# SOFTWARE LICENSE AGREEMENT

This Software License Agreement (the "Agreement") is made and entered into this ____ day of _____, 2011, by and between Database Depot, Inc., a corporation of the State of California doing business as Red Schoolhouse Software, having its principal place of business in Los Angeles, California ("Licensor")

and

Mt. Diablo Unified School District, having its principal office in Concord, California ("Licensee").

WHEREAS, Licensor has developed and owns certain software useful to schools and school districts for the collection, reporting and analysis of local assessment results (the "Local Assessment Module",) for the reporting and analysis of state assessment results (the "State Assessment Module"), for administering assessments to students online (the "Online Assessment Module"), for collecting assessment results with proprietary scanning software ("ScanOARS"), and for creating student Report Cards online ("the Online Report Card Module") collectively, the "OARS Software"; and

WHEREAS, Licensor has entered into an agreement with Sanford Systems, Inc., a corporation of the State of California doing business as Key Data Systems, the developer and owner of the INSPECT item bank ("INSPECT"), whereby Licensor can provide INSPECT in conjunction with its OARS Software; and

WHEREAS, Licensee desires to acquire a license from Licensor for selected uses of OARS as listed in Exhibit A, and Licensor desires to grant Licensee a license for such uses pursuant to the terms and conditions hereof;

NOW, THEREFORE, in consideration of the agreements and covenants set forth herein, and for other good and valuable consideration pursuant to this Agreement, the parties hereby agree as follows:

## I.    DEFINITIONS

1.    "OARS Software" shall mean the Online Assessment Reporting System ("OARS") software and database developed, owned and copyrighted by Licensor and, for the purposes of this Agreement, as further described in Exhibit B.

2.    "INSPECT" shall mean the database of test questions also known as "Identifying Needs: Standards Proficiency Exams for California Teachers," developed, owned, and copyrighted by Key Data Systems as further described in Exhibit C.

3.   "Licensed Software" shall mean the OARS Software and, if applicable, INSPECT, as listed in Exhibit A.

4.   "OARS Server" shall mean any computer owned or leased by Licensor, upon which the OARS Software and/or INSPECT shall be installed.

5.   "Licensed Use" shall mean those uses of OARS listed in Exhibit A.

6.   "Annual License Fee" shall mean the annual license fee payable for the Licensed Use in accordance with the provisions of this Agreement.

7.   "Effective Date" shall mean the last date that this Agreement is signed and dated by the parties hereto.

8.   "Start Date" shall mean a date ten (10) business days after the Effective Date of this Agreement.

9.   "License Fee" shall mean the OARS Student License Fee and the INSPECT License Fee identified in Exhibit A.


## II.   LICENSE GRANT

1.   <u>Non-Exclusive License.</u>  Licensor grants to Licensee a non-exclusive right and license to use the Licensed Software for the Licensed Use for a license term (the "License Term") that commences upon the Effective Date of this Agreement and continues until June 30 of the year selected in Exhibit A subject to payment each year of the Annual License Fee in accordance with the provisions of Section V of this Agreement.

2.   <u>Ownership of Licensed Software.</u>  Licensor will remain the sole and exclusive owner of all right, title, and interest in and to the OARS Software, and all intellectual property rights related thereto, except for those license rights granted under this Agreement. Sanford Systems, Inc. will remain the sole and exclusive owner of all right, title, and interest in and to INSPECT, and all intellectual property rights related thereto, except for those license rights granted under this Agreement.  Licensee shall have no right to sell, assign, transfer or license any rights, or otherwise grant any sub-licenses under this Agreement.

3.   <u>Restricted Access.</u>  Licensee will ensure that access to the Licensed Software is limited to Licensee's employees, officers and directors for the Licensed Use only. Showing, demonstrating, or disclosing the specifications, design, features, or operation of the Licensed Software or providing copies of screenshots or report formats to any person who is not an employee, officer or director of Licensee is in violation of the confidentiality provisions of Section XI of this Agreement and is strictly prohibited unless approved in writing in advance by Licensor.

4. <u>Access for Non-Employee Consultants</u>: If Licensee wishes to provide access to OARS to non-Employee consultants, it should submit a request for consideration to Licensor. Licensor shall not unreasonably deny such requests.

## III. SYSTEM OPERATION

1. <u>OARS Implementation</u>. Licensee and Licensor hereby agree to implement OARS as described in Exhibit D.

2. <u>User Internet Access.</u> Licensee will provide users with sufficient access to an Internet-connected computer and ensure that a supported web-browser is installed. Fully supported web-browsers are defined under Exhibit B.

3. <u>Backups</u>. Licensor has established an automated process by which selected data from the current School Year will be backed up on a nightly basis. Nightly backups will be retained for 1 month; weekly backups will be retained for 3 months; Monthly backups will be retained for 1 year. One annual backup of Licensee's completed database shall be made at the end of each School Year, and retained until the termination of this agreement.

4. <u>Software Updates.</u> Periodically, Licensor will install software and security updates on the OARS Servers. To the extent practicable, Licensor will install such updates at night so as to minimize interruption to users. In the event that a security update is deemed crucial to the secure functioning of the system, Licensor reserves the right to shut down the OARS Servers without notice to install the required security update.

5. <u>Technical Support</u>. In the event of failure of any OARS Server or the OARS Software, Licensor will rectify the problem within two (2) business days following notification by Licensee, unless otherwise agreed upon.

## IV. TRAINING AND TECHNICAL SUPPORT

1. <u>Free-of-Charge User Training</u>. If applicable, Licensor will provide free-of-charge User Training up to the amount shown in Exhibit A.

2. <u>Additional User Training</u>. After Licensee has received the full amount of free-of-charge User Training shown in Exhibit A, Licensee may purchase Additional User Training at a rate of One Thousand Five Hundred Dollars ($1,500.00) per day per trainer. Wherever travel is required, billing will include reimbursement of reasonable travel expenses. Additional User Training may be conducted in either Lecture Format, Workshop Format, or Webinar Format as described under Paragraph 3 of this Section IV.

3. <u>Training Format</u>.  User Training may be conducted in either Lecture Format, Workshop Format, or Webinar Format as follows:

   a. Lecture Format (Maximum of 100 Participants):  The focus of this training will be to explain and demonstrate the features and uses of OARS. Licensee will make available a training venue suitable for up to one hundred (100) participants in a lecture-seating setting.

   b. Workshop Format (Maximum of 30 Participants): The focus of this training will be to facilitate practical hands-on experience using OARS. Licensee will make available a training venue for up to thirty (30) participants, and provide each participant with an Internet-connected computer.

   c. Webinar Format (Unlimited Webinar Participants; limit of 60 concurrent OARS users during a webinar): Webinars can be scheduled on a variety of topics for an unlimited number of participants in multiple locations. Webinars are facilitated by Red Schoolhouse Software staff at the Red Schoolhouse Software office in Los Angeles.  For maximum benefit, Licensee should provide its own staff to monitor and support delivery of training on site.

4. <u>Scheduling Training</u>. User Training must be scheduled at least fifteen (15) business days in advance.  Any training scheduled with fewer than fifteen (15) business days notice shall incur a surcharge of $500.

5. <u>Canceling Training</u>. Licensee may cancel any scheduled training without penalty by notifying Red Schoolhouse Software at least fifteen (15) business days before the training is to occur.  Cancellation with fewer than fifteen (15), but more than five (5), days notice shall result in a reduction by half a day of Free User Training (if applicable), or a $500 charge.  Cancellation with five (5) or fewer days notice shall result in the forfeiture of one (1) full day of Free User Training (if applicable), or a charge of $1,500.00.

6. <u>Custom Configuration of Assessments</u>.  Licensor will provide Licensee with a comprehensive list of publisher-created assessments ("Library Assessments") that can be configured in OARS.  Furthermore, OARS offers tools that allow users to develop and implement their own assessments in the software, including the Key Editor and INSPECT.  On a best-efforts basis, Licensor will assist Licensee with the configuration of assessments that are not available in the list of Library Assessments, and that cannot easily be configured with the Key Editor and INSPECT, subject to the following conditions:

   a. Licensee must provide Licensor with appropriate and sufficient information to configure the assessment.  This may include answer keys, scoring sheets, and standards alignments. THIS INFORMATION SHOULD BE PROVIDED IN AN EDITABLE, ELECTRONIC FORMAT, e.g. MICROSOFT EXCEL.

b. Licensee should provide the necessary information at least two (2), but preferably four (4), weeks prior to needing the assessment available in OARS. While Licensor will make every attempt to configure the assessment within two weeks, the time necessary can vary depending on the complexity of the assessment, the number of assessment requested, and the current workload of Licensor. During peak periods like the start of the School Year, a completion timeline of four (4) weeks is more likely.

c. Licensor reserves the right to limit this service to assessments that are likely to be administered by most or all teachers for the applicable grade level or course.

d. While there is no charge for configuration of custom assessments, and there is no limit to the number of requests that Licensee may make, this service is provided only on a best efforts basis, and Licensor makes no guarantee as to the number of assessments that can be configured, and the speed with which the configuration can be accomplished.

7. <u>Technical Support.</u> Licensor will respond to up to thirty (30) phone and/or email technical support requests ("Technical Support") from Licensee per calendar month. Technical Support requests in excess of thirty (30) per calendar month will be billed to Licensee at a rate of Ten Dollars ($10.00) per incident. To reduce the likelihood of incurring Technical Support fees, Licensor encourages Licensee to route certain basic technical support inquiries through a district contact and support person. Failure to provide technical support as identified above shall be considered a material breach of this Agreement.

8. <u>Software Customization and Consultation</u>. At its sole discretion, Licensor may agree to develop custom features or reports for Licensee, or provide consultations to Licensee in areas that fall beyond the scope of the OARS software and the support described in this Section IV. Such support will be invoiced at a rate of $50.00 per hour for clerical support, $250.00 per hour for programming support, and $2,000.00 per day for special consultations.

## V. ANNUAL LICENSE FEE

<u>Annual License Fee.</u> The license granted in Section II of this Agreement is granted subject to payment each year of a non-refundable annual license fee (the "Annual License Fee"). The Annual License Fee for each year of the License Term will be as shown in Exhibit A.

## VI. OTHER FEES

Fees for Additional User Training, Technical Support requests (beyond the 30 allowed per month), and Software Customization and Consultation shall be billed in accordance with the terms of Section IV, Paragraphs 2, 7 and 8 respectively.

## VII. PAYMENT TERMS

1.  Payment Terms.

    a.  Licensee will pay the Annual License Fees to Licensor on a quarterly basis in accordance with the schedule shown in Exhibit A.

    b.  Fees for properly scheduled Additional User Training shall be rendered sixty (60) days after satisfactory completion of training  Fees for Technical Support requests, and Software Customization and Consultation are due and payable by Licensee to Licensor within sixty (60) calendar days of date of invoice.

2.  Late Fees.  Any payments not received within thirty (30) calendar days after the due dates specified in Paragraph 1 of this Section VII, will be subject to a fifty (50) dollars late fee, and will incur finance charges calculated at a rate of Prime (as determined by Wells Fargo Bank of Los Angeles, California) plus 3%.

## VIII.  LIABILITY

To the best knowledge and belief of the Licensor, the Licensed Software is free from errors or omissions and is effective for its intended purpose.  Notwithstanding, Licensor does not warrant the performance of the Licensed Software and will not be liable to Licensee for any personal injury or damage sustained by Licensee in the use and operation of the Licensed Software under this Agreement.  The cumulative liability of Licensor to Licensee for all claims relating to the Licensed Software and/or this Agreement, including any cause of action for breach of warranty or other cause of action in contract, tort or strict liability, shall not exceed the amount of the Annual License Fee paid to Licensor hereunder.  This limitation of liability shall apply without regard to whether other provisions of this Agreement have been breached or have proven ineffective.  Furthermore, this limitation of liability shall have precedence over any language describing Licensor's liability found in accompanying district contracts or Purchase Orders that may or may not be required as part of Licensee's standard procedures.

## IX.  WARRANTIES

Licensor hereby warrants the following:

1.  Ownership Rights.  The OARS Software is owned solely by Licensor. To the best knowledge and belief of Licensor, INSPECT is owned solely by Sanford Systems, Inc. and no other entity has any ownership right in or to any portion of the Licensed Software.

2.  Power and Authority.  Licensor has full power and authority to enter into this Agreement and to perform hereunder, and such entry and performance, to the best knowledge and belief of Licensor will not violate the rights of any third party.

3. <u>Legal Proceedings.</u>  There is no action, suit, proceeding or material claim or investigation pending or threatened against the Licensor in any court or by any federal, state or municipal or other governmental department, commission, bureau, agency or instrumentality, domestic or foreign, or before any arbitrator of any kind, that, if adversely determined, might adversely affect the Licensed Software or restrict the Licensor's ability to complete the transactions contemplated hereby.  Licensor knows of no basis for any such action, suit, claim, investigation or proceeding.

4. <u>Compliance with Laws and Regulations</u>.  To the Licensor's best knowledge and belief, as of the date of this Agreement, the Licensed Software complies with all relevant federal, state and local laws and regulations.

5. <u>Non-Infringement</u>.  To the Licensor's best knowledge and belief, the Licensed Software does not violate nor infringe upon the rights of any third party, including without limitation, any patent rights, trademark rights, trade secret rights, or other proprietary rights of any kind.

6. <u>Disclaimer</u>.  Licensor makes no other warranties, express or implied, including but not limited to warranties of merchantability or fitness for any particular purpose.


## X.   TERMINATION

1. <u>Termination by Licensor</u>.  Licensor may terminate this Agreement at any time in the event of:

   a. Bankruptcy or assignment for the benefit of creditors of the assets of Licensee.

   b. Any breach of this Agreement by Licensee that is not corrected by Licensee within thirty (30) calendar days after written notification thereof by Licensor.

   c. Failure by Licensee to pay in full any Annual License Fee within sixty (60) calendar days from the due date thereof as defined above.

   d. Failure by Licensee to pay in full any invoice from Licensor for Additional User Training or Technical Support requests within sixty (60) calendar days of date of invoice.

2. <u>Termination by Licensee</u>.  Licensee may terminate this Agreement at any time in the event of:

a. Bankruptcy or assignment for the benefit of creditors of the assets of Licensor.

b. Any breach of this Agreement by Licensor that is not corrected by Licensor within thirty (30) calendar days after written notification thereof by Licensee.

c. For any other reason by giving thirty (30) calendar days notice in writing to Licensor, subject to paragraph 3(b) of this Section X.

3. License Fees Payable in the Event of Termination by Licensee.

a. If Licensee terminates this Agreement in accordance with the provisions of either paragraph 2(a) or 2(b) of this Section X, Licensee shall be liable to pay in full the Licensee Fees shown in Exhibit A for all completed years of service provided under this Agreement, and to pay the License Fee for any partial year of service on a pro-rata basis.

b. If Licensee terminates this Agreement in accordance with the provisions of paragraph 2(c) of this Section X, Licensee shall be obligated to pay fifteen (15) percent of the Annual License Fee for the current year plus a pro-rata share of the remaining fees for the current year.

Licensee understands and agrees that its payment obligations under paragraph 3 of this Section X shall survive any termination of this Agreement.

4. Deletion of Data Upon Termination. Upon termination of this Agreement, all Licensee Data shall be permanently deleted for all OARS servers.

## XI. CONFIDENTIAL INFORMATION

Licensor acknowledges that it understands the importance of protecting the confidentiality of personally identifiable student and teacher information and that it will make all reasonable efforts to protect such data, including:

1. Licensor shall transfer student and teacher information via Secure File Transfer Protocol (SFTP), or as encrypted attachments to emails.

2. Licensor shall ensure that all web pages served by the OARS Server are served using 128-bit Secure Socket Layer (SSL) technology, such that the information passed between the user's computer and the OARS Server is encrypted in both directions.

3. Licensor shall on an as-needed basis install all known security updates onto the OARS Server.

4.      Licensor shall employ a firewall to further secure the OARS Server by closing all ports not needed by users and system administrators.

5.      Except as required by law, or compelled by a court order, Licensor shall not provide any personally identifiable data stored on the OARS server to any third party without the written consent of Licensee.

Licensee acknowledges that the only completely secure system would be one to which no one has access. Licensee has chosen to allow Licensor to host the OARS software, to import student and teacher information into OARS, and to serve it over the Internet, with full understanding of the attendant risks.

Licensee assumes all responsibility for establishing policies for allowing users access to OARS, what access privileges those users shall have, and when and how passwords should be changed.

Except as otherwise required by law, Licensee agrees to maintain in confidence any and all proprietary information of Licensor disclosed to it, directly or indirectly, in connection with this Agreement ("Proprietary Information"). Proprietary Information includes the specifications, design, features, operation and functional attributes of the OARS Software, report formats, services, pricing and other terms of this Agreement and its Exhibits A, B, C, D and E, and all other information related to the business and plans of Licensor. Proprietary Information does not include any information made public by Licensor through its web site or other promotional materials.

Except as otherwise required by law, Licensee shall hold Proprietary Information in confidence for a period of five (5) years from the date of receipt thereof and may only disclose Proprietary Information on a "need-to-know" basis to employees, officers and directors of Licensee and only provided that all such individuals are informed of, and bound by, equivalent obligations to maintain such Proprietary Information in confidence.

Licensee understands and agrees that the confidentiality obligations of this Section XI shall survive any termination of this Agreement.


## XII.   GENERAL PROVISIONS

1.      <u>Governing Law</u>.  The validity, interpretation and performance of this Agreement shall be construed and enforced in accordance with the laws of the State of California.

2.    <u>Force Majeure.</u>  Licensor shall not be held in default of any of its obligations in the event that its performance hereunder is delayed or prevented by causes beyond its control, including, but not limited to, acts of God, war, earthquake, flood, fire, utility or transmission failures, sabotage, labor disputes, riots or other acts of civil disobedience.

3.    <u>Waiver.</u>  No waiver by either party of any default under or breach of this Agreement shall be deemed a waiver of any subsequent default or breach of the same or other provisions of this Agreement.

4.    <u>Section Headings.</u>  Section headings are for the convenience of the parties to this Agreement only, and do not form part of the terms and conditions hereof.

5.    <u>Entire Agreement.</u>  This Agreement sets forth the entire understanding and agreement between the parties to this Agreement, and supersedes all prior understandings, agreements and communications, written or oral, between the parties.  Moreover, this Agreement may only be amended by written amendment executed by both parties to this Agreement. In the event that Licensee attaches this Agreement to or references it in any Purchase Order, Contract, or similar document that contains terms and conditions in conflict with this Agreement, Licensee irrevocably agrees that all rights and obligations of Licensor and Licensee in connection with this Agreement are determined solely by the terms and conditions herein.

6.    <u>Severability of Provisions.</u>  In the event that any provision of this Agreement or the application thereof to any person or circumstance is held to be invalid, void or unenforceable, such provision or the application thereof shall be deemed stricken and not part of this Agreement so that the remaining portions of this Agreement can be given effect without the invalid void or unenforceable provision or application and to this end, the provisions of this Agreement are severable.

7.    <u>Arbitration.</u>  Any and all disputes, controversies or differences which may arise under the terms of this Agreement shall be settled by arbitration in the City of Los Angeles, State of California, in accordance with the rules of the American Arbitration Association then existing, and any such award as rendered by the Arbitrator(s) shall be final and binding upon the parties hereto and enforceable by any court of competent jurisdiction.

8. <u>Notices</u>. Any notices permitted or required under this Agreement shall be in writing and shall be sent or delivered to the receiving party at the addresses set forth below, or to such other person, or at such other address as either party may from time to time designate in writing:

    a.    To Licensee:  Please refer to Exhibit A.

    b.    To Licensor: Axel Shalson, President and CEO, Red Schoolhouse Software, 3611 Seneca Avenue, Los Angeles, CA  90039.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as follows:

LICENSOR:

Dated: _____

Axel Shalson
President and CEO
RED SCHOOLHOUSE SOFTWARE

LICENSEE:

Dated: _____

Name:
Title:
MT. DIABLO UNIFIED SCHOOL DISTRICT

# SOFTWARE LICENSE AGREEMENT - EXHIBIT A

**Licensee:** Mt. Diablo Unified School District
1936 Carlotta Drive
Concord, CA  94519-1397

**Contact for Notices:** Dr. Steven Lawrence, Superintendent

**License Term:** July 1, 2011 through June 30, 2016 (5 years)

**Licensed Uses:** Local Assessment Module (Unlimited Assessments)
ScanOARS Plain-Paper Scanning Module
State Assessment Module (STAR, CELDT and CAHSEE)
INSPECT Item Bank
Online Assessment Module (with INSPECT)
CA Physical Fitness Testing Module
API/AYP Estimates (Subject to Availability)

**On-site Training:** Training is available for $1500/day plus reasonable travel expenses.

**License Fees:** Throughout the License Term, the OARS License Fee shall be $2.75 per student per year and the INSPECT License Fee shall be $1.25 per student per year. The Annual License Fees shall be calculated annually based on Licensee's official district CBEDS enrollment. An example, based on 36,000 students, is provided here:

OARS:          $2.75 x 36,000 = $99,000.00
INSPECT:      $1.25 x 36,000 = $45,000.00
TOTAL:                             $144,000.00

**Payment Terms:** Each year during the License Term, payment shall be made quarterly, according to the fo**llowing** schedule:

25% of Annual License Fee Due July 1, payable by September 1
25% of Annual License Fee Due October 1, payable by December 1
25% of Annual License Fee Due January 1, payable by March 1
25% of Annual License Fee Due April 1, payable by June 1


Licensee's Initials _____        Licensor's Initials _____

<div align="center">**SOFTWARE LICENSE AGREEMENT - EXHIBIT B**</div>

<div align="center">**OARS SYSTEM SPECIFICATIONS**</div>

The Online Assessment Reporting System (OARS) is a powerful web-based software package useful to teachers, school and district administrators, and instructional support personnel. The OARS system specifications include:

## I.    SOFTWARE FEATURES

OARS is comprised primarily of following modules:

1.    The **Local Assessment Module** allows districts to implement in OARS assessments that they have developed themselves or that they have purchased.

2.    The **State Assessment Module** currently allows districts to view and analyze results from the California Standards Test (CST), the California Achievement Test (CAT-6), the California English Language Development Test (CELDT) and the California High School Exit Exam (CAHSEE).

3.    **INSPECT** is an optional module that provides users access to a library of standards-aligned multiple-choice questions from which they can build their own assessments.

4.    **ScanOARS** is the proprietary plain-paper scanning module that facilitates collection of data from printed answer sheets, and transmission of that data to the OARS Server for analysis with the Local Assessment Module.

5.    The **Online Assessment Module** allows districts to administer assessments to students directly through OARS, by loading the questions and answers from those assessments directly into the software.

6.    The **Online Report Card Module** is an optional module that allows districts to implement in OARS an electronic version of their paper-based report card. This module is extremely flexible, and supports configuration of "standards-based" Report Cards.

## II. SUPPORTED LOCAL ASSESSMENTS

OARS supports many different assessments, including district-developed assessments, or those provided with a publisher materials, including:

1. **Library Assessments.** Licensor maintains a list of publisher assessments available for implementation in OARS. Licensee may implement an unlimited number of Library Assessments in its database. To request a Library assessment, Licensee should send an email to support@redschoolhouse.com. Licensor will load Library Assessments in their original format for Licensee with three (3) business days of receipt of the request.

2. **User-created Assessments.** Users can create their own assessments in OARS using the Key Editor feature, or using the INSPECT Item Bank.


## III. OPTIONS FOR DATA COLLECTION

All types of assessments described in Section II above can be reported using either one or more of the following approaches:

1. **Manual Entry**: the user reports results from an assessment directly into the OARS website, through a web reporting form.

2. **ScanOARS**: the user prints answer sheets in the OARS website, then administers the assessment to students. The answer sheets are then scanned using ScanOARS and the results are transmitted to the OARS Server.

3. **Online Assessment:** students take the assessment online through OARS. The students' answers are scored automatically, and all reports are populated from the results.

4. **Scan and Upload**: assessments are administered to students on district-provided scannable forms. Once completed, the forms are scanned at the district, and the resulting raw data file is uploaded into OARS through a simple web administration utility. THIS OPTION MAY REQUIRE ADDITIONAL PROGRAMMING AND CUSTOMIZATION BY LICENSOR, AND COULD RESULT IN ADDITIONAL FEES.

## IV. TECHNICAL REQUIREMENTS

For the best user experience, Licensor recommends that Licensee only use computers that meet the specifications listed below.

1. **For the OARS Website/Web Application**:

   a. **Web Browser:** OARS is compatible with Firefox 3.0 and higher (Windows and Mac), Internet Explorer 7.0 and higher (Windows Only), and Safari 3.0 and higher (Mac Only). LICENSOR RESERVES THE RIGHT TO UPDATE BROWSER REQUIREMENTS AS NEW BROWSERS ARE RELEASED, AND AS NEW FEATURES ARE IMPLEMENTED IN OARS.

   b. **Operating System**: The OARS website will operate correctly on any computer that can run one of the supported Web Browsers listed above.

   c. **Javascript:** Javascript must be enabled on the user's computer in order for users to take advantage of some software features.

   d. **PDF Reader:** Adobe Reader 9.0 or higher must be installed on the user's computer in order for users to create Report Cards and assessment reports in Adobe PDF format. On a Macintosh, users are advised to use the built in "Preview" application instead of Adobe Reader.

   e. **Screen Resolution**: A screen resolution of at least 1024 x 768 is recommended for optimal viewing of the OARS website.

2. **For the ScanOARS Client Application**:

   a. **Operating System**: ScanOARS is supported on Windows XP, Windows Vista, and Windows 7. Both Home and Professional Versions are supported.

   b. **Mac OS X NOT Supported:** ScanOARS is not supported on any version of the Mac OS X operating system. Some users have reported success in using virtualization software like VMWare or Parallels to run Windows on a Macintosh computer, but such use has not been extensively tested by Licensor, and is not officially supported.

   c. **Computer Specifications:** ScanOARS makes heavy use of RAM and operates best with a fast processor. For best results, a processor running at 2 Ghz or faster, and 2-4 Gb of RAM are recommended. Running ScanOARS with less memory, or with a slower processor may result in application crashes. Quitting open applications and restarting the computer regularly may alleviate this problem.

V.      **SCANNER SPECIFICATIONS FOR SCANOARS**

For best results, Licensor recommends exclusive use of a Supported Scanner, as described below.

1.      **Currently Available Supported Scanners**:  The following scanners, made by Brother International, are fully supported for use with ScanOARS: DCP-8080DN, DCP-8085DN, MFC-8480DN, MFC-8890DW.  These models may be replaced from time to time by the manufacturer with new versions.  Licensor maintains a list of supported scanners and will provide it to Licensee upon request.

2.      **Discontinued Supported Scanners**: The following discontinued scanners, made by Brother International, are fully supported for use with ScanOARS: DCP-8060, DCP-8065DN, DCP-8080, MFC-8460N, MFC-8860DN.

3.      **Options for using Unsupported Scanners**: ScanOARS communicates with scanners using a standard TWAIN interface.  Some users have reported success using ScanOARS with scanners that are not officially supported, however, such use of ScanOARS is not recommended or supported by Licensor.

4.      **Problems with Fujitsu Scanners**: Some users have attempted to use certain Fujitsu scanners with ScanOARS, with mixed results.  Some users have reported that ScanOARS fails to pick up a significant number of marks when scanned with a Fujitsu scanner.  LICENSOR STRONGLY RECOMMENDS AGAINST USING FUJITSU BRAND SCANNERS WITH SCANOARS.

VI.     **SYSTEM SECURITY**

For implementations of OARS hosted on servers owned or leased by Red Schoolhouse Software, the following security measures are currently implemented:

1.      **Physical Security**: The servers upon which the software is installed are housed at a reputable, secure server hosting facility.

2.      **Firewall Access**: A hardware firewall device limits access to the servers upon which OARS is installed.  Only Ports 80 (Web) and 443 (Secure Web) are available to users on the Internet.

3.      **Server Configuration**: The servers upon which OARS is installed are patched regularly with security updates as such patches are made available, and as security exploits are identified.

4.      **SSL Encryption**: OARS uses a 128-bit Secure Socket Layer (SSL) certificate from a valid and reputable Certificate Authority to encrypt all web pages served from the OARS web server.

**SOFTWARE LICENSE AGREEMENT - EXHIBIT C**

**<u>INSPECT SPECIFICATIONS</u>**


The INSPECT item bank is composed of questions written specifically to access the California Content Standards. Professional item writers across California focus on writing quality items that have content accuracy, meet grade level standards, and span three difficultly levels. Items include clear rationale for why a student would pick each wrong answer. For this reason, all wrong answers are created based upon the most likely cognitive disconnect in learning. Rigorous field-testing and item analyses are conducted to ensure the quality of each item in the INSPECT® test bank.

Several steps are taken to ensure the reliability and validity of each INSPECT® item. This level of quality control begins with the initial writing of items and continues well after each item has been administered. Treatment of these issues include quantitative and statistical approaches.

The publisher's first efforts at establishing validity are centered around content validity. This is sometimes referred to as content definition (Messick, 1989) and is critical for score interpretation and item response validation (Haladyna, 1999). The best way to establish content validity is through the use of expert judges. For each INSPECT® item, up to three content experts judge whether or not a particular item is aligned to the standard. In addition to standard alignment, the level of difficulty (low, medium, and high), as well as standard isolation is assessed. Each item requires full consensus as to the accuracy of the standard alignment, difficulty, and isolation before it makes it into the item bank. In addition to having content experts review each item, focus groups with grade level teams of teachers are regularly conducted. Information from these teams are compiled and used to modify problem items or other areas of concern.

**SOFTWARE LICENSE AGREEMENT - EXHIBIT D**

**OARS IMPLEMENTATION**

**I.     REQUIRED INFORMATION**

Before Licensee can begin using the Licensed Software, it must provide Licensor with the following:

1.     Data Fields and Field Definitions. Licensee must provide Licensor with a complete list of school, teacher and student data fields ("Data Fields") and their associated definitions ("Field Definitions") as described in Exhibit E.

2.     Local Assessment Module Information. If the implementation of OARS includes the Local Assessment Module, Licensee must provide Licensor with all necessary information to configure this module in OARS prior to activation of the software. Such information must be provided at least TEN (10) business days before Licensee intends to use this module.

3.     Online Report Card Module Information.   If the implementation of OARS includes the Online Report Card Module, Licensee must provide Licensor with all necessary information to configure this module in OARS prior to activation of the software.  Such information must be provided at least FORTY (40) business days before Licensee intends to use this module.

4.     Initial Data Extract.   Licensee must provide to Licensor an extract of school, teacher and student data from its Student Information System ("Data Extract") as described in Exhibit E.

5.     State Assessment Results.   If Licensee desires to take advantage of reporting options for State Assessments, it must provide Licensor with all STAR, CELDT, and CAHSEE data files in their original formats. (Fixed length, not tab-delimited, versions of CELDT files must be provided.)  Licensor will load STAR and CELDT data back to 2002-03, and CAHSEE data back to 2004-05.

**II.    SOFTWARE CONFIGURATION AND ACTIVATION**

Licensor will configure and activate the OARS software within TEN (10) business days of receipt of all required information described in Section I of this Exhibit D.

**III.    MANUAL DATA EXTRACT UPDATES**

Licensee has the option to submit Data Extracts to Licensor for manual processing, subject to the following conditions:

1.    Licensee will provide updated Data Extracts on a schedule to be agreed to between Licensor and Licensee, but not to exceed twice per month.  If there have been no changes to the names or location codes of schools in Licensee's district, the school files may be omitted from the periodic Data Extract.  All Data Extracts, both initial and subsequent updates, should always be provided in the same format as described in Exhibit E.

2.    To the extent practicable, Licensor will load the periodic Data Extract into the OARS Software within 2 (two) days of receipt.

3.    If applicable to this Agreement, additional details about periodic data extracts may be found in Exhibit A.

**IV.    AUTOMATED DATA EXTRACT UPDATES**

Licensee has the option to submit Data Extracts using its own automated mechanism that results in the Data Extract being placed on Red Schoolhouse Software's SFTP Server. Licensor will in turn develop a customized script that processes the Data Extract each night, and loads the most recent file available into OARS. Requirements for implementation of this automated process include:

1.    Data Extract files must conform to the requirements described in Exhibit E.

2.    Data Extract files must not vary in format or layout without prior approval from Licensor.  This includes addition, deletion, or movement of allowed data fields.

3.    It shall be Licensee's responsibility to ensure that the Data Extracts it transmits are complete, accurate, and in the right format.

4.    Licensor shall not be responsible for inaccurate student and teacher rosters appearing in OARS as a result of any errors in the Data Extract file.

<center>**SOFTWARE LICENSE AGREEMENT - EXHIBIT E**</center>

<center>**DATA FIELDS, FIELD DEFINITIONS, AND DATA EXTRACTS**</center>

**I.    DATA FIELDS**

Listed below are the Data Fields to be included in all Data Extracts provided by Licensee. If possible, data should be provided in a single file, following the format below

1.    **School Location Code (District-assigned)**
2.    CDS Code (State-assigned)
3.    **School Name**
4.    **Local Student ID (District-assigned)**
5.    SSIS ID (State-assigned)
6.    **Student First Name**
7.    **Student Last Name**
8.    **Teacher ID**
9.    **Period Number \***
10.   Section ID *
11.   **Teacher First Name**
12.   **Teacher Last Name**
13.   Course Name *
14.   Department Name *
15.   Term (e.g. Fall, Spring, Q1, etc.) *
16.   **Grade**
17.   Track
18.   Gender
19.   Race
20.   Hispanic (Y/N)
21.   Ethnicity
22.   Reporting Ethnicity
23.   Instructional Program (e.g. English Immersion, Mainstream, etc.)
24.   Language Proficiency (e.g. EO, IFEP, RFEP, LEP or ELL.)
25.   CELDT Level
26.   Special Education Placement (Up to four fields available.)
27.   Gifted Designation
28.   Title I Designation
29.   Migrant Status
30.   Optional Fields (Up to five fields available.)
31.   Numeric Fields, e.g. Days Absent, Tardies, Suspensions, etc. (Up to five.)
32.   Date Fields, e.g. DOB, Reclassification Date, US Entry, etc. (Up to five.)

All **Bold Fields** are required.
Fields identified with an asterisk (*) may only apply to secondary students.
Date fields should be provided in the format **'YYYY-MM-DD'**.

## II.    FIELD DEFINITIONS

For each Data Field listed above, Licensee must provide Licensor with the following Field Definitions:

1.    Field Name
2.    Field Length
3.    Possible Field Values
4.    Associated Field Labels

The example below uses "Gender" to illustrate the Field Definition information required:

| Field Name | Field Length | Value | Label |
|---|---|---|---|
| Gender | 1 character | M | Male |
| | | F | Female |


## III.    DATA EXTRACTS

Licensee should provide the initial Data Extract to Licensor in the format described in Section I above.  If providing the files in such a format is not possible or cannot be easily accomplished, Licensee should inform Licensor as soon as possible so that alternative arrangements can be made.

The format of all subsequent Data Extracts, whether sent manually or through an automated process, should match the format of the initial Data Extract.  Data Extracts can be provided in tab-delimited (.txt or .tab), Comma Separated Value (.csv), or Microsoft Excel (.xls) format.

**PLEASE NOTE:** Any variation in the field order or file format of a Data Extract may result in delays in loading and activating the Data Extract in OARS.


## IV.    TRANSMISSION OF DATA EXTRACTS

Data extracts can be transmitted to Licensor in one of two ways:

1.    As an encrypted attachment to an email, sent to support@redschoolhouse.com. (Licensor strongly recommends that Licensee use a program like WinZip to compress and encrypt data files containing personally identifiable information.)

2.    Via the Secure FTP (SFTP) protocol, which uses Secure Shell (SSH) to encrypt transmission of data.  (Licensee should request a Secure FTP user account from Licensor.)