



## USL MEMORANDUM OF AGREEMENT

This Agreement is entered into by the Department of Heritage and Arts, Utah State Library Division, herein referred to as **USL**, and **San Juan County Library**, herein referred to as "LIBRARY".

San Juan County Library  
25 West 300 South  
Blanding UT 84511

Contact Person: Nicole Perkins                      Phone Number: 435.678.2335  
Email: nperkins@sanjuancounty.org

### PURPOSE OF AGREEMENT:

As a member of the Beehive Library Consortium, administered by the Utah State Library (USL), LIBRARY agrees to contribute a specified dollar amount of LIBRARY'S annual collection budget (the amount spent on print books, monographs, and audio-visual materials) for the purchase of digital content in OverDrive. LIBRARY understands that that dollar amount will be based on LIBRARY'S usage of OverDrive from the previous calendar year up to a maximum fixed percentage based on LIBRARY'S collections budget for that same year.

THEREFORE, the parties agree as follows:

1. **This Agreement must be returned to USL with all required LIBRARY initials and/or signatures by July 31, 2020.** Any exceptions must be arranged in writing via email to Marie Erickson, Library Resources Program Manager for USL at [merickson@utah.gov](mailto:merickson@utah.gov).
2. The effective dates of Agreement shall be from January 1, 2021 through December 31, 2021. This term is in line with the fiscal years as follows: County Library System: January 1, 2021 - December 31, 2021 or City Library: July 1, 2021 - June 30, 2022
3. This Agreement may be terminated with or without cause by either party with 60 days prior written notice. Upon termination of this Agreement, all accounts and payments for services rendered prior to the termination date will be processed according to established financial procedures.
4. This Agreement may only be amended by the mutual written agreement of the parties, which amendment will be attached to this Agreement.
5. USL is subject to the Government Records Access and Management Act, Utah Code § 63G-2-101 et seq. ("GRAMA"). Accordingly, certain records within possession or control, including without limitation, this Agreement, may be subject to public disclosure; and both parties' confidentiality obligations shall be subject in all respects to compliance with GRAMA
6. In performance of this Agreement both parties shall comply with all applicable federal, state, and local laws, codes, regulations, rules and orders. This Agreement shall be governed by the laws, rules, and regulations of the State of Utah. Any action or proceeding arising from this Agreement shall be brought in a court of competent jurisdiction in the State of Utah. Venue shall be in Salt Lake City, in the Third Judicial District Court for Salt Lake County.

**Page 2**  
**Agreement between USL and San Juan County Library**

7. Neither party shall be considered to be in default of this Agreement if delays in or failure of performance shall be due to uncontrollable forces the effect of which, by the exercise of reasonable diligence, the nonperforming party could not avoid. The term “uncontrollable forces” shall mean any event that results in the prevention or delay of performance by a party of its obligations under this Agreement and which is beyond the control of the nonperforming party. It includes, but is not limited to, fire, flood, earthquakes, storms, lightning, epidemic, war, riot, civil disturbance, sabotage, inability to procure permits, licenses, or authorizations from any state, local, or federal agency or person for any of the supplies, materials, accesses, or services required to be provided by either party under this Agreement, strikes, work slowdowns or other labor disturbances, and judicial restraint.
  
8. USL is a governmental entity as defined in the Utah Governmental Immunity Act (Utah Code Ann. 63G-7-101 et. seq.). Nothing in this Agreement shall be construed as a waiver by USL of any rights, limits, protections or defenses provided by the Act. Nor shall this Agreement be construed, with respect to third parties, as a waiver of any governmental immunity to which a party to this Agreement is otherwise entitled. Subject to and consistent with the Act, each party will be responsible for its own actions or negligence and will defend against any claims or lawsuit brought against it. There are no indemnity obligations between these parties.
  
9. Communication between Agreement agencies shall be directed to those individuals appointed by each agency. Any information or other correspondence regarding this Agreement shall be forwarded through the designated contact person. These individuals are as follows:

USL Contact: Marie Erickson, [merickson@utah.gov](mailto:merickson@utah.gov) 801.715.6756  
 LIBRARY Contact: Nicole Perkins, [nperkins@sanjuancounty.org](mailto:nperkins@sanjuancounty.org) 435.678.2335

**CONTRIBUTION CAPS OF PARTICIPATING LIBRARIES:**

LIBRARY contributions will be calculated based on their circulation statistics for 2019. The amount per circ will be calculated as follows: **(Overall target consortium contribution - USL contribution)/Total OverDrive circulation for 2019.** (\$600,000-\$128,000/2,825,871) This number will be multiplied by each library’s circulation for the previous calendar year to determine the library’s annual contribution amount.

There will be a cap on contribution amounts expected of libraries to ensure that contribution amounts do not get unmanageable due to extreme increases in circulation. The caps will be calculated based on a percentage of the library’s annual collection expenditures, as reported on their 2019 statistical report.

- Tier 1:** Libraries with an annual collection budget under \$50,000, as indicated by the 2019 Statistical Annual Report will contribute a dollar amount based on cost per circ (calculated as described above) up to a **maximum** of 5% of that budget to OverDrive.
  
- Tier 2:** Libraries with an annual collection budget between \$50,000 and \$99,999 as indicated by the 2019 Statistical Annual Report will contribute a dollar amount based on cost per circ (calculated as described above) up to a **maximum** of 10% of that budget to OverDrive.
  
- Tier 3:** Libraries with an annual collection budget between \$100,000 and \$199,999 as indicated by the 2019 Statistical Annual Report will contribute a dollar amount based on cost per circ (calculated as described above) up to a **maximum** of 15% of that budget to OverDrive.
  
- Tier 4:** Libraries with an annual collection budget at or above \$200,000 as indicated by the 2019 Statistical Annual Report will contribute a dollar amount based on cost per circ (calculated as described above) up to a **maximum** of 20% of that budget to OverDrive.

LIBRARY’S collection expenditures in 2019 was \$ 59,487  
 LIBRARY’S OverDrive circulation in 2019 was 10,049  
 LIBRARY’S cap percentage contribution is 5%\_\_\_ 10%\_X\_ 15%\_\_\_ 20%\_\_\_  
**LIBRARY’S 2021 CONTRIBUTION AMOUNT IS: \$1,678**

**Libraries with 2019 collection expenditures under \$25,000 ONLY, please indicate an option below:**

\_\_\_\_\_ LIBRARY would like the USL to cover LIBRARY'S contribution amount because it is unable to pay it at this time. LIBRARY understands that in future years, if LIBRARY expenditures exceed \$25,000, LIBRARY will be responsible for paying its own contribution.

\_\_\_\_\_ LIBRARY has the resources to cover its 2021 contribution without assistance from the USL.

**PURCHASING & INVOICING OF PARTICIPATING LIBRARIES:**

All libraries will be invoiced **by OverDrive** (not the USL) for their membership contributions at the beginning of the fiscal year. Each library may choose to be invoiced in one of two ways. **Please indicate an option below:**

\_\_\_\_\_ **OPTION 1:** LIBRARY chooses one (1) invoice for LIBRARY'S contribution. LIBRARY does not wish to select shared content. All monies will be paid to the consortium account and will be used by the State Library for selecting and purchasing shared content.

*LIBRARY acknowledges that LIBRARY'S contribution will be used by the USL for the shared collection and will be **equally** accessible to ALL patrons.*

\_\_\_\_\_ **OPTION 2:** LIBRARY chooses two (2) invoices for LIBRARY'S contribution. LIBRARY chooses to select shared content.

**Invoice 1:** 50% of LIBRARY'S contribution will be paid to the consortium account and used by the State Library for selecting and purchasing content for the shared collection.

**Invoice 2:** 50% of LIBRARY'S contribution will be paid to LIBRARY'S Advantage account and will be used by LIBRARY for selecting and purchasing content for the shared collection.

*LIBRARY acknowledges that 50% of LIBRARY'S contribution will be used by USL for the shared collection and content will be equally accessible to ALL patrons because they will be "owned" by the consortium and 50% of LIBRARY'S contribution will be used by LIBRARY for the shared collection, but owned by the advantage library.*

**Acknowledgements and Agreements of Participating Libraries**

- Acknowledges that the minimum contribution will be invoiced by OverDrive to LIBRARY within the first five business days of the effective date of this Memorandum of Agreement, which is the beginning of LIBRARY'S fiscal year.
- Acknowledges that the minimum contribution will be paid to OverDrive by LIBRARY.
- Agrees to share OverDrive, Inc. (one copy/one use and metered access by time) digital content the library purchases with the Consortium.
- Acknowledges that LIBRARY must use a patron authentication method such as SIP, SIP2, NCIP, Patron API, or OverDrive's Library Card Manager.
- Acknowledges that above authentication methods may incur additional costs. All such fees shall be at LIBRARY'S own expense, and are not included in the contribution amount.
- Agrees to notify the Utah State Library and OverDrive of any changes to the above patron authentication methods, ILS changes, library card number changes, or server updates as soon as possible.
- Agrees to serve as the first point of contact for OverDrive and patron inquiries related to authentication, PINs/Passwords, and blocked/expired cards.
- Agrees to have a shared/proxy'd email for authentication questions and support.
- Agrees to remove MARC records from LIBRARY'S ILS when titles are weeded by the Utah State Library. Weed lists will be sent weekly if titles are weeded from the shared collection.

**Agreement between USL and San Juan County Library**

- Agrees to follow all policies and guidelines put forth by the Beehive Library Consortium Administrative Committee.
- Agrees to notify the Utah State Library of any contact changes as soon as possible.
- Acknowledges that if LIBRARY withdraws from the Utah Member Libraries Digital Consortium prior to the expiration of the Utah State Library’s agreement with OverDrive, all content, products and services that have been purchased with LIBRARY’S monetary and in-kind contributions to the Consortium shall remain with the Consortium. All Advantage Library content will remain with LIBRARY.

**Acknowledgements and Agreements of Utah State Library (Consortium Leader)**

- Agrees to pay the annual maintenance and platform fee to OverDrive, Inc.
- Agrees to purchase 75 simultaneous use magazine subscriptions. Each magazine is always available.
- Agrees to purchase 6 simultaneous use yearly audiobook subscriptions. Each subscription contains 25 always available titles.
- Agrees to dedicate \$50,000 towards content for the shared Consortium collection.
- Agrees to cover the contribution amounts of any libraries with an annual collection expenditures amount of **less than \$25,000 if it is needed.**
- Agrees to act as system administrator for the OverDrive platform and project manager for the consortium.
- Agrees to provide training to member libraries as needed.
- Agrees to create and advise committees.
- Agrees to make MARC records available.
- Agrees to send weekly weed lists to member libraries.

Failure of a library to comply with the conditions stated above will result in the removal of the member library from the Beehive Library Consortium.

In witness thereof, the parties sign and cause this Agreement to be executed.

UTAH STATE LIBRARY DIVISION

\_\_\_\_\_  
Colleen Eggett, Director

\_\_\_\_\_  
Date

\_\_\_\_\_  
Marie Erickson, Library Resources Program Manager

\_\_\_\_\_  
Date

SAN JUAN COUNTY LIBRARY

\_\_\_\_\_  
Director

\_\_\_\_\_  
Date