

THE INFORMATION IN THIS BOX IS NOT A PART OF THE CONTRACT AND IS FOR COUNTY USE ONLY



Contract Number

24-821

SAP Number

### County Counsel

Department Contract Representative Eva Magana  
Telephone Number 387-5456

Contractor LexisNexis, a division of RELX Inc.  
Contractor Representative Paige Hren  
Telephone Number 949-212-7655  
Contract Term October 1, 2024 through  
September 30, 2027

Original Contract Amount \_\_\_\_\_  
Amendment Amount \_\_\_\_\_  
Total Contract Amount \$35,246  
Cost Center \_\_\_\_\_  
Grant Number (if applicable) 1710001000

**Briefly describe the general nature of the contract:**

Publication Services Agreement with LexisNexis, a division of RELX Inc., for a digital library subscription to include electronic and print publications and other digital materials for a contract term of October 1, 2024 through September 30, 2027.

**FOR COUNTY USE ONLY**

Approved as to Legal Form

▶ Bonnie Uphold  
Bonnie Uphold, Supervising Deputy County Counsel

Date 8/15/2024

Reviewed for Contract Compliance

▶ \_\_\_\_\_

Date \_\_\_\_\_

Reviewed/Approved by Department

▶ \_\_\_\_\_

Date \_\_\_\_\_

"Subscriber" (or "You" or "Your", in uppercase or lowercase): San Bernardino County Counsel's Office	"LN" (or "We" or "Us"): LexisNexis, a division of RELX Inc.
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You agree to purchase or license from Us, the LN products and services elected below (each a "Publication Service"). Your use of, and access to, the Publication Service is expressly subject to the terms and conditions set forth in this Order (including the Riders) and at <http://www.lexisnexis.com/en-us/terms/publications-services-agreement.page> (the "Pub. Svcs. Terms") which are incorporated herein by reference and which collectively with this Order (including the Riders) are referred to as this "Agreement". All capitalized terms not otherwise defined in this Order have the meaning given to them in the Pub. Svcs. Terms.

**1. TERM**

1.1. The term of this Agreement will commence on the date this Agreement has first been accepted by both parties and will continue for the following periods (each a "Committed Period") (check the appropriate one for each Year):

- "Year 1":  12 months after Year 1 Start Date or  October 1, 2024 to September 30, 2025;
- "Year 2":  the 12 months immediately following Year 1 or  October 1, 2025 to September 30, 2026 or  N/A;
- "Year 3":  the 12 months immediately following Year 2 or  October 1, 2026 to September 30, 2027 or  N/A;
- "Year 4":  the 12 months immediately following Year 3 or  to or  N/A;

(collectively, the "Term").

1.2. "Start Date" is a defined term that applies when a Digital Library is ordered, and is the earlier of the first day of the first calendar month: (i) during which you initially have access to the Development Site or (ii) which occurs (i.e., is current) 30 days after this Agreement is fully executed by both parties.

1.3. This Agreement may be terminated during the Term for a material breach that remains uncured for more than 30 days after the breaching party receives written notice from the non-breaching party identifying the specific breach. If this Agreement is properly terminated during a Commitment Period in which funds are due to LN, then LN will prorate annual commitment amounts for such Commitment Period. The basis of such proration shall be the number of full or partial months this Agreement is in effect during such Commitment Period divided by 12.

**2. LEXISNEXIS DIGITAL LIBRARY SERVICE AND COMMITMENT**

2.1. During the Term, LN grants you the right to access the Digital Library and the Digital Library eBooks for use on your Authorized Users' computers and supported mobile devices. Authorized User has the meaning set forth in the Pub Svcs. Terms. You will also have the ability to acquire content directly from OverDrive (the "OverDrive Content"). Any access to or use of the OverDrive Content is subject to the separate financial arrangement between you and OverDrive and LN disclaims any and all liability for the OverDrive Content. You will be billed for the OverDrive Content directly by OverDrive.

2.2. LN will begin creating your Digital Library after this Agreement becomes binding on both parties. There will be a set-up period of approximately four weeks before you will have access to the Digital Library. You will be invoiced monthly or annually for the commitment amounts for the Digital Library (Application Services Fee and Digital Library eBooks).

2.3. During the Initial Term, you will pay to LN the following Commitment Amounts:

Commitment Period	Digital Library eBooks (Rider No. 1) Commitment	Application Service Fee Commitment	Total Commitment (Digital Library)
Year 1	\$9,180	\$1,200	\$10,380
Year 2	\$9,455	\$1,236	\$10,691
Year 3	\$9,739	\$1,273	\$11,012
Year 4			

The Digital Library eBooks Commitment Amounts may be adjusted over the Term as Permitted Adjustments (defined below) and permitted adjustments to the Preferred Customer Discount are made. All Digital Library eBooks are provided on a Service Subscription basis.

2.4. Digital Library eBook titles shall be set to allow an unlimited number of users within your organization to access titles or volumes within them ("Simultaneous Access").

Notwithstanding the copy entitlements described herein, Publications from The Florida Bar, ABA, AHLA, ALM, some state code titles, and certain other licensed publications may be excluded and some Publications may only be made available to you on a single copy/single user basis. For a complete list of Publications excluded, please ask your representative.

2.5. "Matching Print" is any Non-Digital Library Publication to which you subscribe when you have also subscribed to that Publication in a Digital Library eBook format and quantity during the same period.

Your **Matching Discount** is 100% and may be applied on no more than the number listed as **Maximum Matching Print Quantities** in the column on Rider 1. This number is calculated as 60% of the quantity of each Digital Library eBook title to which your Simultaneous Access is based, and any fractional quantities are rounded. Any additional copies you elect to purchase will be priced

at then-current upkeep prices minus any discounts you may have been receiving on such titles immediately before this Agreement was signed.

The Matching Discount is provided for the Term of this Agreement in recognition of your adoption of the Digital Library. ALM, some state code titles and certain other licensed publications may be excluded from one or both of these models. For further details, please ask your representative.

2.6. LN will provide you with **Print without Matching Discount** as listed on the attached **Rider 2**. In exchange for the Publications listed on Rider 2, you will pay to LN the annual Commitment Amount of **\$0 for Service Subscriptions and \$564 (Estimated) for Non-Service Subscriptions** for such Publications for Year 1. In subsequent years of the Term, the Commitment Amounts for Service Subscriptions for Publications without Matching Discount are subject to a 3% fixed annual increase, and the Commitment Amounts for Non-Service Subscriptions without Matching Discount will receive an additional 5% discount on all Updates (defined below).

**3. PREFERRED CUSTOMER STATUS, PUBLICATION CHANGES, AND THRESHOLD SPEND AMOUNT**

- 3.1. Due to your overall annual spending level on all Publications provided herein as well as the other products and services provided by LN (or its affiliate Matthew Bender & Company, Inc.) even if not mentioned herein ("**All LN Products**") as determined based on the 12 months prior to the date this Agreement is executed by you, you are considered a "**Preferred Customer**" of LN and will receive special pricing for Publications included herein. If your overall annual spending level for All LN Products decreases significantly during the Term, you may no longer be considered a Preferred Customer and LN reserves the right to adjust the pricing to reduce or eliminate the Preferred Customer discount, or terminate this Agreement, upon 30 days written notice to you.
- 3.2. During Year 1 of this Agreement, you will subscribe to the Publications listed on the attached Riders 1 and 2. After Year 1 of this Agreement and subject to Section 3.3 below, you may elect to substitute or change the Publications listed in the attached Riders 1 and 2 only once per Year upon 45 days prior written notice to LN to be effective as of the start of the next Commitment Period, as the case may be ("**Permitted Adjustments**"). If Permitted Adjustments to the titles or quantities are made, then the following rules will apply:
- i. Any cancellation of a Digital Library eBook title shall be a cancellation of access to that Digital Library eBook title in its entirety.
  - ii. You may purchase entitlements for cancelled Digital Library eBook titles in Year 1 or thereafter on a single user entitlement per copy basis. To restore simultaneous access for such re-purchased Digital Library eBook titles, you must repurchase a whole number quantity of such title at the then-current list price, such that the total spent on that Digital Library eBook title for all quantities now meets or exceeds the price paid when cancelled.
  - iii. Any new Publications added in Digital Library eBook format must be added in a quantity of at least 4 to get simultaneous use entitlement. Any new Publications added at a quantity of less than 4 will be given one user, one copy entitlement and are not entitled to the "Matching Discount" described above. A "new" Publication is one to which Subscriber has not subscribed in any form of media within the past twelve (12) months.
- 3.3. Your Year 1 Commitment Amounts as listed on the attached Riders 1 and 2 are collectively the "**Threshold Spend**" amount. Your substitutions for Publications of greater value or adding of Publications shall require you to pay the Threshold Spend amount plus the increased total amount over the Threshold Spend. Your substitutions for Publication of lesser value or removal of Publications shall require you to continue to pay the Threshold Spend.

**4. CONFIDENTIAL INFORMATION**


This Agreement contains confidential information, including pricing information, of LN (the "**Confidential Information**"). You understand that disclosure of Confidential Information could cause competitive harm to LN. You agree to receive and maintain the Confidential Information in trust and confidence and to take reasonable precautions against its disclosure to any third person.

**5. CAMPAIGN CONTRIBUTION DISCLOSURE (SB 1439)**

LN has disclosed to Subscriber using Attachment X - Campaign Contribution Disclosure Senate Bill 1439, whether it has made any campaign contributions of more than \$250 to any member of the County Board of Supervisors or other San Bernardino County elected officer [Sheriff, Assessor-Recorder-Clerk, Auditor-Controller/Treasurer/Tax Collector and the District Attorney] within the earlier of: (1) the date of the submission of LN's proposal to the Subscriber, or (2) 12 months before the date this Agreement was approved by the County Board of Supervisors. LN acknowledges that under Government Code section 84308, LN is prohibited from making campaign contributions of more than \$250 to any member of the Board County of Supervisors or other San Bernardino County elected officer for 12 months after the Subscriber's consideration of the Agreement. In the event of a proposed amendment to this Agreement, LN will provide the Subscriber a written statement disclosing any campaign contribution(s) of more than \$250 to any member of the County Board of Supervisors or other San Bernardino County elected officer within the preceding 12 months of the date of the proposed amendment. Campaign contributions include those made by any agent/person/entity on behalf of the LN or by a parent, subsidiary or otherwise related business entity of LN.

6. This Agreement is subject to acceptance by LN, which acceptance may be evidenced by signature or by providing access to the Publication Services or otherwise initiating its performance under this Agreement.

Agreed to and accepted by:

<b>"Subscriber": San Bernardino County Counsel's Office</b>	
[MUST BE COMPLETED BY YOU]	
<b>Authorized Subscriber Signature:</b>	
<b>Printed Name:</b>	Dawn Rowe
<b>Job Title:</b>	Chair, San Bernardino County Board of Supervisors
<b>"Signature Date":</b>	SEP 10 2024
<b>Number of Authorized Users for Digital Library:</b>	Authorized users include all employees (FT, PT, Temporary, and LNs) of San Bernardino County Counsel's Office.

SIGNED AND CERTIFIED THAT A COPY OF  
THIS DOCUMENT HAS BEEN DELIVERED  
TO THE CHAIRMAN OF THE BOARD  
LYNNA MONELL  
Clerk of the Board of Supervisors  
of the County of San Bernardino

By  Deputy

This Agreement Addendum (this "Addendum") amends and supplements the terms of the Publication Service agreement between LexisNexis, a division of RELX Inc. ("LN") and San Bernardino County Counsel's Office, a city, state, county or other local government agency ("Subscriber"). The Agreement shall consist of the Order (including the Riders), the LexisNexis Publication Services Terms and Conditions viewable at <http://www.lexisnexis.com/en-us/terms/publications-services-agreement.page> (the "Pub. Svcs. Terms"), which are incorporated into the Agreement by reference and made a part thereof (collectively the "Agreement").


1. **Term.** The term of this Addendum shall be coterminous with the Agreement.
2. **Governing Law; Applicable Law.** Notwithstanding anything to the contrary in the Agreement, the Agreement shall be governed by the law of the U.S. State in which Subscriber is located. LN agrees to comply with all applicable laws of Subscriber's State in the performance of its obligations under the Agreement. For the avoidance of doubt, the law of the U.S. State shall not be construed to apply any tribal law.
3. **Section 2.4 of the Pub. Svcs. Terms.** If Subscriber declines to utilize the Subscriber Documents feature as stated in Section 2.4 of the Pub. Svcs. Terms, and Subscriber provides LN written notice of such intention, LN will disable the Subscriber Documents Feature and Section 2.4 of the Publ Svcs. Terms shall not be applicable to Subscriber once disabled.
4. **Non-Discrimination.** LN does not, in the hiring of employees for the performance of work under the contract or any subcontract, by reason of race, color, religion, sex, age, disability or military status as defined in Section 4112.01 of the Revised Code, national origin, or ancestry, discriminate against any citizen of the state of Ohio in the employment of a person qualified and available to perform work which the Agreement relates. Further, LN does not discriminate against, intimidate or retaliate against any employee hired for the performance of work under the Agreement on account of race, color, religion, sex, age, disability or military status as defined in 4112.01 of the Revised Code, national origin or ancestry.
5. **Non-Appropriation of Funds.** If funds are not appropriated or allocated for payment for the type(s) of services contemplated under the Agreement for any current or immediately subsequent fiscal period, then Subscriber, at its option, may terminate the Agreement on the last day of any year of the Term upon no less than 30 days' prior written notice to LN, without future obligations, liabilities, or penalties to LN, except for amounts due up to the time of termination. In addition, in order to exercise this option, Subscriber shall certify and warrant in writing to LN, under penalty of perjury, that funds for the type(s) of services contemplated have not been appropriated to continue the Agreement for the current or immediately subsequent fiscal year. For a point of clarification, substituting the services provided by LN to another service provider under any circumstances is not grounds to exercise this option.
6. **Data Ownership.** Notwithstanding anything to the contrary in the Agreement, LN reserves all right, title and interest in and to the Digital Library Publications and any and all Materials made available through the Pub. Svcs. Terms. LN grants Subscriber only a limited, non-exclusive, non-transferable license to access and use the Digital Library Publications as set forth in the Pub. Svcs. Terms.
7. **Late Payments.** Any late payment provision is modified to state that Subscriber will pay late charges to the maximum legal rate under the applicable State Prompt Payment Act. All other references to interest or late charges are deemed struck.
8. **Limitation of Liability.** Subscriber, as a State entity, does not agree to assume the potential liability of LN. Accordingly, any limitation is null and void to the extent it precludes any action for injury to persons or for damages to personal property.
9. **Indemnity; Liquidated Damages.** Any provision in the Agreement requiring Subscriber to indemnify and hold LN harmless is deleted and replaced with a provision that requires Subscriber to be responsible for a breach of this Agreement solely to the extent permissible under State law. Any provision in the Agreement requiring LN to indemnify Subscriber is deleted and replaced with the

indemnification provision in the Pub. Svcs. Terms. Any provision providing for the payment of liquidated or cover damages is deleted.

10. **Warranties.** LN's warranties for the Publication Services are set forth in the Pub. Svcs. Terms. Any Subscriber provided provisions in the Agreement which sets forth additional warranties is deleted.
11. **Assignment and Subcontracting.** Notwithstanding anything to the contrary in the Agreement, LN shall have the right to assign the Agreement to an affiliate or to a successor by merger or to the transferee of substantially all of its stock or assets without Subscriber's prior written consent. Subject to the foregoing, this Agreement will bind and benefit the parties and their respective successors and assigns. LN may also subcontract the performance of this Agreement so long as LN remains primarily liable to the State for the performance of its obligations hereunder. Any provision which attempts to prohibit LN from offshoring or outsourcing the services to be performed is deemed struck unless expressly accepted by LN in a separate writing.
12. **Confidential Information.** Notwithstanding anything in the Agreement to the contrary, this Agreement contains confidential information including pricing information, of LN (the "Confidential Information"). Subscriber understands that disclosure of Confidential Information could cause competitive harm to LN. Subscriber agrees to receive and maintain Confidential Information in trust and confidence and shall not disclose Confidential Information except in accordance with and only to the extent required by State Law.
13. **Miscellaneous.**
  - 13.1 Except as expressly modified by this Addendum, all other terms and conditions of the Agreement will remain in full force and effect and will be unaffected by this Addendum.
  - 13.2 If Subscriber issues a purchase order in connection with the Agreement, Subscriber acknowledges and agrees that the purchase order shall be for Subscriber's internal purposes only and shall not modify or affect any of the other terms or conditions for access to the Publication Service.
  - 13.3 In the event of a conflict between the terms of the Agreement and this Addendum, this Addendum will control.

LN's acceptance of the terms of this Addendum shall be evidenced by its signature below or by providing Subscriber with access to the Publication Service.

**AGREED TO AND ACCEPTED BY:**

<b>Subscriber: San Bernardino County Counsel's Office</b>	
[MUST BE COMPLETED BY SUBSCRIBER]	
<b>Authorized Subscriber Signature:</b>	
<b>Printed Name:</b>	Dawn Rowe
<b>Job Title:</b>	Chair, San Bernardino County Board of Supervisors
<b>Date:</b>	SEP 10 2024

**This Addendum is subject to acceptance by LN, which acceptance will be evidenced by providing access to the Publication Services or otherwise initiating its performance under this Agreement.**

**Rider 1: Digital Library eBooks for San Bernardino Cnty Counsel**

rider created 5/6/2024 22:05

Number of free print copies



Pub	eBook ISBN	eBook Title	QTY_	Year1	Year 2	Year 3	Maximum Matching Print Qty
46	0009046000005	Seiser & Kumli on California Juvenile Courts Practice and Procedure	UNL	\$4,328	\$4,458	\$4,592	7
176	0009176120000	California Public Sector Labor Relations	UNL	\$560	\$577	\$594	1
180	9781663367549	California Compensation Cases - Advance Sheets	UNL	\$1,643	\$1,692	\$1,743	1
979	9780820522227	Ca Compensation Cases Bound Volumes	UNL	\$986	\$1,016	\$1,046	1
1653	9781579114923	California Public Sector Employment Law	UNL	\$1,663	\$1,713	\$1,764	1
<b>Grand Total</b>					\$9,180	\$9,455	\$9,739

S&H for the free matching print copies listed on Rider 1 ("Maximum Matching Print QTY") = 5% of Rider 1 totals & billed annually:

- o Y1: \$459
- o Y2: \$473
- o Y3: \$487



Rider No. 2 for  
Publications without Matching Discount Subscriptions  
San Bernardino Cnty Counsel

rider created 7/12/2024 19:58

**Publications without Matching Discount SERVICE SUBSCRIPTIONS**

<i>City</i>	<i>Account #</i>	<i>ISBN</i>	<i>Pub Number</i>	<i>Title Description</i>	<i>Media Type</i>	<i>1st Year Renewal Price</i>
First Year Service Subscription Total						\$ -



Rider No. 2 for  
Publications without Matching Discount Subscriptions

**Publications without Matching Discount NON-SERVICE SUBSCRIPTIONS**

<i>City</i>	<i>Account #</i>	<i>ISBN</i>	<i>Pub Number</i>	<i>Title Description</i>	<i>Media Type</i>	<i>Est. No. of Updates/Yr</i>	<i>Est. Y1 NS List Upkeep Cost Per</i>	<i>QTY</i>	<i>Est. Y1 NS Extended Cost</i>
San Bernardino	0008575700	0009840001017	00840	Workers Compensation Laws of Ca Continuity Service	Print	1	\$ 254	3	\$ 564
<b>Est. First Year Non-Service Subscription Total</b>									<b>\$ 564</b>



NOTICE: THE FOLLOWING TERMS AND CONDITIONS APPLY TO YOUR USE OF THE LEXISNEXIS PUBLICATION SERVICES IF YOU ARE AN AUTHORIZED USER IN AN ORGANIZATION THAT HAS ACCEPTED THESE TERMS IN WRITING. OTHERWISE, YOUR USE OF THE PUBLICATION SERVICES IS SUBJECT TO THE TERMS AND CONDITIONS EXECUTED BETWEEN YOUR ORGANIZATION AND LEXISNEXIS.

## PUBLICATION SERVICES AGREEMENT

July 1, 2024

The terms and conditions listed below govern access to, and use of: Publications and the Digital Library, if ordered (the "Publication Services") and the materials and content available therein ("Materials"), as provided by LexisNexis, a division of RELX Inc. and its affiliated companies (collectively "LN"). The terms "you" and "your" in uppercase or lowercase mean the entity (e.g., company, corporation, partnership, sole proprietor, etc.) or government agency entering into these terms and conditions with LN. These terms and conditions, together with the Order Form, and any digital rights management ("DRM") included in the Electronic Publications, and terms posted within the Digital Library, constitute the entire agreement between you and LN in relation to the provision of the Publication Services and the Materials (collectively the "Agreement").

### Definitions

- (a) "**Additional Terms**" includes conditions published online, contained within a publication or product, online descriptions of files, online notices following file selection, and individual documents retrieved from the Digital Library and Electronic Publications.
- (b) "**Application Services**" describes the digital content lending platform developed, managed and hosted by LN's licensor, OverDrive, Inc.
- (c) "**Authorized Users**" means an Eligible Person (defined in Subsection 2.1(a) below) whom you have identified to LN for purposes of providing access to the Digital Library and Electronic Publications (both defined below).
- (d) "**Digital Library**" is the Application Services together with the Digital Library Publications.
- (e) "**Digital Library Publications**" are the Electronic Publications that are provided by LN through the Application Services.
- (f) "**Electronic Publications**" include CD-ROM, DVD-ROM, flash drive, PDF, eBook, video, audio, or other publications distributed electronically, and other services distributing Publications electronically other than through the Application Services.
- (g) "**Non-Digital Library Publications**" include print publications and Electronic Publications not distributed on the Application Services.
- (h) "**Publications**" include Digital Library Publications and Non-Digital Library Publications.
- (i) "**Resellers**" include bookstores, campus bookstores, law school bookstores, distributors, international resellers, online bookstores and any entity that intends to resell Publications or other formats. Sections 1 and 2 below only apply to the Digital Library and Electronic Publications.
- (j) "**Updates**" are any supplementation, release, replacement volume, new edition or updates to the Publication.

### 1. GRANT OF LICENSE; RESTRICTIONS ON USE

1.1 You are granted, during the term of this Agreement, a nonexclusive, non-transferable, limited license to access and use the Digital Library, Electronic Publications and Materials from time to time made available by LN to you only for your internal purposes of: (a) research or study; and (b) providing professional services to your clients. This license is a license for your Authorized Users to use the Digital Library, Electronic Publications and the Materials only in the manner set out in this Agreement.

1.2 Using the commands of the Digital Library and Electronic Publications, you and your Authorized Users may:

- (a) search, view and electronically display Materials retrieved from the Digital Library and Electronic Publications for each such Authorized User's individual use, which individual use excludes the display of Materials through any form of network communication;
  - (b) email, download or make printouts of Materials (collectively, "Authorized Printouts");
- and

1.3 In addition to the rights to Materials listed in Subsection 1.2 above, and to the extent permitted by applicable copyright law and not further limited or prohibited by the Additional Terms, you and your Authorized Users may:

- (a) make a single printout of Materials using the printing commands of your web browser;
- (b) make and distribute copies of Authorized Printouts;
- (c) copy, revise, customize and use the forms, templates, checklists and precedents that form part of the Materials ("Forms");
- (d) excerpt or quote insubstantial portions of Material in documents prepared in the ordinary course of your business; and
- (e) as it relates to Electronic Publications,
  - (i) unless otherwise restricted by the embedded digital rights management ("DRM"), occasionally transfer the Electronic Publication from one electronic display device to another; and.
  - (ii) not remove, disable, or defeat any functionality in the Electronic Publication designed to limit or control access to or use of the Electronic Publication.

1.4 You and your Authorized Users may not:

- (a) create your own independently searchable database of Materials;
- (b) store, distribute or transmit any content through the Digital Library and Electronic Publications that: (i) is defamatory, libelous, pornographic or obscene (unless such content is reasonably related to professional responsibilities); or (ii) otherwise breaches any law, statute, regulation, standard, or code of practice of any relevant authority;
- (c) attempt to disassemble, reverse engineer, reverse compile or otherwise reduce to human-perceivable form any of the Digital Library or Electronic Publications;
- (d) use the Digital Library, Electronic Publications or Materials in any fashion that infringes the copyright or proprietary interests therein, including, but not limited to, exploiting the goodwill of LN, its trademarks, service marks, or logos; use the Digital Library, Electronic Publications or Materials in any fashion that infringes the copyright or proprietary interests therein, including, but not limited to, exploiting the goodwill of LN, its trademarks, service marks, or logos;
- (e) remove or obscure the copyright notices or other notices contained in Materials;
- (f) access or use the Digital Library or Electronic Publications via mechanical, programmatic, robotic, scripted or any other automated means not provided as part of the Digital Library and Electronic Publications. Use of the Digital Library and Electronic Publications is permitted only via manually conducted, discrete, individual search and retrieval activities; or
- (g) offer any part of the Publication Services or Materials for commercial resale or commercial redistribution in any medium or use the Digital Library, Electronic Publications or Materials to compete with the business of LN.

1.5 All right, title, and interest (including all copyrights and other intellectual property rights) in the Digital Library, Electronic Publications and Materials, regardless of the form of medium, belong to LN or its third-party suppliers. You acquire no ownership of copyright or other intellectual property rights or proprietary interest in the Digital Library, Electronic Publications, or copies thereof, except the limited rights granted herein.

1.6 The following terms also apply to the Digital Library:

- (a) Through the functionality of the Digital Library, you will have the right to provide access to eBook(s) on the Digital Library solely to Authorized Users. In no case may Authorized Users' access extend beyond the Term; and
- (b) You will have the right to distribute the number of eBook(s) on the Digital Library to the number of Authorized Users indicated in or with the Agreement.

1.7 You will respect and deploy the DRM settings on the Digital Library and Electronic Publications as designated by LN that may restrict burning, copying, sharing or printing of the Digital Library and Electronic Publications. In the event LN learns of attempts to circumvent such DRM protections either by you or your Authorized Users, LN shall in its sole discretion, be permitted to temporarily suspend and/or permanently terminate Authorized User's and/or your access to the Digital Library and Electronic Publications.

## 2. ACCESS TO SERVICES

2.1 With respect to access to the Digital Library and Electronic Publications, you agree that:

- (a) only your employees, temporary employees, partners, contractors dedicated to performing work exclusively for you, walk-in library patrons, and (in case of academic institutions) faculty and currently enrolled students, (to the extent those categories of persons are appropriate to your situation) that are also US-based may access and use the Digital Library and Electronic Publications and Materials ("Eligible Persons"). Without limitation, external professional service providers, such as attorneys, accountants,

outsourcers and public relations firms, are specifically excluded from being Eligible Persons;

(b) Login credentials may only be used by the Authorized Users to whom access has been granted to use the Digital Library and Electronic Publications and such login credentials may not be shared with or used by any other person;(c) you are responsible for managing your roster of Authorized Users and will promptly notify LN to deactivate an Authorized User's access if any individual no longer meets the definition of Authorized User or you otherwise wish to terminate the Authorized User's access to the Digital Library and Electronic Publications; and

(c) you are responsible for managing your roster of Authorized Users and will promptly notify LN to deactivate an Authorized User's access if any individual no longer meets the definition of Authorized User or you otherwise wish to terminate the Authorized User's access to the Digital Library and Electronic Publications; and

(d) You are responsible for all use of the Digital Library and Electronic Publications accessed by your Authorized Users (the foregoing will not apply to walk-in library patrons if you are a library), including associated charges, whether by Authorized Users or others. You will use reasonable commercial efforts to prevent unauthorized use of the Digital Library and will promptly notify LN, in writing, if you suspect any unauthorized use or misuse.

2.2 You may be restricted from accessing certain Materials otherwise available in the Digital Library and Electronic Publications based upon: (a) Materials you subscribe to; (b) Materials your Authorized Users are qualified to access; and (c) the specific program you subscribe to within the LexisNexis Digital Library.

2.3 Materials and features of the Digital Library and Electronic Publications may be added to, withdrawn from, or otherwise changed by LN without notice. In the event any such change results in the removal of a significant portion of the Digital Library eBook titles from the Digital Library, LN and you will negotiate, in good faith, to make an appropriate adjustment to the amounts payable under the Digital Library order. If the parties are unable to agree upon an appropriate adjustment, then you may terminate this Agreement upon written notice to LN. Not all eBooks or other Electronic Publications are available in all eBook or other electronic formats.

2.4 Subject to Subsection 2.3 above, the Digital Library and Electronic Publications may contain a feature that will allow your Authorized Users to upload documents to be used in the Digital Library and Electronic Publications (e.g., the Digital Library may allow you to upload your policies -collectively "Subscriber Documents").

(a) LN represents and warrants that the Subscriber Documents will be under the exclusive control of your Authorized Users and LN will not access or otherwise review the content of Folders without your authorization. Notwithstanding the foregoing, LN may access or disclose the content of Subscriber Documents to the extent necessary to facilitate features and functions of the Digital Library and Electronic Publications and to comply with contractual and legal obligations including, but not limited to, an administrative or judicial proceeding;

(b) You and your Authorized Users are solely responsible for the content of their respective Subscriber Documents. You represent and warrant that your Authorized Users have the right and authority to upload any and all content added as Subscriber Documents that are not provided by LN. Authorized Users are prohibited from uploading content as Subscriber Documents that is defamatory, libelous, pornographic or obscene, unless such content is reasonably related to professional responsibilities; and

(c) You agree to indemnify, defend, and hold LN harmless for any and all claims, damages, costs, fines and expenses that LN may incur as a result of any content uploaded as Subscriber Documents. Authorized Users are solely responsible for securing or saving the content of their respective Subscriber Documents before the expiration or termination of this Agreement, if desired. LN has no obligation to provide the content of Subscriber Documents to you or your Authorized Users after the termination of this Agreement.

2.5 For access to the Digital Library, you will select from your organization a Digital Library Administrator to provide first level support to Authorized Users. LN Customer Support will provide second level support to your Digital Library Administrator(s) or IT Department and is available at: (877) 516-8256 (8am-8pm M-F EST excluding holidays), or [DigitalLibrarySupport@lexisnexis.com](mailto:DigitalLibrarySupport@lexisnexis.com). Responses to your requests will be made within a commercially reasonable time period.

2.6 For the Digital Library, any supported internet browser may be used. However, full functionality may not be available if the most current version of a mainstream internet browser is not used.

2.7 You agree that access to Digital Library Publications, Subscriber Documents, and other Electronic Publications (including those Electronic Publications purchased from OverDrive, Inc.) through the Application Services will be terminated upon expiration or termination of this Agreement.

2.8 You represent and warrant you are neither identified on: nor shall you provide access to the Digital Library to any individuals or entities identified on, (a) OFAC's list of Specially Designated Nationals ("SDN List"); (b) the UK's HM Treasury's Consolidated List of Sanctions Targets; (c) the EU's Consolidated List of Persons, Groups, and Entities Subject to EU Financial Sanctions; (d) any other applicable sanctions lists; or (e) any person 50 percent or more owned, directly or indirectly, individually or in the aggregate by a person(s) identified in (a) through (d).

### **3. LIMITED WARRANTY**

3.1 LN represents and warrants that LN has the right and authority to make the Publication Services and Materials available pursuant to the terms and conditions of this Agreement.

3.2 EXCEPT AS OTHERWISE PROVIDED IN SUBSECTION 3.1, THE PUBLICATION SERVICES AND MATERIALS ARE PROVIDED ON AN "AS IS", "AS AVAILABLE" BASIS AND LN AND EACH THIRD-PARTY SUPPLIER OF MATERIALS EXPRESSLY DISCLAIM ALL OTHER WARRANTIES EXPRESS OR IMPLIED, INCLUDING BUT NOT LIMITED TO THE WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE.

### **4. LIMITATION OF LIABILITY**

4.1 A Covered Party (as defined below) shall not be liable for any loss, injury, claim, liability, or damage of any kind resulting in any way from: (a) any errors in or omissions from the Publication Services or any Materials available or not included therein; (b) the unavailability or interruption to the supply of the Publication Services or any features thereof or any Materials; (c) you or your Authorized User's use or misuse of the Publication Services or Materials (regardless of whether you received any assistance from a Covered Party in using or misusing the Publication Services); (d) the loss or corruption of any data or equipment in connection with the Publication Services; (e) the content, accuracy, or completeness of Materials; (f) any delay or failure in performance beyond the reasonable control of a Covered Party; or (g) any content retrieved from the Internet even if retrieved or linked to from within the Publication Services, all regardless of whether you received assistance in the use of the Publication Services from a Covered Party.

4.2 "Covered Party" means: (a) LN, and any officer, director, employee, subcontractor, agent, successor, or assign of LN; and (b) each third-party supplier of Materials, third party alliance entities, their affiliates, and any officer, director, employee, subcontractor, agent, successor, or assign of any third party supplier of Materials or any of their affiliates.

4.3 TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW, UNDER NO CIRCUMSTANCES WILL THE AGGREGATE LIABILITY OF THE COVERED PARTIES IN CONNECTION WITH ANY CLAIM ARISING OUT OF OR RELATING TO THE PUBLICATION SERVICES OR MATERIALS OR THIS PUBLICATION SERVICES AGREEMENT EXCEED THE LESSER OF YOUR ACTUAL DIRECT DAMAGES OR THE AMOUNT YOU PAID FOR THE PUBLICATION SERVICES IN THE TWELVE-MONTH PERIOD IMMEDIATELY PRECEDING THE DATE THE CLAIM AROSE. YOUR RIGHT TO MONETARY DAMAGES IN THAT AMOUNT SHALL BE IN LIEU OF ALL OTHER REMEDIES WHICH YOU MAY HAVE AGAINST ANY COVERED PARTY WHETHER FOR BREACH OF THIS AGREEMENT OR IN TORT (INCLUDING NEGLIGENCE) OR FOR ANY OTHER COMMON LAW OR STATUTORY CAUSE OF ACTION. WITH RESPECT TO A PUBLICATION, LN WARRANTS IT WILL BE FREE FROM DEFECTS IN MATERIAL AND WORKMANSHIP FOR 30 DAYS. YOUR EXCLUSIVE REMEDY AND THE SOLE OBLIGATION OF LN FOR A DEFECTIVE PUBLICATION SHALL BE THAT LN SHALL PROVIDE A REPLACEMENT COPY OF A DEFECTIVE PUBLICATION OR REPAIR OR REPLACE THE SAME.

4.4 TO THE FULLEST EXTENT PERMITTED BY LAW, NEITHER YOU NOR THE COVERED PARTIES SHALL BE LIABLE FOR ANY SPECIAL, INDIRECT, INCIDENTAL, PUNITIVE, CONSEQUENTIAL DAMAGES, OR FOR LOSS OF PROFITS, REVENUE, OR DATA, OR OF ANY KIND WHATSOEVER INCLUDING, WITHOUT LIMITATION, LEGAL FEES, IN ANY WAY DUE TO, RESULTING FROM, OR ARISING IN CONNECTION WITH THE PUBLICATION SERVICES, MATERIALS, OR THE FAILURE OF ANY COVERED PARTY TO PERFORM ITS OBLIGATIONS, REGARDLESS OF ANY NEGLIGENCE OF ANY COVERED PARTY. THE

FOREGOING LIMITATION OF LIABILITY SHALL NOT APPLY TO A COVERED PARTY'S INDEMNITY OBLIGATIONS OR YOUR (AND YOUR AUTHORIZED USERS') INFRINGEMENT OF INTELLECTUAL PROPERTY OR MISAPPROPRIATION OF PROPRIETARY DATA BELONGING TO LN OR ITS THIRD-PARTY SUPPLIERS.

4.5 Notwithstanding anything to the contrary herein, if there is a breach of warranty in Subsection 3.1, then LN, at its option and expense, will either defend you or indemnify and hold you harmless against proceedings or damages based on a third party's claim of patent, trademark, service mark, copyright or trade secret infringement related to the use of the Publication Services or Materials, provided: (a) the third party claim was not caused by your improper use of the Publication Services or Materials; (b) you give LN prompt notice of such third party claim; (c) you give LN the sole right to control and direct the investigation, defense and settlement of such claim; and (d) you, at the expense of LN, reasonably cooperate with LN in connection with the foregoing.

4.6 If the Publication Services or the operation thereof become, or in the opinion of LN are likely to become, the subject of a claim of infringement, LN may, at its option and expense: (a) procure for you the right to continue using the Publication Services; (b) replace or modify the Publication Services so that they become non-infringing; or (c) terminate this Agreement on notice to you and grant you a pro-rata refund or credit (if either is applicable) for any fees or fixed charges you may have pre-paid.

4.7 The provisions of Subsections 4.5 and 4.6 shall constitute your sole and exclusive remedy for the respective matters specified therein.

## **5. SUBSCRIPTIONS; PRICING; TERM; TERMINATION; RENEWAL; RETURNS**

5.1 The term of this Agreement begins upon the date noted in your billing account and continues until terminated.

5.2 Publications may be offered as one-time sales/licenses, subscriptions (either with or without auto-renewal), or subscriptions with multi-year offered multi-year pricing ("Multi-Year") (either with or without auto-renewal at the end of the multi-year commitment). The following describes the types of subscriptions:

(a) &"S" Service Subscription -Price includes product and Updates published during the indicated service period (minimum 30 days) at no additional charge except tax, shipping and handling where applicable. Renewal options include:

(i) "S/A" or "S/AR" Service Subscription with Automatic Renewal - If you select this option your subscription will be automatically renewed without any action on your part. Notification that the subscription is due to be renewed, and the price of renewal, will be sent to you 60 days before renewal (but if you are on a Multi-Year (see Subsection 5.2(e)), you will be sent such a notice 60 days before the Renewal Term (see Subsection 5.2(e)(i)). Estimated prior-year prices and update frequency are shown with the description of each title.

(ii) "S/N" or "S/AS" Service Subscription with Notification - Notification that the subscription is due to be renewed, and the price of renewal, will be sent to you 60 days before renewal. If you fail to act, your subscription will be canceled.

(b) "N" Non-Service Subscription - Price includes product only, plus any Updates published within 30 days of purchase or as otherwise indicated. Subscription options include:

(i) "NS/A" or "NS/AR" Non-Service Subscription with Automatic Renewal - If you select this option you will receive and be billed for future updates outside of the 30-day period without any action on your part. Estimated prior year prices and update frequency are shown with the description of each title. Non-Service Electronic Publications will be updated via automatic shipment to you, or by LN either pushing the Update to you electronically or notifying you that an Update is available for download.

(ii) "NS/N" or "NS/AS" Non-Service Subscription with Notification - Notification that an update has been published, and the price of the update, will be sent to you. If you fail to act, you will not receive the update.

(c) Additional pricing information for subscriptions:

(i) Unless otherwise indicated, pricing (including any grand total, retail price, or other pricing, unless otherwise indicated) does not include tax or shipping and handling, which will be charged and due at then current rates. LN will arrange for an external third party to take responsibility for shipping. Shipping and handling amounts will be invoiced separately and will be included in your final invoiced

amount. If you selected a monthly billing option, shipping and handling charges will be prorated over the term of the subscription.

(ii) Advertised prices are subject to change without notice.

(iii) By placing an order, you will be advised of the number of Updates and the cost related to the Updates that were made to the Publications last year. Renewal and Update price estimates are based on prior year costs and do not reflect actual costs associated with future renewal and Updates, which will likely include an increase over the prior year's subscription price. The number of Updates and the upkeep costs may vary due to developments in the law and other publishing issues, but you may use this as a rough estimate of future shipments. You may call for Support at 800-833-9844 for additional information on Update frequency and price.

(iv) Unless otherwise indicated, promotions (including but not limited to discounts and bundles) are not available for resale or redistribution purchases. Resellers should ask their LN representative about any applicable promotions or discounts.

(v) Unless otherwise indicated, Resellers may not purchase service or subscription titles from LN.

(d) General (Non-Multi-Year) Cancellation and Return Information:

(i) You may cancel any subscription at any time by calling Customer Support at 800.833.9844; emailing [customer.support@lexisnexis.com](mailto:customer.support@lexisnexis.com); or returning an invoice or notification marked "CANCEL." If you cancel a Subscription on any component of a product bundle or multi-media subscription, you will not be eligible for any of the discounts offered in connection with such order. You will receive a supplemental invoice for the remaining components of the product bundle or multi-media subscription order at list price.

(ii) Shipments must be returned within 30 days of receipt, at your expense, for full credit of the advertised price, less shipping and handling fees and any other discount credits. All returns must be returned unused in the same condition as received. No credit or refund will be issued if returns are received in a damaged condition. Damaged condition includes highlights, inserted advertising materials, torn, worn, damaged covers or pages, attached security devices, or products that have otherwise been altered or defaced. A copy of the invoice and packing slip received with the shipment must be included with your return. A return shipping label is not provided. You can send your return to the following address:

Intellicor Communications  
Attn LN Returns Dept  
4810 Williamsburg Rd  
Hurlock, MD 21643

(iii) If you cancel a Service Subscription between 31 and 60 days after the invoice date and you return the product at your expense, you will receive a 5/6th credit of the price for the annual subscription. To receive any credit, you must return all product(s) shipped during the applicable subscription period at your expense within the applicable cancellation period listed above.

(iv) If you return a Non-Service Subscription at your expense within 30 days of shipment, you will receive full credit for the purchase price. No credit will be given for returns more than 30 days after shipment. Return of a shipment, other than the initial purchase, will not cancel your subscription.

(v) No credit will be given more than 60 days after the invoice date for shipments to the 48 contiguous United States. However, this period is expanded to 90 days after the invoice date for orders shipped to Canada, and 120 days after the invoice date for orders shipped to the Virgin Islands, Puerto Rico, Hawaii, Alaska, and Non-US shipments.

(vi) All eBooks, CDs, downloadable content, and software purchases are non-cancellable, nonrefundable and nonreturnable. Additionally, notwithstanding anything to the contrary (other than Service or Non-Service Subscriptions), any items marked or identified at the time of sale as non-returnable, final sale, or the like, regardless of format, media, or type of purchaser (e.g., non-Reseller or Reseller), are non-cancellable, nonrefundable and nonreturnable.

(vii) For any returns, a 20% restocking fee may be charged.

(viii) If you are returning LN publications because you received them in a damaged or defective condition, please call Customer Support at 800.833.9844 within 30 days of receipt of the order.

(ix) Domestic and International Resellers and Book Store Sales. In addition to the refund/return rights listed, the following rights also apply:

Bookstores may return overstock of new, unmarked, and undamaged books in the original packaging within 6 months of the date of the original invoice and receive a refund. A copy of the original invoice must be included with the return. Shipping and handling fees are not refundable, and additional shipping and handling fees must be paid on returns.

LN will not drop-ship to Resellers customers. LN will ship to Reseller under the Reseller's existing carrier account. Reseller must clearly provide shipping instructions with their order or purchase order. These instructions must include the carrier name, account number, and weight ranges for Ground, Next Day, 2nd Day, and Freight.

Editions of Publications in print may be returned for a full refund within the earlier of (i) 6 months after purchase or (ii) 3 months of the new edition being released (the new edition being the one after the one to be returned). Print Publications returned outside of this time frame will be recycled or discarded without notification, and no credit or refund will be issued. LN will not send the returned merchandise back to the Reseller.

LN reserves the right to require preauthorization for returns and refunds if, in its sole determination, it believes a Reseller is not complying with or is abusing this return policy. For these accounts, any product returned without preauthorization will be immediately recycled or discarded by LN. LN has no obligation to either notify Reseller before any disposal or return any product regardless of dollar value or quantity. Reseller will not receive a credit for unauthorized returns and will be responsible for paying any remaining balance due on their account for any returned product.

All returned materials must be received in undamaged and resalable condition at the Reseller's cost. LN will not pay for return shipping.

(e) Modification of Terms for Multi-Year- This Subsection modifies the rest of Subsection 5.2 as it applies to Multi-Years, and will only apply if the Publication Service(s) you ordered were described as having an initial period of more than 12 months, or include a Multi-Year (such as the Digital Library & Multi-Year or the Multi-Year).

(i) Notwithstanding anything to the contrary, you may not terminate this Agreement during the "Order Term" (e.g., the term of the Multi-Year before any auto-renewal periods begin) set forth in the ordering document (or online ordering system) for your subscription to the Publication Services (the "Order Form") except as specifically provided in the Order Form or as set forth in this Subsection 5.2(e). UPON EXPIRATION OF THE ORDER TERM, THIS AGREEMENT WILL AUTOMATICALLY RENEW FOR ADDITIONAL ONE-YEAR PERIODS (EACH A "RENEWAL TERM") AT THE THEN-CURRENT LIST PRICES. The Order Term and any Renewal Terms are collectively the "Term." You may avoid any Renewal Term by providing LN with at least 45 days' prior written notice delivered to your LN account manager before the beginning of the next Renewal Term.

(ii) During the Term, you may terminate this Agreement for a material breach by LN that remains uncured for more than 30 days after LN receives written notice from you identifying the specific breach.

(iii) If this Agreement is properly terminated during a Term in which funds are due to LN, then LN will prorate annual commitment amounts for the affected Term with a date range of less than 11 months and one day. The proration basis shall be the number of full or partial months this Agreement is in effect divided by 12.

(iv) If you have subscribed to a Multi-Year, you may only substitute or change the Publication Services once per subscription year (after the first year) upon 45 days' prior written notice to LN to be effective as of the start of the next subscription year. If your total selections for such substitution or change will otherwise cause you to owe less, then you will continue to pay the amount you were required to spend on the multi-year subscription you subscribed to before the substitution or change. If your total selections for such substitution or change will otherwise cause you to owe more, then you will pay the increased total amount over the amount you were required to spend on the multi-year subscription you subscribed to before the substitution or change.

(v) If you or your affiliates have another agreement with LN or its affiliates ("Other Agreement") that require a certain level of spend per period on Publications (a "Retention Clause"), then, for clarity, after termination for any reason of this Agreement, that Retention Clause will remain in effect unchanged through the remainder of that Other Agreement.

5.3 LN may, without notice to you, suspend or terminate this Agreement: (a) if you breach this Agreement or otherwise infringe on any intellectual property rights granted herein; or (b) if you breach or otherwise fail to comply with any other obligation in this Agreement (including payment obligations). Without prejudice to the foregoing, if you fail to pay any sum properly due hereunder, LN reserves the right to seek enforcement of the full contract sum as well as to seek recovery of legal costs and other expenses incurred by LN in connection with your breach.

5.4 On termination of this Agreement, any license granted under this Agreement terminates, and you agree to cease all use of the Electronic Publications and Digital Library (as applicable), and, from all Display Devices (whether such Display Devices are the property of you or personal Display Devices of Authorized Users), return or destroy all Electronic Publications and Digital Library eBooks and delete electronic or magnetic copies of the Electronic Publications and Digital Library eBooks and purge all downloaded (machine-readable/electronic) Materials. If the Electronic Publication has an expiration date, you will cease use of, and destroy the outdated Electronic Publication. LN disclaims any and all liability associated with use of outdated Electronic Publications or Electronic Publications beyond their expiration date, if any. Additionally, for CDs, LN and its licensors retain outright ownership of all CD-ROM discs. LN does not require return of the CD-ROM discs delivered to you either at the end of the subscription period covering the CD-ROM discs or upon receipt by you of replacement CD-ROM discs. Consequently, you will not be able to access CD-ROM discs delivered to you after their expiration date. After the expiration date of a CD-ROM or upon receipt of an updated CD-ROM, you will cease use of and destroy the previous or outdated CD-ROM.

## **6. MISCELLANEOUS**

6.1 Change to Number of Authorized Users. In the event of a change in your organizational structure (i.e., mergers, acquisitions and divestitures), or there is organic growth within the organization, resulting in a significant change in the number of Authorized Users of the Publication Services and Materials, LN, in good faith, reserves the right to adjust the amounts payable under this Amendment to reflect the change in your use of the selected services.

6.2 License Terms. Effective upon notice to you, LN may add, modify or otherwise change any rights to, or restrictions on, the use of the Publication Service and Materials as the same are currently set forth in this Agreement (the "License Terms"). If LN exercises these rights, such changes will: (a) only be applied prospectively; and (b) not be specifically directed against you or your Authorized Users but will apply to all similarly situated LN customers using the Publication Services. If any changes made to the License Terms are unacceptable to you, you may terminate the Agreement upon 30 days' prior written notice to LN of the change that is unacceptable to you. For your termination to be effective under this Subsection 6.2, LN must receive your notice of termination within 90 days of the date of the change. Continued use of the Publication Services following the effective date of any change constitutes acceptance of the change but does not affect your other termination rights.

6.3 Confidential Information. This Agreement and including any attachments such as an Order Form contain confidential information, including pricing information, of LN (the "Confidential Information"). You understand that disclosure of the Confidential Information may cause competitive harm to LN. You will receive and maintain the Confidential Information in trust and confidence and to take reasonable precautions against its disclosure to any third person.

6.4 Notices. Except as otherwise provided herein, all notices and other communications will be in writing or displayed electronically in the Publication Services by the provider thereof. Notices to you will be deemed as properly given on the date mailed, if mailed; on the date first made available, if displayed in the Publication Services; or on the date received, if delivered in any other manner. Notices to LN should be sent to your account representative with a copy sent to LexisNexis, Attention: Chief Legal Officer, RE: Publication Services, 9443 Springboro Pike, Miamisburg, OH 45342.

6.5 Third Party Beneficiaries. Each third-party supplier of Materials has the right to assert and enforce these provisions directly on its own behalf as a third-party beneficiary. OverDrive is a third-party beneficiary to this Agreement for the Application Services only. The failure of LN or any such third-party beneficiary to enforce any provision hereof will not constitute or be construed as a waiver of such provision or of the right to enforce it at a later time. Subject to



Subsection 6.6, this Agreement does not confer any rights on any person or party other than the parties to this Agreement.

6.6 Assignments. Assignments. You may not assign or sublicense this Agreement or your rights or obligations hereunder, directly or indirectly, without the prior written consent of LN, which consent shall not be unreasonably conditioned, delayed or withheld. LN may assign this Agreement to any successor to all or substantially all of the business or assets of LN that relate to the subject matter of this Agreement whether by asset or stock acquisitions, merger, consolidation or otherwise.

6.7 Successors and Permitted Assigns. Subject to Subsection 6.6, this Agreement will inure to the benefit of and be binding upon the parties and their respective successors and permitted assigns.

6.8 Force Majeure. Non-performance of either party will be excused to the extent that performance is rendered impossible where failure to perform is a result of actions omissions or circumstances beyond the reasonable control of the non-performing party, such as fire, weather, civil disturbance, act of military or court or governmental authority, strike (provided such strike is not caused by that party's employees), change in law or other governmental regulations or act of God.

6.9 Purchase Orders. No terms, provisions or conditions of any purchase order, acknowledgement or other business form that you may use in connection with this Agreement will have any effect on the rights, duties or obligations of the parties under, or otherwise modify, this Agreement, regardless of any failure by LN to object to such terms, provisions or conditions.

6.10 Governing Law. This Agreement and the Additional Terms shall be governed by and construed in accordance with the laws of Ohio regardless of the law that might otherwise apply under applicable principles of conflicts of law.

6.11 Limitation of Action. You may not bring a claim of action, regardless of form, arising out of or related to amounts billed or payments made under an Order Form more than 12 months after LN first invoiced those amounts to you.

6.12 Order of Precedence. If there is a conflict between the terms and conditions of this Agreement, an Order Form, Additional Terms and any other document incorporated herein, the conflicting terms will be interpreted as narrowly as possible in the area of conflict and the conflict will be resolved by giving precedence in the following order: (a) the Additional Terms; (b) the terms of the Order Form; (c) the terms and conditions of this Agreement; and (d) the terms and conditions of any other document incorporated by reference herein.

6.13 Data and Privacy Laws. The ability of LN to provide Materials is subject to a variety of privacy, data protection and other laws in a variety of jurisdictions ("Data Laws" or "Privacy Laws" or both whichever is appropriate) and by the licenses under which it obtains Materials ("Licenses"). To the extent that you or your Authorized Users provide personal data to us for account registration, in order to receive the Publications and/or Materials, or otherwise, the parties acknowledge and agree that we will process such information in accordance with the data protection laws, the LexisNexis Privacy Policy at <https://www.lexisnexis.com/global/privacy/privacy-policy.page> and the LexisNexis Data Processing Addendum at <https://www.lexisnexis.com/global/privacy/processing-terms.page> ("DPA"). Terms used but not defined in this section shall have the meanings ascribed to them in the DPA.

You consent to LN sharing personal data related to the sale of Publications and/or Materials to third party suppliers of such Publications and/or Materials.

6.14 Headings. The headings in the Agreement are for convenience only, and in no way affect the terms and conditions herein.

6.15 Amendments. Except in accordance with Subsection 6.2, this Agreement may not be amended, except in writing signed by duly authorized representatives of both parties.

6.16 Waiver. The waiver by either party of breach or default under this Agreement does not constitute the waiver of any subsequent breach or default. If anything in this Agreement is unenforceable, illegal or void then it is severed, and the rest of this Agreement remains in force and will be enforced to the maximum extent permissible by applicable law to affect the intent of the parties.

6.17 Trademarks. You grant to LN the limited right to use and display any trademarks, logos or service marks (collectively, "Subscriber Trademarks") provided by you to LN for the express purpose of co-branding your customized adaptation of the Digital Library. LN shall not use the Subscriber Trademarks for any other purpose. You represent and warrant you own the Subscriber Trademarks or have all necessary rights to grant this license to LN.

6.18 Payment Options. Orders accompanied by full payment may be entitled to a discount. Subscription Service orders may be paid in full within 25 days from the date of your monthly statement or in equal monthly installments based on the subscription term. If payments are made in equal monthly installments, then LN or the applicable affiliated company will maintain a purchase money security interest in the product or publication until such time the outstanding charges are paid in full. All other invoices must be paid in full within 25 days from the date of your monthly statement; provided that, Reseller invoices must be paid in full within 30 days from the date of the invoice. If any account is in arrears, LN reserves the right to reject new orders until the account is current. LN also reserves the right to require prepayment for accounts.

6.19 Late Charges. Overdue amounts will be assessed a late payment charge that will be compounded at a monthly rate of 1.167% or the maximum provided by Ohio law, whichever is less. There is a minimum late payment charge of ten dollars (\$10.00).

6.20 Credit Investigation. You hereby authorize LN to make whatever credit investigation LN deems appropriate in order to provide you with a Publication.

6.21 Collection Costs. In the event you fail to pay any amount when due, LN reserves the right to terminate the Publication Service(s) and retain all sums paid by you. In addition, you are responsible for all collection costs incurred by LN including, but not limited to, collection agency fees, reasonable attorneys' fees and court costs. At the option of LN, the entire amount due will become due and payable upon your breach of any term, provision or condition of this Agreement. LN retains a purchase money security interest in all publications and supplements until paid in full by you.

6.22 Entire Agreement. This Publication Services Agreement constitutes the entire agreement of the parties with respect to its subject matter and replaces and supersedes any prior written or verbal communications, representations, proposals or quotations on that subject matter.