Clause 1. General

1.1 In these terms and conditions (the 'Conditions'), the following expressions shall have the following meaning:

"Agreement" means the agreement concluded between OCLC (UK) and the Customer in accordance with clause 1.2 of the Conditions;

"Customer" means the legal entity identified as such on the Order Form;

"Database" means the database to be accessed through the UnityUK Service;

"Documentation" means any documentation or information on the use or operation of the UnityUK Service;

"Intellectual Property Rights" means copyrights, database rights, patents, rights in trade marks, trade names, business names, brand names, logos, designs, domain names, publication rights, rights of publicity and privacy, rights in know how, trade secrets and confidential information and all other forms of intellectual property rights having equivalent or similar effects to any of the foregoing which may exist anywhere in the world;

"Locations" means the offices and other locations where the Customer is accommodated;

"OCLC (UK)" means OCLC (UK) Ltd (a private company with limited liability registered in England and Wales under company number 498573) whose registered office is at 861 Ecclesall Road, Sheffield S11 7AE, England;

"Order Form" means the standard form supplied by OCLC (UK) and signed by the Customer to order the Services;

"Services" means the services provided by OCLC (UK) by which access to the UnityUK Services is provided;

"Subscription Year" means a period of one year commencing either on 1 April or 1 May of a year and expiring on 31 March or 30 April respectively of the following year, as indicated on the Order Form and/or invoice;

"TCR" means The Combined Regions Limited, a partnership organisation representing regional public library organisations and other institutions across the UK;

"UnityUK Services" means the OCLC (UK) interlibrary loan solution in the United Kingdom that is offered in conjunction with TCR;

and "UnityUK Content" means the Database and any other data, information, software and materials on the UnityUK Service.
1.2 An agreement (the "Agreement") is concluded only upon (i) the signing of the Order Form by duly authorised representatives of each party, (ii) the performance of the Services by OCLC (UK), or (iii) receipt by OCLC (UK) of payment for the Services, whichever occurs earlier. The Customer shall acquire and OCLC (UK) shall provide the Services in accordance with the Agreement. The Agreement shall be subject to the Conditions, which shall form part of the Agreement and govern the Agreement to the exclusion of any other terms and conditions. In the event of a conflict or ambiguity between the Agreement and the Conditions, the Agreement shall prevail over the Conditions.

Clause 2. Prices and Payment

2.1 The prices for the Services are as quoted by OCLC (UK), or, where no prices have been quoted or a quoted price is no longer valid, as set forth in the UnityUK price list current at the date of conclusion of the Agreement. All prices are exclusive of VAT and any other governmental levies, if applicable.

2.2 OCLC (UK) reserves the right to adjust its prices annually generally in line with inflation. In addition, OCLC (UK) reserves the right to adjust its prices annually as a result of a change in the Services, the UnityUK Service or any increase in costs for OCLC (UK), no such price adjustment to be made unless agreed with TCR.

2.3 The annual fee for the Services shall be paid in advance and shall be invoiced by OCLC (UK) at the beginning of a Subscription Year. In the event an Agreement is entered into in the course of a Subscription Year, any payment for the period expiring on the end of the first Subscription Year due by the Customer shall be a proportional part of the annual fee. All other fees shall be invoiced by OCLC (UK) and paid by the Customer in accordance with the Order Form or as otherwise agreed between the parties.

2.4 Payment is due within 30 days of the invoice date, provided the invoice is posted to the Customer within 24 hours of the invoice date.

2.5 A Customer failing to pay within the term specified in clause 2.4 shall be deemed to be in default, without any notice of default being required. Without prejudice to any other rights or remedies of OCLC (UK), the Customer shall be liable to pay interest to OCLC (UK) at the rate of 3% per annum above the base rate of Barclays Bank plc then in effect from the date of the invoice until the outstanding amount is paid in full. In addition, OCLC (UK) shall, without prejudice to any of its other rights or remedies, be entitled to suspend performance of the Services immediately.

2.6 In the event of late payment, the Customer shall compensate OCLC (UK) for all reasonable costs and expenses (including legal fees, court fees, fees of debt-collections agencies, etc.) incurred by OCLC (UK) in collecting or attempting to collect amounts outstanding.

Clause 3. Use of UnityUK Services

3.1 OCLC (UK) hereby grants the Customer for the term of the Agreement, a non-exclusive, non-transferable licence to access and use the UnityUK Service (including the UnityUK Content) and the Documentation within its own organisation for purposes of bibliographic searching and interlending under the terms and conditions of the Agreement (including these Conditions). A licence gives the Customer the right to access the UnityUK Service by one simultaneous user. Except as and only to the extent expressly permitted in the Agreement (including the Conditions) or by applicable law, the Customer is explicitly forbidden, either on its own or by engaging third parties, to copy, reproduce, disclose, modify, exploit or make available in any way, the UnityUK Service (including the UnityUK Content) or the Documentation, or any part thereof. Except as and only to the extent expressly permitted
in the Agreement (including these Conditions) or by applicable law, the Customer may not copy, decompile, reverse engineer, disassemble, modify or create derivative works on the software, or part thereof, forming part of or connected to the UnityUK Service.

3.2 In addition, in so far as the Customer has subscribed to one of the public access services of UnityUK, OCLC (UK) shall grant the Customer the non-exclusive right to make the UnityUK Service (including the UnityUK Content) public to the natural persons who have subscribed with the Customer or who are otherwise authorised to make use of the services of the Customer (together, the "End-users") for the purposes as set out in the Documentation, for personal use only and in accordance with the restrictions as set out in the Agreement and as otherwise notified by OCLC (UK) from time to time. The Customer shall procure that the End-users observe any such restrictions. The UnityUK Service (including the UnityUK Content) may only be accessed on the Locations. Remote access will only be permitted to the extent set out in the Documentation and agreed in the Order Form, and only with use of adequate security measures, including use of a user name or number and password.

3.3 The Customer shall comply with all reasonable standards, guidelines and instructions with respect to the use of the UnityUK Service (including the UnityUK Content) and the Documentation, as published or notified by OCLC (UK) from time to time.

3.4 The Customer shall only provide access to the UnityUK Service or the Documentation to its employees who require such access for the performance of their function and, in case clause 3.2. applies to authorised Endusers. The Customer shall take all reasonable technical and organisational measures required to prevent any other persons or third parties from gaining access to the UnityUK Service (including the UnityUK Content) or the Documentation.

3.5 Each party shall take reasonable efforts not to corrupt or interfere with the operation of the UnityUK Service or expose the UnityUK Service to any viruses, worms or other computer applications, which might interrupt, limit or interfere with the functionality of the UnityUK Service.

3.6 OCLC (UK) gives no warranty on the availability of the UnityUK Service (including the UnityUK Content) or any part thereof. The UnityUK Services (including the UnityUK Content) shall in any event not be available during planned downtime.

3.7 Nothing in the Agreement (including the Conditions) shall give the Customer any right to the UnityUK Service (including the UnityUK Content) or the Documentation, other than expressly stated therein.

3.8 The Customer shall hold OCLC (UK) harmless and fully indemnified against any damage or loss arising out of third party claims with respect to the unlawful use of the UnityUK Service or any part thereof, or the use of the UnityUK Service or any part thereof other than in accordance with these Conditions.

Clause 4. Database

4.1 The Customer shall keep the Database (cataloguing data as well as location data) up-to-date with respect to any titles added or removed from library stock. The Customer shall use its reasonable endeavours to ensure that such data are complete, accurate and correct.

4.2 The Customer shall comply with all reasonable standards, guidelines and instructions with respect to the entry, disclosure or transfer of data in the Database, as published or notified by OCLC (UK) from time to time. The Customer shall at all times comply with any data protection legislation applicable to the use of the data.
4.3 All data entered into the Database by or on behalf of the Customer become part of the Database and the Customer hereby provides OCLC (UK), in as far as necessary, a perpetual, royalty-free, transferable, worldwide licence to use and exploit the data without limitation (including, but not limited to, the right to sub-licence the data or otherwise make the data available to third parties). Without prejudice to the licences granted to use the data in the Database, OCLC (UK) shall be the owner of all rights, including Intellectual Property Rights, to the Database (including the data entered into the Database by or on behalf of the Customer).

4.4 OCLC (UK) shall use its reasonable endeavours to keep the Database complete, accurate and up-to-date. OCLC (UK) does however not warrant that the data in the Database are complete, accurate or up-to-date.

4.5 OCLC (UK) shall use its reasonable endeavours to protect the Database from damage to or destruction of data files.

Clause 5. Usernames and passwords

5.1 The Customer will receive usernames and passwords following attendance at a training event. Additional licenses purchased and therefore requiring additional usernames and passwords will be issued following receipt of an Order by OCLC (UK).

5.2 Usernames and passwords shall be kept confidential. OCLC (UK) and the Customer shall take all reasonable measures to prevent any unauthorised access to or use of the usernames and passwords provided to the Customer.

5.3 Should the Customer suspect any unauthorised access to or use of any usernames or passwords, it will notify OCLC (UK) as soon as reasonably practicable. Should OCLC (UK) receive notice of the Customer or suspect unauthorised access or use itself, it shall immediately block access to the UnityUK Service for such usernames and passwords. After the user number and passwords have been blocked, OCLC (UK) shall provide the Customer with replacement usernames and passwords.

5.4 If any unauthorised use of the usernames and passwords is attributable to the Customer, the Customer shall pay OCLC (UK), without prejudice to any other rights of OCLC (UK), a reasonable administrative fee to cover the costs of blocking and replacing the usernames and passwords, as well as the costs of the unauthorised use.

Clause 6. Support

6.1 OCLC (UK) shall provide the Customer with training manuals on operating the UnityUK Services.

6.2 OCLC (UK) offers training events on the use of the UnityUK Service on the terms and conditions as published on the website: www.thecombinedregions.com.

6.3 The Customer may submit questions with regard to the use of the UnityUK Service, in accordance with the support services agreed with the Customer. These questions shall at all times be dealt with as soon as possible during office hours (Mondays through Fridays from 9.00 – 17.30 hours, with the exception of bank or public holidays in England and notified days), by specialist employees of OCLC (UK).

6.4 OCLC (UK) may appoint a competent third party to provide the support services described above on its behalf.
Clause 7. Intellectual Property Rights

7.1 The ownership of, and all Intellectual Property Rights in, the UnityUK Service (including the UnityUK Content) and the Documentation shall at all times vest in TCR, OCLC (UK) or its licensors, as appropriate.

7.2 OCLC (UK) will at its own expense settle or defend any claim brought against the Customer that any Intellectual Property Right in software developed by OCLC (UK) infringes an Intellectual Property Right of a third party and, unless the claim is the result of the use of the Intellectual Property Rights by the Customer other than in accordance with the Agreement (including these Conditions) or the claim is the result of the use of the Intellectual Property Rights in combination with other products not provided by OCLC (UK) under the Agreement, shall pay the Customer the damages awarded by the court or agreed in the context of the settlement, provided that the Customer:

- as soon as reasonably practicable informs OCLC (UK) in writing of a (potential) claim;

- allows OCLC (UK) the sole conduct of the defence to any claim or proceedings in respect of the infringement;

- gives OCLC (UK) such assistance as it shall require in respect of the conduct of the defence; and

- does not make any statements and does not acknowledge any liability, right or fact without OCLC (UK) 's prior written consent.

The rights of the Customer in the previous sentence shall not exist in respect of software in which OCLC (UK) does not own the Intellectual Property Rights.

7.3 Under no circumstance shall OCLC (UK) be liable in respect of an infringement of an Intellectual Property Right of a third party other than as specified in clause 7.2.

Clause 8. Limitation of liability

8.1 OCLC (UK) will correct any material nonconformities between the Services provided to the Customer and the applicable description for such Services, provided the Customer notifies OCLC (UK) of such nonconformities in writing within ninety (90) days after receipt of initial access to the UnityUK Service. Failure to provide such notice shall mean the Customer's acceptance of the Services. Upon nonacceptance of the Services by the Customer, OCLC (UK) shall refund any amounts paid for such Services and access to the UnityUK Service shall be blocked.

8.2 As and to the extent permitted by law, OCLC (UK) makes no warranties, express or implied, including warranties of availability or fitness for a particular purpose of the Services, the UnityUK Service (including the UnityUK Content) or the Documentation, and expressly disclaims all such warranties.

8.3 Clause 8.1 sets forth OCLC (UK)'s sole liability with respect to the Services, the UnityUK Service (including the UnityUK Content) and the Documentation, and the quality thereof.

8.4 To the extent that such liability may be excluded or restricted by law, OCLC (UK) excludes all liability for any loss or use, profits, data, business, goodwill, opportunity or anticipated savings and for any indirect, incidental or consequential loss or damage, whether arising in contract, tort (including negligence) or otherwise, in respect of the UnityUK Service (including the UnityUK Content and the Documentation). OCLC (UK) does not limit its liability for fraud or for liability arising in respect of
death or personal injury caused by its negligence.

8.5 Subject to clause 8.4, in respect of any liability not excluded hereunder, or if any of the exclusions contained in the Agreement (including the Conditions) shall be held to be invalid and OCLC (UK) is held liable for any loss or damage that may lawfully be limited, such liability shall be limited to the amount refunded under the liability insurance of OCLC (UK), and, in any event, to an aggregate amount of £5,000.

Clause 9. Confidentiality

9.1 Each party shall keep all information with respect to the other party and this Agreement that is reasonably to be considered confidential or is identified as being confidential, including, but not limited to, all source codes, object codes and technical data and/or documentation.

9.2 The parties shall ensure that their respective employees and agents comply with the obligation in clause 9.1.

9.3 The obligations in clauses 9.1 and 9.2 shall continue to apply after termination of the Agreement.

Clause 10. Force majeure

10.1 Neither party shall be obliged to fulfil any obligation if it is prevented from doing so as a result of force majeure. A force majeure event means any event which is beyond the reasonable control of a party under the Agreement and prevents performance by such party, and includes, but is not limited to, weather conditions, natural disasters, riots, acts of war, acts of Government, acts of terrorism, industrial disputes (not being an industrial dispute only affecting the workforce of the party claiming force majeure), epidemics, fire, hacking, power failures and failures of telecommunication providers. Force majeure also includes a non-attributable failure on the part of the party's suppliers.

10.2 Each party may terminate the Agreement by written notice to the other party if the force majeure lasts for more than ninety consecutive days. The Customer shall pay any amounts for Services performed up to the date of termination.

Clause 11. Term and Termination

11.1 The Agreement shall come into force on the date specified in the Agreement and shall stay in force until terminated in accordance with this clause 11.

11.2 Each party may terminate the Agreement by registered letter to the other party at the end of a Subscription Year, taking into account a notice period of 3 months. A termination notice which is received after the 3 month notice period, will not come into effect until the end of the next Subscription Year. If termination is done in writing by unregistered letter or e-mail the termination needs the written confirmation of OCLC in order for the termination to become effective.

11.3 Without prejudice to any other rights of a party under the Agreement, each party may terminate the Agreement if the other party fails to fulfil a material obligation under the Agreement after it has been properly notified thereof, in writing and with details of the grounds for termination, and has been granted a period of 30 days to remedy the failure.

11.4 Without prejudice to any other rights of a party under the Agreement, each party may terminate the Agreement with immediate effect if the other party (i) becomes insolvent or goes into liquidation; (ii) makes a voluntary arrangement with its creditors; or (iii) an encumbrancer takes possession, or a receiver
or administrative receiver is appointed, of any of the property or assets or such party.

11.5 Termination of the Agreement shall not affect the parties' rights to enforce the performance of any obligation arising prior to termination.

**Clause 12. Miscellaneous**

12.1 The validity, construction and performance of the Agreement (including the Conditions) shall be governed by English law and the parties submit to the non-exclusive jurisdiction of the English courts in respect thereof.

12.2 Should any provisions of the Agreement (including the Conditions) be invalid or unenforceable in whole or in part, the other provisions in the Agreement (including the Conditions) shall not be affected and shall remain in full force.

12.3 The Agreement (including the Conditions) constitutes the entire agreement and understanding of the parties relating to the subject matter of the Agreement and supersedes all prior oral or written agreements, representations, understandings or arrangements between the parties relating to the subject matter of the Agreement, and each of the parties acknowledges that it has not been induced to enter into this Agreement by reason of any representation made by or on behalf of the other party.

12.4 The parties acknowledge that they are not relying on any agreement, understanding arrangement, warranty, representation or term which is not set out in the Agreement (including the Conditions).

12.5 Nothing in this Agreement shall create evidence or imply any agency, partnership or joint venture between the parties.

12.6 No variations to the Agreement (including the Conditions) shall be effective unless it is in writing and duly signed by both parties.

12.7 Nothing in the Agreement (including the Conditions) shall confer or purport to confer on any third party any benefit or right to enforce any term of the Agreement (including any of the Conditions).

**ADDENDUM T&CS ADDITIONAL SERVICE / FULL SERVICE: WORLDCAT.ORG PARTICIPATION**

**Clause 1: Applicable Terms and Conditions, Definitions**

The terms and conditions set out below ("Addendum Conditions") are in addition to the above (UnityUK) Conditions. In the event of a conflict or an ambiguity between the Addendum Conditions and the (UnityUK) Conditions the Addendum Conditions shall prevail to the extent of such conflict or ambiguity.

Defined terms shall have the meaning attributed to them in the (UnityUK) Conditions. In addition, the following expressions shall have the following meaning in this Addendum:

"Data" means the total of Customer's holding data and other bibliographic records, including updates thereof, as incorporated in UnityUK;

"WorldCat" means the bibliographic database of MARC records built and maintained by OCLC Inc and its members;
"OCLC Inc" means OCLC Online Computer Library Center, Inc., headquartered in Dublin, Ohio, USA;

"OCLC" means OCLC Inc. and/or OCLC (UK), as applicable.

Clause 2: Rights and Obligations

1. OCLC will load Customer's Data into WorldCat, add the holdings to WorldCat and expose the bibliographic records and holdings in WorldCat.org.

2. Through the continuous contribution of the Data under this Agreement Customer meets the current requirements for OCLC Membership as established by OCLC. The current version of OCLC's Membership and Governance Protocols is located at http://www.oclc.org/us/en/membership/membership_protocols.pdf. As a condition of obtaining and retaining status as an OCLC member, Customer agrees that Customer will comply with all rules, requirements, protocols, standards and policies applicable to Members established by OCLC.

Clause 3: Fees

1. Customer will not charge OCLC any fee for the supply of data, nor will OCLC charge Customer for the integration of the data in WorldCat.

2. A full package subscription to UnityUK will cover Customer's inclusion in WorldCat and exposure of its Data in WorldCat.org per Subscription Year.

Clause 4: Intellectual Property Rights

Customer will not acquire any copyright, patent or any other right or interest in or to WorldCat as a result of his activities hereunder or any other circumstance.

Clause 5: Term and Termination

This Addendum shall commence on the moment of acceptance by Customer and OCLC and shall stay in force until terminated in accordance with clause 11 of the (UnityUK) Conditions.

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