

SCHEDULE 23
cloudLibrary

1. Description

OCLC's cloudLibrary provides digital technology services to libraries used to distribute, lend, manage and protect the copyright content of eBook, audio book, digital magazines, newspapers, comics, graphic novels, manga, streaming videos, and other digital media, and provides libraries' patrons access to such digital content via the cloudLibrary app.

2. Definitions

- 2.1 "**Digital Content**" consists of digital files and titles to which Institution has purchased access and are accessible through the System to Institution hereunder for lending to Patrons.
- 2.2 "**Patron(s)**" mean those persons that Institution authorizes to access, use, and connect to the System via the internet, and download products from or otherwise use the Services (defined herein below) and/or access Digital Content from Institution using the Services.
- 2.3 "**Primary Support**" means service provided by Institution to its Patrons for its day-to-day support, technical aid, help and other assistance for Patron's use of the System, Services or for any issues arising from the use of the System.
- 2.4 "**Secondary Support**" means technical support services to be provided by OCLC to Institution including reasonable efforts to assist Institution in providing Primary Support, reasonable efforts to correct, fix, or circumvent errors, provide updates, enhancements, and new versions of the Services.
- 2.5 "**Software**" means any and all software, and related documentation, provided to or accessed by Institution in utilizing the Services.
- 2.6 "**System**" means the vehicle used to access, distribute, lend, and manage Digital Content.
- 2.7 All capitalized terms not defined herein shall have the same meaning ascribed to them in the Framework Agreement.

3. Payment Terms

During the initial term specified in a pricing document, Institution shall make a minimum Digital Content purchase ("Minimum Purchase") as stated on the pricing document. Institution acknowledges that it is getting preferential pricing based on this Minimum Purchase. If Institution fails to meet its Minimum Purchase obligations, then OCLC may, in addition to any available remedies, invoice Institution for the remaining amount of the Minimum Purchase.

4. OCLC Services

- 4.1 OCLC will provide Services to Institution pursuant to the terms of this Agreement. Nothing hereunder grants any right to Institution to the use of, or access to, any Software or System source code. Further, these terms do not include any right to reproduce the System, Software or Products, to make or distribute copies or versions of any modules of the System, Software or Products to any third parties including its Patrons, or to make and/or sell variations or derivative works of the System, Software or Products. For the avoidance of doubt, "Products" do not include Digital Content and nothing herein shall prevent Institution from distributing Digital Content to its Patrons as contemplated by the terms of this Agreement. Sole ownership of copyrights and other intellectual and proprietary rights to the System, Software or Products will remain solely with OCLC or its publishers or suppliers.
- 4.2 OCLC has the right, at any time, to make such modifications to the System as it sees fit to the operation, performance or functionality of the System or as required by OCLC's publishers and suppliers. If such a modification of the System leads to discontinuation of the Services, or support, maintenance or the provision of new versions, updates or corrections materially impairs the value or use of the System to Institution, Institution will receive a pro-rata refund of the Services portion of the Fees previously paid for which Services were not delivered.
- 4.3 Institution acknowledges that some errors or defects may exist or arise in the System. OCLC's sole obligation with regard to such errors or defects will be to use commercially reasonable efforts to correct such errors and defects and provide Secondary Support provided at such times and by such methods as are mutually agreed upon by the Parties.
- 4.4 Institution acknowledges that all Services and Digital Content provided hereunder are subject to individual publisher limitations and restrictions.

5. Responsibilities of Institution

- 5.1 Institution shall assign personnel with appropriate skills and expertise in computer, data processing and related services to enable operation of the System and to provide Primary Support. Institution shall take reasonable steps to ensure that its employees, agents, and others under its direction abide by the terms of this Agreement.
- 5.2 Institution assumes responsibility for providing a suitable network and internet system for integration of System into Institution's website or other systems at its own expense. Institution agrees that it will be responsible for its own expenses and costs and that OCLC will have no obligations to reimburse Institution for any expenses or costs incurred by Institution

in the preparation, systems integration, use of the System, or for any performance of Institution's duties necessary to make use of the System or Services.

- 5.3 Except for the System configured and hosted by OCLC, Institution is solely responsible for all aspects of catalog integration, operation, training, support and/or maintenance necessary for the operation of the System. This may include obtaining, at its own expense, a SIP, SIP2 or other similar protocol software license from a third party to support direct integration of the Service with Institution's integrated Institution system. Institution agrees to perform Primary Support for Patrons using its System. Institution shall perform requested installation, upgrade, and reasonable technical services for Primary Support of the System and Products pursuant to installation and support procedures and policies as developed by OCLC and as modified from time-to-time. OCLC will provide Institution with documentation regarding Primary Support and OCLC support personnel will be available for Secondary Support by e-mail and phone.
- 5.4 Institution shall not make any representations or create any warranties, express or implied, concerning the Services, System or Software. Any such representations or warranties shall not be binding upon OCLC.
- 5.5 Institution may not, without OCLC's prior written consent (i) sublicense, lease, lend or transfer the Software to any third party; (ii) use, or permit the use of, the Software for the benefit of, or by, any third party, such as use of the Software as a service bureau; (iii) make copies of the Software except in the normal course of use or for archival purposes; or (iv) disassemble, reverse engineer or create derivative works of the Software except as permitted by law. Institution agrees to reproduce all copyright and proprietary rights notices included in the Software on copies that it is authorized to make.
- 5.6 Institution shall use reasonable efforts to operate its own website in compliance with the terms of this Agreement and will at its own expense comply with all applicable laws, ordinances, rules, and regulations that may be required in any jurisdiction or administrative agency in connection with the use and/or operation of the Services, System and Software.

6. Copyright Protection, Patron Authentication, Data Security and Data Aggregation

- 6.1 For so long as Institution is using the Software and receiving the Services, Institution shall reasonably cooperate with OCLC to achieve OCLC's and its publishers' and suppliers' objectives of protecting certain intellectual property interests relating to OCLC supplied Digital Content and Products. Institution shall keep appropriate documentation and System information and provide OCLC access to the System to validate total number of downloads of Digital Content. Institution shall provide OCLC access to a test Patron account for purposes of validating the system's performance relating to the Services. Institution shall reasonably cooperate with OCLC to correct or adjust the System as may be required to compensate for any errors or omissions disclosed by such test. Any such test will be conducted by OCLC at its own expense and during regular business hours and in such a manner as not to interfere with Institution's normal activities.
- 6.2 OCLC may use data stored in the System for other commercial purposes, including but not limited to a) ISBN; b) name of Digital Content; c) Institution with postal address; d) quantity of Digital Content purchased by Institution; and e) and other Digital Content circulation data ("Aggregated Data"). OCLC will not disclose personally identifiable Patron information to third parties.