

THE FIRSTSEARCH GROUP ORDER MEMBER TERMS AND CONDITIONS

1. This Subscriber order is subject to written acceptance by OCLC Online Computer Library Center, Incorporated ("OCLC"). OCLC written acceptance may be by issuance to Subscriber of authorization numbers and passwords by which Subscriber and/or Subscriber's Authorized Users (as defined herein, below) may access and use the FirstSearch service ordered by Subscriber, as such services are described in OCLC's prevailing, published descriptions for the FirstSearch service. The FirstSearch service, documentation and dial-access telecommunications connections ordered on this or other OCLC forms will be subject to the following terms and conditions ("Terms"). For annual subscription-based orders, OCLC reserves the right to determine subscription type, to determine and/or to define an eligible site, operational entity, library system or similar limitations with respect to any prospective Subscriber, and to refuse to accept any subscription order for any reason in OCLC's sole discretion.

2. Databases available by means of the FirstSearch service are subject to OCLC and/or third-party claims of copyright and other rights. Subscriber's access to and use of such databases and copying and transfer of data therefrom, shall be subject to this Section 2, and to changes or additions thereto published by OCLC from time to time (including Supplemental terms, online screen display and/or the FirstSearch service descriptions and documentation). Such changes and additions shall govern over these Terms. Each user, or, in the case of an annual subscription, Authorized User, may view screen displays of the data subject to this Section 2, while accessing the FirstSearch service, and may make one (1) copy per screen display of any portions of such data being viewed by that person, for that person's internal or personal, noncataloging and noncommercial purposes. In addition, such copies of limited portions of such data may be transferred or sold as an incidental part of the attorney-client, consultant-client or similar relationship, or used for ordering or interlibrary lending purposes, where the principal purpose is not the distribution of data. Screen displays of such data may be electronically downloaded and temporarily stored in machine-readable form by the person so viewing the data solely as required for that person's use and/or copying of the data under the preceding portion of this Section 2, provided that such machine-readable copies of data shall be erased after such temporary use and/or copying and shall not be transferred, shared or accessed by any other person. Subscriber acquires no ownership rights to any data or portions thereof provided in any form by the FirstSearch service. No part of any data provided in any form by the FirstSearch service may be disclosed, reproduced, transferred or transmitted in any form without the prior written consent of OCLC, except as expressly permitted hereunder. Use of the FirstSearch service for cataloging purposes is expressly prohibited. Passwords will be restricted to accessing data on the FirstSearch service with respect to which Subscriber has a currently paid-up subscription or for which subscriber has prepaid per-search fees. Any OCLC database supplier shall have the right to assert or to enforce any of these Terms directly on its own behalf. Subscriber shall not omit, obscure or hide from any Authorized User any notice of a limitation of warranty, disclaimer, copyright, patent, trademark, trade secret, usage limitation, or any logo, splash screen or any other terms and/or conditions intended to be displayed to an Authorized User of the FirstSearch service by OCLC or any database supplier thereto. To the extent Subscriber requires additional or different rights to use data hereunder, Subscriber may contact OCLC directly, and OCLC will endeavor to determine if such additional rights may be granted.

3. Access to certain databases available by means of the FirstSearch service shall require separate agreements between Subscriber and the third-party information provider from whom the database is obtained ("IP"), as indicated in the FirstSearch service descriptions with respect to such databases. Subscriber agrees that it shall utilize the FirstSearch service to access and use only such databases for which it has been authorized by the IP under, and only as permitted by the terms of, the applicable separate IP database use contract, and in conformance with prevailing, published OCLC rules with respect thereto, as amended from time to time by OCLC, which OCLC rules may be provided by online screen display and/or in the FirstSearch service descriptions and documentation.

4. Public Library subscriptions (nonacademic) are limited by geographic/service area and to a single main library and its branches (i.e., to the libraries under a single director/board of trustees). Authorized Users shall be limited to library patrons accessing the FirstSearch service while in the library and remote access by library patrons, provided that remote access requires the patron to log on first to the library system local computer, using

a current authorized library card or other library-controlled authorization before accessing the FirstSearch service. Academic Library subscriptions are limited by geographic site and Authorized Users. Each geographically distinct campus shall be treated as a separate site for purposes of the FirstSearch service. Each such campus must submit its own FirstSearch subscription order form. Authorized Users at academic institutions shall be limited to currently enrolled students of the licensed campus and current faculty and staff who are primarily affiliated with the licensed campus and walk-in patrons. Remote access is permitted by Authorized Users (except walk-in patrons). Special Library shall mean a single corporate or other special library (e.g., law firm). A separate subscription is required for each geographically distinct operational entity. Authorized Users shall be limited to current employees of that institution which is served by the Special Library.

5. Within sixty (60) days after the date of each OCLC invoice Subscriber shall pay or prepay OCLC the applicable OCLC charges for services selected by Subscriber based upon OCLC's prevailing price list for the FirstSearch service annual subscription-based or per-search based services. If Subscriber purchases the FirstSearch service on a per-search basis, all use, products and services of the FirstSearch service which are initiated by Subscriber's authorization codes and passwords for the FirstSearch service shall be credited against any prepayments. Charges are exclusive of taxes, and Subscriber shall pay any such taxes invoiced other than taxes on OCLC net income. Accounts not paid within sixty (60) days after 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 FirstSearch service to a delinquent account without prior notice. Payments shall be made in U.S. dollars unless required otherwise by OCLC for non-U.S. Subscribers in invoices, price lists, or other written notices. The Subscriber is exempt from payment of taxes or late-payment charges in excess of those permitted by Nebraska law.

6. OCLC may determine, add to, delete from or change at any time (i) which data and databases are available through the FirstSearch service, (ii) the technical and functional specifications, form and formats or availability of services and databases available over the FirstSearch service, (iii) database license rights, obligations and rules hereunder and (iv) any of these Terms. Subscriber shall be bound thereby upon OCLC giving notice, which may be accomplished by online screen display or in the FirstSearch service descriptions and documentation. However, if OCLC materially reduces Subscriber's rights as a result of any revision for which notice is required to be given hereunder with respect to any database to which Subscriber is currently subscribed, Subscriber may terminate its subscription for that database (or Subscriber's subscription in its entirety if the affected database is an OCLC proprietary database) by giving written notice to OCLC within ten (10) days after receiving notice from OCLC of such revisions, in which case Subscriber shall receive a refund of subscription fees prepaid and unearned for the remainder of the subscription term calculated on a prorata basis, or per-search fees prepaid for unused searches, but not including the annual fee, and the revisions shall not apply to Subscriber. For subscription-based use, the FirstSearch service will be available to Subscriber based upon the number of Simultaneous Logons currently subscribed for at any time that the FirstSearch service is generally made available by OCLC to users. Subscriber may maximize subscription usage by electronically queuing Authorized Users attempting to log on to the FirstSearch service, provided that Subscriber shall not utilize any mechanism which would enable the number of Authorized Users concurrently accessing the FirstSearch service via Subscriber's subscription to exceed the number of Simultaneous Logons subscribed for (e.g., Subscriber shall not multiplex (interleave) message traffic once the Simultaneous Logon connection has been established between the Authorized User's terminal and the FirstSearch service). For per-search-based use, the FirstSearch Service shall be available during all times that the OCLC System is generally available to OCLC users, subject to OCLC modification. Use of IP databases referred to in Section 3 of the Terms shall be available at times set by the IP.

7. Subscriber is solely responsible for all security for, and all use, including unauthorized use, of the FirstSearch service initiated by any of Subscriber's authorization numbers and passwords for The FirstSearch service and shall promptly notify OCLC in writing of lost or stolen passwords and authorization numbers. Subscriber shall pay OCLC at OCLC's prevailing rates for search-based use for unauthorized use of the FirstSearch service hereunder. Subscriber's obligations hereunder are material to this agreement. OCLC's

sole obligation with respect to passwords and authorization numbers shall be to exert reasonable efforts to maintain the confidentiality of Subscriber's passwords and authorization numbers in OCLC's possession and to terminate lost or stolen passwords and authorization numbers and reissue new passwords and authorization numbers upon receipt of Subscriber's notice provided that Subscriber is in compliance with these Terms and that the lost or stolen password or authorization numbers were provided by OCLC.

8. OCLC shall, ^{exert} its reasonable best efforts to provide the FirstSearch service in accordance with the then-current published descriptions. Subscriber shall notify OCLC of nonconformities between the FirstSearch service and such descriptions, and of any errors or inaccuracies in the databases, of which Subscriber becomes aware. It is understood that, while OCLC and its suppliers and licensors have attempted to minimize inaccuracies or defects in the data or services furnished, the data and services are provided AS IS. OCLC AND ITS SUPPLIES AND LICENSORS MAKE NO EXPRESS WARRANTIES AND DISCLAIM ALL IMPLIED WARRANTIES, INCLUDING THE IMPLIED WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR USE, WITH RESPECT TO THE FIRSTSEARCH SERVICE AND OTHER PRODUCTS AND SERVICES PROVIDED HEREUNDER.

9. OCLC shall not be liable for any failure or delay in performance hereunder due to any cause beyond its reasonable control including acts of God or the public enemy, fire, explosion, accident, strikes, governmental actions, delay or failure of suppliers, delay or failure of the OCLC systems or carriers, or other difficulties with telecommunications networks, or any contingency, delay, failure or cause beyond its control, whether or not specified herein.

10. Except as otherwise expressly provided for herein: (a) OCLC and its suppliers and licensors shall not be liable for any loss or damage, lost profits, loss of business, loss of or damage to data, downtime or unavailability, of or in connection with Subscriber's use of the FirstSearch service and databases or data available over the FirstSearch service, or from lost or stolen passwords or authorization numbers; (b) OCLC and its suppliers and licensors shall have no other liability or obligation, and Subscriber shall have no other liability or obligation to OCLC, arising under the subject matter hereof, for direct contract damages, or for indirect, incidental, consequential or exemplary damages, whether based on contract, tort or any other legal theory and regardless of whether a party foresaw such damages; and (c) OCLC and its suppliers and licensors shall have no liability nor obligation whatsoever with respect to the provision or use of databases, including, without limitation, for any claims based on infringement of copyright, patent, trade secret or other right, libel, slander or invasion of privacy or claims based on errors, inaccuracies or omissions in or loss of the data. In no event, even if the foregoing limitations are held to be not enforceable, shall OCLC's liability exceed the refund of subscription fees earned by OCLC and paid for by Subscriber for services and data hereunder for the most recent month.

11. Subscriber agrees to take necessary steps, by instruction, agreement or otherwise, in making the FirstSearch service available to patrons, faculty and other users by means of Subscriber's passwords or authorization codes, to the end that the same liability exclusions and limitations as are applicable to the use of the FirstSearch service by Subscriber under these Terms shall apply as well to claims against OCLC or its third-party licensors resulting from the use of the FirstSearch service by such patrons, faculty and other users whose access and use is properly charged to Subscriber.

Subscriber may meet its obligations under this Section 11 by greeting users with an online display containing the text of the attached Exhibit 1.

12. OCLC may remove or purge data stored with the FirstSearch service for more than thirty (30) days, without notice or liability.

13. OCLC may terminate Subscriber's access to the FirstSearch service upon written notice at any time that Subscriber is in breach of its material obligations under these Terms, including without limitation, Section 7 hereof, provided that, in the event that Subscriber cures such material breach within thirty (30) days, OCLC shall restore such access. In the event that Subscriber fails to cure the breach within thirty (30) days, OCLC may terminate this agreement upon notice to Subscriber.

14. For annual subscription-based orders, Subscriber may terminate this agreement in its entirety upon written notice received by OCLC within the first month that Subscriber is first granted access to the FirstSearch service hereunder, in which case Subscriber shall be entitled to receive a refund on a prorata basis of subscription fees previously paid by Subscriber, subject to a minimum one (1) month charge based upon the original subscription amount FSGPME-970612

Photocopy as many times as necessary. Keep a copy for your records. (continued on reverse side)

Nebraska Library Commission

(one-twelfth). No partial cancellations (e.g. reduction in Simultaneous Logons or databases) or other terminations shall be allowed other than on Subscriber's effective annual renewal date. Subject to the refund provisions of Section 5, OCLC reserves the right to suspend or refuse the provision of the FirstSearch service to Subscriber for any reason whatsoever, with or without cause, and without prior notice, on conditions generally applicable to subscribers. In the event of termination by OCLC for other than a material breach of this agreement by Subscriber, OCLC shall promptly refund to Subscriber on a prorata basis subscription fees previously paid by Subscriber with respect to the unexpired portion of the subscription term.

15. OCLC may terminate this agreement and the FirstSearch service authorization numbers and passwords for use of the FirstSearch service at any time that (i) Subscriber is in breach of its material obligations under these Terms (which include without limitation those referred to in subclause (iv) of Section 6 thereof), or (ii) no use of the FirstSearch service has been made by Subscriber's FirstSearch service authorization numbers and passwords for at least four (4) consecutive months. Either OCLC or the Subscriber may terminate this agreement and the Subscriber's FirstSearch service authorization numbers and passwords at any time by giving thirty (30) days prior written notice. For terminations by OCLC under the second (2d) sentence of this Section 15, Subscriber shall receive a refund of its unused prepaid amounts, but not including the annual fee.

16. Neither party 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, strikes, shortage of materials, actions of government, fire, or adverse weather conditions, provided that the party so affected notifies the other promptly of the commencement, nature and estimated duration of the cause. Notwithstanding any of the foregoing Terms, OCLC reserves the right to suspend or refuse the provision of the FirstSearch service to Subscriber for any reason whatsoever, with or without cause, and without prior notice, on conditions generally applicable to subscribers. Any OCLC database supplier shall have the right to assert or to enforce any of the provisions of this agreement directly on its own behalf.

17. Telecommunications services, equipment and any OCLC support necessary for Subscriber to access the FirstSearch service may be available from OCLC subject to separate agreement(s) if required by OCLC, or otherwise under these Terms.

18. This order form constitutes the complete, final and exclusive statement of the parties' agreement with respect to the subject matter hereof. No purchase orders separately submitted by Subscriber shall apply to modify or supplement this agreement. Subscriber may not assign its contract rights under these Terms. This agreement shall be governed by the laws of the State of ~~Ohio~~ Nebraska.

19. Subscriber agrees that the FirstSearch service authorization numbers and passwords issued by OCLC hereunder may not be used outside the territorial limits of the country in which they were originally issued to Subscriber, as indicated by Subscriber's address on the front of this form, except in full compliance with U.S. export regulations. Subscriber shall be the exporter and importer of record of all the FirstSearch service products, services and data delivered to it by OCLC outside the U.S., by electronic means or otherwise and shall pay and/or comply with all applicable export and import laws customs, regulations, tariffs, duties and fees, and procurement, data and technology transfer laws. Subscriber shall not use such authorizations and passwords outside the United States; provided, however, that faculty, staff and students temporarily in other countries may use such authorization numbers and passwords for research and study, and Subscriber shall take necessary steps to ensure that such use is in compliance with the terms of this Agreement. OCLC's obligations hereunder are contingent upon necessary export licenses being obtained from federal agencies of the U.S.

20. Subscriber is encouraged to submit this order to OCLC through Subscriber's Network from whom Subscriber receives invoices for use of the OCLC online services (other than the FirstSearch service), if any, if the Network is participating with OCLC in providing the FirstSearch service.

21. Subscriber agrees to remove at Subscriber's expense all data saved and stored by Subscriber Authorized Users on The FirstSearch service in conjunction with termination of this agreement, and should OCLC be required to effect such removal due to Subscriber's failure to remove, Subscriber shall pay to OCLC its standard charges for OCLC's efforts associated therewith.

EXHIBIT 1
TO THE AMENDMENT TO THE
FIRSTSEARCH GROUP ORDER MEMBER TERMS AND CONDITIONS

As a user of the Nebraska Library Commission's password or authorization for the FirstSearch service, you agree to the following by your use of the FirstSearch service:

Except as otherwise expressly provided for herein, (a) OCLC and its suppliers and licensors shall not be liable for any loss or damage, lost profits, loss of business, loss of or damage to data, downtime or unavailability, of or in connection with your use of the FirstSearch service and databases or data available over the FirstSearch service, or from lost or stolen passwords or authorization numbers, (b) OCLC and its suppliers and licensors shall have no other liability or obligation, and the Nebraska Library Commission shall have no other liability or obligation to OCLC, arising under the subject matter of terms for use of the FirstSearch service, for direct contract damages, or for indirect, incidental, consequential or exemplary damages, whether based on contract, tort or any other legal theory and regardless of whether a party foresaw such damages, and (c) OCLC and its suppliers and licensors shall have no liability nor obligation whatsoever with respect to the provision or use of databases, including, without limitation, for any claims based on infringement of copyright, patent, trade secret or other right, libel, slander or invasion of privacy or claims based on errors, inaccuracies or omissions in or loss of the data. In no event, even if the foregoing limitations are held to be not enforceable, shall OCLC's (and/or its suppliers' or licensors) liability exceed the refund of monies actually paid by the Nebraska Library Commission for services and data hereunder for the most recent month.