



BALTIMORE COUNTY
PUBLIC LIBRARY

THE BOARD OF LIBRARY TRUSTEES FOR BALTIMORE COUNTY CONTRACT

THIS AGREEMENT made the ___th day of 20XX, (the "Agreement") is by and between The Board of Library Trustees for Baltimore County (hereinafter "Library") and _____ (hereinafter "Contractor").

WHEREAS, the said Contractor, hereby covenants and agrees to prepare, install, test and provide support for the _____ as described in the bid, in strict and entire conformity with the attached Request for Proposal _____ (hereinafter "Bid") and any Purchase Order subsequently issued.

NOW THEREFORE, in consideration of the mutual promises and covenants, the parties hereto agree that the Library shall pay the Contractor, an amount as set forth herein, for the _____ and above referenced work, (Hereinafter "_____") in accordance with this Agreement, the other attachments hereto, the bid and Purchase Order, and if applicable, the Bid and the Purchase Order (hereinafter "PO") all of which are hereby incorporated into and made a part of this Agreement. Notwithstanding any other terms or provisions of this Agreement, in the event the Library is temporarily or permanently prevented, restricted or delayed in the performance of any or all of the duties and obligations imposed upon or assumed by it hereunder, by act of the General Assembly of Maryland or the Baltimore County Council, by a court of competent jurisdiction or by administrative delay not due to the fault of the Library (and its members or agents), the Library shall not be liable directly or indirectly for any claims caused to or suffered by the Contractor or any person in connection with or as a result of such prevention, restriction or delay. In addition the parties hereto agree as follows:

1. **Contractor's Duties.**

The Contractor shall be an independent Contractor and not an employee of the Library, and shall be responsible for the reporting and remittance of all state and federal taxes. The Contractor shall provide the Editing Software as outlined in the Bid document under Specifications hereto. The Contractor's work will be provided with due care and in a manner satisfactory to the Library and in accordance with all applicable professional standards.

2. **Compensation.**

2.1 In consideration of the _____ to be provided by the Contractor, the Library shall pay the Contractor the eligible expenses as set forth on Page XX of the Bid.

2.2 The Contractor shall submit invoices to the Library in accordance with Page X, Section X, of the Bid. The Contractor's invoices shall reflect:

- 1 Contractor's name
- 2 Addresses
- 3 Federal tax identification number
- 4 Detail of goods shipped; address of shipment and quantities of each sizes.

Original invoices shall be submitted to Facilities Services, Baltimore County Public Library, 320 York Rd, Towson Maryland 21204. Invoices in the proper form and approved by the Library shall be paid by the Library within thirty (30) days of receipt thereof. The Library reserves the right to approve such invoices, in its sole discretion, and to request such detail and additional information as the Library, in its discretion deems appropriate.

2.3 In no event shall the total compensation paid to the Contractor under this Agreement exceed the sum of _____ (\$_____) during the entire term of this Agreement.

Term.

3.1 This Agreement shall be effective as of the date above written unless sooner terminated pursuant to this Agreement. The Library shall have the option of extending this Agreement at the end of the Initial Term for an additional 90 days, on the same terms and conditions, providing written notice of its intent to extend to the Contractor. In the event the Library elects to extend this Agreement the Contractor shall continue to submit invoices provided in the manner prescribed in the bid hereof at an additional cost.

4. **Contractor's Representations and Warranties.** The Contractor hereby represents the following:

4.1 The Contractor and the person executing this Agreement for the Contractor warrants that he is the person set forth in the Procurement Affidavit with the authority to execute this Agreement on the Contractor's behalf.

4.2 The goods to be delivered shall comply with the implied art work, specifications, product performance and fitness for its particular purpose and use and warranties of title and against infringement, and all express warranties contained in this Agreement, including but not limited to what is in the Bid.

4.3 The Contractor has obtained and shall continue to maintain, at its own cost, such licenses and certifications as are necessary to provide the services and/or scope of work and provide the goods, as applicable, required pursuant to this Agreement, and shall present such licenses to the Library upon its request for the same.

4.4 The Contractor has delivered to the Library such written financial statements, schedules or reports in such form and containing such information and accompanied by such documents as requested or required by the Library concerning the financial condition of Contractor. Such documentation fairly and accurately represents the financial condition of Contractor as of their date and the results of its operations for the period then ended. There has been no material adverse change in the financial condition of the Contractor or the results of its operations since the date of such financial statements, schedules or reports.

4.5 All representations and warranties made in the Procurement Affidavit, the Bid response, the Contract Affidavit, attached hereto in Exhibit A of this document and incorporated herein, and this Agreement remain true and correct in all aspects throughout the term of this Agreement.

5. **Termination for Convenience.**

5.1 The Library may terminate this Agreement, without cause, by providing written notice thereof to the Contractor at least thirty (30) days prior to the intended date of termination at the addresses set forth below, or at such other addresses as may be later designated by the Contractor in writing. The Contractor acknowledges that the absence of a reciprocal right of termination for convenience does not render this Agreement illusory or unenforceable.

5.2 In the event of termination, without cause, the Library shall advise the Contractor in writing of the termination date and of work to be performed during the final days prior to contract termination. The Contractor shall be paid for all reasonable costs incurred by the Contractor up to the date of termination set forth in the written notice of termination. Payment shall be made in accordance with the provisions of Paragraph 2 of this Agreement.

6. **Insurance.**

The Contractor shall provide evidence of insurance as required by the Library pursuant to the insurance requirements attached hereto in "Request for Proposal _____ RFP 20XX-XX." The Contractor shall maintain the insurance coverage's required by the Library while this Agreement is in force, and provide documentation of such insurance in a form satisfactory to the Library. Such documentation may, in the discretion of the Library, be in the form of binders or declarations from the insurance company.

7. **Default.** The term "Default" as used in this Agreement shall mean the occurrence or happening, from time to time, of any one or more of the following:

- 7.1 **Representation and Warranties.** If any representation or warranty, expressed or implied, of the Contractor and pertaining to this Agreement shall prove at any time to be incorrect or misleading in any material respect either on the date when made or throughout the term of this Agreement.
- 7.2 **Compliance with Covenants and Conditions.** If the Contractor shall fail to comply with the terms of any covenant, condition, agreement or any express or implied warranty contained in this Agreement.
- 7.3 **Performance of Contractual Obligations.** If the services and/or scope of work hereunder are not performed in good faith and in accordance with the provisions of this Agreement. If the delivery of the goods that are the subject of this Agreement was not made in good faith and/or in accordance with this Agreement, including but not limited to, the delivery schedule which is attached hereto as _____ RFP 20XX-XX.
- 7.4 **Conditions Precedent to Any Disbursement.** If the Contractor shall be unable to satisfy any condition precedent to its right to receive disbursement.
- 7.5 **Bankruptcy.** If the Contractor becomes insolvent or generally does not pay its debts as they become due, or if a petition for relief is filed by the Contractor in bankruptcy court, or if the contractor applies for, consents to, or acquiesces in the appointment of a trustee, custodian, or receiver for the Contractor or any of its assets and property, or makes a general assignment for the benefit of creditors; or in the absence of such application, consent, or acquiescence, a trustee, custodian, or receiver is appointed for the Contractor or for a substantial part of the assets and property of the Contractor and is not discharged within thirty (30) days; or any bankruptcy, reorganization, debt arrangement, or other proceeding or case under any bankruptcy or insolvency or any dissolution or liquidation proceeding is instituted against the Contractor and is consented to or acquiesced to by the contractor or remains for sixty (60) days undismissed; or the Contractor takes any action to authorize any of the actions described in this subsection.

8. **Remedies for Default.**

- 8.1 The Library shall have the right upon the happening of any Default, without providing notice to the Contractor:
- a. In addition to other available rights and remedies, to terminate this Agreement immediately, in whole or in part;
 - b. To suspend the Contractor's authority to receive any undisbursed funds; and/or
 - c. To proceed at any time or from time to time to protect and enforce all rights and remedies available to the Library, by suit or any other appropriate proceedings, whether for specific performance of any covenant, term or condition set forth in this Agreement, or for damages or other relief, or proceed to take any action authorized or permitted under this Agreement, including but not limited to, calling upon any security, letter of credit, or bond and any other action authorized or permitted applicable law; regulation, or equity.
- 8.2 Upon termination of this Agreement for default, the Library may elect to pay the Contractor for goods delivered up to the date of termination, less the amount of damages caused by the default, all as determined by the Library in its sole discretion. If the damages exceed the undisbursed sums available for compensation, the Library shall not be obligated to make any further disbursements hereunder.

9. **Remedies Cumulative and Concurrent.**

No remedy herein conferred upon or reserved to the Library is intended to be exclusive of any other remedies provided for in this Agreement, and each and every such remedy shall be cumulative, and shall be in addition to every other remedy given hereunder, or now or hereafter existing at law or in equity or by statute. Every right, power and remedy given to the Library shall be concurrent and may be pursued separately, successively or together against the Contractor, and every right, power and remedy given to the Library may be exercised from time to time as often as may be deemed expedient by the Library.

10. **Confidential Information.**

The Contractor shall not disclose any documentation and information of any kind or nature disclosed to the Contractor in the course of its performance of duties hereunder without the express written consent of the Library.

11. **Conflict of Interest.**

The Contractor represents and warrants that there exists no actual or potential conflict of interest between its performance under this Agreement and its engagement or involvement in any other personal or professional activities. In the event such conflict or potential conflict arises during the term of this Agreement, or any extension or renewal thereof, the Contractor shall immediately advise the Library in writing thereof.

12. **Assignment.**

12.1 Neither the Library nor the Contractor shall assign, subcontract or transfer its interest or obligations under this Agreement to any third party, without the written consent of the other. The Contractor further agrees to provide a minimum of ninety (90) days' written notice to the Library prior to entering into any bankruptcy, merger or consolidation where the surviving entity will be unwilling or unable to accept the Contractor's obligations hereunder, to enable the Library to procure the goods or services elsewhere. In the event the cost of procuring such alternate goods or services increases the cost to the Library, and/or delays delivery time of any product, in addition to any other remedies available to the Library, the Contractor shall pay the Library, as damages, any additional costs incurred.

12.2 Nothing herein shall be construed to create any personal or individual liability upon any employee, officer of the Library, nor shall this Agreement be construed to create any rights hereunder in any person or entity other than the parties of this Agreement.

13. **Delegation of Duties.**

The Contractor shall not delegate the Contractor's duties under this agreement without the prior written consent of the Library.

14. **Indemnification.**

14.1 The Contractor shall defend, indemnify and hold harmless the Library, its employees, agents and officials from any and all liabilities, claims, suits, or demands including attorney fees which may be made against the Library, its employees, agents or officials resulting from any act or omission committed in the performance of the duties imposed by and performed under the terms of this Agreement by the Contractor or anyone under agreement with the Contractor to perform duties under this Agreement. The Contractor shall not be responsible for acts of gross negligence or willful misconduct committed by the Library.

14.2 The Contractor shall also defend, indemnify and hold harmless the Library, its employees, agents and officials from any and all liabilities, claims, suits, or demands including attorney fees which may be made against the Library, its employees, agents or officials by any third party arising from the alleged violation of any third party's trade secrets, proprietary information, trademark, copyright, patent rights, or intellectual property rights in connection with the Contractor's work under this Agreement.

14.3 Unless notified by the Library in writing to the contrary, Contractor shall provide defense for Library, its employees, agents and officials in accordance with this Article 14. Contractor shall allow Library to participate in said defense of Library, its employees, agents and officials, to the extent and as may be required by the Library and the Contractor shall cooperate with Library in all aspects in connection therewith.

15. **Integration and Modification.**

This Agreement sets forth the entire agreement between the parties relative to the subject matter hereof. No representation, promise or condition, whether oral or written, not incorporated herein shall be binding upon either party to this Agreement. No waiver, modification or amendment of the terms of this Agreement shall be effective unless made in writing and signed by an authorized representative(s) of the party sought to be bound thereby.

16. **Fee Prohibition.**

The Contractor warrants and represents that it has not employed or engaged any person or entity to solicit or secure this Agreement, and that it has not paid, or agreed to pay any person or entity a fee or any other consideration contingent on the making of this Agreement. If any suit, claim, or demand shall arise concerning such a fee, the Contractor agrees to indemnify and hold harmless the Library, from all such claims, suits or demands.

17. **No Partnership.**

Nothing contained in this Agreement shall be construed in any manner to create any relationship between the Contractor and the Library other than expressly specified herein and the Contractor and the Library shall not be considered partners or co-venturers for any purpose on account of this Agreement.

18. **Governing Law.**

This Agreement shall be governed and construed in accordance with the law of the State of Maryland and Baltimore County, Maryland.

19. **Recitals and Conflicting Terms.**

19.1 The Contractor acknowledges that any Purchase Order issued on or after the effective date of this Agreement is also hereby integrated and made a part of this Agreement, provided, however that any preprinted terms and conditions of any purchase order or other ordering document issued by the Library in connection with this Agreement that are in addition to or inconsistent with the terms and conditions of the Agreement, shall not be binding on the Contractor and shall not be deemed to modify this Agreement.

19.2 In the event of a conflict between the Bid (including standard specifications) and this Agreement, the provisions of this Agreement (without the conflicting terms in) the Bid shall prevail.

19.3 If a conflict arises between the provisions of this Agreement and any Purchase Order, the provisions of this Agreement shall prevail.

20. **Severability.**

If any of the provisions in this Agreement are declared by a court or other lawful authority to be unenforceable or invalid for any reason, the remaining provisions hereof shall not be affected thereby and shall remain enforceable to the full extent permitted by law.

21. **Time is of the Essence.**

Time is of the essence with respect to performance of the terms and conditions of this Agreement.

22. **Funding.**

The failure of the Library to appropriate sufficient funds in any future fiscal year to provide funds for this Agreement shall entitle the Library to terminate this agreement without prior notice to the Contractor.

23. **Counterparts.**

This Agreement may be executed in any number of counterparts and by different parties hereto in separate counterparts, each of which when so executed and delivered shall be deemed to be an original and all of which taken together shall constitute but one and the same instrument.

24. **Ownership of Goods.**

All finished or unfinished work or work product, or goods that are subject to this Agreement shall be and shall remain the property of the Library.

25. **Discrimination Prohibited.**

25.1 In the execution of the obligations and responsibilities hereunder, including, but not limited to, hiring or employment made possible by or relating to this Agreement, the Contractor shall not:

A. Fail or refuse to hire, or discharge, any individual, or otherwise to discriminate against any individual with respect to the individual's compensation, terms, conditions, or privileges of employment, because of such individual's race, color, religion, sex, age, national origin, marital status, sexual orientation, genetic information, or disability unrelated in nature and extent so as to reasonably preclude the performance of the employment, or because of the

individual's refusal to submit to a genetic test or make available the results of a genetic test;

- B. Limit, segregate, or classify its employees or applicants for employment in any way which would deprive or tend to deprive any individual of employment opportunities or otherwise adversely affect the individual's status as an employee, because of the individual's race, color, religion, sex, age, national origin, marital status, sexual orientation, genetic information, or disability unrelated in nature and extent so as to reasonably preclude the performance of the employment, or because of the individual's refusal to submit to a genetic test or make available the results of a genetic test;
- C. Request or require genetic tests or genetic information as a condition for hiring or determining benefits.

25.2 All solicitations or advertisements for employees shall state that the Contractor is an equal opportunity employer.

26. **Reports / Information / Inspections / and Audits.**

26.1 At any time during normal business hours and as often as the Library may deem necessary, the contractor shall make available to and permit inspection and copying by the Library, its employees or agents, of all records, information and documentation of the Contractor related to the subject matter of this Agreement, including, but not limited to, all contracts, invoices, payroll, and financial audits. Contractor shall retain all records, information, and documentation of the Contractor related to this Agreement, including but not limited to, all contracts, invoices, payroll, and financial audits for at least three (3) years after the termination of this Agreement.

27. **Notice.**

Any notice required to be delivered shall be deemed to have been received when the notice has been sent by certified mail, return receipt, overnight carrier, or hand delivered with signed receipt to the following address and individual or at such other address and/or such other individual a party may identify in writing to the other party:

FOR THE LIBRARY:

James Cooke
Assistant Director
Baltimore County Public Library
320 York Road
Towson Maryland 21204-5179
410.887.6122

FOR THE CONTRACTOR:

28. **No Waiver, Etc.**

No failure or delay by the Library to insist upon the strict performance of any term, condition or covenant of this Agreement, or to exercise any right, power, or remedy consequent upon a breach thereof, shall constitute a waiver of any such term, condition, or covenant or of any such breach, or preclude the Library from exercising any such right, power, or remedy at any later time or times.

29. **Survival.**

Those sections in this Agreement which by their nature are intended to survive, including but not limited to Sections 4 (Contractor's Representations and Warranties), 10 (Confidential Information), 14 (Indemnification).

IN WITNESS WHEREOF, it is the intent of the parties that Contractor has signed this Agreement under seal and further, that the parties have executed this Agreement the day and year first written above.

_____ :

Date: _____

Federal Identification No. _____

By: _____
[Signature]

By: _____

WITNESS

By: _____
[Signature]

By: _____
[Print Name and Title here]

The Board of Library Trustees for Baltimore County Representative

Date: _____

By: _____
[Signature]

By: James Cooke
Assistant Director, Baltimore County Public Library

WITNESS

By: _____

By: _____
[Print Name and Title here]

ATTACHMENT A
CONTRACT AFFIDAVIT

A. AUTHORIZED REPRESENTATIVE

I HEREBY AFFIRM THAT:

I am the _____ [Title] and the duly authorized representative of _____ (the "Business") and that I possess the legal authority to make this Affidavit on behalf of myself and the business for which I am acting.

B. BID/PROPOSAL AFFIDAVIT AFFIRMATIONS VALID

I FURTHER AFFIRM THAT:

To the best of my knowledge, information, and belief, each of the affirmations, certifications, or acknowledgements contained in that certain Procurement Affidavit dated _____, and executed by _____ (me) for the purpose of obtaining the contract to which this Affidavit is attached remains true and correct in all respects as if made as of the date of this Contract Affidavit and as fully set forth herein.

I DO SOLEMNLY DECLARE AND AFFIRM UNDER THE PENALTIES OF PERJURY THAT THE CONTENTS OF THIS AFFIDAVIT ARE TRUE AND CORRECT TO THE BEST OF MY KNOWLEDGE, INFORMATION, AND BELIEF.

Date: _____

By: _____

Name:

Title:

(Authorized Representative and Affiant)