



OCLC WorldCat® Cataloging Partners

Terms and Conditions

Subscriber may order OCLC WorldCat Cataloging Partners by completing the relevant portions of the OCLC WorldCat Cataloging Partners Order Form (the "Order Form") and agreeing to these OCLC WorldCat Cataloging Partners Terms and Conditions (these "Terms"). Use of OCLC WorldCat Cataloging Partners is governed by these Terms. Please read these Terms carefully before acknowledging your acceptance. OCLC reserves the right to update these Terms at any time. OCLC reserves the right, within its sole discretion, to determine the eligibility and/or OCLC membership status of an institution wishing to subscribe to WorldCat Cataloging Partners.

1. Definitions

A. "Datafile" means an individual datafile or account for Subscriber.

B. "EDX" (the OCLC Electronic Data Exchange account) means the service offered by OCLC for the transfer of data via standard File Transfer Protocol (FTP) whereby OCLC provides an Electronic Data Exchange account into which OCLC posts bibliographic and authority records, label records, and reports. Subscriber retrieves files from the account via the Internet.

C. "Group" means the consortium of Group Members identified on the Order Form ordering the Products and Services by executing the Order Form and submitting it to OCLC.

D. "Group Administrator" means the lead institution in the Group as indicated on the Order Form. If receiving OCLC Group Services hereunder, the Group Administrator shall be included within the term "Group Member" for purposes of these Terms.

E. "Group Member" means any Subscriber for which the Group Administrator has completed the Order Form attached hereto and has complied with Section 7 below for purposes of binding such Subscriber to these Terms.

F. "OCLC" means OCLC Online Computer Library Center, Inc.

G. "Records" means OCLC bibliographic records provided by OCLC to the Subscriber.

H. "Service" means OCLC WorldCat Cataloging Partners as made available by OCLC to Subscriber under these Terms.

I. "Subscriber" means OCLC member libraries, institutions, or other end-users of OCLC products and services licensing access to the Service by agreeing to these Terms and submitting the accompanying Order Form to OCLC.

J. "Vendor" means wholesale booksellers and publishers who provide library materials through approval plans and firm orders from Subscribers, as detailed on the attached Order Form.

K. "WorldCat" means the OCLC Online Union Catalog.

2. The Service

A. Subscriber orders from OCLC, and OCLC, upon its acceptance of the attached Order Form, shall provide Subscriber the Service, pursuant to these Terms. The Service shall be provided in cooperation with the Vendors indicated on the attached Order Form and as amended from time to time.

B. Subscriber shall pay OCLC its published charges for the Service generally prevailing at the time the Service is furnished, as applicable to Subscriber, within thirty (30) days after the date of invoice. Accounts not paid within thirty (30) days after the date of invoice shall be deemed delinquent and are subject thereafter to interest charges of twelve percent (12%) per annum on the unpaid balance. OCLC reserves the right to suspend availability of the Service to a delinquent account upon prior written notice. Payments shall be made in U.S. dollars unless otherwise required by OCLC as indicated in invoices, price lists, or other written notices. Where payment for the Service is included in Subscriber's OCLC cataloging subscription pricing, these payment terms shall not apply and payment shall be as specified in the subscription pricing.

C. As applicable, Subscriber shall provide OCLC a tax exemption certificate evidencing any claimed exemption. If Subscriber is or becomes nonexempt from any sales, use or similar tax on the transactions subject to this order, it shall pay all such taxes, including as invoiced by OCLC, penalties and interest.

3. Usage Restrictions

A. Subscriber acknowledges that use and transfer of Records and other information from WorldCat received through the Service are subject to the "WorldCat Rights and Responsibilities for the OCLC Cooperative", as modified from time to time as a result of the policy review process described therein (the "Policy"). A copy of the current version of the Policy is available at the following url: <http://www.oclc.org/en-US/worldcat/community/record-use/policy.html>.

B. Subject to Subscriber's compliance with these Terms, OCLC grants to Subscriber a non-exclusive, revocable right to access and use the Service during the term hereof. OCLC reserves the right to suspend or discontinue without notice all or a part of the Service (or otherwise terminate this Agreement) at any time if OCLC reasonably believes that Subscriber is in breach of these Terms or may harm OCLC or anyone else.

C. Subscriber hereby authorizes OCLC to release the information contained on the attached Order Form or any part thereof, to Subscriber's designated Vendor(s), and further authorizes said Vendor(s) to release to OCLC such information it may possess regarding Subscriber and its Vendor orders, all as may be deemed necessary by OCLC to provide the Service to Subscriber.

D. OCLC and/or its suppliers retain all rights, title and interest in and to the Service.

4. Term and Termination

A. Subject to the balance of this Section 4, these Terms and the attached Order Form shall remain in effect indefinitely, until terminated by either OCLC or Subscriber entirely at its own discretion and for any reason whatsoever, upon not less than ninety (90) days prior written notice to the other. WorldCat Cataloging Partners Terms & Conditions

B. In the event a Subscriber's Vendor, as detailed in the attached Order Form, no longer participates in the Service, OCLC shall notify Subscriber of such change as soon as practicable. Termination of a Vendor's participation in the Service shall not affect Subscriber's participation if Subscriber is active with another participating Vendor.

5. Warranties and Disclaimers

A. The Service and data available through the Service and Records are provided "AS IS". Neither OCLC nor its suppliers warrant the completeness or accuracy of such data. OCLC DISCLAIMS ALL WARRANTIES, EXPRESS AND IMPLIED, CONCERNING THE SERVICE, THE DATA AVAILABLE THROUGH THE SERVICE AND RECORDS, INCLUDING WITHOUT LIMITATION, THE IMPLIED WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR USE. OCLC SHALL NOT BE LIABLE FOR INDIRECT, SPECIAL, INCIDENTAL, CONSEQUENTIAL OR TORT DAMAGES ARISING OUT OF OR IN CONNECTION WITH THIS AGREEMENT, INCLUDING, BUT NOT LIMITED TO, ANY DAMAGES FOR LOST PROFITS OR ANTICIPATED BENEFITS, EVEN IF OCLC HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. In no event (even if the limitations of liability provided in this Section 5 are held to be unenforceable) shall OCLC's liability under this Agreement exceed the refund of fees actually paid by Subscriber to OCLC for use of the Service.

B. Bibliographic data received by OCLC as a result of furnishing of the Service to Subscriber is (to the extent not prohibited by any written agreement between Vendor and Subscriber) permanently contributed to WorldCat for use in ways consistent with OCLC's corporate purposes set out in its Articles of Incorporation. Subscriber warrants that such uses will not infringe copyright or other proprietary interests of third parties.

6. Miscellaneous

A. These Terms, together with all attachments hereto and the attached Order Form, are the final, complete and exclusive statement of agreement of the parties with respect to the subject matter hereof. No provision thereof may be changed, modified, or supplemented except by a writing signed by both parties, unless otherwise provided for herein.

B. Neither OCLC nor Subscriber 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 of 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.

C. Any notices, desired or required to be given by either party pursuant to the attached Order or these Terms, shall be in writing, signed by the party giving notice, 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 on the Order.

D. These Terms shall be governed by and construed in accordance with the laws of the State of Ohio, without regard to its conflict of laws principles. The United Nations Convention on Contracts for the International Sales of Goods shall not apply.

7. Special Terms for Group Orders Only

Where a Group Administrator is ordering the Service on behalf of itself and Group Members, the below paragraphs apply.

Group Administrator may order the Service on behalf of Group Members by completing the relevant portions of the Order Form and agreeing to these Terms.

By placing a group order hereunder (and completing the Order Form attached hereto), Group Administrator orders the Service, in which case Group Administrator shall be licensed itself to use the Service, subject to the Terms set forth herein.

A. Group Member's Agreement. Group Administrator hereby agrees as agent for each Group Member that each Group Member shall comply with these Terms. Group Administrator warrants that it is authorized to bind Group Members thereto and shall indemnify OCLC from all loss, expense and damage arising from a breach of such warranty, and Group Administrator shall provide each Group Member with a copy of this Section and these Terms prior to OCLC's activation of the Service. Group Administrator shall ensure that Group Members comply with these Terms.

Where a Group Member is added to the Group subsequent to the Group Administrator's assent to these Terms, Group Administrator hereby agrees that as agent for the Group Member, Group Member shall comply with these Terms and Group Administrator will provide a copy of these Terms to Group Member upon becoming a Group Member.

B. Direct Contract. Subject to OCLC acceptance, each Order for Group Members shall constitute a direct contract between OCLC and the Group Member.

C. Resale. Group Administrator is not a buyer of the Service for resale.

D. Relationship. The relationship of the parties hereunder is that of independent contractors, and not employee/employer, agent/principal, partners, joint venturers or franchisor/franchisee. Group Administrator is not authorized to make any representations or contract commitments on behalf

of OCLC, nor to sign or negotiate any changes to these Terms. Any modifications proposed by any Group Member to these Terms shall be submitted in writing to OCLC in advance for OCLC's prior written approval.

E. Non-exclusivity. OCLC's retention of Group Administrator's assistance in making the Service available hereunder shall be on a non-exclusive basis, and nothing herein shall limit OCLC's right to distribute the Service independent of Group Administrator, including to Group Members.

F. Other Terms. OCLC shall have the rights and the benefit of all terms set forth in these Terms included in the Order Form, as amended by OCLC from time to time, with respect to this order as a whole and for WorldCat Cataloging Partners Terms & Conditions Group Administrator and each Group Member individually.

G. Confidential Terms. Group Administrator agrees to keep these Terms and prices of this order as confidential except as to Group Members, and to impose the same duty upon each Group Member.

8. Additional Terms for OCLC EDX Assessment

A. EDX consists generally of an individual Datafile for Subscriber, which OCLC maintains at an OCLC-determined site. Subscriber may download specific files to its local computer system, as defined in OCLC's EDX product description.

B. OCLC will publish EDX service technical specifications (protocols; file and record sizes; record names and headers; available telecommunications connections; etc.), scheduled availability, rules for currency, length of retention, frequency of downloading and transmission of data from the Datafile, security of authorizations and passwords, and other user requirements. These may be published either in hard-copy documentation, in service online documentation, or in both, and are subject to change.

C. Subscriber shall be responsible for arranging and paying for all computer facilities and telecommunications connections required to access and use EDX, and for complying with EDX's specifications and requirements and all associated specifications and requirements. Prior to Subscriber's first use of EDX, OCLC may test Subscriber's ability to comply with the specifications and requirements.

D. Without limitation, the following requirements apply:

(a) OCLC does not maintain or support the Internet; OCLC maintains and supports only the OCLC connection to it.

(b) OCLC EDX is user initiated. Subscriber is responsible for retrieving files according to EDX's prescribed schedule, and for complying with its other specifications and requirements.

E. Subscriber or OCLC, or both may terminate Subscriber's use of EDX at any time by giving the other party at least thirty (30) days prior written notice. OCLC may purge all data remaining in Subscriber's Datafile after such termination.

F. Subscriber shall access only its Datafile through EDX and only for the express EDX purposes that OCLC publishes. Subscriber and OCLC shall each keep Subscriber's EDX authorizations and passwords confidential and secure. Furthermore, Subscriber shall notify OCLC immediately if the confidentiality or security is breached. OCLC's sole liability for such breach shall be to replace the authorizations and passwords when it is made aware of the breach.

G. OCLC makes no guarantees regarding throughput, response time, availability, or performance; OCLC reserves the right to limit or suspend availability for operational reasons. OCLC will replace inaccurate or otherwise defective data that it provides to Subscriber, excluding data damaged or lost in transit, when the inaccuracy or defectiveness is caused through the fault of OCLC or its agent. Replacement may be made by reproducing the data, provided that Subscriber notifies OCLC of any inaccurate or defective data within sixty (60) days after shipment of such data, as evidenced by OCLC's record of shipment. Otherwise, data shall remain available to Subscriber in Subscriber's Datafile for downloading during specified retention periods, after which the data shall be available under OCLC's out-of-warranty service, in both cases for the then prevailing charges.

OCLC SHALL HAVE NO OTHER OBLIGATION AND MAKES NO OTHER EXPRESS WARRANTY REGARDING EDX, AND DISCLAIMS ALL IMPLIED WARRANTIES, INCLUDING THE WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE. OCLC SHALL NOT BE LIABLE FOR CONSEQUENTIAL, INCIDENTAL OR EXEMPLARY DAMAGES ARISING FROM SUBSCRIBER'S USE OF EDX, WHETHER BASED ON CONTRACT OR TORT.

H. OCLC may make changes in EDX, the OCLC telecommunications network, software, or other parts of the OCLC system and its access mechanisms (including telecommunications and terminal codes and protocols, data screens, formats, etc.), which changes might interfere with Subscriber's ability to communicate with OCLC for EDX. Furthermore, to maintain performance levels, such revisions might require significant changes to the link or network that Subscriber provides. OCLC shall provide Subscriber, as soon as practicable in advance, information about any revisions planned by OCLC and which OCLC believes would require material changes to the link or network that Subscriber provides.