

## OCLC Developer Terms of Use

Thank you for visiting the OCLC Developer Network (“Developer Network”) and the OCLC WorldShare Platform (“WorldShare Platform”). You may utilize the Developer Network and the WorldShare Platform by agreeing to and complying with these OCLC Developer Terms of Use (these “Terms”). Your use of the Developer Network and the WorldShare Platform is governed by these Terms, the OCLC WorldShare Platform Terms and Conditions, and any other terms and conditions presented to You, if applicable, which are hereby incorporated by reference (the “Agreement”). OCLC reserves the right, within its sole discretion, to determine your eligibility to use the Developer Network and the WorldShare Platform.

### 1. DEFINITIONS

- A. “Account” means your current access credentials which are recognized by OCLC as authentic.
- B. “Application(s)” means the Web-based, on-demand applications and downloadable software applications found in the OCLC WorldShare Application Gallery (“AppGallery”) that interoperate with the OCLC WorldShare Platform and the OCLC WorldShare Management Services, whether developed by OCLC or a 3<sup>rd</sup> party.
- C. “Commercial Use” means: (i) sale or resale of Platform Services (including, without limitation, sale or resale of rights therein under a licensing arrangement or otherwise); or (ii) use of Platform Services as part of or to facilitate a service for which You receive a fee (including, without limitation, fees from advertising placed on service interfaces).
- D. “Content” means text, images and/or other content You (by linking or otherwise) include in Your user profile (if any) or otherwise contribute to Platform Services, but specifically does not include Applications built, developed or contributed by You.
- E. “Data” means bibliographic data and other information (including text, images and other content contributed to Platform Services by other users) made available to You by OCLC or its suppliers through Platform Services.
- F. “Non-Commercial Use” means Your internal or personal use for purposes of resource discovery, learning, teaching, academic research, scientific research, private study, verification of bibliographic information and/or identification of materials to be ordered via interlibrary loan.
- G. “OCLC WorldShare Platform” means the Data, web services and other functionalities made available to You by OCLC through the OCLC WorldShare Platform websites.
- H. “OCLC WorldShare Sandbox” (or WorldShare Sandbox”) means the shared test environment within the WorldShare Platform where each developer can build, test and debug the Applications that they are working on. This includes, but is not limited to an environment for testing OpenSocial integration and web services.

- I. “You”, “Your” or Developer refers to: (i) an individual accessing and using Platform Services on his or her own behalf; or (ii) an individual or entity on whose behalf Platform Services are being accessed and used by his/her/its authorized representative.

## **2. ACKNOWLEDGEMENT AND ACCEPTANCE**

- A. You confirm that You have the right and authority to enter into this Agreement.
- B. By accessing or using any part of Developer Network, or by uploading, downloading or installing any content, you agree that you are subject to and will comply with these Terms of Use, as OCLC may update them from time to time, as well as the OCLC WorldShare Platform Terms and Conditions. You accept and agree to the terms and conditions of this Agreement on Your own behalf and/or on behalf of Your institution, library or other organization as its authorized legal representative.
- C. OCLC reserves the right, at its sole discretion, to change the terms of this Agreement at any time with reasonable advance notice given to the Developer. When these changes are made, OCLC will make a new copy of the Agreement available on the Developer Network Web site. OCLC will also post a notification on the OCLC web site describing the modifications made. The changes will become effective, and will be deemed accepted by You, (a) immediately for those who become Developers after the notification is posted, or (b) for pre-existing Developers, the modified Agreement will become effective upon Your acceptance of the modified Agreement (except changes required by law which will be effective immediately).
- D. OCLC grants You a limited license to use OCLC’s application programming interfaces (“APIs”), web services, data, files and other services and materials provided by OCLC, to develop and test Your Application for use within the OCLC WebShare Platform or for external use (i.e., not stored hosted or located within the WorldShare Platform or any other OCLC sites or services).
- E. OCLC claims no ownership or control over the Application. OCLC is not responsible for protecting any rights You may have in the Application.

## **2. OCLC RIGHTS AND OBLIGATIONS**

- A. OCLC will consider the Application that You submit through the WorldShare Platform Profile for distribution through the AppGallery. If the Application is certified by OCLC, OCLC will allow You to publish your Application publicly within the AppGallery. Distribution of a free, no charge Application will be subject to the distribution terms contained in this Agreement. If You would like to distribute an

Application as a commercial Application, You must enter into a separate, written agreement with OCLC.

- B. OCLC shall contact Developer within two (2) weeks by e-mail and/or your OCLC WorldShare Platform Profile to review Your Application. The Developer will cooperate with OCLC in the review process, answer questions and provide information and materials reasonably requested by OCLC regarding the Application. If the Application is rejected, Developer may revise and resubmit the Application. OCLC will review the revised Application and shall inform Developer and advise whether the revised Application has been accepted or rejected. Developer permits OCLC to verify the credentials of the Developer and to contact Developer's Institution or where applicable and as needed, other references of the Developer.
- C. Once the Application is included in the AppGallery, if Developer makes any material changes, including but not limited to, name changes, changes to the information in XML information, major bug fixes, major upgrades, new versions, modifications, to the Application, the Developer must resubmit the Application and OCLC will review for further distribution in the Developer Network.
- D. NOTHING IN THIS AGREEMENT OBLIGATES OCLC TO LIST, LINK TO, ACCEPT OR OTHERWISE HOST YOUR APPLICATION. IN ADDITION, IF YOUR APPLICATION IS ACCEPTED, NOTHING IN THIS AGREEMENT OBLIGATES OCLC TO PLACE YOUR APPLICATION IN THE APPGALLERY. OCLC MAY CHOOSE NOT TO LIST YOUR APPLICATION FOR ANY REASON OR NO REASON.
- E. OCLC reserves the right, at its sole discretion, to remove the listing of Your Application, move the listing to a different category or subcategory in the AppGallery, and change or remove any comments, or annotations at any time.
- F. OCLC shall not be obligated to host or license the Application and only be responsible for the maintenance of the Developer Network and OCLC WorldShare Platform. OCLC shall have the right to use Developer's trademarks, logos or other brand features solely for the purpose of promoting the Developer's Applications. OCLC shall have the right to provide marketing and sales support to the Developer's Application(s) and may use Developer's Application for marketing and promotion of OCLC's products and services.
- G. Any and all press releases and other public announcements, including the method and timing of such announcements, related to the inclusion, or possible inclusion, of the link to the Application in the AppGallery, OCLC WorldShare

Platform, this Agreement, its terms and conditions, or the relationship of the parties, shall be permitted by either party without the others party approval.

### **3. DEVELOPER RIGHTS AND RESPONSIBILITIES**

A. The Developer represents and warrants that:

- i. the Application is original, and does not infringe the intellectual property or any rights of any third party and that You are entitled or duly licensed to submit the Application and You have not and shall not falsify or delete copyright notices or other labels of the origin of the source contained in the Application;
- ii. the Developer has not introduced into the Application, and the Developer will use commercially available, industry standard, virus checking software to ensure that Application does not contain any viruses, worms, software bombs, malicious code, Trojan horses, cancel bots, back doors, corrupted files or other destructive or contaminating program or disabling device into the Application which could damage, destroy or adversely affect other software, data, services or networks;
- iii. the Developer has not used robots, spiders or any other device which could retrieve or index portions of the OCLC WorldShare Platform, Developer Network, any OCLC website, the OCLC content or the APIs for any unauthorized purpose, and Developer conforms to all ethical use guidelines as published on the OCLC website;
- iv. the Developer acknowledges that all right, title and interest in and to the OCLC content, and any derivative works based upon the OCLC content, remain with OCLC and its suppliers, except as expressly set forth in this Agreement, and that the unauthorized redistribution of the OCLC content is not permitted;
- v. the Developer will not download, scrape or transmit any portion of the OCLC content, OCLC website other than content as developed by the Developer or as authorized by OCLC under this Agreement;
- vi. all descriptions and information as provided to OCLC will be true, accurate and complete and the Developer will promptly notify OCLC of any changes to such descriptions and information;
- vii. the Developer will not misrepresent any features, content, services or functionality in the Application;

- viii. the Developer has obtained all requisite licenses, approvals (i.e., approval from your Institution or the organization for whom you work or are affiliated), rights, permits as may be required for the worldwide distribution and use of the Application;
  - ix. the Application shall be of satisfactory quality, shall be free from material defects;
  - x. the Developer shall not copy, adapt, reformat, reverse engineer, disassemble, decompile, translate or otherwise modify the, APIs, website or any of the OCLC services and products.
- B. The Developer will be solely responsible for all costs, expenses, losses and liabilities incurred, and activities undertaken by the Developer in connection with the Application and the AppGallery. OCLC is not responsible for the development, control and maintenance of Your Application. The Developer will correct free of charge to OCLC and the end users any instance of non-compliance of the Application with its description and specifications as provided to OCLC. The Developer will provide OCLC access to the Application and any other content or material related to the use of the Application as requested by OCLC to ensure compliance with the terms and conditions of this Agreement.
- C. The Developer shall communicate, as necessary, to subscribers via the AppGallery. If applicable, Developer is responsible for indicating in the description Field in the AppGallery that a new or upgraded version of an Application is materially different from the previous version.
- D. The Developer agrees to maintain a stable version of the Application within the AppGallery. Developer shall use best efforts to provide the Application with a quality of service consistent with industry standards, specifically, to provide continuous service with an average of at least ninety percent (90%) up - time per year, and to restore service immediately in the event of an interruption or suspension of service. The Developer shall notify OCLC immediately in the event it has a reasonable suspicion that the Application supplied hereunder may not be in accordance with its description or any term of this Agreement or in the event of problems with the link or otherwise providing access to the Application. The Developer shall adhere to the user interface and branding guidelines and other Application submission requirements as set forth in the OCLC Developer Network Best Practices Guidelines, found at <http://www.oclc.org/developer/platform/best-practices-application-development> and <http://www.oclc.org/developer/platform/opensocial/best-practices-platform-gadget-development>, and shall provide within twenty four (24) hours an email

notice to OCLC in the event of a malfunction of the Application. The Developer shall notify users about malfunctions via posting in the AppGallery and cure the malfunction in accordance with section 9.C.(ii) of this Agreement.

- E. The Developer will provide descriptions and all other information such as marketing information, necessary for OCLC to market the Application to subscribers by OCLC. This marketing information as developed by OCLC is subject to change at OCLC's sole discretion.
- F. In Your use and display of the OCLC trademarks or other brand features You will not display OCLC brand features that are misleading, defamatory, obscene or otherwise be objectionable to OCLC or which suggests that OCLC created, sponsored or endorsed Your Application. The Developer shall have the right to advertise and market the Application independent of OCLC.
- G. The Developer shall not display any advertising inside the Application or use any content as obtained via the API outside the Application, unless permitted by OCLC in writing.
- H. The Developer will not act in any manner which conflicts or interferes with any existing commitment or obligation the Developer may have and no agreement previously entered into by the Developer will interfere with the obligations under this Agreement.
- I. The Application shall not breach the law or any regulatory requirement of any territory that OCLC lists the link to the Application including but not limited to data protection laws, infringement of copyright and/or other intellectual property rights. Without limiting the foregoing, the Developer shall comply with all export and import, anti-corruption, and environmental laws, and the Developer will secure with the applicable customs authority all necessary clearances, licenses, and exemptions, and it will make all required filings and disclosures relating to the provision of the products and/or services. The Developer shall not export, directly or indirectly, any technology, software or commodity of U.S. origin or having U.S. content to countries or nationals of those countries where ever located listed in U.S. Export Administration Regulations, as modified from time to time, unless authorized by appropriate government license or regulations. Whenever OCLC requests it to do so, the Developer shall promptly furnish to OCLC copies of such documentation. The Developer will comply with all site and security policies and any other reasonable policies of OCLC as may be applied and/or specified to the Developer by OCLC from time to time, including but not limited to policies on Sarbanes Oxley. Whenever OCLC requests it to do so, the Developer shall promptly furnish to OCLC copies of such documentation.

- J. The Application shall not, to the best of the Developer's knowledge and belief, be considered to be defamatory, pornographic, obscene, offensive or illegal for any of the territories that OCLC distributes the link to the Application.
- K. The Application shall not collect or otherwise process or use personal data in any manner which transfers such personal data outside of the WorldShare Platform. In the event the Application collects or otherwise processes or uses personal data within the WorldShare Platform, You shall expressly obtain consent from the end users which shall be limited to the use the end user expressly consents to. You shall undertake the appropriate technical and security measures to protect the personal data You collect via the Application. The use of any technical data or technical information collected about an end user's device or system in order to support the Application shall be limited solely as necessary to provide the functionality of the Application.
- L. The Developer agrees to ensure that commercially reasonable and acceptable safeguards are implemented within the Application to protect the confidentiality of data that may be considered private, sensitive financial or PII. In addition, any Application meant to modify Data in any way, must ensure Data integrity and availability.

#### **4. USE OF WSKEYs**

- A. You agree and understand that You are responsible for maintaining the confidentiality of passwords and web service keys ("WSKey") associated with any account You use to access the Developer Network, APIs, OCLC WorldShare Platform or any OCLC product or service. Accordingly, You agree that you will be solely responsible for all activities that occur under Your WSKey or account. If you become aware of any unauthorized use of your password, WSKey or your account, you agree to notify OCLC immediately at [support@oclc.org](mailto:support@oclc.org) (+1-614-764-6000, ext. 3510)
- B. Upon full execution of this Agreement, OCLC will deliver to Developer the WSKey(s) necessary for secure access to enable Developer to use the proprietary APIs to develop the Application and to implement the integration of the Application within AppGallery. You may not sell, transfer, sublicense or otherwise disclose the WSKeys for secure access to any other party or use them with any other Application other than for the purposes as described in this Agreement. You are responsible for maintaining up to date information about Your contact information on the Developer's registration form and You may not modify or attempt to circumvent the WSKey(s) for secure access to the APIs.

## **5. APIs**

- A. OCLC hereby grants to Developer a royalty-free, non-transferable, non-exclusive, worldwide license to integrate the Application(s) with a set of proprietary APIs, in accordance with the API documentation solely to enable the inclusion of content and data from WorldCat or the OCLC WorldShare Platform in the Application, for the purpose of developing, testing and supporting the Application and enabling subscribers of the Developer Application to dynamically access data made available by the APIs for use through the App Gallery, OCLC WorldShare Platform or the Development Network.
- B. Developer shall delete any content retrieved from the APIs content stored outside the WorldShare Platform within ten (10) days after the Application has been removed from the OCLC WorldShare Applications Gallery and provide a certificate of destruction upon request of OCLC. Any Application usage data which include OCLC web sites usage data may be used solely to operate, improve or enhance the Application.
- C. OCLC reserves the right to block, change, suspend, remove or disable access to the APIs and any of its services at any time.

## **6. USE OF THE OCLC WORLDSHARE SANDBOX**

- A. In testing your Application, You will need to install your Application into the OCLC WorldShare Sandbox. OCLC does not make any promises or claims as to the availability, or "uptime" of WorldShare Sandbox.
- B. The WorldShare Sandbox service is a shared test environment, meaning that multiple developers will be using the the WorldShare Sandbox at the same time. As a result, data and applications loaded in the Sandbox may need to be refreshed on a regular basis. When possible, OCLC will publish a time table and alert developers to refresh cycles. You are responsible for backing up your own work to prevent loss due to the Sandbox being refreshed.

## **7. INDEMNIFICATION**

To the extent permitted by law, the Developer agrees to indemnify and hold harmless, and upon OCLC's request defend, OCLC, and its subsidiaries, affiliates, officers, directors, employees and agents, from any and all claims, losses, liabilities, damages, taxes, expenses and costs, including reasonable attorney's fees, incurred and arising out of Developer's use of or listing in the Developer Network, the acceptance of

rejection of Developer's submitted Application, any alleged violation of this Agreement, or any alleged violation of any privacy or intellectual or proprietary rights of others. OCLC reserves the right, at its own expense, to assume the exclusive defense and control of any matter subject to indemnification by Developer, which shall not excuse Developer's indemnity obligations. You shall settle all disputes directly with subscribers.

## **8. DISCLAIMER**

THE DEVELOPER NETWORK IS PROVIDED ON AN "AS IS" AND "AS AVAILABLE" BASIS WITHOUT WARRANTIES OF ANY KIND, EITHER EXPRESS OR IMPLIED, INCLUDING BUT NOT LIMITED TO WARRANTIES OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE, NEITHER THIS AGREEMENT NOR ANY DOCUMENTATION FURNISHED UNDER IT IS INTENDED TO EXPRESS OR IMPLY ANY WARRANTY THAT THE DEVELOPER NETWORK SERVICE WILL BE UNINTERRUPTED, TIMELY OR ERROR-FREE. OCLC, AND ITS SUBSIDIARIES, AFFILIATES, OFFICERS, DIRECTORS, EMPLOYEES AND AGENTS, SHALL NOT BE LIABLE, UNDER ANY CIRCUMSTANCES OF LEGAL THEORIES WHATSOEVER, FOR ANY LOSS OF BUSINESS, PROFITS OR GOODWILL, LOSS OF USE OF DATA, INTERRUPTION OF BUSINESS, OR FOR ANY INDIRECT, SPECIAL, INCIDENTAL OR CONSEQUENTIAL DAMAGES OF ANY NATURE, EVEN IF OCLC IS AWARE OF THE RISK OF SUCH DAMAGES, THAT RESULT IN ANY WAY FROM DEVELOPER'S USE OF OR INABILITY TO USE THE DEVELOPER NETWORK, OCLC'S ACCEPTANCE OR REJECTION OF THE APPLICATION, OR OCLC'S CONTINUED LISTING OR TERMINATION OF LISTING OF AN APPLICATION IN THE OCLC WORLDSHARE APPLICATION GALLERY. OCLC'S LIABILITY TO DEVELOPER SHALL NOT, FOR ANY REASON, EXCEED THE AMOUNT, IF ANY, ACTUALLY PAID BY OCLC TO DEVELOPER UNDER THIS AGREEMENT.

## **9. TERM AND TERMINATION.**

- A. Term - Subject to earlier termination pursuant to the terms of this Agreement, the term of this Agreement shall commence on the date on which the Developer has accepted this Agreement and shall continue until the one (1) year anniversary of the acceptance date (the "Initial Term").
- B. Renewal - Unless written notice is given to either party within sixty (60) days of the end of the Initial Term that expresses a desire to not renew this agreement, this Agreement will be automatically renewed after the Initial Term for successive one-year terms, unless sooner terminated in accordance with this Agreement.
- C. Termination
  - (i) This Agreement may be terminated by either party forthwith in the event:

- (a) a party is in material breach of any non-payment term, condition or provision of this Agreement, which breach, if capable of being cured, is not cured within thirty (30) days after the non-breaching party gives the breaching party written notice of such breach; or
  - (b) a party (i) terminates or suspends its business, (ii) becomes insolvent, makes an assignment for the benefit of creditors, or becomes subject to direct control of a trustee, receiver or similar authority, or (iii) becomes subject to any bankruptcy or insolvency proceeding.
- (ii) OCLC may terminate this Agreement in the event (i) an Application with a material malfunction has not been cured within thirty (30) days after OCLC becomes aware of the material malfunction and has notified the Developer; or (ii) for its convenience, for any reason or no reason, effective thirty (30) days after providing the Developer a written notice of termination. OCLC shall further have the right to seek immediate injunctive relief in the event of a material breach by Developer of this Agreement.
- D. Effect of Termination - Upon termination for any reason or expiration, OCLC shall cease to further use, distribute, promote, market, or advertise the Application and shall disable the link to the Application. Termination or expiration of this Agreement will not prevent or excuse either party from settling accounts or collecting funds. Each party shall destroy Confidential Information it has in its possession or control and You must permanently delete all OCLC content or other data which You stored pursuant to Your use of the APIs or other services.

## 10. GENERAL

- A. Force Majeure - Neither party's delay or failure to perform any provision of this Agreement as a result of circumstances beyond its control (including, but not limited to, war, strikes, fires, floods, governmental restrictions, power failures, telecommunications or Internet failures or damage to or destruction of any network facilities or servers) shall be deemed a breach of this Agreement.
- B. Severability - The invalidity or unenforceability of any provision of this Agreement shall not affect any other provisions of this Agreement. If a court holds that this Agreement cannot be enforced as written then the parties agree to replace that part with terms and conditions that most closely match the intent of the part that cannot be enforced.
- C. Relationship - This Agreement will not be construed as creating a partnership, joint venture, fiduciary duty or any other form of legal association between the Developer and OCLC and the Developer will not represent OCLC to the contrary.

- D. Independent Development - Nothing in this Agreement will restrict OCLC's right to develop, acquire, license, market, promote or distribute products or technologies that perform the same or similar functions as, or otherwise compete with, the Application.
- E. Entire Agreement - This Agreement contains the entire understanding and agreement of the parties and merges and supersedes any and all prior and contemporaneous agreements, communications, proposals and purchase orders, written or oral, between the parties with respect to the subject matter contained herein.
- F. Modification - No modification, amendment or waiver of any provision of this Agreement shall be valid unless in writing and signed by the parties.
- G. Assignment - The Developer shall not assign, transfer or license any of its rights or obligations under this Agreement unless it obtains the prior written consent of OCLC, which consent shall not unreasonably be withheld.
- H. Privacy - OCLC maintains information about the Developer on OCLC servers, including but not limited to Developer's registration information. The Developer agrees that OCLC may use such information in aggregate form for marketing or other promotional purposes. Developer agrees that OCLC may disclose such information in the good faith belief that such action is reasonably necessary: (a) to comply with the law or legal process; (b) to enforce this Agreement; or (c) to protect the rights or interests of OCLC or others. OCLC may contact Developer regarding the Application submission process using the Developer's e-mail address provided during the registration process (or as updated by Developer). Such e-mail messages may contain opportunities regarding special offers and new products and/or services from OCLC. Developers are not permitted to collect and use end user registration and other Confidential Information without the express consent of the end user.
- I. Notices - All notices given pursuant to this Agreement shall be in writing and delivered to the party to whom such notice is directed at the address specified below or the facsimile number or electronic mail address as such party shall have designated by notice hereunder.

If to OCLC:

OCLC Online Computer Library Center, Inc.  
6565 Kilgour Place  
Dublin, Ohio 43017-3395  
Attention: Don Hamparian

with a copy to:

OCLC Online Computer Library Center, Inc.

6565 Kilgour Place  
Dublin, Ohio 43017-3395  
Attention: General Counsel  
Fax: 614-764-0740

If to the Developer: notices shall be addressed to the electronic or mailing address specified in the Developer's registration form, or such other address as either party may give the other by notice as provided in this Section.

- J. Confidentiality - During the term of this Agreement and thereafter, except as specifically provided herein and/or to the extent necessary to perform its obligation or exercise or enforce its rights hereunder, neither party shall provide or disclose to any third party, unless authorized in writing to do so by the other party or properly directed or ordered to do so by public authority, any information or matter that constitutes or concerns the terms and conditions of the Agreement or constitutes confidential information as to the general trade practices, email correspondence and feedback between the Developer and OCLC, financial matters, user identities, usage of the OCLC websites, the usage activity of the Application users, marketing and selling strategies or customer information which are proprietary to the other party, any documents which embody such information, and any documents that have been marked proprietary or confidential (collectively, the "Confidential Information"). Confidential Information shall not include any information or matter that: (i) is already known to the party disclose to was previously known to the receiving party free of any obligation to keep it confidential; (ii) is or becomes rightfully disclosed to that party by a third party not under obligation to confidentiality to the disclosing party; (iii) is or becomes publicly known by other than unauthorized disclosure.
- K. Governing Law and Venue - This Agreement will be governed by and construed in accordance with the laws of the state of Ohio