

Online Services Usage Agreement (OSUA)

CUSTOMER, upon receipt by Amigos of an order consisting of a current quote and an authorization to invoice for same, is thereby granted a non-exclusive non-transferable, limited license to use the software elements of the PURCHASED SERVICE through one or more links provided by ALTARAMA for use from CUSTOMER's web site.

This license to use the PURCHASED SERVICE is limited to the ordered number and type of concurrent users. A "concurrent user" means use by an employee or contractor of CUSTOMER of a password and user identifier to log on to the PURCHASED SERVICE and act as a reference librarian.

Except as noted by any collaboration statement in this AGREEMENT, CUSTOMER shall not use the PURCHASED SERVICE, or any part of the PURCHASED SERVICE to provide service to any third party.

1. Implementation, Support and Upgrades.

The PURCHASED SERVICE provides:

- a private installation of the software on an ALTARAMA managed server with full access to client, staff and administrative functions via the Internet. The CUSTOMER's data shall not be shared with any other library.
- resolution by ALTARAMA of any problems related to PURCHASED SERVICE installation, the server(s) on which the PURCHASED SERVICE operates, or host-side access to the Internet. CUSTOMER agrees to resolve problems related to CUSTOMER's end user equipment, network, and access to the Internet.
- upgrading of the software element of the PURCHASED SERVICE provided for CUSTOMER's use within three (3) months of major release of the software becoming available. New releases of software will contain corrections and may contain some new functionality as determined by ALTARAMA. ALTARAMA reserves the right to provide some new functionality in the form of separately purchasable services when it deems this to be appropriate.
- assistance will be provided to CUSTOMER's nominated system administrator, during normal working hours in the CUSTOMER's local time zone with a best-efforts standard for response of four (4) hours. The service will include assistance with resolving errors reported, and with questions related to understanding how to best use the features of the PURCHASED SERVICE. ALTARAMA reserves the right to charge for support services provided to CUSTOMER in correction of PURCHASED SERVICE disruptions or other problems that prove to be caused by CUSTOMER hardware or network failures.
- unlimited access to the ALTARAMA support web site which includes training and support materials.

2. PURCHASED SERVICE Functionality and Warranty.

The PURCHASED SERVICE provides the functionality described in ALTARAMA's published literature for the release of software then in use by CUSTOMER. CUSTOMER acknowledges that the software is owned by ALTARAMA or by its affiliates and agrees not to remove any copyright, trademark or proprietary statements included in the software. ALTARAMA and its affiliates reserve all rights in the format, look, feel, text, and other elements of the software.

ALTARAMA warrants that the PURCHASED SERVICE, including its software elements, will not infringe upon or violate any patent, copyright, trademark, trade secret or other proprietary right of any third party. If any action or proceeding brought against CUSTOMER is based on a claim of patent, copyright, trademark, trade secret infringement arising out of or in connection

with CUSTOMER's use of the PURCHASED SERVICE, except for any modification made by CUSTOMER, and if CUSTOMER promptly notifies ALTARAMA in writing of any such action or proceeding, ALTARAMA shall, at its own expense, do the following to assure CUSTOMER's continued use of the PURCHASED SERVICE:

- Defend such action or proceeding and hold harmless CUSTOMER, its trustees, employees, agents and students from and against any and all liability, and pay all damages, costs, losses, claims, demands, attorneys' fees and expenses, arising out of or in connection with such action or proceeding.
- Procure for CUSTOMER the right to continue to use the PURCHASED SERVICE affected by such action or proceeding or replace or modify the PURCHASED SERVICE such that the infringement is removed.

CUSTOMER shall cooperate reasonably with ALTARAMA, at no cost to CUSTOMER, in any defense of the actions or proceedings.

3. Limitation of Liability.

Except as specifically provided herein, the PURCHASED SERVICE, including its software elements, is provided "AS IS," without warranty of any kind, express or implied, including but not limited to warranties of performance, merchantability, fitness for a particular purpose, accuracy, and delays. CUSTOMER's exclusive remedy and ALTARAMA's entire liability for claims for damages relating to use of the PURCHASED SERVICE is limited to the aggregate amount of fees paid by CUSTOMER under this AGREEMENT during the twelve (12) months preceding the claim(s).

In no event shall ALTARAMA be liable for any claim resulting from CUSTOMER's inability to provide reference services to CUSTOMER's patrons, or any claim based on any information provided by CUSTOMER or ALTARAMA to patrons in reliance of data contained on or accessed through the PURCHASED SERVICE. In no event shall ALTARAMA be liable for any indirect, incidental, special or consequential damages, or loss of profits, revenue, or data incurred by CUSTOMER or any third party as a result of use of the PURCHASED SERVICE, even if ALTARAMA has been advised of the possibility of such damages.

4. Indemnification.

To the extent permitted by applicable law, CUSTOMER will defend, indemnify, and hold ALTARAMA harmless from any claim or expense arising out of CUSTOMER's use of the software and its support service, including, but not limited to, claims relating to any information provided by CUSTOMER to patrons through the PURCHASED SERVICE, behavior of patrons using the PURCHASED SERVICE, copyright of any information or data contained on or accessed through the PURCHASED SERVICE, or breach of CUSTOMER's obligations under clause 7.

5. Confidentiality.

CUSTOMER data held within the PURCHASED SERVICE and its associated databases is owned by CUSTOMER who grants ALTARAMA the right to access that data for support purposes including statistical analysis for use in developing the product, informing the library of its usage of the service, or substantiating usage of the service to other customers or potential customers.

If collection of patron contact information is a necessary part of the use of the PURCHASED SERVICE, CUSTOMER and ALTARAMA shall keep all patron contact information confidential, and handle it with the same care and confidentiality as any other library patron records.

CUSTOMER grants ALTARAMA the right to quote its name as a customer. Both ALTARAMA and CUSTOMER agree not to publish any press releases about the CUSTOMER's use of the

PURCHASED SERVICE or, to the extent permitted by applicable law, the terms involved in this AGREEMENT, without the prior written consent of the other party.

6. Availability.

ALTARAMA will use its good faith efforts to support the PURCHASED SERVICE, but does not warrant that the PURCHASED SERVICE will provide uninterrupted or error-free operation. The PURCHASED SERVICE operates via the Internet and performance of the Internet is not within ALTARAMA's control.

7. Miscellaneous.

CUSTOMER may not assign this AGREEMENT without ALTARAMA's written consent. The relationship of the parties is that of independent contractors, and no partnership, agency, fiduciary or other relationship exists. No term of this AGREEMENT shall be deemed to be waived, and no breach excused, unless such waiver or consent is given in writing signed by the party claimed to have provided the waiver or consent. Such waivers or consents shall apply to the particular instance only. Any generally applicable modifications to the terms of this AGREEMENT must be signed by both parties.

10. Initial Term, Renewals, and Termination.

The initial term of this AGREEMENT, including the right to enjoy use of the PURCHASED SERVICE, shall continue from the date of its execution for a period of one (1) year, to be automatically renewed for up to three (3) additional one (1) year terms unless CUSTOMER gives notice in writing of intention not to renew at least thirty (30) days prior to the anniversary of the AGREEMENT.

After the initial one (1) year period, ALTARAMA may amend or terminate the support aspects of this AGREEMENT with a minimum of six (6) months notice in writing.

Either party may terminate this AGREEMENT if the other party is in breach of any material obligation hereunder by giving the breaching party written notice and twenty (20) days opportunity to cure such breach.

As soon as practical after termination of this AGREEMENT, CUSTOMER shall return or destroy any copyrighted training, user or support material provided by ALTARAMA, shall delete any links to the PURCHASED SERVICE from their web site, and shall provide written confirmation to ALTARAMA that this obligation has been completed. All payment obligations survive the termination of this AGREEMENT.

11. Payment terms and conditions.

From the price quote referenced in CUSTOMER's order, CUSTOMER agrees to pay the total amount labeled "Total Start-up and Year One Costs" upon receipt of a correctly rendered invoice.

From the price quote referenced in CUSTOMER's order, an invoice in the amount labeled "Annual Costs After Year One" for renewal of the PURCHASED SERVICE subscription shall be provided to CUSTOMER approximately sixty (60) days prior to the anniversary of the date of CUSTOMER's order. CUSTOMER agrees to pay this invoice on or before the anniversary of CUSTOMER's order unless written notice of intent not to renew has been timely provided to ALTARAMA.

Net-30 terms shall apply to all payments due under this AGREEMENT.

ALTARAMA may make reasonable increases in the amounts payable under this AGREEMENT by providing at least two months notification in writing prior to billing period in which the increase will apply.

All prices are expressed in, and are to be paid in US Dollars. Payment of any applicable taxes and the cost of compliance with any local regulations or laws are the responsibility of CUSTOMER.

12. Entire Agreement

This AGREEMENT sets forth the entire understanding and agreement between the CUSTOMER and ALTARAMA and may be amended only in a writing signed by the PARTIES. This AGREEMENT shall be governed by the laws of the State of California, without regard to its principles of conflicts of law.

Any litigation hereunder shall be brought in any state or federal court of competent jurisdiction in the State of California; the PARTIES agree that venue shall be proper in, and consent to the personal jurisdiction of, such courts. This AGREEMENT may be executed in one or more counterparts, each of which shall be deemed an original and all of which, when taken together, shall constitute one and the same instrument.

By signing this AGREEMENT I certify that I have read and agree to be bound by the terms and conditions in this AGREEMENT on behalf of CUSTOMER and that I am a duly authorized to sign for this amount and these conditions on behalf of CUSTOMER.

Signature: _____ Name: _____

Title: _____ Date: _____

Notices under this AGREEMENT should be sent to:

Name: _____ Email: _____
Address: _____ Phone: _____
_____ Fax: _____

For ALTARAMA

By signing this AGREEMENT I certify that I have read and agree to be bound by the terms and conditions in this AGREEMENT on behalf of ALTARAMA and that I am a duly authorized to sign for this amount and these conditions on behalf of ALTARAMA.

Signature: _____ Name: Arthur L. Brady

Title: President Date: _____

Notices under this AGREEMENT should be sent to:

Name: Altarama Information Systems
Attn: Contracts Administration Email: contracts@altarama.com
Address: 1111 E. 1100 N. Phone: 888-892-9997 ext 3
Orem, UT 84097 Fax: 801-226-7866