

WorldCat® Delivery to Libraries Terms and Conditions

Subscriber may order delivery of MARC records by completing the relevant portions of the Delivery Order Form (the "Order Form"), paying the agreed upon pricing, and agreeing to these WorldCat Delivery to Libraries Terms and Conditions (the "Terms"). OCLC reserves the right to update these Terms at any time. The most current version will be available here or at http://www.oclc.org/support/forms/pdf/cpp_terms.pdf. 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 Delivery to Libraries.

1. Definitions

- A. "Datafile" means an individual datafile or account for Subscriber.
- B. "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.
- C. "Group Member" means any Subscriber for which the Group Administrator has completed the Order Form attached hereto and has complied with Section 6 below for purposes of binding such Subscriber to these Terms.
- D. "OCLC" means OCLC, Inc.
- E. "Records" means OCLC WorldCat bibliographic records provided by OCLC to the Subscriber.
- F. "Service" means **delivery of Records from contract cataloging by OCLC to Subscriber under these Terms.**
- G. "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.
- H. "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.
- I. "WorldCat" means the database of WorldCat Records.
- J. "WorldShare Collection Manager" means a cataloging tool that helps streamline and automate the management of records for electronic and print collections in one place to save staff time while improving collection discovery and access.

2. The Service

- A. Subscriber orders delivery of Records from Vendor or various Vendors as indicated on the Order Form and OCLC will deliver such Records via WorldShare Collection Manager.
- B. Subscriber shall pay OCLC the agreed upon pricing for the Service within 30 days after the date of invoice. Where payment for the Service is included in Subscriber's OCLC cataloging subscription pricing, the payment terms shall not apply and payment shall be as specified in the subscription pricing.

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 (the "Policy"). A copy of the current version of the Policy is available at: <http://www.oclc.org/worldcat/recorduse/policy/default.htm>.

- B. OCLC reserves the right to suspend or discontinue without notice all or a part of the Service (or otherwise terminate these Terms) at any time if OCLC reasonably believes that Subscriber is in breach of these Terms or may harm OCLC or its membership.
- 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 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. Warranties and Disclaimers

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 THESE TERMS, 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 4 are held to be unenforceable) shall OCLC's liability under these Terms exceed the refund of fees actually paid by Subscriber to OCLC for use of the Service.

5. 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.

6. Special Terms for Group Orders Only

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. **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.