

**Digital Library Reserve
Application Services Agreement**

1. INTRODUCTION

This Agreement is made and entered into this 21st day of October 2010 by and between OverDrive, Inc., (hereinafter referred to as “OverDrive”), a Delaware corporation, Valley Tech Center, Suite N, 8555 Sweet Valley Drive, Cleveland, OH 44125 USA and the Participating Libraries that join the South Texas Digital Consortium, or other name as determined by Participating Libraries (hereinafter referred to as “Participating Librar(ies)”):

Attached and incorporated in this Agreement are the following Schedules:

Attached and incorporated in this Agreement are the following Schedules:

- Schedule “A-1” – Digital Library Reserve Application Services and Fee Schedule
- Schedule “A-2” – Consortium Participation Fees
- Schedule “B” – Consortium Website Guidelines
- Schedule “C” – Library Participation Form for Consortium

WHEREAS, OverDrive, Inc. is the authorized provider of digital media technology and services to libraries including those related to the management and copyright protection of content in eBook, audio book, and media in digital formats; and,

WHEREAS, Participating Libraries are seeking to provide such services; and,

WHEREAS Participating Library seeks to license the use of and deploy software products, technology and services including those licensed to OverDrive by Microsoft[®] Corporation, Adobe[®] Systems Inc. or other vendors of Digital Rights Management (DRM) technologies.

THEREFORE, the parties agree as follows:

2. DEFINITIONS

As used in this Agreement, the following definitions shall apply:

2.1 "Agreement" shall mean this Agreement between OverDrive and Participating Library, and all Schedules and attachments.

2.2 "Application Services" or “Application(s)” shall mean the Digital Library Reserve, OverDrive, Microsoft[®] Corporation, Adobe[®] Systems Incorporated, Adobe Benelux, B.V. and any other third party products or services identified in this Agreement or Schedules attached to the Agreement.

2.3 "Application Services Fees" or “Annual Fees” shall be the amounts payable by Participating Library to OverDrive in accordance with the terms of this Agreement and associated Schedules.

2.4 “Consortium” or “Library” shall mean all of the Participating Libraries, collectively.

2.5 “Consortium Website” shall mean the Internet-based application that provides Patrons access to Digital Products operated in association with Digital Library Reserve and as a component of the Consortium’s website address (URL).

2.6 "Content" or “Digital Products" shall consist of digital files and titles available for loan to Patrons at the Consortium Website distributed using the Application Services.

2.7 “Digital Library Reserve” shall mean the integrated digital book collection and lending services utilizing OverDrive, Microsoft, Adobe or other third party software applications and services that relate to the Consortium Website for managing the Digital Products.

2.8 “Digital Library Reserve Guidelines” shall mean the terms and conditions of utilizing the Digital Rights Management Application Services.

2.9 "Effective Date" shall mean October 21, 2010.

2.10 "OverDrive" shall mean: OverDrive, Inc., a Delaware Corporation.

2.11 "Participating Librar(ies)" shall mean those libraries identified in Schedule "C" attached to this Agreement.

2.12 "Patron(s)" shall mean those persons that Participating Library authorizes to access, use, and connect to the Consortium Website via the Internet, and download products from or otherwise utilize the Application Services and/or access Digital Products from the Participating Library using the Application Services.

2.13 "Primary Support" shall mean services provided by Participating Library to its Patrons for its day-to-day support, technical aid, help and other assistance for Patron's use of the Consortium Website, Applications or for any issues arising from the use of the Consortium Website.

2.14 "Secondary Support" shall mean technical support services to be provided by OverDrive to the Participating Libraries including reasonable efforts to assist Participating Libraries in providing Primary Support, reasonable efforts to correct, fix, or circumvent errors, provide updates, enhancements, and new versions of the Application Services.

3. DIGITAL LIBRARY RESERVE APPLICATION SERVICES

3.1 OverDrive shall provide the Digital Library Reserve Application Services to Participating Libraries under the terms and conditions of this Agreement and the associated license agreements from its Digital Rights Management (DRM) technology or Digital Product and Content suppliers. This right is non-transferable and applies solely to the server-based operation, management and use of the Digital Library Reserve applications in unaltered, object code form. Nothing under the terms and conditions of this Agreement, including any of the Attachments and Schedules, grant any right to Participating Libraries to the use of, or access to, any Application Services source code. This grant does not include any right to reproduce the Application Services, to distribute copies or versions of any modules of the Application Services to any third parties including its Patrons, or to make and/or sell variations or derivative works of the Application Services. Sole ownership of copyrights and other intellectual and proprietary rights to the Application Services shall remain solely with OverDrive or its suppliers.

3.2 Participating Library assumes responsibility for providing a suitable network and Internet system for integration of Application Services into the Consortium Website or other systems. All parties acknowledge that any expenditures or commitments are made at the risk of the party making such expenditures or commitments. Participating Library agrees that it shall be responsible for its own expenses and costs under this Agreement and that OverDrive shall have no obligation to reimburse Participating Library for any expenses or costs incurred by Library in the preparation, systems integration, use of the Application Services, or for any performance of Participating Library's duties hereunder.

3.3 OverDrive will create and implement a Consortium Website for Consortium and Participating Library's use of the Application Services as detailed in Schedule "A-1" that will include search function (by title category, author, keyword), multiple categories with multiple listing option, auditing and reporting functions and access to a protected web portal to manage the Consortium's catalog of Digital Product and Content files. Subject to OverDrive's approval, which shall not be unreasonably withheld, OverDrive will incorporate the Consortium's name, logos and trademarks in accordance with design suggestions as provided by Consortium. Consortium will have the ability to manage and promote Digital Products from a password protected Digital Library Reserve administrative web portal.

3.4 OverDrive may include Consortium and Participating Library logos and colors on the Consortium Website. OverDrive reserves the right to display its branding, trademarks, logos, and/or other third party marketing or promotional materials related to the Application Services on the Library Website. OverDrive will implement an inventory management system to permit Participating Libraries to browse, select and license rights to Digital Products in supported formats and as permitted by OverDrive's publishers and suppliers. OverDrive will create the appropriate download links from the Consortium's Website for the secure delivery of Content to authorized Participating Library Patrons. All Content available at the Consortium Website shall have at least a seven (7) day lending period, or other minimum lending period as otherwise required by suppliers or publishers of Content.

3.5 Texas Public Libraries that are members of the South Texas Library System with Legal Service Area Populations under 100,000 shall be eligible to join Consortium, on a quarterly basis. Any current OverDrive customer (standalone system) shall not be eligible to join Consortium. Notwithstanding the foregoing, OverDrive shall have sole discretion to approve any and all new libraries that seek to join Consortium.

3.6 Digital Library Reserve is for remote use only (outside of the Participating Library). Without the use of OverDrive Download Station software, Patrons and all other users of DLR cannot download Digital Content to any Participating Library computers or devices. Participating Library shall have the option to receive an OverDrive Download Station Software license for each of its public workstations at all of its branch locations, at no additional cost.

4. FEES AND PAYMENT

4.1 Participating Libraries shall pay Annual Fee in accordance with Schedules "A-2" and "C". Participating Libraries shall make payments to OverDrive in U.S. funds. During the term of this Agreement Participating Libraries may select titles and material subject to standard terms and pricing. Participating Libraries shall make payments to OverDrive for Content selections within 30 days of presentation of invoice.

4.2 The payment obligations stated in this Section are exclusive of any federal, state, municipal or other governmental taxes, sales taxes, duties, excise taxes or tariffs now or hereafter imposed on the production, storage, sale, transportation, import, export, licensing or use of the Application Services or for operation or sales activity of the Consortium Website. Such charges, shall be paid by Participating Library or, in lieu of payment of any tax, Participating Library shall provide an exemption certificate acceptable to OverDrive and the applicable authority.

5. COPYRIGHT PROTECTION, PATRON AUTHENTICATION AND DATA SECURITY

During the Agreement Term and any renewal periods, Participating Library will reasonably cooperate with OverDrive to achieve OverDrive's and its Publishers' and suppliers' objectives of protecting certain intellectual property interests relating to OverDrive supplied Digital Products and Content. Participating Library shall establish policies and procedures to abide by the Digital Library Reserve Guidelines as described in the attached Schedule "B". Participating Library shall keep appropriate documentation and systems information and provide OverDrive access to systems to validate total number of downloads of Digital Products and Content. Participating Library shall provide OverDrive access to a test Patron account for purposes of validating the systems' performance relating to the Application Services. Participating Library will reasonably cooperate with OverDrive to correct or adjust systems as may be required to compensate for any errors or omissions disclosed by such test. Any such test will be conducted by OverDrive at its own expense and during regular business hours and in such a manner as not to interfere with Participating Library's normal activities. Nothing in this Section shall entitle OverDrive to any patron data or information relating to the identity of Patrons accessing any components of the Application Services.

6. RESPONSIBILITIES OF PARTICIPATING LIBRARIES

6.1 Consortium will assign personnel with appropriate skills and expertise in computer, data processing, and related services to enable operation of the Application Services and the Consortium Website and to provide Primary Support. Consortium will use reasonable efforts to operate its Digital Library Reserve and Consortium Website in compliance with the terms of this Agreement and all Schedules. Upon launch of the service, all Participating Libraries shall include a direct hyperlink and/or logo linked to the DLR service from Participating Libraries' home page and other appropriate sub-pages. Such link or logo shall be featured no less prominently than other electronic resources or services including but not limited to NetLibrary, Recorded Books and Ingram. Each and every Participating Library shall be required to complete and return a Participation Form (attached hereto as Schedule "C") to OverDrive.

6.2 With the exception of the Application Services configured and hosted by OverDrive, Consortium is solely responsible for all aspects of catalog integration, operation, training, support and/or maintenance necessary for the operation of the Consortium Website. This may include requiring a Participating Library to obtain at its own expense a SIP, SIP2 or other similar protocol software license from a third party vendor to support direct integration of the Application Services with their Integrated Library System (ILS) as well as the cost for customized MARC records it may obtain from a third party supplier such as OCLC. Participating Library shall keep its Digital Library Reserve Account information current and alert OverDrive of any changes in its operation of its Consortium Website including but not limited to changes of personnel.

Participating Library will use reasonable efforts to ensure that information or data relevant to the operation of the Consortium Website will be treated as required by applicable law and reasonable and customary commercial practices.

6.3 Participating Library shall keep its Digital Library Reserve Account information current and alert OverDrive of any changes in the operation of Consortium Website including but not limited to changes of personnel. Participating Library will use reasonable efforts to ensure that information or data relevant to the operation of the Consortium Website will be treated as required by applicable law and reasonable and customary commercial practices.

6.4 Participating Library agrees to perform Primary Support for Patrons using the Consortium Website. Participating Libraries will perform requested installation, upgrade, and reasonable technical services for Primary Support of the Application Services pursuant to installation and support procedures and policies as developed by OverDrive and as modified from time-to-time. OverDrive will provide Participating Library with documentation regarding Primary Support and OverDrive support personnel will be available for Secondary Support by e-mail and phone.

6.5 Participating Library represents and agrees that it will not make any representations or create any warranties, expressed or implied, concerning the Application Services and products. Participating Library will take reasonable steps to insure that its employees, agents, and others under its direction, abide by the terms and conditions of this provision and this Agreement. Participating Library shall at its own expense comply with all applicable laws, ordinances, rules and regulations that may be required in any jurisdiction or administrative agency in connection with the use and/or operations of the Application Services.

7. OVERDRIVE'S OBLIGATIONS

OverDrive will create a Consortium Website that will be in compliance with the requirements listed in the attachments. As part of the Application Services OverDrive will either implement the required services directly or oversee the necessary procedures to assure compliance with the Digital Library Reserve guidelines. OverDrive will use reasonable efforts to make the Application Services perform substantially in accordance with the product description, as it may exist from time to time. However, Participating Library acknowledges that inevitably some errors may exist in the Application Services, and the presence of such errors shall not be a breach of this provision. OverDrive's sole obligation with regard to such errors shall be to use commercially reasonable efforts to correct such errors and provide Secondary Support as stated in this Agreement. Such services will be provided by phone or email. Such services will be provided at such times as are mutually agreed upon by the parties.

8. OVERDRIVE'S OPTION TO MODIFY OR DISCONTINUE APPLICATION SERVICES

OverDrive has the right, at any time, to make such modifications to the Application Services as it sees fit to the operation, performance, or functionality of the Application Services or as required by OverDrive's suppliers. If such a modification of the Application Services or of support, maintenance or the provision of new versions, updates, or corrections materially impairs the value of this Agreement to Consortium, Consortium shall have the option to terminate this Agreement and receive a pro-rata refund of any Application Service Fees paid; such option to terminate shall expire after sixty (60) days from the date notice of termination is given.

9. WARRANTY

9.1 OverDrive represents and warrants to Participating Library that it has the necessary rights to enter into this Agreement and that it has the necessary ownership and intellectual property rights and licenses to the Application Services to grant the licenses herein. OverDrive warrants that the Application Services will operate as intended if properly used by Participating Library and Patron. If any errors are discovered, Participating Library shall promptly notify OverDrive in writing as to the description of the problem, whereupon OverDrive shall use reasonable efforts to correct such problems within a reasonable time thereafter. Corrections will be provided to Participating Library with instructions for implementation. The remedies set forth in this Agreement shall be Participating Library's sole remedies for breach of this Agreement.

9.2 THE FOREGOING WARRANTIES ARE IN LIEU OF ALL OTHER WARRANTIES, EXPRESSED OR IMPLIED, INCLUDING WARRANTY OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE. THE RIGHTS AND REMEDIES GRANTED TO PARTICIPATING LIBRARY AND ITS PATRONS UNDER THIS

PARAGRAPH CONSTITUTE THE SOLE AND EXCLUSIVE REMEDY OF PARTICIPATING LIBRARY AND ITS PATRONS AGAINST OVERDRIVE FOR BREACH OF WARRANTY, EXPRESS OR IMPLIED, OR FOR ANY ERRORS OR DEFECTS IN THE APPLICATION SERVICES. IN NO EVENT SHALL OVERDRIVE OR ITS SUPPLIERS BE LIABLE TO PARTICIPATING LIBRARY OR ITS PATRONS FOR ANY DAMAGES ARISING FROM OR RELATED TO FAILURE OR INTERRUPTION OF THE APPLICATION SERVICES, OR FOR INCIDENTAL, INDIRECT OR CONSEQUENTIAL DAMAGES, OR FOR LOSS OF PROFIT OR OPPORTUNITY, LOSS OF USE OR OTHER FINANCIAL LOSS ARISING OUT OF OR IN CONNECTION WITH THE LICENSE, TRANSFER OR USE OF THE APPLICATION SERVICES. IN NO EVENT SHALL OVERDRIVE'S LIABILITY HEREUNDER EXCEED THE TOTAL AMOUNT RECEIVED BY OVERDRIVE UNDER THIS AGREEMENT.

10. INDEMNIFICATION

10.1 OverDrive agrees to indemnify Participating Library against liability and expense, including reasonable attorney fees, arising from any breach of OverDrive's warranty that it has the required rights to the Application Services and that the Application Services does not infringe any ownership or intellectual property right of a third party, provided that OverDrive: (1) is notified immediately after Participating Library receives notice of such claim (ii) is solely in charge of the defense of and any settlement negotiations with respect to such claim; (iii) received Participating Library's cooperation in the defense or settlement of such claim; (iv) has the right, upon either the occurrence of or the likelihood (in the opinion of OverDrive) of the occurrence of a finding of infringement, either to procure for Participating Libraries the right to continue use of the Application Services, or to replace the relevant portions of the Application Services with other equivalent, non-infringing portions. If OverDrive is unable to accomplish either of the options set forth in (iv) above, at OverDrive's option OverDrive shall either remove the portion of the Application Services in issue and refund to Participating Library the value of such portion, or remove the entire Application Services and refund to Library the entire amount paid pro-rata under this Agreement as it relates to the incident that gave rise to the claim.

10.2 OverDrive shall have no obligation to Participating Library to defend or satisfy any claims made against Participating Library that arise from use, marketing, licensing, or disposition of the Application Software by Participating Library other than as permitted by this Agreement. OverDrive shall not be responsible to indemnify Participating Library for claims arising from the use or license of third party software including DRM where OverDrive is not afforded such corresponding indemnification from said third party vendor. In the event a claim arises from use of non- OverDrive technology, where the vendor of such product or technology does not indemnify OverDrive, then OverDrive is not liable to extend indemnification under this section to Participating Libraries for any such claims.

11. TERM AND TERMINATION

11.1 This Agreement shall take effect on the Effective Date and, unless terminated pursuant to the relevant provisions of this Agreement, shall have an initial term of three (3) years. The Agreement shall automatically renew for successive terms of twenty four (24) months unless either party gives written notice ninety (90) days before the expiration of the then current term, of intent not to renew.

11.2 In the event of a filing by or against either party of a petition for relief under the United States Bankruptcy Code or any similar petition under the insolvency laws of any jurisdiction, where such filing is not dismissed within thirty (30) days after the date of the filing, or should Consortium discontinue the operations relevant to this Agreement, then the other party may immediately terminate this Agreement upon written notice.

11.3 In addition to provisions authorizing termination hereunder, either party shall have the right to terminate this Agreement as a result of a material breach of the Agreement by the other party that is not cured within thirty (30) days after written notice of such breach.

11.4 Upon termination and/or expiration of this Agreement, and except as otherwise provided in this Agreement, the license granted to Participating Library by this Agreement shall be terminated immediately; Participating Library shall make no further use of all or any part of the Application Services (including any and all Content) or any confidential information received from OverDrive.

12. GENERAL PROVISIONS

12.1 Independent Contractor. OverDrive and Participating Library are independent contractors under this Agreement and nothing in this Agreement authorizes either party to act as a legal representative or agent of the other for any purpose. It is expressly understood that this Agreement does not establish a franchise relationship, partnership, principal-agent relationship, or joint venture. Neither party shall have the power to bind the other with respect to any obligation to any third party. Each party is solely responsible for its employees, including terms of employment, wages, hours, required insurance, and daily direction and control.

12.2 Confidential Information. Both OverDrive and Participating Library acknowledges that each will receive confidential information from the other relating to technical, Application Services and operational affairs of the other. Each party agrees that all confidential information of the other party shall be held in confidence and shall not be disclosed, notwithstanding any laws and regulations permitting public access to documents and information that are considered public.

12.3 No Waiver. The failure of either party to exercise any right or the waiver by either party of any breach, shall not prevent a subsequent exercise of such right or be deemed a waiver of any subsequent breach of the same of any other term of the Agreement.

12.4 Notice. All notices, requests, demands or other communications required to be given pursuant to the Agreement shall be in writing and shall be deemed to have been given, if sent by U.S. mail, registered or certified mail, return receipt requested, postage prepaid, addressed to the parties at their place of business or to such other addresses as the parties direct in writing. Notice to OverDrive shall be addressed to OverDrive at the address provided in the Introduction, Attention: General Counsel or to such person or to such address as OverDrive may designate. Notice to Participating Library shall be addressed to the address for Participating Library as provided on Schedule "C", Attention to the individual signing on behalf of Participating Library or to such person or to such address as Participating may designate.

12.5 Force Majeure. Neither party shall be deemed in fault of this Agreement to the extent that performance of their obligations or attempts to cure any breach are delayed or prevented by reason of any act of God, fire, natural disaster, accident, act of government, shortages of materials or supplies, or any other causes beyond the control of such party provided that such party gives the other written notice thereof promptly and, in any event, within fifteen (15) days of discovery thereof and uses its best efforts to cure the delay. In the event of such Force Majeure, the time of performance or cure shall be extended for a period equal to the duration of the Force Majeure but in no event shall exceed three (3) months.

12.6 Assignment. OverDrive may assign this Agreement. This Agreement may not be assigned by Participating Library, nor any duty hereunder be delegated by Participating Library without the prior written consent of OverDrive. Subject to the foregoing, this Agreement shall be binding upon and inure to the benefit of the parties to this Agreement and their respective heirs, legal representatives, successors and permitted assigns.

12.7 Limitations of Liability. In the event of failure of either party to fulfill any of its obligations hereunder, the initial remedy of the other party under this Agreement shall be to request performance of such obligation. If such performance is not rendered, the other party may terminate the Agreement pursuant to Paragraph 11.3, and where appropriate, bring an action for any moneys due and payable hereunder for services rendered. However, either party shall be entitled to enforce its rights regarding patents, copyrights, trademarks, or trade names, by any appropriate action, including actions for damages and equitable relief.

12.8 Injunctive Relief. The parties to this Agreement recognize that a remedy at law for a breach of the provisions of this Agreement relating to trademark, copyright, and other intellectual property rights, will not be adequate for OverDrive's protection, and accordingly OverDrive shall have the right to obtain, in addition to any other relief and remedies available to it, injunctive relief to enforce the provisions of this Agreement.

12.9 Severability. In the event that a court of competent jurisdiction determines that any portion of the Agreement is unenforceable, void, invalid or inoperative, the remaining provisions of this Agreement shall not be affected and shall continue in effect as though such invalid provisions were deleted.

12.12 All Disputes Arising From the Agreement. This Agreement shall be governed by the laws of the State of Ohio, without regard to any conflict of laws principles. Any dispute regarding this Agreement, the Agreement formation or the relationship that has been established by this Agreement shall be brought in the state or federal courts residing in the State of

Ohio, United States of America, and the local laws of Ohio will apply to any such action related to the above without regard to any conflicts of laws principles. Any legal action brought concerning this Agreement or any dispute hereunder, including but not limited to an action to enforce or challenge an arbitration award, shall be brought only in the courts of the State of Ohio, USA, in the County of Cuyahoga, or in the federal courts located in such state (and county). Both parties submit to venue and jurisdiction in these courts. In the event that an action or claim arises outside of the exclusive jurisdiction specified herein which names OverDrive as a party, Retailer agrees to initiate, consent to and/or cooperate with any and all efforts to remove the matter to the exclusive jurisdiction named herein, or otherwise take any and all reasonable actions to achieve OverDrive's objectives of this provision.

12.11 Entire Agreement. This Agreement constitutes the entire Agreement and understanding of the parties and supersedes all prior and contemporaneous Agreements, understandings, negotiations and proposals, oral or written. Section headings are provided for convenience purposes only and do not provide any modifications or substantive meaning to the terms and conditions of this Agreement. This Agreement may be amended or modified only by a subsequent Agreement in writing signed by each of the parties and may not be modified by course of conduct.

12.12 Binding. This Agreement shall be binding and inure to the benefit of the parties hereto and their respective successors. In the event OverDrive enters into an agreement to sell substantially all the assets of OverDrive, this agreement shall be binding upon the purchaser.

Schedule “A-1”
Digital Library Reserve
Application Service and License Fee Schedule

The following modules comprise Digital Library Reserve library services for library administration of a circulating digital content collection. All prices are in USD.

Application Service	Service Information	Annual Fee	Application License and Hosting Fee
Digital Library Reserve Server (DLR-S)	DLR is the digital content repository and database established for each library. Included is support for delivery and fulfillment of Adobe software compatible with DRM-protected eBooks, Mobipocket PDA titles, and digital audio books, music and video (WMV). Includes associated copyright protection services (DRM). Included with this fee are all third party software and technology licenses. Services are hosted at the secure DLR hosting center. Access to library-managed services is accomplished via secure admin web services. The library utilizes a PC, Internet connection and Web browser (Internet Explorer 5.5 or higher) to administer its digital collection. No additional hardware or software is required by library.	Per Schedule A-2	
DLR Patron Website (DLR-PW)	This is the patron facing website that incorporates the library’s look-and-feel. The Patron Website is a complete digital book center providing browsing, searching, promotional and checkout services for patrons to explore and download digital media to their own PC or mobile devices.	Included	
DLR Content Reserve Collection Access (DLR-CRCA)	This module enables the library collection staff to administer approval plans and development profiles to aid in building its digital content collection from Digital Library Reserve. Each account has access to eBooks, audio books, music and video from leading suppliers. Digital Library Reserve offers a large collection of best-selling popular, academic, business and educational titles.	Included	
DLR Patron Authentication Integration (DLR-PAI)	OverDrive personnel will work with library automation personnel to integrate its existing patron authentication system. Will support present library card, student ID, or other authentication to insure access of titles is limited to library patrons.	Integration of one ILS included	Subsequent integrations subject to additional fees
DLR OPAC Record Integration (DLR-OPAC)	OverDrive will assist Library to coordinate access to MARC records for integration into the library catalog for patron searching and direct access to eBook and audio book titles. Included in the record will be a direct link for patrons to view the eBook and audio book title and status for lending. MARC records are available for purchase by Library from OCLC.	MARC Records available for purchase from OCLC	
DLR Open Content Collection (DLR-OPC)	This module permits uploading digital content from other sources into the collection. This permits direct management of supported files and setting DRM to manage copyright protection and circulation of the title. This also enables the library to acquire eBooks and other documents directly from publishers and authors.	Included	
DLR Windows® Media Server (DLR-WMS)	Support for download or streaming of copyright protected digital audio and video using Microsoft® Windows® Media Series 9 and up. * OverDrive reserves the right to limit bandwidth and impose additional hosting fee charges.	Included*	Increased bandwidth subject to additional charges

Schedule “A-2”
Digital Library Reserve
South Texas Digital Consortium Participation Fees

1. **Annual Participation Fee:** Participating Libraries shall pay OverDrive an Annual Participation Fee for joining and ongoing services provided to Consortium. The Participation Fee shall include any and all services relating to use of the Application Services including the DLR System License, configuration and customization of website services, third party software licenses, hosting, bandwidth, and maintenance of the application services and staff training. The Fee shall be based upon Participating Library’s Legal Service Area Population as reported by the then current information available at the National Center for Education Statistics (NCES):
<http://nces.ed.gov/surveys/libraries/librarysearch/>

Tier 1	Legal Service Area Population up to 10,000	= \$1,500 per year
Tier 2	Legal Service Area Population of 10,001 – 30,000	= \$3,000 per year
Tier 3	Legal Service Area Population of 30,001 – 60,000	= \$6,000 per year
Tier 4	Legal Service Area Population of 60,001 – 100,000	= \$9,000 per year

After the initial term of three (3) years, the Annual Fee is subject to change. The Annual Fee shall be due and payable within thirty (30) days of receipt of invoice.

2. **Allocation of Annual Participation Fee:** The annual Participation Fee collected during each year shall be allocated as follows: one-third (1/3) towards configuration, system fees, and maintenance, and two-thirds (2/3) toward selection of Content for the shared collection. At any time during the term of this Agreement, Consortium and/or Participating Libraries may select additional Content subject to standard terms and pricing.
3. **Content Collection:** Anytime during the term of this Agreement Consortium and/or Participating Libraries may select additional titles and material subject to standard terms and pricing. Consortium and/or Participating Libraries shall make payments directly to OverDrive for Content selections within 30 days of receipt of invoice.
4. **Term:** This Agreement shall take effect on the Effective Date and, unless terminated sooner pursuant to the relevant provisions of this Agreement, shall have an initial term of three (3) years. The Agreement shall automatically renew for successive terms of twenty four (24) months unless either party gives written notice of intent not to renew ninety (90) days before the expiration of the then current term.

Schedule “B”
Digital Library Reserve and Consortium Website Guidelines

1. Patron Support Resources

Participating Library will provide Primary Support for its Patrons via e-mail and/or by phone in direct support of all Patron inquiries, issues, and problems relating to the Consortium Website. Consortium will post on the Consortium Website OverDrive supplied Frequently Asked Questions (FAQs) and other support information and links to assist with providing Patrons with answers to frequently asked questions. Participating Library will cooperate with OverDrive to implement practices as recommended by OverDrive to reduce the instances of Patron technical support issues.

2. Copyright Protection, Patron Authentication and Data Security

Participating Library will take reasonable steps to cooperate with OverDrive to prevent unwarranted intrusion into data managed or maintained by OverDrive or on behalf of Consortium. This includes reasonable steps to protect its password and access to Library’s administrative website for management of its Digital Library Reserve and Consortium Website.

For Digital Products and Content which Participating Library acquires rights from OverDrive for re-distribution and lending to Patrons, Participating Library agrees to deploy the following practices and methods to respect the Copyright Protection and Patron Authentication terms of OverDrive’s Publishers and suppliers:

- A. Participating Library will respect and deploy the DRM protection settings as designated by Publisher that may restrict copying, sharing and/or printing.
- B. Participating Library acknowledges that Digital Product titles selected will not entitle Participating Library to access a copy of the title, but will enable its Consortium Website the right to provide download access to the title for their Patrons as fulfilled through the Application Services after the DRM services have been applied.
- C. Participating Library is not granted any license to use titles for any “online” use, except for the display of Digital product cover art, excerpts and metadata as designated by Publisher and available from OverDrive.
- D. Participating Library will be allowed to loan to its patrons or “check-out” Digital Products or Content via a download link from the Consortium Website. Participating Library acknowledges that all circulating Digital Products will have a predetermined period for an automatic self-expiring use period or “time-out”, which shall not be less than seven (7) days or other minimum lending period as required by publishers and suppliers.
- E. A Digital Product in the Consortium’s Website that is checked out by a Patron will not be available for another Patron to check out unless multiple copies of the title have been purchased, or until the expiration period of the first Patron’s time period has expired.
- F. Participating Library will take reasonable measures to ensure that only authorized Patrons of their Library have access to the Consortium Website for access to Digital Products or Content.
- G. Access to the Application Services shall be limited to those patrons of the Library that have the required relation to the Library to receive a library card (“Authorized Patrons”). Library shall not provide access to the Application Services to any end users who are not Authorized Patrons. Authorized Patrons shall be defined as individuals who can provide proof of residency, employment, or enrollment in school or similar institution in the Library’s service area. Online library card applications and issuance, with or without any fees, that provide access to the Application Services without proof of the required library relation (as referenced in the foregoing sentence) shall not be permitted. OverDrive reserves the right to immediately terminate this Agreement if Library provides access to the Application Services to end users who are not Authorized Patrons.

3. Third Party Logo and Trademark Use Guidelines

Participating Library acknowledges that the Consortium Website will utilize and rely upon third party software and technologies provided by Microsoft Corporation, Adobe Systems, Inc., and other technology suppliers. OverDrive shall provide to Participating Library the applicable guidelines for utilizing the registered trademarks, logos, and software products associated with the Consortium Website. Participating Library agrees to abide by the terms and conditions of these third party suppliers. OverDrive will provide to Participating Library all necessary links, art, logos and instructions to permit it to comply with this provision.

Schedule "C"
Library Participation Form – South Texas Digital Consortium

1. In consideration of participation in the South Texas Digital Consortium, lending digital materials, Participating Library agrees to abide by the terms and conditions of the Agreement.
2. Participating Libraries shall pay OverDrive an Annual Participation Fee for joining and ongoing services provided to Consortium. The Participation Fee shall include any and all services relating to use of the Application Services including the Digital Library Reserve (DLR) System License, configuration and customization of website services, third party software licenses, hosting, bandwidth, and maintenance of the application services and staff training. The Fee shall be based upon Participating Library's Legal Service Area Population as reported by the then current information available at the National Center for Education Statistics (NCES): <http://nces.ed.gov/surveys/libraries/librarysearch/>

Annual Fee for 2010 - 2013*

			Please check one:
Tier 1	Legal Service Area Population up to 10,000	\$1,500 per year	_____
Tier 2	Legal Service Area Population of 10,001 – 30,000	\$3,000 per year	_____
Tier 3	Legal Service Area Population of 30,001 – 60,000	\$6,000 per year	_____
Tier 4	Legal Service Area Population of 60,001 – 100,000	\$9,000 per year	_____

*The initial term is three (3) years. After the initial term of three (3) years the Annual Fee is subject to change. The Annual Fee shall be due and payable within thirty (30) days of receipt of invoice.

3. Texas Public Libraries that are members of the South Texas Library System with Legal Service Area Populations under 100,000 shall be eligible to join Consortium, on a quarterly basis. Any current OverDrive customer (standalone system) shall not be eligible to join Consortium. Notwithstanding the foregoing, OverDrive shall have sole discretion to approve any and all new libraries that seek to join Consortium.
4. The annual Participation Fee collected during each year shall be allocated as follows: one-third (1/3) towards configuration, system fees, and maintenance, and two-thirds (2/3) toward selection of Content for the shared collection. At any time during the term of this Agreement, Consortium and/or Participating Libraries may select additional Content subject to standard terms and pricing. Consortium and/or Participating Libraries shall make payments to OverDrive for Content selections within 30 days of receipt of invoice.
5. Each Participating Library will be automatically enrolled in the OverDrive Advantage program at no additional cost.
6. DLR is for remote use only (outside of the Participating Library). Without the use of OverDrive Download Station software, Patrons and all other users of DLR cannot download Digital Content to any Participating Library computers or devices. Participating Library shall have the option to receive an OverDrive Download Station Software license for each of its public workstations at all of its branch locations, at no additional cost.
7. Participating Library shall include a direct hyperlink and/or logo linked to the DLR service from Participating Library's home page and other appropriate sub-pages. Such link or logo shall be featured no less prominently than other electronic resources or services including but not limited to NetLibrary, Recorded Books, and Ingram.
8. Participating Library acknowledges it may incur additional license fees or costs related to MARC records, SIP or similar protocol for patron authentication. All such fees shall be at Participating Library's own expense, and are not included in the Participation Fee.
9. Participating Library acknowledges that if Participating Library withdraws from Consortium prior to the expiration of Agreement with OverDrive, all content, products, and services that have been purchased with the Participating Library's monetary and in-kind contributions to Consortium shall remain with Consortium.

[signature page follows]

Accepted and agreed this _____ day of _____ 2010 by:

(“Participating Library”)

By (signature): _____

Name (Print): _____

Title: _____

Please fill out the following with the appropriate contacts:

Billing Contact(s)

Name(s), email address, and billing address of contacts to receive billing:

Name: _____

Name: _____

Email: _____

Email: _____

Address: _____

Address: _____

ILS Change Contact(s)

Names(s) and email address of contacts allowed to request ILS changes for your library:

Name: _____

Name: _____

Email: _____

Email: _____

Collection Contact(s)

Name(s) and email address of contacts who will work on collection management:

Name: _____

Name: _____

Email: _____

Email: _____

Promotional Materials Contact(s)

Name(s) and email address of contacts to work with our Partner Services Team on promotion:

Name: _____

Name: _____

Email: _____

Email: _____