

AN ORDINANCE **2016-05-05-0314**

**AUTHORIZING A CONTRACT WITH ONLINE COMPUTER LIBRARY CENTER TO PROVIDE AUTOMATED CATALOGING SERVICES TO THE CITY'S LIBRARY DEPARTMENT FOR AN ESTIMATED AMOUNT OF \$44,000.00 ANNUALLY, FUNDED FROM THE FY2016 LIBRARY GENERAL FUND BUDGET.**

\* \* \* \* \*

**WHEREAS**, the San Antonio Public Library requires a cataloging service to automate creation of catalog records maintained by the Library in order to give patrons visibility of these resources while conducting research; and

**WHEREAS**, the City issued a Request for Competitive Sealed Proposal for an “Annual Contract for Automated Cataloging” on September 30, 2015, for which the evaluation committee recommended the Online Computer Library Center for award; **NOW THEREFORE**:

**BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF SAN ANTONIO:**

**SECTION 1.** An agreement with Online Computer Library Center, to provide the San Antonio Public Library with automated cataloging services for an estimated annual amount of \$44,000.00, with an initial term beginning on award and ending February 28, 2019, with two additional one-year renewal options, is hereby approved. A copy of the agreement is attached hereto and is incorporated by reference as **Attachment I**. The City Manager, or her designee, is authorized to execute the agreement and any related documents in furtherance of the intent and purpose of this ordinance without further council approval.

**SECTION 2.** The amounts will be encumbered upon issuance of a purchase order, and payment is authorized to Online Computer Library Center. All expenditures will be in accordance with the Fiscal Year 2016 and subsequent budgets that fall within the term period of this contract approved by City Council.

**SECTION 3.** The financial allocations in this Ordinance are subject to approval by the Director of Finance, City of San Antonio. The Director of Finance, may, subject to concurrence by the City Manager or the City Manager's designee, correct allocations to specific SAP Fund Numbers, SAP Project Definitions, SAP WBS Elements, SAP Internal Orders, SAP Fund Centers, SAP Cost Centers, SAP Functional Areas, SAP Funds Reservation Document Numbers and SAP GL Accounts as necessary to carry out the purpose of this Ordinance.

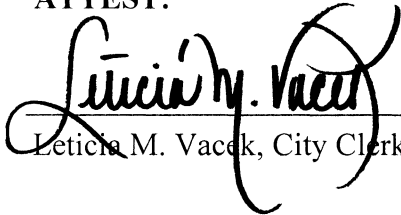
JK  
5/5/16  
Item No. 4

**SECTION 4.** This ordinance shall be effective immediately upon passage by eight affirmative votes; otherwise it shall be effective on the tenth day after passage hereof.

**PASSED and APPROVED** this 5<sup>th</sup> day of May, 2016.

  
M A Y O R  
Ivy R. Taylor

**ATTEST:**

  
\_\_\_\_\_  
Leticia M. Vacck, City Clerk

**APPROVED AS TO FORM:**

  
\_\_\_\_\_  
Martha G. Sepeda, Acting City Attorney

<b>Agenda Item:</b>	4 ( in consent vote: 4, 5, 6, 7, 8, 10, 13, 14, 15 )						
<b>Date:</b>	05/05/2016						
<b>Time:</b>	09:33:33 AM						
<b>Vote Type:</b>	Motion to Approve						
<b>Description:</b>	An Ordinance authorizing a three year contract with Online Computer Library Center to provide automated cataloging services to the City's Library Department for an estimated amount of \$44,000.00 annually, funded from the FY2016 Library General Fund Budget. [Ben Gorzell, Chief Financial Officer; Troy Elliott, Director, Finance]						
<b>Result:</b>	Passed						
<b>Voter</b>	<b>Group</b>	<b>Not Present</b>	<b>Yea</b>	<b>Nay</b>	<b>Abstain</b>	<b>Motion</b>	<b>Second</b>
Ivy R. Taylor	Mayor		x				
Roberto C. Treviño	District 1		x				x
Alan Warrick	District 2		x				
Rebecca Viagran	District 3		x				
Rey Saldaña	District 4	x					
Shirley Gonzales	District 5		x				
Ray Lopez	District 6		x				
Cris Medina	District 7		x				
Ron Nirenberg	District 8		x				
Joe Krier	District 9		x				
Michael Gallagher	District 10		x			x	

**AGREEMENT FOR  
ANNUAL CONTRACT FOR AUTOMATED CATALOGING  
SERVICES  
BETWEEN  
THE CITY OF SAN ANTONIO  
AND  
OCLC ONLINE COMPUTER LIBRARY CENTER, INC.**

This Agreement is between the City of San Antonio, a Texas Municipal Corporation ("City"), and OCLC Online Computer Library Center, Inc. ("OCLC") both of which may be referred to herein collectively as the "Parties".

**WHEREAS**, the City issued Request for Competitive Sealed Proposal No. 61006568 on September 30, 2015, seeking an ANNUAL CONTRACT FOR AUTOMATED CATALOGING SERVICES for the San Antonio Public Library; and

**WHEREAS**, OCLC, the company currently providing these services to the Library, responded with a proposal; and

**WHEREAS**, the City, after evaluating the submitted proposals, desired to accept the OCLC proposal, choosing to use submitted proposal;

**NOW, IN ACCORDANCE THEREWITH**, the Parties agree as follows:

1. Identification and Priority of Documents.

This Agreement consists of the following documents, which shall be interpreted in the following order in the event of an inconsistency or conflict:

- a) This Agreement for Annual Contract for Automated Cataloging Services Between the City of San Antonio and OCLC Online Computer Library Center, Inc.;
- b) Request for Competitive Sealed Proposal No. 61006568 (Exhibit A);
- c) OCLC Response (Exhibit B); and
- d) OCLC additional terms and conditions (Exhibit C).

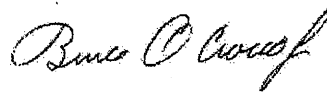
2. Entire Agreement

This Agreement, embodies the complete agreement of the parties hereto with regard to the subject matter contained herein, superseding all oral or written previous and contemporary agreements between the parties relating to matters herein.

IN WITNESS WHEREOF, the Parties have executed this Agreement as of the date of execution by both parties below.

**CITY OF SAN ANTONIO**

**OCLC ONLINE COMPUTER  
LIBRARY CENTER, INC.**



\_\_\_\_\_  
Ramiro Salazar  
Director, San Antonio Public Library  
Date: \_\_\_\_\_

\_\_\_\_\_  
Print Name: Bruce Crocco  
Title: Vice President  
Date: 2016 February 3

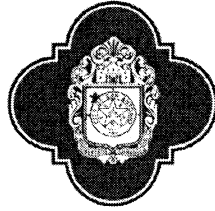
Approved as to Form:



\_\_\_\_\_  
Assistant City Attorney

# CITY OF SAN ANTONIO

SAN ANTONIO PUBLIC LIBRARY



## REQUEST FOR COMPETITIVE SEALED PROPOSAL ("RFCSP")

for

ANNUAL CONTRACT FOR AUTOMATED CATALOGING SERVICES

RFCSP 61006568 V2  
LOG 015-99

Release Date: 09/30/2015  
Proposals Due: 11/2/2015

# EXHIBIT A

**002 TABLE OF CONTENTS**

002 TABLE OF CONTENTS ..... 2

003 BACKGROUND ..... 3

004 SCOPE OF SERVICE ..... 4

005 ADDITIONAL REQUIREMENTS ..... 6

006 TERM OF CONTRACT ..... 8

007 PRE-SUBMITTAL CONFERENCE ..... 9

008 PROPOSAL REQUIREMENTS ..... 10

Respondent shall submit one original hardcopy, signed in ink, and twelve (12) hardcopies of the proposal and one (1) compact disk (CD) containing an Adobe PDF version of the entire proposal in a sealed package clearly marked with the project name, "TITLE OF SOLICITATION", RFCSP 61Number, on the front of the package ..... 10

009 CHANGES TO RFCSP ..... 12

010 SUBMISSION OF PROPOSALS ..... 13

011 RESTRICTIONS ON COMMUNICATION ..... 15

012 EVALUATION CRITERIA ..... 16

013 AWARD OF CONTRACT AND RESERVATION OF RIGHTS ..... 17

014 ACCEPTANCE CRITERIA ..... 18

015 SCHEDULE OF EVENTS ..... 19

016 RFCSP EXHIBITS ..... 20

019 RFCSP ATTACHMENTS ..... 26

### **003 BACKGROUND**

The City of San Antonio ("City") is soliciting bids for a Vendor to provide Automated Cataloging Services for the San Antonio Public Library ("Library") according to the specifications listed herein.

The San Antonio Public Library system consists of a Central Library and 26 branches, one of which is a joint public/school library. The Library's service population is over 1.8 million and there are over 921,000 registered borrowers.

The Library uses Innovative Interfaces' Millennium integrated library system for cataloging, circulation, Web OPAC, acquisitions and serials.

As of September 10, 2015 the Library had 569,697 bibliographic records and 453,830 authority records in its database.

The Library adds approximately 35,000 new titles per year in print and media formats plus 20,000-22,000 electronic resources. Approximately 30 percent of the Library's print and media acquisitions are cataloged and processed by vendors and the rest are cataloged and processed in-house. The Library's current major vendors are Baker & Taylor for print and Midwest Tape for media.



## 004 SCOPE OF SERVICE

### Scope

The City of San Antonio is soliciting bids for a Vendor to provide Automated Cataloging Services for the San Antonio Public Library according to the specifications listed herein.

### Specifications

Features desired of Vendor's automated cataloging services include:

1. Access to Vendor's bibliographic and authority databases via Web browser and/or Windows-based client software.
  - 1a. Database of bibliographic records must be in Machine Readable Cataloging (MARC) format and contain MARC records for multiple formats including but not limited to books, continuing resources, sound recordings, visual materials, maps, music scores, computer files, electronic resources, and mixed materials as well as materials in multiple languages.
  - 1b. Database of authority records must be in MARC format and contain authority records for names (personal, corporate, and conference), subjects, genres, geographic headings, and uniform titles.
2. Allow the Library to search for, create, and edit bibliographic and authority records in MARC format including records created according to the Anglo-American Cataloging Rules, 2nd ed. Revised (AACR2) or Resource Description and Access (RDA).
3. Provide a variety of search methods including but not limited to ISBN and other standard numbers, author, title, series, and keyword.
4. Provide the capability to validate MARC coding and identify errors.
5. Provide context-sensitive help.
6. Allow the Library to export MARC bibliographic and authority records from the Vendor's database to the Library's Millennium integrated library system interactively record-by-record and by batch.
7. Allow the Library to add and delete its holdings in the Vendor's bibliographic database as well as allow the Library to maintain its holdings on an interactive, record-by-record basis or in batch.
8. Provide the capability to batch edit files of MARC records.
9. Provide a notification service by which the Vendor will provide the Library with upgraded bibliographic records on which the Library has set holdings. The notification service must include, but not be limited to, Cataloging-in-Publication (CIP) records that have been upgraded to full status and records to which Contents Notes (MARC tag 505) and/or Summary Notes (MARC tag 520) have been added.
10. The Vendor must be able to work with the Library's major print and media vendors to provide bibliographic records for shelf-ready materials cataloged and processed by these vendors.
11. The Vendor must provide technical support 24 hours per day, 7 days per week, 365 days per year via phone and email at no additional cost to the City.
12. The Library is committed to participate in the statewide Texas Group Catalog interlibrary loan program. As a participant in the Texas Group Catalog, the Library must maintain its current holdings in the WorldCat database.
  - 12a. Vendor will offer a service to maintain the Library's current holdings in the WorldCat database. Vendor must indicate if the service is included as part of a full cataloging subscription and/or is available as a standalone service. If it is available as a standalone service, Vendor must indicate pricing in the Price Schedule.
  - 12b. Vendor will process records to set and cancel holdings for the Library via batchload with MARC21 input. Vendor will accept batch files from the Library monthly. Vendor will indicate if batch files can be sent at other frequencies including but not limited to weekly, quarterly, and annually.

12c. The Library will provide files using either OCLC number, ISBN, ISSN or LCCN as identifiers.

12d. Vendor will provide reports to the Library including the following:

- a) A cross reference report that includes the Millennium system number and the corresponding Bibliographic Utility number for each record processed.
- b) A summary report of the results of processing for each file.

12e. Vendor will archive the records submitted by the Library for the holdings registration service.

**STANDARD REQUIREMENTS:**

1. Prices must remain firm for the duration of the contract period.

## 005 ADDITIONAL REQUIREMENTS

Statutory Requirements. Exceptions to the following provisions and exhibits by Respondent and/or their agent will lead to automatic disqualification of Respondent's proposal from consideration.

### Sections:

Venue, Jurisdiction and Arbitration  
Intellectual Property  
Undisclosed Features  
Ownership and Licenses  
Certifications  
Acceptance Criteria (if required)

### Exhibits:

Insurance Requirements  
Indemnification Requirements

Venue, Jurisdiction and Arbitration. For any dispute or claim arising under the award of a contract for this proposal, venue shall be in Bexar County, Texas, and the laws of the State of Texas shall apply. The City will not contractually agree to engage in binding arbitration and will not contractually agree to relinquish its right to a trial by jury.

Intellectual Property. If selected, Respondent agrees to abide by the following regarding intellectual property rights:

Respondent shall pay all royalties and licensing fees. Respondent shall hold the City harmless and indemnify the City from the payment of any royalties, damages, losses or expenses including attorney's fees for suits, claims or otherwise, growing out of infringement or alleged infringement of copyrights, patents, trademarks, trade secrets, materials and methods used in the project. It shall defend all suits for infringement of any Intellectual Property rights. Further, if Respondent has reason to believe that the design, service, process or product specified is an infringement of an Intellectual Property right, it shall promptly give such information to the City.

Upon receipt of notification that a third party claims that the program(s), hardware or both the program(s) and the hardware or any other intellectual property infringe upon any United States or International patent, copyright or trademark, Respondent will immediately:

Either:

Obtain, at Respondent's sole expense, the necessary license(s) or rights that would allow the City to continue using the programs, hardware, both the programs and hardware or any other intellectual property as the case may be, or,

Alter the programs, hardware, or both the programs and hardware so that the alleged infringement is eliminated, and

Reimburse the City for any expenses incurred by the City to implement emergency backup measures if the City is prevented from using the programs, hardware, or both the programs and hardware while the dispute is pending.

Respondent further agrees to:

Assume the defense of any claim, suit, or proceeding brought against the City for infringement of any United States patent, copyright, trademark or any other intellectual property rights arising from the use and/or sale of the equipment or software under this Agreement,

Assume the expense of such defense, including costs of investigations, reasonable attorneys' fees, expert witness fees, damages, and any other litigation-related expenses, and

Indemnify the City against any monetary damages and/or costs awarded in such suit;

Provided that:

Respondent is given sole and exclusive control of all negotiations relative to the settlement thereof, but that Respondent agrees to consult with the City Attorney of the City during such defense or negotiations and make good faith effort to avoid any position adverse to the interest of the City,

The Software or the equipment is used by the City in the form, state, or condition as delivered by Respondent or as modified without the permission of Respondent, so long as such modification is not the source of the infringement claim,

The liability claimed shall not have arisen out of the City's negligent act or omission, and

The City promptly provide Respondent with written notice within 15 days following the formal assertion of any claim with respect to which the City asserts that Respondent assumes responsibility under this section.

Undisclosed Features. CONTRACTOR warrants that the code and software provided to the City of San Antonio under this agreement does not contain any undisclosed features or functions that would impair or might impair the CITY'S use of the equipment, code or software. Specifically, but without limiting the previous representation, CONTRACTOR warrants there is no "Trojan Horse," lock, "time bomb," backdoor or similar routine. This Agreement shall not now nor will it hereafter be subject to the self-help provisions of the Uniform Computer Information Transactions Act or any other law. CONTRACTOR specifically disclaims any unilateral self-help remedies.

#### Ownership and Licenses.

In accordance with Texas law, Respondent acknowledges and agrees that all local government records created or received in the transaction of official business or the creation or maintenance of which were paid for with public funds are declared to be public property and subject to the provisions of Chapter 201 of the Texas Local Government Code and Subchapter J, Chapter 441 of the Texas Government Code. Thus, no such local government records produced by or on the behalf of Respondent pursuant to this Contract shall be the subject of any copyright or proprietary claim by Respondent.

The term "local government record" as used herein shall mean any document, paper, letter, book, map, photograph, sound or video recording, microfilm, magnetic tape, electronic medium, or other information recording medium, regardless of physical form or characteristic and regardless of whether public access to it is open or restricted under the laws of the state, created or received by local government or any of its officials or employees pursuant to law including an ordinance, or in the transaction of official business.

Respondent acknowledges and agrees that all local government records, as described in herein, produced in the course of the work required by any contract awarded pursuant to this RFCSP, will belong to and be the property of City. Respondent, if awarded this contract, will be required to turn over to City, all such records as required by said contract. Respondent, if awarded this contract, shall not, under any circumstances, release any records created during the course of performance of the contract to any entity without City's written permission, unless required to do so by a Court of competent jurisdiction.

In accordance herewith, Respondent, if selected, agrees to comply with all applicable federal, state and local laws, rules and regulations governing documents and ownership, access and retention thereof.

Certifications. Respondent warrants and certifies that Respondent and any other person designated to provide services hereunder has the requisite training, license and/or certification to provide said services, and meets all competence standards promulgated by all other authoritative bodies, as applicable to the services provided herein.

## 006 TERM OF CONTRACT

A contract awarded in response to this RFCSP will be for a three (3) year period. The City shall have the option to renew for an additional two (2), one (1) year periods without additional City Council approval.

### Temporary Short Term Extensions.

City shall have the right to extend this contract under the same terms and conditions beyond the original term or any renewal thereof, on a month to month basis, not to exceed three months. Said month to month extensions shall be in writing, signed by Director, and shall not require City Council approval, subject to and contingent upon appropriation of funding therefore.

## 007 PRE-SUBMITTAL CONFERENCE

A Pre-Submittal Conference will be held at Central Library, 4<sup>th</sup> Floor Library Conference Room, 600 Soledad, San Antonio, TX 78205 at 10:00 a.m., Central Time, on October 12, 2015. Respondents are encouraged to prepare and submit their questions in writing five calendar days in advance of the Pre-Submittal Conference in order to expedite the proceedings. City's responses to questions received by this due date may be distributed at the Pre-Submittal Conference and posted with this solicitation. Attendance at the Pre-Submittal Conference is optional, but highly encouraged.

This meeting place is accessible to disabled persons. The 4<sup>th</sup> Floor Library Conference Room is wheelchair accessible. The accessible entrance is located at the main entrance to the Central Library. Accessible parking spaces are located at adjacent Parking Garage with entrance via Soledad street. Auxiliary aids and services are available upon request. Interpreters for the Deaf must be requested at least 48 hours prior to the meeting. For assistance, call (210) 207-7245 Voice/TTY.

### **Conference Bridge:**

**Toll-Free: 1-855-850-2672**

**Pass code: 990 897 974**

Any oral response given at the Pre-Submittal Conference that is not confirmed in writing and posted with this solicitation shall not be official or binding on the City. Only written responses shall be official and all other forms of communication with any officer, employee or agent of the City shall not be binding on the City. Respondents are encouraged to resubmit their questions in writing, to the City Staff person identified in the Restrictions on Communication section, after the conclusion of the Pre-Submittal Conference.

## 008 PROPOSAL REQUIREMENTS

Respondent's Proposal shall include the following items in the following sequence, noted with the appropriate heading as indicated below. If Respondent is proposing as a team or joint venture, provide the same information for each member of the team or joint venture.

Respondent shall submit one original hardcopy, signed in ink, and twelve (12) hardcopies of the proposal and one (1) compact disk (CD) containing an Adobe PDF version of the entire proposal in a sealed package clearly marked with the project name, "**AUTOMATED CATALOGING SERVICES**", RFCSP 6100006568, on the front of the package.

If submitting electronically through City's portal, scan and upload these documents with your proposal. Each of the items listed below must be uploaded as a separate attachment, labeled with the heading indicated below.

### TABLE OF CONTENTS

PROPOSAL. Prepare and submit the Proposal based on the requirements stated in the RFCSP and include as Attachment A, Part Three.

RESPONDENT QUESTIONNAIRE. Use the Form found in this RFCSP as Attachment A, Part One.

CONTRACTS DISCLOSURE FORM. Use the Form in RFCSP Attachment B which is posted separately or Respondent may download a copy at:

<https://www.sanantonio.gov/eforms/atty/ContractsDisclosureForm.pdf>.

Instructions for completing the Contracts Disclosure form:

Download form and complete all fields. All fields must be completed prior to submitting the form.

Click on the "Print" button and place the copy in your proposal as indicated in the Proposal Checklist.

LITIGATION DISCLOSURE FORM. Complete and submit the Litigation Disclosure Form, found in this RFCSP as Attachment C. If Respondent is proposing as a team or joint venture, then all persons or entities who will be parties to the contract (if awarded) shall complete and return this form.

PRICING SCHEDULE. Use the Pricing Schedule that is found in this RFCSP as Attachment E.

ADDITIONAL PROJECT DOCUMENTS. Complete and return as Attachment as indicated below:

SIGNATURE PAGE. Respondent must complete, sign and submit the Signature Page found in this RFCSP as Attachment F. The Signature Page must be signed by a person, or persons, authorized to bind the entity, or entities, submitting the proposal. Proposals signed by a person other than an officer of a corporate respondent or partner of partnership respondent shall be accompanied by evidence of authority.

VOSBPP TRACKING FORM.

Complete and return as Attachment G.

PROPOSAL CHECKLIST. Complete and submit the Proposal Checklist found in this RFCSP as Attachment H.

PROOF OF INSURABILITY. Submit a letter from insurance provider stating provider's commitment to insure the Respondent for the types of coverages and at the levels specified in this RFCSP if awarded a contract in response to this RFCSP. Respondent shall also submit a copy of their current insurance certificate.

FINANCIAL INFORMATION. Due to the anticipated investment and length of resultant contract between the parties, audited financial statements are preferred. In the event audited financial statements are not available, state the reason why. If audited financial statements are not available, respondents may submit other financial statement(s) or documentation, such as a Trial Balance Income Statement along with the most recent Annual Tax Submission, that validates and ensures the long term financial viability of the organization. Failure to provide requested information may impact your firm's final score.

Respondent is expected to examine this RFCSP carefully, understand the terms and conditions for providing the services listed herein and respond completely. FAILURE TO COMPLETE AND PROVIDE ANY OF THESE PROPOSAL REQUIREMENTS MAY RESULT IN THE RESPONDENT'S PROPOSAL BEING DEEMED NON-RESPONSIVE AND THEREFORE DISQUALIFIED FROM CONSIDERATION.



## **009 CHANGES TO RFCSP**

Changes to the RFCSP, made prior to the due date for proposals shall be made directly to the original RFCSP. Changes are captured by creating a replacement version each time the RFCSP is changed. It is Respondent's responsibility to check for new versions until the proposal due date. City will assume that all proposals received are based on the final version of the RFCSP as it exists on the day proposals are due.

No oral statement of any person shall modify or otherwise change or affect the terms, conditions or specifications stated in the RFCSP.

## 010 SUBMISSION OF PROPOSALS

Proposals may be submitted electronically through the portal or in hard copy format.

### Submission of Hard Copy Proposals.

Respondent shall submit one original hardcopy, signed in ink, and twelve (12) hardcopies of the proposal and one (1) compact disk (CD) containing an Adobe PDF version of the entire proposal in a sealed package clearly marked with the project name, "**AUTOMATED CATALOGING SERVICES**", RFCSP 61006568, on the front of the package.

Proposals must be received in the City Clerk's Office no later than 2:00 p.m., Central Time, on 11/02/2015 at the address below. Any proposal or modification received after this time shall not be considered, and will be returned, unopened to the Respondent. Respondents should note that delivery to the P.O. Box address in a timely manner does not guarantee its receipt in the City Clerk's Office by the deadline for submission. Therefore, Respondents should strive for early submission to avoid the possibility of rejection for late arrival.

#### Mailing Address:

City Clerk's Office  
Attn: IT Procurement Office (Finance Department)  
P.O. Box 839966  
San Antonio, Texas 78283-3966

#### Physical Address:

City Clerk's Office  
Attn: IT Procurement Office (Finance Department)  
100 Military Plaza  
2nd Floor, City Hall San Antonio, Texas 78205

Proposals sent by facsimile or email will not be accepted.

Submission of Electronic Proposals. Submit one proposal electronically by the due date provided on the Cover Page. All times stated herein are Central Time. Any proposal or modification received after the time and date stated on the Cover Page shall be rejected. All forms in this solicitation which require a signature must have a signature affixed thereto, either by manually signing the document, prior to scanning it and uploading it with your submission, or affixing it electronically.

Proposal Format. Each proposal shall be typewritten, single spaced and submitted on 8 ½" x 11" white paper. If submitting a hard copy, place proposal inside a three ring binder or other securely bound fashion. The use of recycled paper and materials is encouraged. Unnecessarily elaborate brochures, artwork, bindings, visual aides, expensive paper or other materials beyond that sufficient to present a complete and effective submission are not required. Font size shall be no less than 12-point type. All pages shall be numbered and, in the case of hard copy submissions, printed *one-sided or two-sided [select one]*. Margins shall be no less than 1" around the perimeter of each page. A proposal response to RFCSP Attachment A – Respondent Questionnaire form may not exceed 80 pages in length. Websites, or URLs shall not be submitted in lieu of the printed proposal. Each proposal must include the sections and attachments in the sequence listed in the RFCSP Attachment G, Proposal Requirements, and each section and attachment must be indexed and, for hard copy submissions, divided by tabs and indexed in a Table of Contents page. For electronic submissions, on a CD, each separate section should be attached as a separate file. Failure to meet the above conditions may result in disqualification of the proposal or may negatively affect scoring.

Modified Proposals. Proposals may be modified provided such modifications are received prior to the due date for submission of proposals and submitted in the same manner as original proposal. For hard copy proposals, provide a cover letter with the proposal, indicating it is a modified proposal and that the Original proposal is being withdrawn. For electronic proposals, a modified proposal will automatically replace a prior proposal submission.

### Correct Legal Name.

Respondents who submit proposals to this RFCSP shall correctly state the true and correct name of the individual, proprietorship, corporation, and /or partnership (clearly identifying the responsible general partner and all other partners who would be associated with the contract, if any). No nicknames, abbreviations (unless part of the legal title), shortened or short-hand, or local "handles" will be accepted in lieu of the full, true and correct legal name of the entity. These names shall comport exactly with the corporate and franchise records of the Texas Secretary of State and Texas Comptroller of Public Accounts. Individuals and proprietorships, if operating under other than an individual name, shall match with exact Assumed Name filings. Corporate Respondents and limited liability company

Respondents shall include the 11-digit Comptroller's Taxpayer Number on the Respondent Questionnaire form found in this RFCSP as Attachment A.

If an entity is found to have incorrectly or incompletely stated its name or failed to fully reveal its identity on the General Information form, the Director of the San Antonio Library Department shall have the discretion, at any point in the contracting process, to suspend consideration of the proposal.

Firm Offer. All provisions in Respondent's proposal, including any estimated or projected costs, shall remain valid for one-hundred and eighty days (180) following the deadline date for submissions or, if a proposal is accepted, throughout the entire term of the contract.

Change Orders. In order to comply with Texas law governing purchases made by municipalities, the following rules shall govern all change orders made under this contract.

Any change orders that become necessary during the term of this contract as a result of changes in plans, specifications, quantity of work to be performed, materials, equipment or supplies to be furnished must be in writing and conform to the requirements of City Ordinance 2011-12-08-1014, as hereafter amended.

Any other change will require approval of the City Council, City of San Antonio.

Changes that do not involve an increase in contract price may be made by the City's Chief Technology Officer (CTO).

No oral statement of any person shall modify or otherwise change, or affect the terms, conditions or specifications stated herein.

Travel and Related Expenses. City of San Antonio (City) Administrative Directive (AD) 8.31 establishes uniform procedures for the processing of requests for travel authorization, advances and reimbursements, identifies travel expenses eligible for payment and establishes proper accounting for all travel-related expenses for City. AD 8.31 is included by reference in this solicitation as Exhibit 2.

Travel expense reimbursement may include personal vehicle mileage or commercial coach transportation, hotel accommodations, parking and meals; provided, however, the amount of reimbursement by City shall not exceed the amounts authorized by the current GSA Travel Regulations per diem. <http://www.gsa.gov/portal/category/100120>  
Travel time may not be included as part of the amounts payable by Customer for any services rendered under the Contract. Air transportation shall be booked at the lowest available fare available at the time. Anticipated travel expenses must be pre-approved in writing by City.

The City has provided forms as examples to be used for reporting expenses for reimbursement in Exhibit 3. The City requires that all receipts be attached to the reimbursement request forms for proper verification and processing. Forms Attached as Exhibit 3 are: 1) Personal Vehicle Mileage Record, 2) Travel Authorization and 3) Travel & Miscellaneous Expense Report. Customer may use their own forms for reporting travel expenses that provide the same information requested in the forms found in Exhibit 3.

Confidential or Proprietary Information. All proposals become the property of the City upon receipt and will not be returned. Any information deemed to be confidential by Respondent should be clearly noted; however, City cannot guarantee that it will not be compelled to disclose all or part of any public record under the Texas Public Information Act, since information deemed to be confidential by Respondent may not be considered confidential under Texas law, or pursuant to a Court order. Respondent acknowledge that exemptions to Public Information Act requests may require a brief to be submitted to the Texas Attorney General explaining why the claimed exceptions apply to the information in issue. The City shall not be obligated to submit the brief supporting those claimed exceptions. Respondent shall be solely responsible for submitting the brief and the documents in issue to the Texas Attorney General.

Cost of Proposal. Any cost or expense incurred by the Respondent that is associated with the preparation of the Proposal, the Pre-Submittal conference, if any, or during any phase of the selection process, shall be borne solely by Respondent.

## 011 RESTRICTIONS ON COMMUNICATION

Respondents are prohibited from communicating with: 1) elected City officials and their staff regarding the RFCSP or proposals from the time the RFCSP has been released until the contract is posted as a City Council agenda item; and 2) City employees from the time the RFCSP has been released until the contract is awarded. These restrictions extend to "thank you" letters, phone calls, emails and any contact that results in the direct or indirect discussion of the RFCSP and/or proposal submitted by Respondent. Violation of this provision by Respondent and/or its agent may lead to disqualification of Respondent's proposal from consideration.

Exceptions to the Restrictions on Communication with City employees include:

Respondents may ask verbal questions concerning this RFCSP at the Pre-Submittal Conference.

Respondents may submit written questions concerning this RFCSP to the Staff Contact Person listed below until **2:00 p.m.**, Central Time, on **Day, 10/16/2015**. Questions received after the stated deadline will not be answered. All questions shall be sent by e-mail or through the portal.

Tony Aguilar, Procurement Specialist II  
City of San Antonio, Finance Department  
[tony.aguilar@sanantonio.gov](mailto:tony.aguilar@sanantonio.gov)

Questions submitted and the City's responses will be posted with this solicitation.

Respondents and/or their agents are encouraged to contact the Small Business Office of the International and Economic Development Department for assistance or clarification with issues specifically related to the City's Small Business Economic Development Advocacy (SBEDA) Program policy and/or completion of the SBEDA form(s), if any. The point of contact, Leticia Callanen, may be reached by telephone at (210) 207-3996 or by e-mail at [Leticia.Callanen@sanantonio.gov](mailto:Leticia.Callanen@sanantonio.gov). Contacting the Small Business Office regarding this RFCSP after the proposal due date is not permitted.

Respondents may provide responses to questions asked of them by the Staff Contact Person after responses are received and opened. During interviews, if any, verbal questions and explanations will be permitted. If interviews are conducted, Respondents shall not bring lobbyists. The City reserves the right to exclude any persons from interviews as it deems in its best interests.

Upon completion of the evaluation process, Respondents shall receive a notification letter indicating the recommended firm and anticipated City Council agenda date. Respondents desiring a review of the solicitation process may submit a written request no later than seven (7) calendar days from the date letter was sent. The letter will indicate the name and address for submission of requests for review.

## 012 EVALUATION CRITERIA

City will conduct a comprehensive, fair and impartial evaluation of all submissions received in response to this RFCSP. City may appoint a selection committee to perform the evaluation. Each submission will be analyzed to determine overall responsiveness and qualifications under this RFCSP. Criteria to be evaluated will include the items listed below. In accordance with §252.042, Texas Local Government Code, the selection committee may select all, some or none of the respondents who are judged to be reasonably qualified for award of the contract for interviews: Should the City elect to conduct interviews, selection for interviews will be based on initial scoring, prior to interviewing. Interviews are not an opportunity to change a submission. If the City elects to conduct interviews, respondents may be interviewed and re-scored based upon the same criteria. City may also request information from respondents at any time prior to final approval of a selected respondent, or seek best and final offers from respondents deemed reasonably qualified for award. Final approval of a selected respondent is subject to the action of the San Antonio City Council.

Evaluation criteria:

Proposed Solution (50 points)

Experience, Background, Qualifications (30 points)

Pricing (20 points)

## 013 AWARD OF CONTRACT AND RESERVATION OF RIGHTS

City reserves the right to award one, more than one or no contract(s) in response to this RFCSP.

The Contract, if awarded, will be awarded to the Respondent(s) whose Proposal(s) is deemed most advantageous to City, as determined by the selection committee, upon approval of the City Council.

City may accept any Proposal in whole or in part. However, final selection of a Respondent is subject to City Council approval.

City reserves the right to accept one or more proposals or reject any or all proposals received in response to this RFCSP, and to waive informalities and irregularities in the proposals received. City also reserves the right to terminate this RFCSP, and reissue a subsequent solicitation, and/or remedy technical errors in the RFCSP process.

City will require the selected Respondent(s) to execute a contract with the City, prior to City Council award, incorporating the terms and conditions of this RFCSP. No work shall commence until City signs the contract document(s) and Respondent provides the necessary evidence of insurance as required in this RFCSP and the Contract. Contract documents are not binding on City until approved by the City Attorney. In the event the parties cannot execute a contract within the time specified, City reserves the right to terminate contract discussions with the selected Respondent and commence contract discussions with another Respondent.

This RFCSP does not commit City to enter into a Contract, award any services related to this RFCSP, nor does it obligate City to pay any costs incurred in preparation or submission of a proposal or in anticipation of a contract.

If selected, Respondent will be required to comply with the Insurance and Indemnification Requirements established herein. If Respondent takes exception to the terms and conditions of this RFCSP, the City may deem the Respondent non-responsive and not evaluate their proposal.

The successful Respondent must be able to formally invoice the City for services rendered, incorporating the SAP-generated contract and purchase order numbers that shall be provided by the City.

Conflicts of Interest. Respondent acknowledges that it is informed that the Charter of the City of San Antonio and its Ethics Code prohibit a City officer or employee, as those terms are defined in the Ethics Code, from having a financial interest in any contract with City or any City agency such as City-owned utilities. An officer or employee has a "prohibited financial interest" in a contract with City or in the sale to City of land materials, supplies or service, if any of the following individual(s) or entities is a party to the contract or sale: the City officer or employee; his parent, child or spouse; a business entity in which he or his parent, child or spouse owns ten (10) percent or more of the voting stock or shares of the business entity, or ten (10) percent or more of the fair market value of the business entity; or a business entity in which any individual or entity above listed is a subcontractor on a City contract, a partner or a parent or subsidiary business entity.

Respondent is required to warrant and certify that it, its officers, employees and agents are neither officials nor employees of the City, as defined in Section 2-42 of the City's Ethics Code. (Discretionary Contracts Disclosure – form may be found online at <https://www.sanantonio.gov/eforms/atty/DiscretionaryContractsDisclosure.pdf>.)

Independent Contractor. Respondent agrees and understands that, if selected, it and all persons designated by it to provide services in connection with a contract, are and shall be deemed to be an independent contractors, responsible for their respective acts or omissions, and that City shall in no way be responsible for Respondent's actions, and that none of the parties hereto will have authority to bind the others or to hold out to third parties, that it has such authority.

Effective January 1, 2006, Chapter 176 of the Texas Local Government Code requires that persons, or their agents, who seek to contract for the sale or purchase of property, goods, or services with the City, shall file a completed conflict of interest questionnaire with the City Clerk not later than the 7th business day after the date the person: (1) begins contract discussions or negotiations with the City; or (2) submits to the City an application, response to a request for proposals or bids, correspondence, or another writing related to a potential agreement with the City. The conflict of interest questionnaire form is available from the Texas Ethics Commission at <http://www.ethics.state.tx.us/forms/CIQ.pdf>. Completed conflict of interest questionnaires may be mailed or delivered by hand to the Office of the City Clerk. If mailing a completed conflict of interest questionnaire, mail to: Office of the City Clerk, P.O. Box 839966, San Antonio, TX 78283-3966. If delivering a completed conflict of interest questionnaire, deliver to: Office of the City Clerk, City Hall, 2nd floor, 100 Military Plaza, San Antonio, TX 78205. Respondent should consult its own legal advisor for answers to questions regarding the statute or form.

## 014 ACCEPTANCE CRITERIA

All deliverables submitted to the City hereunder shall be submitted to a designated City employee for approval and that such deliverables comply in all material respects with the requirements as set forth in a Statement of Work.

In the event of any nonconformity or nonfunctionality of deliverables, the City shall provide Respondent written notification within 14 days of delivery. Upon receipt of such notice of nonconformity or nonfunctionality, Respondent shall have 14 days to cure the nonconformity or nonfunctionality.

Upon delivery of the cure, the City will have 14 days to evaluate and determine if such cure is acceptable. In the event the Deliverable remains unacceptable, the City will provide a second notice of nonconformity or nonfunctionality of the system within 30 days of delivery. Respondent shall have an additional 14 days to cure the nonconformity or nonfunctionality.

Upon delivery of the cure, the City will have 14 days to evaluate and determine if such cure is acceptable. In the event the Deliverable remains unacceptable the City will provide Respondent with a third notice of any nonconformity or nonfunctionality of the system and Respondent will forfeit 50% of retained balances on hold with the City at the time the third notice is provided to Respondent.

A retainage in the amount of 10% of the deliverable price shall be held by the City, to be paid upon final acceptance. The City Project Team will review, approve, and sign off on the deliverable. Upon acceptance of each milestone, the Contractor will be paid 90% of the agreed upon milestone.

Upon final acceptance, Contractor shall invoice the City for the 10% final acceptance hold-back payment.

## 015 SCHEDULE OF EVENTS

Following is a list of **projected dates/times** with respect to this RFCSP:

RFCSP Release	09/30/2015
Pre-Submittal Conference	Monday, 10/12/2015 at 10:00 AM. Central Time
Final Questions Accepted	Friday, 10/16/2015 at 2:00 PM. Central Time
Proposal Due	Monday, 11/2/2015 at 2:00 PM. Central Time



016 RFCSP EXHIBITS

RFCSP EXHIBIT 1

INSURANCE REQUIREMENTS

If selected to provide the services described in this RFCSP, Respondent shall be required to comply with the insurance requirements set forth below:

INSURANCE

A) Prior to the commencement of any work under this Agreement, Respondent shall furnish copies of all required endorsements and completed Certificate(s) of Insurance to the City's Finance Department, which shall be clearly labeled "Automated Cataloging Services 6100006568 015-099" in the Description of Operations block of the Certificate. The Certificate(s) shall be completed by an agent and signed by a person authorized by that insurer to bind coverage on its behalf. The City will not accept a Memorandum of Insurance or Binder as proof of insurance. The certificate(s) must be signed by the Authorized Representative of the carrier, and list the agent's signature and phone number. The certificate shall be mailed, with copies of all applicable endorsements, directly from the insurer's authorized representative to the City. The City shall have no duty to pay or perform under this Agreement until such certificate and endorsements have been received and approved by the City's Finance Department. No officer or employee, other than the City's Risk Manager, shall have authority to waive this requirement.

B) The City reserves the right to review the insurance requirements of this Article during the effective period of this Agreement and any extension or renewal hereof and to modify insurance coverages and their limits when deemed necessary and prudent by City's Risk Manager based upon changes in statutory law, court decisions, or circumstances surrounding this Agreement. In no instance will City allow modification whereby City may incur increased risk.

C) A Respondent's financial integrity is of interest to the City; therefore, subject to Respondent's right to maintain reasonable deductibles in such amounts as are approved by the City, Respondent shall obtain and maintain in full force and effect for the duration of this Agreement, and any extension hereof, at Respondent's sole expense, insurance coverage written on an occurrence basis, unless otherwise indicated, by companies authorized to do business in the State of Texas and with an A.M Best's rating of no less than A- (VII), in the following types and for an amount not less than the amount listed below:

TYPE	AMOUNTS
1. Commercial General Liability Insurance to include coverage for the following: a. Premises/Operations b. Products/Completed Operations c. Personal/Advertising Injury	For Bodily Injury and Property Damage of \$1,000,000 per occurrence; \$2,000,000 General Aggregate, or its equivalent in Umbrella or Excess Liability Coverage

D) Respondent agrees to require, by written contract, that all subcontractors providing goods or services hereunder obtain the same categories of insurance coverage required of Respondent herein, and provide a certificate of insurance and endorsement that names the Respondent and the CITY as additional insureds. Policy limits of the coverages carried by subcontractors will be determined as a business decision of Respondent. Respondent shall provide the CITY with said certificate and endorsement prior to the commencement of any work by the subcontractor. This provision may be modified by City's Risk Manager, without subsequent City Council approval, when deemed necessary and prudent, based upon changes in statutory law, court decisions, or circumstances surrounding this agreement. Such modification may be enacted by letter signed by City's Risk Manager, which shall become a part of the contract for all purposes.

E) As they apply to the limits required by the City, the City shall be entitled, upon request and without expense, to receive copies of the policies, declaration page, and all required endorsements. Respondent shall be required to comply with any such requests and shall submit requested documents to City at the address provided below within 10 days. Respondent shall pay any costs incurred resulting from provision of said documents.

City of San Antonio  
Attn: Finance Department  
P.O. Box 839966  
San Antonio, Texas 78283-3966

F) Respondent agrees that with respect to the above required insurance, all insurance policies are to contain or be endorsed to contain the following provisions:

- Name the City, its officers, officials, employees, volunteers, and elected representatives as additional insureds by endorsement, as respects operations and activities of, or on behalf of, the named insured performed under contract with the City, with the exception of the workers' compensation and professional liability policies;
- Provide for an endorsement that the "other insurance" clause shall not apply to the City of San Antonio where the City is an additional insured shown on the policy;
- Workers' compensation, employers' liability, general liability and automobile liability policies will provide a waiver of subrogation in favor of the City.
- Provide advance written notice directly to City of any suspension or non-renewal in coverage, and not less than ten (10) calendar days advance notice for nonpayment of premium.

G) Within five (5) calendar days of a suspension, cancellation or non-renewal of coverage, Respondent shall provide a replacement Certificate of Insurance and applicable endorsements to City. City shall have the option to suspend Respondent's performance should there be a lapse in coverage at any time during this contract. Failure to provide and to maintain the required insurance shall constitute a material breach of this Agreement.

H) In addition to any other remedies the City may have upon Respondent's failure to provide and maintain any insurance or policy endorsements to the extent and within the time herein required, the City shall have the right to order Respondent to stop work hereunder, and/or withhold any payment(s) which become due to Respondent hereunder until Respondent demonstrates compliance with the requirements hereof.

I) Nothing herein contained shall be construed as limiting in any way the extent to which Respondent may be held responsible for payments of damages to persons or property resulting from Respondent's or its subcontractors' performance of the work covered under this Agreement.

J) It is agreed that Respondent's insurance shall be deemed primary and non-contributory with respect to any insurance or self insurance carried by the City of San Antonio for liability arising out of operations under this Agreement.

K) It is understood and agreed that the insurance required is in addition to and separate from any other obligation contained in this Agreement and that no claim or action by or on behalf of the City shall be limited to insurance coverage provided..

L) Respondent and any Subcontractors are responsible for all damage to their own equipment and/or property.

## **RFCSP EXHIBIT 2**

### **INDEMNIFICATION REQUIREMENTS**

If selected to provide the services described in this RFCSP, Respondent shall be required to comply with the indemnification requirements set forth below:

#### **INDEMNIFICATION**

**RESPONDENT covenants and agrees to FULLY INDEMNIFY, DEFEND and HOLD HARMLESS, the CITY and the elected officials, employees, officers, directors, volunteers and representatives of the CITY, individually and collectively, from and against any and all costs, claims, liens, damages, losses, expenses, fees, fines, penalties, proceedings, actions, demands, causes of action, liability and suits of any kind and nature, including but not limited to, personal or bodily injury, death and property damage, made upon the CITY directly or indirectly arising out of, resulting from or related to RESPONDENT'S activities under this Agreement, including any acts or omissions of RESPONDENT, any agent, officer, director, representative, employee, consultant or subcontractor of RESPONDENT, and their respective officers, agents employees, directors and representatives while in the exercise of the rights or performance of the duties under this Agreement. The indemnity provided for in this paragraph shall not apply to any liability resulting from the negligence of CITY, its officers or employees, in instances where such negligence causes personal injury, death, or property damage. IN THE EVENT RESPONDENT AND CITY ARE FOUND JOINTLY LIABLE BY A COURT OF COMPETENT JURISDICTION, LIABILITY SHALL BE APPORTIONED COMPARATIVELY IN ACCORDANCE WITH THE LAWS FOR THE STATE OF TEXAS, WITHOUT, HOWEVER, WAIVING ANY GOVERNMENTAL IMMUNITY AVAILABLE TO THE CITY UNDER TEXAS LAW AND WITHOUT WAIVING ANY DEFENSES OF THE PARTIES UNDER TEXAS LAW.**

The provisions of this INDEMNITY are solely for the benefit of the parties hereto and not intended to create or grant any rights, contractual or otherwise, to any other person or entity. RESPONDENT shall advise the CITY in writing within 24 hours of any claim or demand against the CITY or RESPONDENT known to RESPONDENT related to or arising out of RESPONDENT's activities under this AGREEMENT and shall see to the investigation and defense of such claim or demand at RESPONDENT's cost. The CITY shall have the right, at its option and at its own expense, to participate in such defense without relieving RESPONDENT of any of its obligations under this paragraph.

**RFCSP EXHIBIT 3**

**SERVICE LEVEL AGREEMENT**

**ATTACHED AS A SEPERATE DOCUMENT**

**RFCSP EXHIBIT 4**  
**CITY SECURITY POLICIES**

Respondent shall identify any components within the proposed solution that do not meet CoSA Security standards (NIST 800-53A minimum requirements. Refer to link below for NIST 800-53A.

[http://csrc.nist.gov/publications/nistpubs/800-53-rev4/sp800-53r4\\_summary.pdf](http://csrc.nist.gov/publications/nistpubs/800-53-rev4/sp800-53r4_summary.pdf)

## RFCSP EXHIBIT 5

### NON-DISCRIMINATION

**Non-Discrimination.** As a party to this contract, {Contractor or Vendor} understands and agrees to comply with the Non-Discrimination Policy of the City of San Antonio contained in Chapter 2, Article X of the City Code and further, shall not discriminate on the basis of race, color, national origin, sex, sexual orientation, gender identity, veteran status, age or disability, unless exempted by state or federal law, or as otherwise established herein.

019 RFCSP ATTACHMENTS

RFCSP ATTACHMENT A, PART ONE

RESPONDENT QUESTIONNAIRE

1. **Respondent Information:** Provide the following information regarding the Respondent.

(NOTE: Co-Respondents are two or more entities proposing as a team or joint venture with each signing the contract, if awarded. Sub-contractors are not Co-Respondents and should not be identified here. If this proposal includes Co-Respondents, provide the required information in this Item #1 for each Co-Respondent by copying and inserting an additional block(s) before Item #2.)

Respondent Name: \_\_\_\_\_

(NOTE: Give exact legal name as it will appear on the contract, if awarded.)

Principal Address: \_\_\_\_\_

City: \_\_\_\_\_ State: \_\_\_\_\_ Zip Code: \_\_\_\_\_

Telephone No. \_\_\_\_\_ Fax No: \_\_\_\_\_

Website address: \_\_\_\_\_

Year established: \_\_\_\_\_

Provide the number of years in business under present name: \_\_\_\_\_

Social Security Number or Federal Employer Identification Number: \_\_\_\_\_

Texas Comptroller's Taxpayer Number, if applicable: \_\_\_\_\_

(NOTE: This 11-digit number is sometimes referred to as the Comptroller's TIN or TID.)

DUNS NUMBER: \_\_\_\_\_

Business Structure: Check the box that indicates the business structure of the Respondent.

Individual or Sole Proprietorship If checked, list Assumed Name, if any: \_\_\_\_\_

Partnership

Corporation If checked, check one:  For-Profit  Nonprofit

Also, check one:  Domestic  Foreign

Other If checked, list business structure: \_\_\_\_\_

Printed Name of Contract Signatory: \_\_\_\_\_

Job Title: \_\_\_\_\_

(NOTE: This RFCSP solicits proposals to provide services under a contract which has been identified as "High Profile". Therefore, Respondent must provide the name of person that will sign the contract for the Respondent, if awarded.)

Provide any other names under which Respondent has operated within the last 10 years and length of time under for each:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Provide address of office from which this project would be managed:

City: \_\_\_\_\_ State: \_\_\_\_\_ Zip Code: \_\_\_\_\_

Telephone No. \_\_\_\_\_ Fax No: \_\_\_\_\_

Annual Revenue: \$ \_\_\_\_\_

Total Number of Employees: \_\_\_\_\_

Total Number of Current Clients/Customers: \_\_\_\_\_

Briefly describe other lines of business that the company is directly or indirectly affiliated with:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

List Related Companies:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

2. **Contact Information:** List the one person who the City may contact concerning your proposal or setting dates for meetings.

Name: \_\_\_\_\_ Title: \_\_\_\_\_

Address: \_\_\_\_\_

City: \_\_\_\_\_ State: \_\_\_\_\_ Zip Code: \_\_\_\_\_

Telephone No. \_\_\_\_\_ Fax No: \_\_\_\_\_

Email: \_\_\_\_\_

3. Does Respondent anticipate any mergers, transfer of organization ownership, management reorganization, or departure of key personnel within the next twelve (12) months?

Yes \_\_\_ No \_\_\_

4. Is Respondent authorized and/or licensed to do business in Texas?

Yes \_\_\_ No \_\_\_ If "Yes", list authorizations/licenses.

\_\_\_\_\_  
\_\_\_\_\_

5. Where is the Respondent's corporate headquarters located? \_\_\_\_\_

6. **Local/County Operation:** Does the Respondent have an office located in San Antonio, Texas?

Yes \_\_\_ No \_\_\_ If "Yes", respond to a and b below:

- a. How long has the Respondent conducted business from its San Antonio office?

Years \_\_\_\_\_ Months \_\_\_\_\_

- b. State the number of full-time employees at the San Antonio office.

If "No", indicate if Respondent has an office located within Bexar County, Texas:

Yes \_\_\_ No \_\_\_ If "Yes", respond to c and d below:

- c. How long has the Respondent conducted business from its Bexar County office?

Years \_\_\_\_\_ Months \_\_\_\_\_



d. State the number of full-time employees at the Bexar County office. \_\_\_\_\_

**7. Debarment/Suspension Information:** Has the Respondent or any of its principals been debarred or suspended from contracting with any public entity?

Yes \_\_\_ No \_\_\_ If "Yes", identify the public entity and the name and current phone number of a representative of the public entity familiar with the debarment or suspension, and state the reason for or circumstances surrounding the debarment or suspension, including but not limited to the period of time for such debarment or suspension.

---

---

**8. Surety Information:** Has the Respondent ever had a bond or surety canceled or forfeited?

Yes \_\_\_ No \_\_\_ If "Yes", state the name of the bonding company, date, amount of bond and reason for such cancellation or forfeiture.

---

---

**9. Bankruptcy Information:** Has the Respondent ever been declared bankrupt or filed for protection from creditors under state or federal proceedings?

Yes \_\_\_ No \_\_\_ If "Yes", state the date, court, jurisdiction, cause number, amount of liabilities and amount of assets.

---

---

**10. Disciplinary Action:** Has the Respondent ever received any disciplinary action, or any pending disciplinary action, from any regulatory bodies or professional organizations? If "Yes", state the name of the regulatory body or professional organization, date and reason for disciplinary or impending disciplinary action.

---

---

**11. Previous Contracts:**

a. Has the Respondent ever failed to complete any contract awarded?

Yes \_\_\_ No \_\_\_ If "Yes", state the name of the organization contracted with, services contracted, date, contract amount and reason for failing to complete the contract.

---

---

b. Has any officer or partner proposed for this assignment ever been an officer or partner of some other organization that failed to complete a contract?

Yes \_\_\_ No \_\_\_ If "Yes", state the name of the individual, organization contracted with, services contracted, date, contract amount and reason for failing to complete the contract.

---

---

c. Has any officer or partner proposed for this assignment ever failed to complete a contract handled in his or her own name?

Yes \_\_\_ No \_\_\_ If "Yes", state the name of the individual, organization contracted with, services contracted, date, contract amount and reason for failing to complete the contract.

---

---

**REFERENCES**

Provide three (3) references, that Respondent has provided services to within the past three (3) years. The contact person named should be familiar with the day-to-day management of the contract and be willing to respond to questions regarding the type, level, and quality of service provided.

**Reference No. 1:**

Firm/Company Name \_\_\_\_\_

Contact Name: \_\_\_\_\_ Title: \_\_\_\_\_

Address: \_\_\_\_\_

City: \_\_\_\_\_ State: \_\_\_\_\_ Zip Code: \_\_\_\_\_

Telephone No. \_\_\_\_\_ Fax No: \_\_\_\_\_

Date and Type of Service(s) Provided: \_\_\_\_\_

\_\_\_\_\_

**Contact Email Address:** \_\_\_\_\_

**Reference No. 2:**

Firm/Company Name \_\_\_\_\_

Contact Name: \_\_\_\_\_ Title: \_\_\_\_\_

Address: \_\_\_\_\_

City: \_\_\_\_\_ State: \_\_\_\_\_ Zip Code: \_\_\_\_\_

Telephone No. \_\_\_\_\_ Fax No: \_\_\_\_\_

Date and Type of Service(s) Provided: \_\_\_\_\_

\_\_\_\_\_

**Contact Email Address:** \_\_\_\_\_

**Reference No. 3:**

Firm/Company Name \_\_\_\_\_

Contact Name: \_\_\_\_\_ Title: \_\_\_\_\_

Address: \_\_\_\_\_

City: \_\_\_\_\_ State: \_\_\_\_\_ Zip Code: \_\_\_\_\_

Telephone No. \_\_\_\_\_ Fax No: \_\_\_\_\_

Date and Type of Service(s) Provided: \_\_\_\_\_

\_\_\_\_\_

**Contact Email Address:** \_\_\_\_\_

## RFCSP ATTACHMENT A, PART TWO

### EXPERIENCE, BACKGROUND, QUALIFICATIONS

Prepare and submit narrative responses to address the following items. If Respondent is proposing as a team or joint venture, provide the same information for each member of the team or joint venture.

1. Length of time in business performing these types of services:
2. Length of time in business performing these types of services for major sports and/or entertainment facilities, if any:
3. Fully describe your company and experience as it relates to the following:
  - a. History of successful and stable company operation for a period of at least three (3) years.
  - b. History of past relations or agreements with the City.
  - c. History of past relations or agreements with other governmental entities.
4. Describe Contractor's experience relevant to the Scope of Services in this RFCSP, to include the following:
  - a. Indicate the number of years Contractor has provided similar services as defined in this RFCSP.
  - b. List and describe relevant contracts of similar size and scope performed over the past five (5) years.
  - c. List any accounts in which Contractor is a majority provider, but does not have a contract
  - d. Indicate the number of labor disputes within the past five (5) years in which the Contractor's involvement resulted in a work stoppage or reduction in service level. Provide explanation detailing the circumstances for each dispute, location, and outcome.
  - e. Indicate the type of services previously provided (i.e. custodial and/or supplemental conversion/labor)
5. Describe Contractor's affiliations with other convention and trade show industry service providers, such as decorator, audio/visual, or destination management companies. Include name of organization, extent of association as well as type of services provided by affiliate.
6. List other resources, including total number of staff, number and location of offices available to support this project.
7. If Contractor is bidding as a team or joint venture or has included sub-contractors, describe the rationale for selecting the team and the extent to which the team, joint venture, and/or sub-contractors have worked together in the past.
  - a. Indicate whether Contractor's proposed subcontractors or joint venture team members have ever been terminated from a contract prior to project completion within the past ten (10) years. If yes, provide the firm name and a brief explanation.
  - b. Indicate whether Contractor's proposed subcontractors or joint venture team members have ever failed to receive a contract extension or award for eligible phase work within the past ten (10) years. If yes, provide the firm name and a brief explanation.
8. Identify the number, type (i.e. professional, technician, para-professional, administrative), title, residency, professional qualifications (including education, experience, licenses, certifications, registrations, associations), duties/responsibilities, and amount of time of key staff to be devoted and/or assigned to this Agreement, and relevant experience on contracts of similar size and scope. Include the following:
  - a. Principal(s) in Charge
  - b. Team Supervisor(s)
  - c. Team Members

9. List other resources available including number and types of equipment available to support this project.
10. Include with bid a complete organizational chart for Services to be performed in association with this RFCSP. Contractor shall include all sub-contractors, unions, and staffing agencies as well.
11. Identify any additional skills, experiences, qualifications, and/or other relevant information about the Contractor's qualifications.
12. Indicate Contractor's availability. Include any present commitments that may conflict with Contractor's ability to begin immediately.

## RFCSP ATTACHMENT A, PART THREE

### PROPOSED PLAN

Respondent is required to provide a narrative response to the information presented in the Scope of Services as part of their Proposed Plan.

Describe the Respondent's bibliographic and authority databases. Indicate the number and types of records included in each database. Describe how the Library will access the bibliographic and authority databases.

Describe how the Respondent's service allows the Library to search for, create, and edit bibliographic and authority records in MARC format including records created according to the *Anglo-American Cataloging Rules, 2<sup>nd</sup> ed. Revised (AACR2)* or Resource Description and Access (RDA).

Describe the types of search methods available in the Respondent's system.

Describe how the Respondent's system validates MARC records and identifies MARC coding errors.

Describe how the Respondent's system provides context-sensitive help to users.

Describe the methods by which the Library will export bibliographic and authority records from the Respondent's databases to the Library's Millennium integrated library system.

Describe how the Library will add and delete its holdings in the Respondent's bibliographic database. Respondent must indicate if holdings maintenance can be done on an interactive, record-by-record basis and/or in batch.

Describe the batch editing capabilities of the Respondent's system.

Describe the Respondent's notification service by which the Respondent will provide the Library with upgraded bibliographic records on which the Library has set holdings. The notification service must include, but not be limited to, Cataloging-in-Publication (CIP) records that have been upgraded to full status and records to which Contents Notes (MARC tag 505) and/or Summary Notes (MARC tag 520) have been added.

Describe how the Respondent works with the Library's major print and media vendors to provide bibliographic records for shelf-ready materials cataloged and processed by these vendors. The Library's current major vendors are Baker & Taylor for print and Midwest Tape for media materials.

Describe how the Respondent will provide technical support.

Describe how the Respondent will accommodate the Library's commitment to participate in the Texas Group Catalog interlibrary loan program. Respondent must indicate if it provides a service to maintain holdings in the OCLC WorldCat database as part of Respondent's Automated Cataloging Services subscription or if it is available as a standalone service.

**RFCSP ATTACHMENT B**  
**CONTRACTS DISCLOSURE FORM**

Contracts Disclosure Form may be downloaded at <https://www.sanantonio.gov/efrms/atty/ContractsDisclosureForm.pdf> .

Instructions for completing the Contracts Disclosure form are listed below:

1. Download form and complete all fields. Note: All fields must be completed prior to submitting the form.
2. Click on the "Print" button and place the copy in proposal response as indicated in the Proposal Checklist.

**RFCSP ATTACHMENT C**

**LITIGATION DISCLOSURE FORM**

**Respond to each of the questions below by checking the appropriate box. Failure to fully and truthfully disclose the information required by this Litigation Disclosure form may result in the disqualification of your proposal from consideration or termination of the contract, once awarded.**

Have you or any member of your Firm or Team to be assigned to this engagement ever been indicted or convicted of a felony or misdemeanor greater than a Class C in the last five (5) years?

Yes  No

Have you or any member of your Firm or Team to be assigned to this engagement been terminated (for cause or otherwise) from any work being performed for the City of San Antonio or any other Federal, State or Local Government, or Private Entity?

Yes  No

Have you or any member of your Firm or Team to be assigned to this engagement been involved in any claim or litigation with the City of San Antonio or any other Federal, State or Local Government, or Private Entity during the last ten (10) years?

Yes  No

**If you have answered "Yes" to any of the above questions, please indicate the name(s) of the person(s), the nature, and the status and/or outcome of the information, indictment, conviction, termination, claim or litigation, as applicable. Any such information should be provided on a separate page, attached to this form and submitted with your proposal.**



## RFCSP ATTACHMENT D

### SUPPLEMENTAL INFORMATION RELATED TO THE STATE OF TEXAS CONFLICT OF INTEREST REQUIREMENT

The Instructions to Bidders section of this document provides information pertaining to a requirement to file the State of Texas Conflict of Interest Questionnaire (Form CIQ) required by Chapter 176 of the Texas Local Government Code. The Form CIQ is available from the Texas Ethics Commission at:

<http://www.ethics.state.tx.us/forms/CIQ.pdf>

In addition, please complete the City's Addendum to the Form CIQ and submit it with the Form CIQ to the City Clerk's Office. The City's Addendum to the Form CIQ can be found at:

<http://www.sanantonio.gov/atty/ethics/pdf/OCC-CIQ-Addendum.pdf>

**RFCSP ATTACHMENT E**

**PRICING SCHEDULE**

<b>Item 1: Automated Cataloging Services</b>		
<b>ITEM</b>	<b>ESTIMATED QUANTITY</b>	<b>PRICE</b>
1. INITIAL TERM OF SERVICE	Upon Award - September 30 2019	\$
2. RENEWAL YEAR 1	October 1, 2019 – September 30, 2020	\$
3. RENEWAL YEAR 2	October 1, 2020 – September 30, 2021	\$

<b>Item 2: Online Access</b>		
<b>ITEM</b>	<b>ESTIMATED QUANTITY</b>	<b>PRICE</b>
1. INITIAL TERM OF SERVICE	Upon Award - September 30 2019	\$
2. RENEWAL YEAR 1	October 1, 2019 – September 30, 2020	\$
3. RENEWAL YEAR 2	October 1, 2020 – September 30, 2021	\$

<b>Item 3: Batch Processing</b>		
<b>ITEM</b>	<b>ESTIMATED QUANTITY</b>	<b>PRICE</b>
1. INITIAL TERM OF SERVICE	Upon Award - September 30 2019	\$
2. RENEWAL YEAR 1	October 1, 2019 – September 30, 2020	\$
3. RENEWAL YEAR 2	October 1, 2020 – September 30, 2021	\$

<b>Item 4: Holding Registration</b>		
<b>ITEM</b>	<b>ESTIMATED QUANTITY</b>	<b>PRICE</b>
1. INITIAL TERM OF SERVICE	Upon Award - September 30 2019	\$
2. RENEWAL YEAR 1	October 1, 2019 – September 30, 2020	\$
3. RENEWAL YEAR 2	October 1, 2020 – September 30, 2021	\$

<b>ACCOUNT REPRESENTATIVE CONTACT INFORMATION</b>	
Vendor shall list the account representative information servicing the City's account if awarded this contract.	
Name/Title:	
Phone #:	Fax #:
Email:	

Please complete the following:

Prompt Payment Discount: \_\_\_\_\_% \_\_\_\_\_days. (If no discount is offered, Net 30 will apply)

**RFCSP ATTACHMENT F**

**SIGNATURE PAGE**

Respondent, and co-respondent, if any, must complete City's Certified Vendor Registration (CVR) Form prior to the due date for submission of proposals. The CVR Form may be accessed at: <http://www.sanantonio.gov/purchasing/>.

By submitting a proposal, whether electronically or by paper, Respondent represents that:

If Respondent is a corporation, Respondent will be required to provide a certified copy of the resolution evidencing authority to enter into the contract, if other than an officer will be signing the contract.

**IF AWARDED A CONTRACT IN RESPONSE TO THIS RFCSP, RESPONDENT CERTIFIES THAT IT IS ABLE AND WILLING TO COMPLY WITH THE VENUE, THE INSURANCE AND INDEMNIFICATION REQUIREMENTS SET OUT IN RFCSP EXHIBITS 1 & 2. A FAILURE TO COMPLY WITH THE VENUE, JURISDICTION AND ARBITRATION, INTELLECTUAL PROPERTY, UNDISCLOSED FEATURES, OWNERSHIP AND LICENSES, CERTIFICATIONS, ACCEPTANCE CRITERIA, INSURANCE AND INDEMNIFICATION REQUIREMENTS OF THIS RFCSP WILL RESULT IN REJECTION OF THE PROPOSAL. RESPONDENT UNDERSTANDS AND AGREES THAT THE TERMS CONTAINED IN THIS RFCSP ARE PART OF THE FINAL CONTRACT AND PREVAIL OVER ANY CONFLICTING TERMS IN ANY DOCUMENT FURNISHED BY RESPONDENT, EVEN IF NOT EXPRESSLY PROVIDED IN THE BODY OF THE CONTRACT.**

If awarded a contract in response to this RFCSP, Respondent will be able and willing to comply with all representations made by Respondent in Respondent's proposal and during Proposal process.

Respondent has fully and truthfully submitted a Litigation Disclosure form with the understanding that failure to disclose the required information may result in disqualification of proposal from consideration.

Respondent agrees to fully and truthfully submit the Respondent Questionnaire form and understands that failure to fully disclose requested information may result in disqualification of proposal from consideration or termination of contract, once awarded.

To comply with the City's Ethics Code, particularly Section 2-61 that prohibits a person or entity seeking a City contract - or any other person acting on behalf of such a person or entity - from contacting City officials or their staff prior to the time such contract is posted as a City Council agenda item.

(S)he is authorized to submit this proposal on behalf of the entity.

**Acknowledgement of Prohibition regarding Campaign and Officeholder Contributions**

If submitting your proposal by paper, complete the following and sign on the signature line below. Failure to sign and submit this Signature Page will result in rejection of your proposal.

\_\_\_\_\_  
Respondent Entity Name

Signature: \_\_\_\_\_

Printed Name: \_\_\_\_\_

Title: \_\_\_\_\_

Email Address: \_\_\_\_\_

(NOTE: If proposal is submitted by Co-Respondents, an authorized signature from a representative of each Co-Respondent is required. Add additional signature blocks as required.)

\_\_\_\_\_  
Co-Respondent Entity Name

Signature: \_\_\_\_\_

Printed Name: \_\_\_\_\_

Title: \_\_\_\_\_

Email Address: \_\_\_\_\_

If submitting your proposal electronically, through City's portal, Co-Respondent must also log in using Co-Respondent's log-on ID and password, and submit a letter indicating that Co-Respondent is a party to Respondent's proposal and agrees to these representations and those made in Respondent's proposal. While Co-Respondent does not have to submit a copy of Respondent's proposal, Co-Respondent should answer any questions or provide any information directed specifically to Co-Respondent.

\_\_\_\_\_  
Co-Respondent Entity Name

Signature: \_\_\_\_\_

Printed Name: \_\_\_\_\_

Title: \_\_\_\_\_

Email Address: \_\_\_\_\_

**RFCSP ATTACHMENT G**

**VOSBPP TRACKING FORM**

Veteran-Owned Small Business Preference Program (VOSBPP) Ordinance Pursuant to Ordinance No. 2013-12-05-0864, effective for solicitations issued after January 15, 2014, all solicitations issued by the City are subject to tracking of Veteran Owned Small Business (VOSB) participation.

For more information on the program, refer to the Veteran-Owned Small Business Program Tracking Form attached to this solicitation.

Respondent must complete and return the attached Veteran-Owned Small Business Program Tracking Form.

ATTACHED AS A SEPARATE DOCUMENT

**RFCSP ATTACHMENT H**

**PROPOSAL CHECKLIST**

Use this checklist to ensure that all required documents have been included in the proposal and appear in the correct order.

Document	Initial to Indicate Document is Attached to Proposal
Table of Contents	
Respondent Questionnaire RFCSP Attachment A Part 1	
Experience, Background, Qualifications RFCSP Attachment A Part 2	
Proposed Plan RFCSP Attachment A Part 3	
Discretionary Contracts Disclosure form RFCSP Attachment B	
Litigation Disclosure RFCSP Attachment C	
Supplemental Information RFCSP Attachment D	
Pricing Schedule RFCSP Attachment E	
*Signature Page RFCSP Attachment F	
*VOSBPP Tracking Form RFCSP Attachment G	
Proposal Checklist RFCSP Attachment H	
Proof of Insurability (See RFCSP Exhibit 1) Insurance Provider's Letter Copy of Current Certificate of Insurance	
Financial Information	
One (1) Original, Twelve (12) Copies and one (1) CD of entire proposal in PDF format.	

\*Documents marked with an asterisk on this checklist require a signature. Be sure they are signed prior to submittal of proposal.

# Exhibit B

Document as signed by Online Computer  
Library Center and received by the City of  
San Antonio in response to RFCSP  
61006568 V2 is incorporated by  
reference here.



## Appendix B – Scope of Offer

OCLC 20090225:01

### SCOPE OF OFFER

This proposal constitutes an offer to the City of San Antonio ("San Antonio").

This offer is provided by OCLC Online Computer Library Center, Inc. ("OCLC") in response to San Antonio's Request for Proposal #A-405-09 (the "RFP").

This proposal shall be governed by OCLC's standard terms and conditions for the products and services described in the proposal (included with OCLC's proposal) and the terms and conditions set forth in the RFP (with modifications noted by OCLC in its proposal).

If all of the terms contained in this proposal are acceptable to San Antonio, please have an authorized representative accept this proposal in writing. The terms of this proposal will remain in effect for 90 days after the closing date of the RFP. Any acceptance is expressly limited to the terms of this offer, and OCLC objects to any additional terms in such acceptance, though we would consider such terms during negotiations.

If representatives of San Antonio wish to discuss the modification of applicable OCLC terms or the introduction of additional terms, OCLC is willing to negotiate. Before any legally binding commitments are made, however, OCLC and San Antonio will work out mutually acceptable contracts.

The prices given in this proposal are the result of independent OCLC action and not the result of any undisclosed collusion between or among OCLC and any third parties.

To the best of OCLC's knowledge, no undisclosed conflict of interest between San Antonio and any of its employees will be caused by OCLC entering into negotiations with San Antonio.

Although the proposal may contain responses to the sections of the RFP dealing with specification requirements as requested, these responses are for San Antonio's evaluation purposes only. OCLC assumes that San Antonio and OCLC shall mutually develop and agree to final project specifications consisting of the RFP specifications to the extent accepted by OCLC and any other specifications or adjustments to the specifications required by San Antonio and OCLC.

OCLC's offer is contingent upon the contract being accepted by a legally competent and financially responsible entity. OCLC reserves the right to correct any errors or omissions in its proposal at any time.

## EXHIBIT C



## Appendix C - Terms and Conditions



**OCLC™**

The world's libraries.  
Connected.

**OCLC SYSTEM APPLICATION DIRECT**

Please check one (see Sections 1 and 3.2 of the User Agreement)

Please print or type

- Governing Member  
  Member  
  Participant  
 Batchloading  
  Yes  
  No

INSTITUTION NAME ("User")			
LIBRARY NAME (if different from Institution Name)			OCLC HOLDINGS SYMBOL (if any)
STREET ADDRESS			
CITY	STATE	ZIP/POSTAL CODE	COUNTRY
CONTACT PERSON		TITLE	
TELEPHONE NUMBER	FAX NUMBER	INTERNET ADDRESS	

**BILLING ADDRESS (IF DIFFERENT FROM ABOVE)**

INSTITUTION NAME			
STREET ADDRESS			
CITY	STATE	ZIP/POSTAL CODE	COUNTRY
CONTACT PERSON		TITLE	
TELEPHONE NUMBER	FAX NUMBER	INTERNET ADDRESS	

Is User considered exempt from tax in the country in which it is located?     Yes     No

By signing this form, User: (1) acknowledges that User has read and agrees to the terms set forth in the User Agreement, which accompanies this form, to become effective upon OCLC acceptance of User's order; (2) warrants that it has made no changes to the terms of such User Agreement; (3) orders access to the OCLC System, and such other Products as User may specify; and (4) warrants that it has the authority to enter into the User Agreement on behalf of libraries it has designated as Governing Members, Members or Participants herein.

INSTITUTION ("USER"): \_\_\_\_\_

Authorized Signature \_\_\_\_\_ Date: \_\_\_\_\_

Title: \_\_\_\_\_

Accepted By: OCLC ONLINE COMPUTER LIBRARY CENTER, INC.

\_\_\_\_\_ Date: \_\_\_\_\_

Cathy De Rosa, Vice President

## OCLC USER AGREEMENT

This OCLC User Agreement ("Agreement" or "User Agreement") applies to use of OCLC Products (as that term is defined herein) by User and Designated Libraries (see below). By signing the OCLC System Application to which this User Agreement is attached (hereinafter, the "Form"), User indicates that it has read and agreed to the terms and conditions set forth in this Agreement; it has made no changes to those terms and conditions; it orders access to the OCLC System, and such other Products as it may specify; and it warrants that it has the authority to enter into the User Agreement on behalf of libraries it has designated as Governing Members, Members or Participants herein.

• If User is an individual institution, the following applies:

If a User has elected "Governing Member" status, User may also designate additional libraries owned or operated by User as "Governing Members" of OCLC, as that term is defined in the OCLC Code of Regulations by listing such library or libraries below. If User has elected "Member" status, User may also designate additional libraries owned or operated by User as "Members" of OCLC, as that term is defined in the OCLC Code of Regulations by listing such library or libraries below. If User has elected "Participant" status, User may also designate additional libraries owned or operated by User as "Participants" in OCLC, as that term is defined in the OCLC Code of Regulations by listing such library or libraries below.

• If User is a consortium acting on behalf of the member libraries of the consortium, the following applies:

If a User has elected "Governing Member" status, User may also designate additional libraries who are members of the consortium represented by User as "Governing Members" of OCLC, as that term is defined in the OCLC Code of Regulations, by listing such library or libraries below. If User has elected "Member" status, User may also designate additional libraries who are members of the consortium represented by User as "Members" of OCLC, as that term is defined in the OCLC Code of Regulations, by listing such library or libraries below. If User has elected "Participant" status, User may also designate additional libraries who are members of the consortium represented by User as "Participants" in OCLC, as that term is defined in the OCLC Code of Regulations, by listing such library or libraries below.

**SECTION 1. DEFINITIONS.** For purposes of this Agreement, the following definitions shall apply:

A. "Batchloading" means the submittal by User or a Designated Library to OCLC, as specified in a Batchloading order form, of machine-readable tapes, files or other OCLC-approved media permitting input into WorldCat of the cataloging records of the User or Designated Library derived from sources other than WorldCat, and the actual input of such records.

B. "Current Cataloging" means all cataloging of bibliographic materials first performed or obtained by User or a Designated Library during the term hereof, regardless of the date of acquisition or imprint of the item cataloged, which cataloging is in alphabets capable of being processed by the OCLC System; provided, however, that Current Cataloging does not include the cataloging of materials to which User or a Designated Library (as applicable) customarily given less than the minimal level of cataloging as OCLC may specify for its users generally, or as may be agreed to from time to time.

C. "Designated Library" means a library listed in this User Agreement which is designated by User as a Governing Member, Member or Participant.

D. "First-time Update" and "First-time Use" means User's or a Designated Library's use of a catalog record in WorldCat®, for cataloging, where the record is not input by User or the Designated Library.

E. "Governing Member" means a Governing Member of OCLC, as such membership status is defined by the then-current OCLC Code of Regulations.

F. "Member" means a Member of OCLC, as such membership status is defined by the then-current OCLC Code of Regulations.

G. "OCLC-Derived Records" means all records stored in WorldCat® other than records designated in such catalog as original cataloging by User.

H. "OCLC Services" means personnel training and field services which are made available to OCLC users generally.

I. "OCLC Software" means programs, programming, routines, compilers and other software (together with related documentation) designed by or for OCLC, or acquired by OCLC,

copies of which are made available for use by OCLC users generally.

J. "OCLC System" means a computerized system for creating and maintaining a regularly updated database of bibliographic records, holdings and other information, and for creating certain related products, which system is accessible primarily through online telecommunications forming a part of the system.

K. "Offline Products" means those OCLC products which are derived from User's or a Designated Library's use of Online Processes, including cataloging products such as catalog cards and OCLC/MARC Subscription tapes or electronic transfer of catalog records.

L. "Online Cataloging" means use of the OCLC System to perform cataloging functions, online, from terminals and through telecommunications, which functions include, without limitation, the creation of catalog records and holdings information maintained within the OCLC System, and the editing of copies of catalog records.

M. "Online Processes" means processes performed by User or Designated Libraries online and by means of connection to the OCLC System, primarily involving access to and use of WorldCat®, including, but without limitation, cataloging, catalog card production, interlibrary loan (or "ILL"), acquisitions and serial control.

N. "Participant" means a Participant in OCLC, as such membership status is defined by the then-current OCLC Code of Regulations.

O. "Products" means, collectively, OCLC Services, OCLC Software, Offline Products, Online Processes and such other OCLC products and services as may be listed in OCLC's then-current price list.

P. "WorldCat®" means the database of bibliographic records, library holdings information, indexes and related files of information (including Authority file, local data records and Name Address Directory) maintained online in, and forming a part of, the OCLC System.

## SECTION 2. RESPONSIBILITIES OF OCLC.

**2.1. Access to OCLC System.** Subject to written OCLC acceptance of the Form and receipt from User of documentation requested by OCLC, OCLC shall provide User, and each Designated Library, access to the OCLC System, as defined below, for use by User, and each Designated Library, of the Online Processes, during regularly scheduled periods of operation, and shall provide User, and each Designated Library, Offline Products, OCLC Software and OCLC Services, in each case as reflected on OCLC's then-current price list(s). (Certain Online Processes, Offline Products, OCLC Software and OCLC Services may be subject to additional or different terms and conditions, which such terms and conditions will be provided at the time of order.) Delivery of all products by OCLC shall be F.O.B. shipping point. The OCLC System will be made available during OCLC's standard hours, a list of which will be provided to User; provided, however, that OCLC may suspend OCLC System availability for repair, maintenance or replacement.

**2.2 Technical Support to User.** OCLC will provide to User documentation and updates which OCLC makes generally available to OCLC users, and assistance in the preparation of documents required by OCLC, including a catalog profile and pack definition table for User and each Designated Library.

**2.3. OCLC/MARC Subscription Tapes/Electronic Transfer.** During the term hereof, OCLC will make available to User and each Designated Library upon a subscription basis with orders placed in advance, and upon a schedule applicable to all OCLC users, copies in OCLC/MARC format, on magnetic tapes or via electronic transfer, of the catalog records of User and each Designated Library which each has added to WorldCat by Online Cataloging, or to which each has, by such cataloging, attached its OCLC-assigned holdings symbol, since the date of the most recent OCLC/MARC subscription tape furnished or electronic transfer made to User or the Designated Library (as applicable) (or the date of the subscription, if no such tape has previously been furnished or transfer has been made).

**2.4. Other Products, Processes and Services.** New or additional OCLC products, processes or services may be added to and made available to User and Designated Libraries by OCLC under this Agreement by addition to OCLC's price list(s) by OCLC from time to time. Any such products, processes and services, shall be subject to the terms of this Agreement, and may be subject to supplemental agreements as required by OCLC. OCLC may delete products, processes or services from the price list(s) upon sixty (60) days' prior notice. Copies of OCLC Software may be made available to User and Designated Libraries on the terms set forth in (i) license agreements between User and OCLC to be signed by User or the Designated Library or (ii) license agreements between User and OCLC which need not be signed by User or the Designated Library, as OCLC may stipulate from time to time. As to certain OCLC Software, the license agreement may be submitted as a "tear-and-open" agreement which the User and OCLC intend to become effective upon the opening of the software and documentation package by the User or the Designated Library, or an electronic ordering document, which the parties intend to become effective upon placement of the order by User or the Designated Library.

## SECTION 3. RESPONSIBILITIES OF USER

**3.1. Standards.** User and each Designated Library shall abide by standards set forth in the version of OCLC's *Bibliographic Input Standards* in effect at the time of cataloging and by other applicable standards adopted by OCLC from time to time.

**3.2. (i)** If User elects Governing Member status and OCLC accepts such election and User's designation of libraries listed herein as Governing Members, User and each designated Governing Member agrees to comply with applicable protocols, requirements, procedures and policies established by OCLC pursuant to OCLC's then-current Code of Regulations. User and each designated Governing Member agrees to search WorldCat for all of its Current Cataloging to determine which of the catalog records required for Current Cataloging are available therein, and, to the extent not available therein, to create the records and insert them into WorldCat by means of online cataloging or batchloading. Whether such catalog records are already available in WorldCat or are created and inserted by User or a designated Governing Member, User agrees that it will and will cause each designated Governing Member to attach its OCLC-assigned holdings symbol to all catalog records in WorldCat required for Current Cataloging. User agrees that it will

and will cause each designated Governing Member to maintain its holdings information in WorldCat in an accurate and up-to-date condition, and to inform OCLC promptly of any errors in catalog entries in WorldCat which User or designated Governing Member is unable to correct online.

**(ii)** If User elects Member or Participant status and OCLC accepts such election and User's designation of libraries listed herein as Members or Participants, User and each designated Member or Participant agrees to comply with applicable protocols, requirements, procedures and policies established by OCLC pursuant to OCLC's then-current Code of Regulations. User and each designated Member or Participant shall be under no obligation to enter any of its Current Cataloging into WorldCat, but shall be free to do so by means of online cataloging or batchloading or any combination of the two. If User or any designated Member or Participant elects to create and insert into WorldCat any original catalog records, it will first search WorldCat fully to determine that the required records are not available therein, and User will and will cause each designated Member or Participant to attach its OCLC-assigned holdings symbol to all such records. If catalog entries made by User or a designated Member or Participant in WorldCat during this or a prior agreement are, at any time during the term hereof, no longer accurate and up-to-date, User agrees that it will and will cause each designated Member or Participant to correct the same online and to inform OCLC promptly of those records which it is unable to correct online.

Magnetic tapes for User's or a Designated Library's Batchloading, if any, shall be submitted on a quarterly or more frequent basis, shall be technically acceptable input products, with the stored records in a format acceptable to OCLC, and shall otherwise conform with any policies promulgated by OCLC from time to time for general application to OCLC users.

**3.3.** User agrees that it will not, and will not permit any Designated Library to access the OCLC System to perform services or provide assistance for or on behalf of any third-party, except with OCLC's prior written consent; provided, however, that such use for third-parties is permitted (a) where it generates an interlibrary loan request on the OCLC interlibrary loan subsystem and (b) where an OCLC-authorized processing center participant carries out Current Cataloging on behalf of its client users. User or a Designated Library is an authorized processing center participant only if it so states elsewhere in this Agreement or in a separate written agreement between the parties.

**3.4. Telecommunications and Terminals.** User and each Designated Library shall be responsible for arranging for and providing at its expense, subject to OCLC's approval, telecommunications connections and terminal equipment necessary for accessing the OCLC System.

**3.5. Terminal Printer Port.** User will not, except with OCLC's prior written consent, obtain, or permit a Designated Library to obtain, catalog records in machine-readable form, by way of a terminal or other device or means for accessing the OCLC System, when User's or a Designated Library's (as applicable) OCLC-assigned holdings symbol has not been accurately attached to such records in WorldCat.

## 3.6. Ownership and Use of the OCLC System.

**A.** Except as permitted in a separate agreement between User and OCLC, User and Designated Libraries will not cause or permit any equipment or device to be directly or indirectly attached, linked or used with the OCLC System.

**B.** User and Designated Libraries will not, except with OCLC prior written consent, make or permit any application or use of the OCLC System not expressly permitted by this Agreement, and will not, as a result of its activities hereunder, acquire any copyright, patent, secrecy or other proprietary right in the OCLC System or WorldCat.

**C.** Any computer facilities or software programs provided by User or a Designated Library for use with the OCLC System shall be without adverse effect on the System.

## SECTION 4. OCLC CHARGES

**4.1. Payments and Discount.** User and/or each Designated Library (as appropriate) will pay OCLC or its designee, in the currency set forth in OCLC's then-current price list, or such other

currency as may be deemed acceptable by OCLC (at an approved conversion rate), the aggregate charges for access, processes, products, license(s) and services furnished by OCLC under this Agreement, as set forth in OCLC's price list(s) in effect at the time of each transaction, copies of which price list(s) will be provided to User when issued.

**4.2. Modification of Charges.** OCLC may modify or add new such charges for existing processes, products and services, or change the form or method of charging, upon sixty-five (65) calendar days prior notice to User.

**4.3. Taxes and Other Charges.** All charges under this Agreement are exclusive of sales, use, excise and similar taxes and of customs, tariffs, impost fees and similar charges which may be applicable to the transactions dealt within this Agreement, all of which taxes, and charges, together with interest and penalties thereon, shall be for the account of User and/or each Designated Library (as appropriate) and reimbursed to OCLC. Such taxes and charges for which claims or assessments could be made against OCLC may be added to invoices to User and/or Designated Libraries (as appropriate) unless evidence of a valid exemption has been furnished to OCLC by User or the Designated Library. User may, at its own expense and in OCLC's name, challenge or seek abatement or refund of taxes for which it or a Designated Library is liable hereunder. OCLC shall cooperate with User in that regard by providing all relevant information that is available to OCLC. Each party's obligations under this Section 4.3 shall survive the expiration or termination of this Agreement. If User or a Designated Library withholds any taxes from any payment, then the price payable hereunder shall be deemed increased to an amount which, when reduced by the tax withheld from that amount, equals the full OCLC price otherwise due. For example, if the Agreement provides for a payment of One Hundred monetary units, and User or a Designated Library elects to withhold a twenty percent (20%) tax, then the contract price will be deemed to be One Hundred Twenty-five monetary units, of which One Hundred monetary units will be paid to OCLC and Twenty-five monetary units withheld as taxes.

## SECTION 5. USE AND TRANSFER OF RECORDS

**5.1. User's Rights and Responsibilities.** User agrees that the use and transfer by the User and Designated Libraries of the OCLC-Derived Records received from OCLC or otherwise obtained during the term of this or a preceding agreement with OCLC or an OCLC-affiliated distributor, network or organization will be in accordance with the *Guidelines for the Use and Transfer of OCLC-Derived Records* (or any substitute therefor) a copy of the current version of which is included in this Agreement. However, if, within sixty (60) days after receipt of a new revision of such document, User gives OCLC notice of termination of this Agreement in accordance with the terms hereof then the new revision of the document will not replace the existing version as to User and Designated Libraries. User's rights under this Section 5.1 include non-exclusive licenses permitting Designated Libraries to use, copy, display and distribute the catalog records and derivative works referred to herein under all copyrights owned or controlled by OCLC.

**5.2. Subsequent Restrictions.** If, during the term hereof, an institution from which OCLC acquires bibliographic records for addition to WorldCat informs OCLC that records it thereafter furnishes to OCLC will be subject to usage or transfer restrictions beyond or in addition to those applicable under this Section 5, and if OCLC nevertheless elects to accept such records for addition to the OCLC database, it will so notify User, with full details, after which, User's and Designated Libraries' rights to access, use and transfer such records will be subject to said usage and transfer restrictions. If, at any time during the sixty (60) day period after receipt of the notification from OCLC of such usage and/or transfer restrictions, User terminates this Agreement under Section 9 hereof, then, after giving its termination notice to OCLC, User will be under no further obligation (if any) to make or cause Designated Libraries to make cataloging use of any of the records which are subject to such restrictions.

**5.3. Survival.** The obligations under this Section 5 shall survive the expiration or termination of this Agreement.

## SECTION 6. WARRANTIES AND LIMITATIONS OF LIABILITY

**6.1. Limited Warranty.** Catalog cards, OCLC/MARC subscription tapes and other Offline Products will, at the delivery thereof, be free of errors or defects caused by OCLC or its suppliers. If any such products prove, within sixty (60) days after receipt of the item or

seventy-five (75) days after shipment as evidenced by OCLC's record of shipment, to have contained such defects or errors upon delivery, or are damaged or lost in transit, OCLC will either replace the item by reproducing it free of charge or, at OCLC's option, by requiring new online transactions with issuance of full credit. All other products and services are warranted as mutually agreed from time to time in the applicable order and agreement forms. THE FOREGOING OBLIGATIONS AS SET FORTH OR REFERENCED IN THIS SECTION 6.1 REPRESENT OCLC'S SOLE AND EXCLUSIVE LIABILITY FOR ANY DEFECT OR FAILURE IN OCLC ONLINE PROCESSES, OFFLINE PRODUCTS AND OTHER PRODUCTS AND SERVICES FURNISHED HEREUNDER OR UNDER THE APPLICABLE ORDER AND AGREEMENT FORMS REFERRED TO HEREIN.

**6.2. Disclaimer.** Except for the express warranties stated above or referenced in this Section 6, and the undertakings in Section 7 below, OCLC makes no express or implied representations or warranties with respect to the OCLC System, or OCLC Online Processes, Offline Products or other Products or services. All other warranties, including the WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR USE OR PURPOSE ARE HEREBY DISCLAIMED. OCLC SHALL NOT BE LIABLE FOR INDIRECT, INCIDENTAL OR CONSEQUENTIAL DAMAGES, EVEN IF ADVISED OF THE POSSIBILITY THEREOF AND REGARDLESS OF THE FORM OF ACTION, NOR SHALL IT BE LIABLE FOR EXEMPLARY DAMAGES, LOST REVENUE OR LOST DATA. OCLC shall not be liable to User or any Designated Library for any errors in WorldCat caused by the institutions from which records are received or acquired for inclusion in WorldCat. In the event that the exclusivity or limitation of liability or remedy set forth above is held to be unenforceable for any reason, then OCLC's total liability to User or a Designated Library in respect of any claim, regardless of the form of action, shall not exceed a refund of all payments made by User or the Designated Library (as applicable) to OCLC under this Agreement for three (3) months preceding the incident giving rise to such claim.

## SECTION 7. INFRINGEMENT UNDERTAKINGS AND GRANT OF LICENSE

**7.1. By OCLC.** OCLC agrees to defend and assume all of User's or Designated Library's (as applicable) liability, costs and expenses for any suit or claim brought or asserted against User or Designated Library on the ground that use of OCLC Online Processes, Offline Products or services, as furnished by OCLC hereunder or under the separate or supplementary agreements referred to in this Agreement, infringes any patent, copyright, trademark, secrecy or other proprietary interest of third parties, provided and upon the conditions that User or the Designated Library (as applicable) (i) promptly delivers to OCLC written notice of any claim of such infringement together with all infringement notices and other papers received by User or the Designated Library and (ii) gives OCLC all information and assistance reasonably requested, together with exclusive authority to investigate, settle and defend such claim. User or Designated Library may retain legal counsel, at its own expense, to participate in such defense provided doing so does not diminish OCLC's primary authority to conduct such investigation, defense and settlement negotiations. THE FOREGOING SETS FORTH OCLC'S ENTIRE LIABILITY TO USER AND DESIGNATED LIBRARIES FOR ANY ACTUAL OR ALLEGED INFRINGEMENT OF THE TYPES DEALT WITH IN THIS SECTION 7.

**7.2. By User.** User and/or Designated Library (as applicable) agrees to defend and assume all of OCLC's liability, costs and expenses for any suit or claim brought or asserted against OCLC on the ground that any information or data furnished to OCLC by User or a Designated Library, including any use, reproduction or transfer thereof by OCLC or its designees, infringes any copyright, trademark, secrecy or other proprietary interest of third parties, provided and upon the conditions that OCLC (i) promptly delivers to User or Designated Library written notice of any claim of such infringement, together with all infringement notices and other papers received by OCLC and (ii) gives User or Designated Library all information and assistance reasonably requested, together with exclusive authority to investigate, settle and defend such claim. OCLC may retain legal counsel, at its own expense, to participate in such defense provided doing so does not diminish User's or Designated Library's primary authority to conduct such investigation, defense and settlement negotiations. THE FOREGOING SETS FORTH USER'S AND DESIGNATED LIBRARY'S ENTIRE LIABILITY TO OCLC FOR ANY ACTUAL OR ALLEGED INFRINGEMENT OF THE TYPES DEALT WITH IN THIS SECTION 7.

**7.3. License Grant.** User and each Designated Library hereby grants to OCLC, other OCLC participants, non-participant users and OCLC designees an irrevocable, nonexclusive, royalty-free, sublicenseable, transferable, world-wide right to copy, display, publish, prepare derivative works from, distribute and use all bibliographic records, holdings and other information supplied to OCLC during the term of this Agreement by User or such Designated Library (or any entity acting on its/their behalf) under any copyright, patent, secrecy or other proprietary right therein owned or controlled by User and/or such Designated Library. User and each Designated Library represents to OCLC that it has all rights necessary to grant the license set forth in this Section 7.3.

**7.4. Survival of Rights and Obligations.** The rights and obligations under this Section 7 shall survive any expiration or termination of this Agreement.

#### **SECTION 8. RESPONSIBLE USE**

User agrees to comply, and to cause each Designated Library to comply, with any code of responsible use adopted by OCLC, a copy of which has been provided to User upon request, and to act in the use of the OCLC System, the Online Processes and Offline Products with good faith as to all other OCLC users, doing nothing to waste, diminish or cause harm to the shared beneficial interest of such other OCLC users. It is a duty of OCLC users to act cooperatively with each other and to avoid practices which have the effect either of shifting the burden of payment for OCLC products and services away from those receiving the same, or manipulating use of the OCLC System in ways which unreasonably and adversely affect its performance.

#### **SECTION 9. TERM AND TERMINATION**

**9.1. Term.** Subject to the balance of this Section 9, this Agreement shall remain in effect indefinitely, until terminated by either party entirely in its own discretion and for any reason whatsoever, upon not less than ninety (90) days' prior written notice to the other.

**9.2. Breach.** When a party in material breach has not corrected same or diligently taken necessary corrective action within twenty (20) days after notice of such breach, which action will enable the party to cure the breach within a reasonable time, or if the party becomes insolvent or is the subject of a bankruptcy, then the other party shall be entitled to seek appropriate relief under this Agreement and under applicable law, which relief includes, without limitation, termination of this Agreement by written notice, without liability therefor.

#### **SECTION 10. GENERAL**

**10.1. Applicable Law.** This Agreement shall be governed by the laws of the State of Ohio of the United States of America. All litigation of claims hereunder shall be brought solely in state or federal courts in Franklin County, Ohio, USA, unless otherwise provided for herein. The United Nations Convention on Contracts for the International Sale of Goods shall not apply.

**10.2. Entire Agreement.** This Agreement is the final, complete and exclusive statement of the agreement of the parties with respect to the subject matter hereof. No provision of this Agreement may be changed, modified or supplemented except by a writing signed by both parties, unless otherwise provided for herein.

**10.3. Export.** User assures OCLC that User and each Designated Library intends to use all software programs, bibliographic and other data and documentation, including all updates and revisions, provided by OCLC at any time and under any agreement, only in the country of such User and Designated Libraries as set forth in this Agreement, and that neither User nor any Designated Library ships, exports or reexports them, directly or indirectly, to any other country. OCLC's obligations to deliver Products and services hereunder are contingent upon OCLC obtaining the necessary licenses to do so.

**10.4. Survival.** The rights and obligations under Sections 4.3, 5, 6 and 7 of this Agreement shall survive the termination or expiration thereof.

**10.5. Force Majeure.** Neither party shall be liable for any failure or delay in performance hereunder (other than of an obligation to pay money) due to or resulting from any cause beyond its reasonable control including, but not limited to acts of God, acts of the other party, strikes, shortage or materials, actions of government, fire, adverse weather conditions or operational failure, provided that the party so affected notifies the other promptly of the commencement and nature of the cause, the corrective steps to be taken and the estimated duration of the delay.

**10.6. Notices.** Except as provided in the following sentence, any notices required or desired to be given by either party pursuant to this Agreement, shall be in writing and shall be deemed sufficient if delivered by hand or sent by certified mail, return receipt requested, to the address of the other party as set forth in the Form. Notwithstanding anything in this Agreement to the contrary, price lists and any notice required by Section 2.4 or 4.2 of this Agreement may be provided to User and Designated Libraries electronically or by any other means reasonably calculated to result in actual receipt.

**10.7. Effect of Waiver.** Except as otherwise expressly provided in this Agreement, no failure on the part of either party to exercise, and no delay in exercising, any right, privilege, or power under this Agreement precludes any other further exercise thereof, or the exercise of any other right, privilege, or power. Waiver by either party of any breach of any provision of this Agreement shall not constitute nor be construed as a continuing waiver or as a waiver of any other breach of any other provision of this Agreement.

#### **SECTION 11. ADDITIONAL TERMS APPLICABLE TO USERS ACTING ON BEHALF OF CONSORTIA MEMBERS**

If User is a consortium acting on behalf of the member libraries of the consortium, the following terms apply in addition to the other terms and conditions of the User Agreement:

**11.1** User agrees as agent for the member libraries of the consortium who are Designated Libraries under this User Agreement (the "Consortium Libraries") that each Consortium Library shall comply with the terms and conditions of this User Agreement. User warrants that it is authorized to bind Consortium Libraries to this User Agreement and shall indemnify OCLC from all loss, expense and damage arising from a breach of such warranty. User shall provide each Consortium Library with a copy of this User Agreement prior to OCLC's activation of relevant authorizations. User shall use its reasonable efforts to ensure that Consortium Libraries comply with this User Agreement. Subject to OCLC acceptance, each designation of a Consortium Library shall result in a direct contract between OCLC and that Consortium Library.

**11.2** User is not a buyer of OCLC products and services for resale, and shall not charge Consortium Libraries for OCLC products and services, nor for User's services as agent or other services provided by User in connection with OCLC products and services made available hereunder.

**11.3** User is not authorized to make any representations or contract commitments on behalf of OCLC, nor to sign or negotiate any changes to any OCLC terms. Any modifications proposed by any Consortium Library to the applicable OCLC terms and conditions shall be submitted in writing to OCLC in advance for OCLC's written prior approval.

**11.4** OCLC's retention of User's assistance in making OCLC products and services available hereunder is on a non-exclusive basis, and nothing in this Agreement shall limit OCLC's right to distribute products and services independent of User, including to Consortium Libraries.



# Guidelines for the Use and Transfer of OCLC-Derived Records

Revision of November 16, 1987

## I. GUIDELINES

(See Definitions in Part II below.)

1. Each member and nonmember library may use records without restriction, and may transfer records of its own holdings without restriction to other libraries.
2. In addition to transfers to libraries, each member and nonmember library may transfer records of its own holdings without restriction, to (a) member networks, (b) state and multi-state library agencies and (c) all other noncommercial firms.
  - a. Member networks may produce and transfer to any member library, copies on magnetic tape of records used or inserted into the OCLC database by the library. Each member network also may process records of the holdings of any member or nonmember library which has employed and agreed to pay it for that service, provided the member network has first signed either an individual agreement with the library, or a general agreement with OCLC, containing measures agreed upon by OCLC and the member network for protection of the records it has been employed to process. Any other use and transfer of records by member networks will be as provided in separate understandings with OCLC.
  - b. The use and transfer of records by library systems or projects operated by or under the aegis of one or more state or national library agencies will be as provided in separate understandings with OCLC. Such understandings may include (i) arrangements to incorporate state or national bibliographic databases into the OCLC system, (ii) paid-up licenses to use records in state or national programs (e.g., by means of payments for OCLC multi-institution tapes) and/or (iii) any other understandings that will facilitate state or national programs as well as the maintenance and enhancement of the OCLC database.
  - c. The use and transfer of records by any other organizations to which transfers are made under this Guideline 2 will be as provided in separate understandings with OCLC.
3. In addition, each member and nonmember library may transfer records of its own holdings to commercial firms which the library has employed and agreed to pay to process such records, provided that each commercial firm has first signed an individual agreement with the library, or OCLC has advised the library that the commercial firm has signed a general agreement with OCLC, in either case containing measures agreed upon by OCLC and the commercial firm for protection of the records it has been employed to process. In addition, each member and nonmember library may make any other transfers of records to commercial firms, subject to prior written agreements with OCLC. However, there is no requirement for prior written agreements (a) for transfers made under Guideline 1 above to libraries operated by commercial firms or (b) for transfers to commercial firms by former OCLC member libraries of records of their holdings, so long as the libraries maintain no continuing user status with OCLC.
4. When a nonmember organization makes bibliographic information available to OCLC which is subject to usage or transfer restrictions imposed by such nonmember organization, and OCLC nevertheless elects to accept the information for addition to the OCLC database, OCLC will notify libraries to which it makes the information available, and rights to use and transfer records based on such information will be subject to the same restrictions.
5. When transfers under Guideline 1 above are made to machine-readable union catalogs accessible by nonmember libraries, it is requested that machine-readable copies of the records of such union catalogs be submitted to OCLC. OCLC, at its own expense, will have the right to add such records to its database for all uses consistent with its chartered purposes.
6. The Guidelines above apply to all uses and transfers of records except where a mutually acceptable agreement establishing broader or narrower rights is made with OCLC relating to a specific product or service.

## II. DEFINITIONS

1. The term "**member library**" means a general member of OCLC as defined in its Code of Regulations.
2. The term "**nonmember library**" means any library other than a member library.
3. A "**member network**" is an OCLC-affiliated regional, state or multi-state library network organization which is in contract with OCLC to provide OCLC services and products, or to assist OCLC to provide such services and products, to general members of OCLC.
4. A "**commercial firm**" is any organization permitted, under applicable law, to operate on a for-profit basis.
5. The term "**records**" means bibliographic records and holdings data (including copies thereof) derived from the OCLC database, including derivative works made from such records, and either received in machine-readable form or converted by the transferee into machine-readable form. The term also includes such records when held only in eye-readable form, in the case of proposed transfers to commercial firms. However, records do not include, as to any member or nonmember library (a) bibliographic records designated in the OCLC database as original cataloging by such member or nonmember library and (b) bibliographic records derived by such member or nonmember library from sources other than the OCLC database and to copies of which in the OCLC database its holdings symbol has been attached by tapeloading. Such excluded records are freely transferable and are not dealt with in these Guidelines. OCLC-derived records held only in eye-readable form are freely transferable except to commercial firms.
6. The terms "**transfer**" and "**transfer of records**" refer to all sales, exchanges, gifts, sharing and other transfers, and all online access except online access provided to end-user patrons of a library in authorized possession of the records.