



Minnesota
STATE COLLEGES
& UNIVERSITIES

STATE OF MINNESOTA
MINNESOTA STATE UNIVERSITY, MANKATO
MINNESOTA STATE COLLEGES AND UNIVERSITIES
INCOME CONTRACT

This contract is by and between _____ (hereinafter "PARTICIPANT") and the State of Minnesota acting through its Board of Trustees of the Minnesota State Colleges and Universities, on behalf of Minnesota State University, Mankato - PALS, 3022 Memorial Library, Mankato, MN 56001 (hereinafter "PALS").

WHEREAS, pursuant to Minnesota Statutes Chapter 136F, the University is empowered to enter into contracts relating to PALS; and

WHEREAS, the Minnesota State Colleges and Universities (hereinafter "MnSCU") operates an automated library system, called MnPALS;

WHEREAS, additional libraries and institutions outside the Minnesota State Colleges and Universities have been participating in a cooperative and collaborative entity known as the Consortium of MnPALS Libraries to share bibliographic data, information, and library materials since 1980;

WHEREAS, PARTICIPANT wishes to participate with PALS to have access and utilization of the on-line catalog system of MnPALS and to utilize other functional MnPALS systems as appropriate.

NOW THEREFORE, in consideration of the mutual covenants and agreements herein contained, PARTICIPANT and PALS agree as follows:

NOW, THEREFORE, it is agreed:

I. MEMBERSHIP

A. PARTICIPANT and PALS agree that this Contract provides for participation in the Consortium of MnPALS Libraries. PARTICIPANT will:

1. Allow their On-line Computer Library Center (hereinafter "OCLC") records to be loaded in the MnPALS on-line catalog,
2. Allow their records to be displayed for all members,
3. Allow open searching of the database by their constituents,

4. Inter-library loan to other MnPALS participants' items, which are requested according to policies adopted by the Consortium Administrators and Coordinators Group, and subject to such restrictions as PARTICIPANT may have on the loan of its materials.

B. ADDITIONAL SERVICES.

Participation in additional services (e.g.; electronic databases) is at the discretion of PARTICIPANT and at additional cost as detailed in **ATTACHMENT A**, "PALS Participant Library Charges," and subsequent revisions as provided for in Paragraph II below.

1. PARTICIPANT agrees to participate in MINITEX to the extent allowable and to retain a current contract for OCLC membership.
2. PARTICIPANT agrees that the title for all PALS central site (Minnesota State University, Mankato) computer equipment and software shall remain with PALS.
3. PALS agrees that the title for all PARTICIPANT computer equipment purchased and/or leased by PARTICIPANT shall remain with PARTICIPANT.
4. PARTICIPANT agrees that other institutions may be added to MnPALS at the discretion of the PALS Executive Director. The decision on new participants will be made on the basis of (1) ability of PALS to provide adequate computer resources and access, and (2) determination that there would be no material degradation of overall system or support staff response time as a result of adding new participants.
5. The same levels of service (response time, delivery of off-line products, support staff available, etc.) will be available to all MnPALS participants without regard to type of library or source of funding or geographic location.
6. The total database is owned by PALS. However, each participating institution retains joint ownership and access to its own bibliographic data and may, upon request, receive an electronic copy of the institution's database with that institution's enhancements in MARC format, for which the MnPALS participant will be charged the cost of production (including materials, equipment, and staff costs).
 - a. In the event PARTICIPANT ceases to participate in MnPALS, said PARTICIPANT may receive its circulation records and other data such as acquisitions, interlibrary loan, serials, and patron records at a mutually negotiated cost.
7. PARTICIPANT may elect to participate in other automation cooperative activities, provided PARTICIPANT meets the membership requirements contained in Paragraph I.B. of this Contract.
8. PALS is responsible for installation and maintenance of telecommunications equipment at the MSU Computer Center located at Minnesota State University, Mankato. This equipment shall meet generally accepted state and national standards so as to promote compatibility and interconnections. PARTICIPANT is responsible for obtaining and maintaining a link to the PALS telecommunications network.

II. ORGANIZATIONAL STRUCTURE

- A. The MnPALS automated library system will be administered by an executive director appointed by the MnSCU Chancellor.
- B. A PALS Deans, Directors, and Coordinators Group is confirmed for policy, procedure, budget, and problem resolution and to provide advice, counsel and recommendations to the PALS Executive Director. The Governance Structure for the Participants in MnPALS is described in **ATTACHMENT B**.
- C. The administrative head or coordinator of the PARTICIPANT library shall be a member of the Deans, Directors, and Coordinators Group.

III. PERFORMANCE

- A. PALS shall not be liable or responsible for losses caused by interruption of service due to causes beyond its control including, but not limited to, acts of God, equipment failure, power outages, inclement weather, and sabotage to the system.
- B. PALS agrees to provide an automated library system consisting of OPAC, Cataloging, Serials, Acquisitions, and Interlibrary Loan modules and such other services and enhancements as shall be added from time to time. Said system shall generally be available to PARTICIPANT 24 hours a day, seven days a week, except for needed downtime for maintenance and repair.
- C. PALS shall maintain at a secure site remote from the MSU computer center, a complete set of the entire database plus all software necessary to recover the system in the event current operating software and/or records are destroyed. At no time shall this data for PARTICIPANT be more than thirty (30) days old.

IV. COSTS FOR SERVICE

- A. Charges for membership in the consortium of MnPALS Libraries, which includes access to PALS, OPAC participation, specific module utilization, and additional fee based services will be determined annually by the PALS Executive Director after consultation with the Deans, Directors, and Coordinators Executive Committee.
 - 1. For charges which take effect on July 1 of any calendar year, the PALS Executive Director will attempt to provide preliminary cost estimates for budgeting purposes to PARTICIPANT by November 30 of the previous calendar year.
 - 2. Final cost charges and allocations will be determined as soon as practical in advance of the commencement of the fiscal year. Changes in the funding algorithm will require a minimum of ninety (90) days' notice from the PALS Executive Director to PARTICIPANT before taking effect.
 - 2. The requirement in Paragraph II.1.b. above may be waived by PARTICIPANT on its own behalf or by a 2/3 vote of the Administrators and Coordinators Executive Committee acting on behalf of all the members of the consortium.
 - 4. PARTICIPANT will be billed in July and January of each fiscal year. Payments are due upon receipt of invoice. Payments not made within 60 calendar days after receipt of invoice will be increased by 1% per month until paid in full.

- B. PALS agrees to provide, at a cost based on a current fee schedule, appropriate orientation, instruction, and training in the use of MnPALS, through workshops and on-site activity, and to keep PARTICIPANT promptly apprised of MnPALS modifications and changes related to PARTICIPANT access.
 - 1. PALS may adjust this fee structure annually.
 - 2. By July 1 of each calendar year, PALS will provide to PARTICIPANT a support services fee schedule and a Description of Standard and Optional Support Services.
- C. PARTICIPANT may purchase requested products from the MnPALS databases (such as special bibliographic lists, etc.) at its discretion and at a price determined by PALS.
- D. PARTICIPANT and PALS may jointly contract for additional products or services at mutually negotiated fees provided that such contracts are not detrimental to the products and services enjoyed by all the members of the consortium as parties to this Contract.

V. **DURATION OF CONTRACT**

This Contract shall be in force and effect upon signing and shall remain in effect until terminated under the provisions described below:

- A. This Contract may be modified at any time upon the mutual written consent of both PALS and PARTICIPANT.
- B. This Contract may be terminated at any time upon the mutual written consent of both PALS and PARTICIPANT.
- C. This Contract in its entirety may be terminated at any time by either party provided that a minimum of one calendar year's prior notice is given to the other party in writing by either PARTICIPANT or PALS.

In addition:

- D. This notification requirement may be reduced to one hundred eighty (180) days after the start of the membership year if charges to PARTICIPANT increase by more than 10% over the previous fiscal year for the same services.
- E. Basic Participation, as described in Paragraph I, may be discontinued at any time by either party provided that a minimum of one calendar year's prior notice is given to the other party in writing by either PARTICIPANT or PALS.
- F. Participation in Additional Services as described in Paragraph I.B. above may be discontinued by either party provided that notice is given to the other party in writing by either PARTICIPANT or PALS no less than ninety (90) days before the expiration of the contracting period for the service being discontinued.

VII. **AUTHORIZED REPRESENTATIVES**

PALS' Authorized Representative for the purposes of administration of this contract is Stephen Elfstrand, Executive Director of PALS, Minnesota State University, Mankato,

3022 Memorial Library, Mankato, MN 56001, Phone: (507) 389-2000,
stephen.elfstrand@mnsu.edu or his successor.

VIII. ASSIGNMENT

Neither the PARTICIPANT nor PALS shall assign or transfer any rights or obligations under this contract without the prior written approval of the other party.

IX. LIABILITY

Each party will be responsible for its own acts and the results thereof to the extent authorized by law and shall not be responsible for the acts of any others and the results thereof. Minnesota State University, Mankato's liability shall be governed by the provisions of the Minnesota Tort Claims Act, Minnesota Statutes, Chapter §3.736 and other applicable law.

X. AMENDMENTS

Any amendments to this Contract shall be in writing and shall be executed by the same parties who executed the original contract or their successors in office.

XI. GOVERNMENT DATA PRACTICES ACT

The PARTICIPANT must comply with the Minnesota Government Data Practices Act, Minnesota Statutes Chapter 13, as it applies to all data provided by PALS in accordance with this contract, and as it applies to all data, created, collected, received, stored, used, maintained, or disseminated by the PARTICIPANT in accordance with this contract. The civil remedies of Minnesota Statutes Section 13.08, apply to the release of the data referred to in this Article by either the PARTICIPANT or PALS.

In the event the PARTICIPANT receives a request to release the data referred to in this Article, the PARTICIPANT must immediately notify PALS. PALS will give the PARTICIPANT instructions concerning the release of the data to the requesting party before the data is released. PARTICIPANT shall not be obligated to incur any legal expense relating to or arising out of such instructions.

XII. JURISDICTION AND VENUE

This contract shall be governed by the laws of the State of Minnesota. Venue for all legal proceedings arising out of this contract, or the breach thereof, shall be located only in the state or federal court with competent jurisdiction in Ramsey County, Minnesota.

XIII. OTHER PROVISIONS

N/A.

IN WITNESS WHEREOF, the parties have caused this contract to be duly executed intending to be bound thereby.

APPROVED:

- PALS: MINNESOTA STATE COLLEGES AND UNIVERSITIES
MINNESOTA STATE UNIVERSITY, MANKATO
PALS**

By: Stephen Elfstrand
Title: Executive Director of PALS
Date:

By: Richard J. Straka
Title: V.P. Finance and Administration
Date:

- PARTICIPANT:**

PARTICIPANT certifies that the appropriate person(s) have executed the contract on behalf of PARTICIPANT as required by applicable articles, by-laws, resolutions, or ordinances.

By:
Title:
Date:

By:
Title:
Date:

- AS TO FORM AND EXECUTION:**

By: Vickie Hanson
Title: Office Administrator
Date: