

CITY OF OLATHE PRICE AGREEMENT

THIS AGREEMENT is made by and between the City of Olathe, Kansas, hereinafter "City," and Ingram Library Services LLC, hereinafter "Vendor" (each individually a "Party" and collectively, the "Parties"). City needs library collection material, and contracts with Vendor to supply the goods or services described in **Exhibit A**, as needed and as requested by City.

1. PRICE AGREEMENT, ORDERS, AND TERM. City agrees to pay Vendor at the prices listed in **Exhibit A** to supply the goods or services described in **Exhibit A**, as needed and as requested by City. City will have no financial obligation under this Agreement until an order has been placed. Any order placed under this Agreement remains subject to any applicable procurement policies of City, including approval by the appropriate authority based on the dollar amount of the order. Any order placed pursuant to this Agreement is subject to all terms and provisions of this Agreement. This contract will be a five (5)-year contract. The parties may agree to update the price list in Exhibit A to adjust pricing without any other amendment of this Agreement, provided that the updated price list: a) is in writing and references this agreement; b) contains an effective date; and c) is signed by both parties.

2. ADDITIONAL SERVICES. Vendor may provide services in addition to those listed **Exhibit A** when authorized in writing by City.

3. BILLING. Vendor may bill City monthly for all completed work and reimbursable expenses. Vendor must submit a bill which itemizes the work and reimbursable expenses. City agrees to pay Vendor within thirty (30) days of approval by the Governing Body or other agent of City in accordance with the City's Procurement Policy. The bill must be mailed to the attention of Account Payable, City of Olathe, PO Box 768, Olathe, KS 66051-0768 or emailed to apolathe@olatheks.org. The bill must indicate it is for work or expenses under this Agreement (include Agreement date for identification).

4. PAYMENT. If City becomes credibly informed that any representations of Vendor provided in its billing are wholly or partially inaccurate, City may withhold payment of sums then or in the future due to Vendor until the inaccuracy and the cause thereof is corrected to City's reasonable satisfaction.

5. STANDARD OF CARE. Vendor will exercise the same degree of care, skill, and diligence in the performance of the work as is ordinarily possessed and exercised by a professional under similar circumstances. If Vendor fails to meet the foregoing standard, Vendor will perform at its own cost, and without reimbursement, any work necessary to correct errors and omissions which are caused by Vendor's failure to meet the foregoing standard.

6. TERMINATION FOR CONVENIENCE. City may terminate this Agreement for convenience by providing thirty (30) days' written notice to Vendor. City will compensate Vendor for all work completed and accepted and reimbursable expenses incurred to the effective date of the termination notice. Compensation will not include anticipatory profit or consequential damages, neither of which will be allowed.

7. TERMINATION FOR LACK OF FUNDS. If, for whatever reason, adequate funding is not made available by City to support or justify continuation of the level of work to be provided by

Vendor under this Agreement, City may terminate or reduce the amount of work to be provided by Vendor under this Agreement. In such event, City will notify Vendor in writing at least thirty (30) days in advance of such termination or reduction of work for lack of funds.

8. DISPUTE RESOLUTION. The Parties agree that disputes regarding the work will first be addressed by good faith negotiations between the Parties. If negotiations fail to resolve the dispute, the Party initiating the claim that is the basis for the dispute may take such steps as it deems necessary to protect its interests. Notwithstanding any such dispute, Vendor will proceed with undisputed work as if no dispute existed, and City will continue to pay for Vendor's completed undisputed work. No dispute will be submitted to arbitration without both Parties' written approval.

9. SUBCONTRACTING. Vendor may not subcontract or assign any of the work to be performed under this Agreement without first obtaining the written approval of City. Any person or entity providing subcontracted work under this Agreement must comply with **Section 11 (Insurance)**.

10. OWNERSHIP OF DOCUMENTS. All final documents provided to City as part of the work provided under this Agreement, including but not limited to reports, plans, and related documents, will become City's property except that Vendor's copyrighted documents will remain owned by Vendor. Such documents must be clearly marked and identified as copyrighted by Vendor.

11. INSURANCE. Vendor and any subcontractor will maintain for the term of this Agreement insurance as provided in **Exhibit B**. Vendor will provide certificates of insurance and renewals thereof on forms reasonably acceptable to City and in the manner specified in **Exhibit B**.

12. INDEMNIFICATION AND HOLD HARMLESS. For purposes of this Agreement, subject to the Kansas Tort Claims Act, K.S.A. 75-6101 *et seq.*, Vendor agrees to indemnify, defend, and hold harmless City, its officers, appointees, employees, and agents from any and all loss, damage, liability or expense, of any nature whatsoever caused or incurred as a result of the negligence or other actionable fault of Vendor, its affiliates, subsidiaries, employees, agents, assignees, and subcontractors and their respective employees and agents. Vendor is not required hereunder to defend City, its officers, appointees, employees, or agents from assertions that they were negligent, nor to indemnify and hold them harmless from liability based on City's negligence. City does not indemnify Vendor.

13. LIMITATION OF LIABILITY FOR BREACH OF CONTRACT OR NEGLIGENT PERFORMANCE. Vendor's total liability for all claims arising out of this Agreement for breach of warranty, strict liability, contract and tort is limited to two-times (2X) the purchase price paid by City for the product and/or services which are the subject of the claim. Neither Party will be liable to the other for any consequential, punitive, special, exemplary or incidental damages whether or not foreseen or known, and whether or not in law or equity, beyond the total liability cap established above. Vendor will not accept administrative claims or penalty charges.

14. KANSAS ACT AGAINST DISCRIMINATION. *Unless* Vendor employs fewer than four (4) employees during the term of this Agreement, or *unless* the total of all agreements (including this Agreement) between Vendor and City during a calendar year are cumulatively less than \$5,000, *then* during the performance of this Agreement, Vendor agrees that:

- a. Vendor will observe the provisions of the Kansas Act Against Discrimination (K.S.A. 44-1001 *et seq.*) and will not discriminate against any person in the performance of work under the present contract because of race, religion, color, sex, disability, national origin, or ancestry;
- b. in all solicitations or advertisements for employees, Vendor will include the phrase, "equal opportunity employer," or a similar phrase to be approved by the Kansas Human Rights Commission ("commission");
- c. if Vendor fails to comply with the way Vendor reports to the commission in accordance with the provisions of K.S.A. 44-1031 and amendments thereto, Vendor will be deemed to have breached the present contract and it may be canceled, terminated, or suspended, in whole or in part, by City without penalty;
- d. if Vendor is found guilty of a violation of the Kansas Act Against Discrimination under a decision or order of the commission which has become final, Vendor will be deemed to have breached the present contract and it may be canceled, terminated, or suspended, in whole or in part, by the contracting agency; and
- e. Vendor will include the provisions of subsections a. through d. in every subcontract or purchase order so that such provisions will be binding upon such subcontractor or vendor.

15. KANSAS OPEN RECORDS ACT. Vendor acknowledges that City is subject to the Kansas Open Records Act (K.S.A. 45-215, *et seq.*). City retains the final authority to determine whether it must disclose any document or other record under the Kansas Open Records Act and the manner in which such document or other record should be disclosed.

16. ENTIRE AGREEMENT. This Agreement, including all documents and exhibits included by reference herein, constitutes the entire Agreement between the Parties and supersedes all prior agreements, whether oral or written, covering the same subject matter. This Agreement may not be modified or amended except in writing mutually agreed to and signed by both Parties. No form or document provided by Vendor after execution of this Agreement will modify this Agreement, even if signed by both Parties, unless it: 1) identifies the specific section number and section title of this Agreement that is being modified and 2) indicates the specific changes being made to the language contained in this Agreement.

17. NO THIRD-PARTY BENEFICIARIES. Nothing contained herein will create a contractual relationship with, or any rights in favor of, any Third Party.

18. INDEPENDENT CONTRACTOR STATUS. Vendor is an independent contractor and not an agent or employee of City.

19. COMPLIANCE WITH LAWS. Vendor will abide by all applicable federal, state, and local laws, ordinances, and regulations.

20. FORCE MAJEURE CLAUSE. Neither Party will be considered in default under this Contract because of any delays in performance of obligations hereunder due to causes beyond the control and without fault or negligence on the part of the delayed Party, including but not restricted to, an act of God or of a public enemy, civil unrest, volcano, earthquake, fire, flood, tornado, epidemic, quarantine restrictions, strike, freight embargo, unusually severe weather

or delay of subcontractor or supplies due to such cause; provided that the delayed Party must notify the other Party in writing of the cause of delay and its probable extent within a reasonable amount of time after the beginning of such delay. Such notification will not be the basis for a claim for additional compensation. The delayed Party must make all reasonable efforts to remove or eliminate the cause of delay and must, upon cessation of the cause, diligently pursue performance of its obligation under the Agreement.

21. APPLICABLE LAW, JURISDICTION, VENUE. Interpretation of this Agreement and disputes arising out of or related to this Agreement will be subject to and governed by the laws of the State of Kansas, excluding Kansas' choice-of-law principles. Jurisdiction and venue for any suit arising out of or related to this Agreement will be in the District Court of Johnson County, Kansas.

22. SEVERABILITY. If any provision of this Agreement is determined to be void, invalid, unenforceable, or illegal for whatever reason, such provision(s) will be null and void; provided, however, that the remaining provisions of this Agreement will be unaffected and will continue to be valid and enforceable.

23. ORDER OF PRECEDENCE. If there is any conflict between the terms of this Agreement, excluding exhibits, and anything contained in the exhibits referenced herein or attached hereto, the terms and provisions of this Agreement, excluding exhibits, shall control.

[The remainder of this page is intentionally left blank.]

The Parties hereto have caused this Agreement to be executed this _____ day of _____ 20____.

CITY OF OLATHE, KANSAS

By: _____
Mayor

ATTEST:

City Clerk (SEAL)

APPROVED AS TO FORM:

City Attorney or Deputy/Assistant City Attorney

Ingram Library Services LLC

By: 

Carolyn Morris, Vice President
1 Ingram Blvd. La Vergne, TN 37086

Exhibit A
Vendor's Proposal

RE: Ingram Special Offer Renewal

Dear Ms. Hathaway:

Please accept this offer renewal as notification that Ingram Library Services LLC would like to continue providing library materials to the Olathe Public Library at the following terms. Based on estimated annual expenditures of \$200,000, the special terms offered herein will be effective August 1, 2025 and will be extended through May of 2026.

Discounts:	*Trade Hardcover	41.5%
	*Trade Quality Paperbacks.....	40.0%
	*Mass Market Paperbacks	40.0%
	Library Bindings.....	15.0%
	University Press	10.0%
	** Short Discounted Titles	10.0%
	*** Spoken Word Audio	0-45.0%
	Games	0.0 - 5.0%
	DVD/Blu-ray.....	0.0 - 15.0%
	Net Titles	0.0%

** Trade Hardcover, Quality Paperbacks and Mass Market Paperback titles ordered with a cover price of \$14.99 or less will receive a 25% discount.*

*** Short Discount/Non-Trade: Lower demand, small print-run books in various bindings, and includes graphic novels, legal, technical, reference, scientific, and medical titles as defined by Ingram subject categories. Titles are generally published by small or university presses. Also included are print and audiobook titles purchased at lower than full trade discount; titles with limited sales volume; and/or titles from publishers not in compliance with Ingram's purchasing requirements. Ingram is pleased to make this broad base of titles available to our customers with no service charges.*

**** Eighty to eighty-five percent of all Spoken Word Audio is at the 45% discount; however, some Spoken Word Audio is short discounted by the publisher.*

Continuations and New Title Notifications/Standing Orders:

With Ingram, these special discounts also apply to our Continuations and New Title Notifications/Standing Order Programs. Please visit our website at www.ingramcontent.com/libraries or contact your Ingram Sales Representative for details.

Cataloging and Processing:

To simplify budgeting and to speed items through our facilities, Ingram offers bundled iMARC cataloging and processing services. With our tiered service levels, your library can easily estimate its yearly C&P costs and identify ways to save. Rather than charging for each item applied to a unit, all units on a designated account will be charged the same C&P fee. This speeds up the work in our processing units and lets the library reconcile charges with little effort. It also distributes cataloging costs across all Ingram's cataloging customers more fairly and enables us to maintain lower fees.

The following SL accounts will receive the **Mylar RPQ Bundle at \$1.59/unit. (TC 65759121)**
2062777, 2062778, 20V6430

This bundle includes the following:

- Mylar for R,P,Q titles
- Pre-programed 2 Part RFID /Barcode Set – ILS supplied

Freight Terms:

We are pleased to offer **Ingram-paid freight from your designated primary distribution center** on shipments of 15 units or more. Orders from your primary distribution center will be held until a minimum quantity of 15 units is met. Shipments of 15 or more units from your secondary distribution center qualify for free freight, shipments less than 15 units will be charged a flat \$6.00 shipping fee. The flat fee amount and/or qualifying unit quantity is subject to change with notice.

When freight charges on an individual account surpass 2.5% of the account's expenditures, Ingram reserves the right to change the shipping settings under this offer. Changes to account settings such as one warehouse for shipments or shipment timetables and order consolidation levels are examples of such alterations. We will work closely with the Library to ensure if changes are made, they are in the best interests of both parties.

Due to the impact of rising oil prices, Ingram has instituted a \$3.00 fuel surcharge per shipment. This charge is subject to change with notice. These charges will appear as a Shipping and Handling charge on your invoice.

Payment Terms:

Payment terms under this offer shall be Net 30 Days. Payment is required for invoices within these terms even when a purchase order has not been completed. Ingram does not invoice for items until they have been shipped.

While other vendors demand payment from invoice date, Ingram's terms are calculated on statement date at the end of each month. With payment due 30 days from statement date, the customer's payment is due an average of 45 days from invoice (30-59 days). Ingram reserves the right to assess a late charge on all past due invoices.

Effective Dates: Start Date: August 1, 2025
 End Date: May 31, 2026

Account Information:

This offer is extended to the Olathe Public Library only. The terms and conditions of this offer do not apply to staff accounts.

It is the responsibility of each individual ordering agency to verify with Account Services that any new accounts are eligible and have been set up to order under this offer. Ingram cannot issue credit for accounts not following the proper procedures. Any item that is ordered prior to the start date of this offer is not eligible to receive the terms of this special offer. This applies to all backorders, standing orders, and firm orders placed prior to the enactment of this offer. Libraries

wishing to establish a new account will be asked to complete an Ingram New Account Application and Terms of Sale Form. When setting up an account under the terms of the contract, the Library will be asked to provide a copy of their tax exemption certificate.

Ingram Contact List:

The Olathe Public Library has toll-free telephone access to Ingram Customer Care at (800) 937-8200, or you may reach your Senior Sales Representative directly at:

- Brette Dorris, Senior Sales Representative.....(618) 210-3280
Email: brette.dorris@ingramcontent.com
- Matt Stewart, Sales Specialist(615) 213-5769
Email: matt.stewart@ingramcontent.com
- Ingram Library Services615-793-5000
- Credit Department.....(800) 937-8100

Email: ILSCustomer.service@ingramcontent.com

To Discuss Concerns or Issues Regarding Your Account

Email: requirements@ingramcontent.com

To Set Up / Update an Account

Ingram Library Services LLC looks forward to a continued successful partnership with the Olathe Public Library. If you have any questions, please contact Brette Dorris, your Ingram Senior Sales Representative. Brette will be pleased to assist you.

Best Regards,



Carolyn Morris
Vice President

CM/ab

Exhibit B

CITY OF OLATHE INSURANCE REQUIREMENTS

These requirements apply to the vendor or contractor ("Vendor") entering into an Agreement with the City of Olathe ("City").

A. Insurance. Secure and maintain for the term of the Agreement insurance of such types and in at least such amounts as set forth below from a Kansas authorized insurance company which carries a Best's Policyholder rating of "A-" or better and carries at least a Class "VII" financial rating or better, unless otherwise agreed to by City:

1. Commercial General Liability: City must be listed by ISO endorsement or its equivalent as an additional insured on a primary and noncontributory basis on any commercial general liability policy of insurance. The insurance must apply separately to each insured against whom claim is made or suit is brought, subject to the limits of liability.

Limits: Per Occurrence, including Personal & Advertising Injury and Products/Completed Operations: \$1,000,000; General Aggregate: \$2,000,000.

2. Business Auto Insurance: City must be listed by ISO endorsement or its equivalent as an additional insured on a primary and noncontributory basis on any automobile policy of insurance. Insurance must apply separately to each insured against whom claim is made or suit is brought, subject to liability limits.

Limits: All Owned Autos; Hired Autos; and Non-Owned Autos: Per occurrence, combined single limit: \$500,000.

Notwithstanding the foregoing, if Vendor does not own any automobiles, then Vendor must maintain Hired and Non-Owned Auto insurance.

3. Worker's Compensation and Employer's Liability: Workers compensation insurance must protect Vendor against all claims under applicable state Worker's Compensation laws at the statutory limits, and employer's liability with the following limits.

Limits: \$500,000 Each Accident/\$500,000 Policy Limit/\$500,000 Each Employee

4. Professional Liability (if applicable): **Unless excused by the Agreement with the City**, Vendor must maintain for the term of this Agreement and for a period of three (3) years after the termination of this Agreement, Professional Liability Insurance.

Limits: Each Claim: \$1,000,000; General Aggregate: \$1,000,000.

5. Cyber Insurance (if applicable): **IF** accessing the City's network or City's data, **THEN** maintain the following coverages throughout for the term of this

Agreement and for a period of three (3) years after the termination of this Agreement: Cyber Incident/Breach Response and Remediation Expenses, Digital Data Recovery, Privacy and Network Security Liability, and Notification Expense.

Limits: Per claim, each insuring agreement: \$1,000,000; Aggregate: \$1,000,000.

B. Exposure Limits. Above are minimum acceptable coverage limits and do not imply or place a liability limit nor imply that the City has assessed the risk that may be applicable to Vendor. Vendor must assess its own risks and if it deems appropriate and/or prudent maintain higher limits and/or broader coverage. The Vendor's insurance must be primary, and any insurance or self-insurance maintained by the City will not contribute to, or substitute for, the coverage maintained by Vendor.

C. Costs. Insurance costs must be at Vendor's expense and accounted for in Vendor's bid or proposal. Any deductibles or self-insurance in the above-described coverages will be the responsibility and at the sole risk of the Vendor.

D. Verification of Coverage

1. Must provide certificate of insurance on ISO form or equivalent including all requirements listed herein. City uses the myCOI platform for submission and review of certificates of insurance and related documentation. Vendor must provide any information needed to register on the platform and submit certificates of insurance and related documentation through the platform.
2. Any self-insurance must be approved in advance by the City and specified on the certificate of insurance. Additionally, when self-insured, the name, address, and telephone number of the claim's office must be noted on the certificate or attached in a separate document.
3. When any of the insurance coverages are required to remain in force after final payment, additional certificates with appropriate endorsements evidencing continuation of such coverage must be submitted along with the application for final payment.
4. For cyber insurance, the certificate of insurance confirming the required protection must confirm the required coverages in the "Additional Comments" section or provide a copy of the declarations page confirming the details of the cyber insurance policy.

E. Cancellation. No required coverage may be suspended, voided, or canceled, except after Vendor has provided thirty (30) days' advance written notice to the City.

F. Subcontractor's Insurance: If a part of this Agreement is to be sublet, Vendor must either cover all subcontractors under its insurance policies; **OR** require each subcontractor not so covered to meet the standards stated herein.