT MATTER OF THIS AGREEMENT, EVEN IF CUSTOMER HAS BEEN ADVISED OF THE POSSIBILITY OF POTENTIAL LOSS OR DAMAGE.

**ARTICLE XII
DEFAULT**

12.1 Events Of Default. This Agreement may be terminated by the nondefaulting party if any of the following events occur: (1) if a party materially fails to perform or comply with this Agreement or any provision hereof; (2) if a party becomes insolvent or admits in writing its inability to pay its debts as they mature, or makes an assignment for the benefit of creditors; (3) if a petition under any foreign, state or United States bankruptcy act, receivership statute, or the like, as they now exist, or as they may be amended, is filed by a party; or (4) if such a petition is filed by any third party, or an application for a receiver is made by anyone and such petition or application is not resolved favorably within ninety (90) days.

12.2 Obligations On Termination By Default. Within ten (10) days after termination of this Agreement, Customer shall cease and desist use of SEIS. Provider reserves the right to disable any and all Passwords issued to Customer upon Customer's default herein.

**ARTICLE XIII
NOTICES**

13.1 All notices, authorizations, and requests in connection with this Agreement shall be deemed given (i) five (5) days after being deposited in the U.S. mail, postage prepaid, certified or registered, return receipt requested; or (ii) one (1) day after being sent by overnight courier, charges prepaid, with confirming fax; and addressed as first set forth below or to such other address as the party to receive the notice so designates by written notice to the other party.

Provider	Customer
Name: San Joaquin County Office of Education	Name: Mt. Diablo USD
Attn: Rick Cornish, Director Center For Educational Development And Research	Attn: Margot Tobias Director of Student Services
Address: 2901 Arch-Airport Road P.O. Box 213030 Stockton, CA 95215	Address: 1936 Carlotta Drive Concord, CA 94519-1397
Phone: (209) 468-5924	Phone: (925) 682-8000 x 4069
Fax: (209) 468-9235	Fax: (925) 680-6731

**ARTICLE XIV
GOVERNING LAW, JURISDICTION AND VENUE**

14.1 The validity, interpretation, construction and performance of this Agreement shall be governed by the laws of the state of California.

14.2 The California state court, County of San Joaquin, shall have exclusive jurisdiction and venue over any dispute arising out of this Agreement, and Customer hereby consents to the jurisdiction of such courts.

**ARTICLE XV
SEVERABILITY**

15.1 If any provisions of this Agreement shall be held to be invalid, legality and enforceability of the remaining provisions shall not be in any way affected or impaired thereby.

**ARTICLE XVI
NONASSIGNABILITY**

16.1 This Agreement and the rights and benefits conferred upon Customer hereunder may not be assigned or otherwise transferred by Customer without prior written consent of the Provider.

**ARTICLE XVII
ENTIRE AGREEMENT**

17.1 This Agreement embodies the entire understanding of the parties and supersedes all previous communications, representations, or understandings, either oral or written, between the parties relating to the subject matter herein.

**ARTICLE XVIII
MODIFICATIONS**

18.1 This Agreement may not be supplemented, modified, amended, released or discharged except by an instrument in writing signed by each party's duly authorized representatives.

**ARTICLE XIX
NONWAIVER OF RIGHTS**

19.1 Customer and Provider agree that no failure to exercise and no delay in exercising any right, power, or privilege on the part of either party shall operate as a waiver of any right, power or privilege under this Agreement. Customer and Provider further agree that no single or

partial exercise of any right, power, or privilege under this Agreement shall preclude further exercise thereof.

IN WITNESS WHEREOF, the parties have caused their duly authorized representatives to execute this Agreement as of the date first set forth above.

Provider

Customer

San Joaquin County Office of Education

Mt. Diablo Unified School District

By: _____

By: _____

Name: Rick Cornish

Name: Dr. Steven Lawrence

Title: Director, CEDR

Title: Superintendent

Date: _____

Date: _____

APPENDIX "A"

SAN JOAQUIN COUNTY OFFICE OF EDUCATION

SPECIAL EDUCATION INFORMATION SYSTEM

DESCRIPTION

SEIS was initially created by the Provider and the San Joaquin SELPA, to make IEPs easier for teachers to complete and track using a web-based system. Gradually, additional functions were added, including an MIS (CASEMIS) utility, the ACSA/CARS+ and SEACO standards-based goals banks, and report generator utilities. Since its launch in 2003, SEIS has proven to be an effective tool for both teachers and administrators in over seventy SELPAs around the state. Some key features in SEIS include:

Automation -- Information can be used in other formats such as IEP notifications, state-required reports, and customized report.

Simplicity -- IEPs are more easily revised, are clearer and easier to read, and well organized; redundant information can be entered only once, decreasing preparation time; pull/drop-down menus, radio buttons, and check boxes increase accuracy of coded items.

CASEMIS Preparations -- Because CASEMIS information is required on the IEP, the Provider automatically ties CASMIS code to the information inputted by the teachers and service providers. Furthermore, the Provider incorporates as CASEMIS error checking component that validates the information before completing the IEP process. This process has completely automates the preparation of CASEMIS data, because the CASEMIS error is caught at the point of initial input. Also, prior to reporting time, SEIS will flag all student records where CASEMIS errors are identified and link directly to those errors to streamline the correction of errors.

Goal Banks -- There is an easily-accessible and IEP-linked library of standards-based essential goals and objectives (benchmarks). Through an agreement with ACSA/CARS+ and SEACO we are able to add the latest generation of their work to SEIS, which includes LSH and transition resources. Teachers have a choice of selecting standards-based goals and objectives from the ACSA/CARS+ library, the SEACO goal bank, the BASICS goal bank, or creating their own unique goals and objectives library or accessing goals and objectives created by other special education staff within the SELPA or across the state. The linked goal library allows Teacher to search any of the above listed goal banks select a goal and any number of objectives. With a single click, these goals and objectives will automatically copy onto the IEP and can be customized and saved into the Teacher's individual goal bank.

Data Centralization and Transferability -- Demographic and IEP information follows the student from teacher to teacher, site to site, district to district, and SELPA to SELPA within participating SELPAs; Student transfers are instant and IEP history can be viewed ensuring continuity of the educational plans for students. For example, when a new student enters into a SELPA the system requires the user to search the entire state-wide SEIS database before adding a new record. If the student appears in another SELPA, a link is available to request a transfer. The user can click the Request Transfer link and a notification will be sent to the student's current SELPA, informing them of the transfer request and they can process the transfer in minutes. Once the request is processed, the new SELPA has access to that student's entire IEP history, service, service provider history, eligibility status history, etc.

APPENDIX "B"

SAN JOAQUIN COUNTY OFFICE OF EDUCATION

SPECIAL EDUCATION INFORMATION SYSTEM

TRAINING DETAILS AND GUIDELINES

Duties which must be completed by Administrative Staff before the teachers can be trained will vary depending on the completeness of the data supplied by the Customer. These will include, but are not necessarily limited to, selecting Case Managers for all students, making all student-teacher assignments, correcting caseloads that have become outdated since the date of the data gathering and any additional updating of student records.

Customer must allow no less than one week, and more as needed, for these tasks to be completed by the new Admin Level Users before Teacher trainings will be held.

The Provider will make every effort to verify the validity of data, but is not responsible for the accuracy of data supplied by the Customer.

IEP forms must be decided upon no less than one week before Administrative Staff trainings if the forms are already available in SEIS. The readiness of custom forms for trainings will depend on programmer availability the amount of time between the Providers receipt of the forms and the training date. In the event of late delivery of custom forms, the Provider cannot guarantee that custom forms will be completed before teacher training.

The Provider will train up to six (6) Training Units. A Training Unit (as defined in Section 1.13) is one day of training, Administrator or Teacher, whether it is one single all day session or two half day sessions. Ratio of Admin-Teacher Level Users/Teacher Trainers will be agreed upon in advanced between the Provider and the Customer.

Additional trainings must be agreed upon by the Customer and the Provider and may be arranged if scheduling permits. In some cases, additional trainings may be subject of a separate Agreement. The Provider will make this determination on a case-by-case basis, based on the time, expenses, and resource required.

APPENDIX “C”

SAN JOAQUIN COUNTY OFFICE OF EDUCATION

SPECIAL EDUCATION INFORMATION SYSTEM

FEE SCHEDULE

July 2009 through June 2010

SELPA SIZE (Special Ed. Students)	SET UP/FIRST YEAR OPERATION	ANNUAL FEE IN SUBSEQUENT YEARS
0-999	\$19,727	\$7,891
1000-2,999	\$28,181	\$11,272
3000-4999	\$39,453	\$15,781
5000-6,999	\$46,805	\$18,722
7000-8999	\$56,362	\$22,545
9000-10,999	\$69,839	\$27,936
11000-14,999	\$78,906	\$31,562
15000-24,999	\$90,178	\$36,071
25,000-32,999	\$107,087	\$42,835

Important Note

IEP Forms: Fees assume use of the system as it currently exists, as well as use of any combination of forms already existing in SEIS. Fees for re-design of and/or creation and use of custom IEP forms, will cost \$3,500 per form, for Spanish Print there is an additional cost of \$1500. Creation and use of custom IEP forms will result in a 6% increase per form in annual maintenance fees, not to exceed a 30% increase.

DRDP Component: .25 Cents per Special Education Student based on December 1 CASEMIS, yearly fee.

IFSP Forms: .50 Cents per Special Education Student Count, yearly fee.

Linking IEP form content to custom fields for searchability function: \$500 per field

Updating Custom Field data: \$150 per field

Updating Standard Field data: \$100 per field

Generation of custom reports: various depending on complexity/scope of work.

Any Additional Training not covered by the initial SEIS Agreement:
\$600 per day (day may be split out into two 1/2 day sessions)