

December 2, 1993

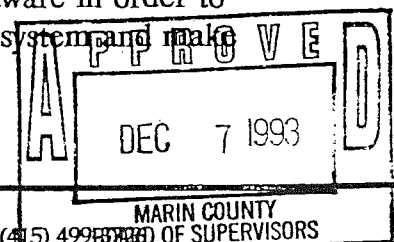
Board of Supervisors  
County of Marin  
Civic Center  
San Rafael, CA 94903

Dear Board Members:

- RE: 1. Approve a Joint Powers Agreement with the Cities of Mill Valley, Sausalito and San Rafael for ownership, operation and governance of an integrated on-line library system.
2. Approve award of proposal and contract to purchase with Innovative Interfaces for delivery and maintenance of the automated library system.
3. Approve a contract with the Project Director for the shared automated system.

### BACKGROUND

In 1989, the Marin Community Foundation awarded a grant of \$125,000 to the public libraries of Marin as Phase I of a project to make the combined collections of the libraries available to the public through an on-line public access catalog. Phase I was the creation of a common database of the combined collections. In May, 1991, the Marin Community Foundation awarded the libraries \$333,800 for 1992/93 fiscal year (later deferred to 1993/94) for the production of an on-line public access catalog which is part of an integrated on-line system of library functions, including circulation and acquisitions. The grant, accepted by the library jurisdictions of Marin County, Mill Valley, San Rafael, and Sausalito, will enable the upgrade of the existing library database and the purchase of public access terminals for participating libraries. The local contribution of the participating libraries is to replace the central site hardware and software in order to allow for the expansion and improvement of our current circulation system and make integration of circulation with an on-line catalog possible.



On June 12, 1991, your Board approved a Joint Exercise of Powers Agreement for the Planning of the Integrated On-Line Library System between the Cities of Mill Valley, San Rafael, Sausalito, and the County of Marin. Your Board approved an amendment to the JPA on June 17, 1992, extending the term of the agreement from July 1, 1992 to January 31, 1994.

During this time, the library directors of the four jurisdictions hired Library Automation Consultant Susan Baerg Epstein, and, with her assistance, developed the performance specifications for the automated library system which would meet the requirements of the four libraries.

A Request For Proposal (RFP) document was prepared by the County Purchasing Agent and issued to prospective proposers in April, 1993. Of the twelve firms on the bid list, five firms submitted proposals in response to the solicitation. One firm's proposal was declared non-responsive to the requirements of the RFP. The remaining four proposals were evaluated by a selection committee consisting of the four library directors, Assistant County Librarian Alice McNamee, and staff committees representing the areas of circulation, reference and technical services, with additional assistance provided by the Purchasing Agent. As a part of the selection process, proposer system demonstrations were conducted over a four day period in July, with staff from all four library jurisdictions participating.

Following the proposer demonstrations, the library directors and Alice McNamee met with consultant Sue Epstein in August and a short list of two proposals was developed. Upon thorough evaluation, the proposal submitted by Innovative Interfaces, Berkeley, CA was determined to be the best and most advantageous proposal which met the requirements of the Request For Proposal. Following the successful negotiation of certain contractual terms, conditions, and specifications, the library directors of Mill Valley, San Rafael, Sausalito and County of Marin, in cooperation with the County Purchasing Agent, are prepared to recommend award of proposal to Innovative Interfaces.

The newly-formed public library consortium known as the Marin Automated Resource and Information Network or MARINet, has selected Theodora (Terry) Toy as Project Manager for the consortium. Ms. Toy, who is experienced with Innovative installations, has been offered a contract for one year and will be responsible for the installation and implementation phase of the project.

The planning for the new system has been long and arduous, but the MARINet directors believe that they have selected a tool which will serve the community for many years. Innovative Interfaces, Inc. is committed to maintaining an excellent product and is very responsive to the needs of system users on a daily basis as well as in designing enhancements. The system we propose to purchase is state-of-the-art, flexible in its ability to accommodate many libraries sharing the system, and expandable both in size and capability.

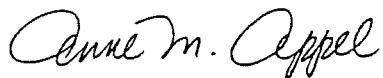
The County Library and Purchasing Agent recommends your Board

1. Approve a Joint Exercise of Powers Agreement For Ownership, Operation, Governance of An Integrated On-Line System with the Cities of Mill Valley, San Rafael, and Sausalito,
2. Approve award of proposal and contract to Purchase with Innovative Interfaces for the delivery and maintenance of the automated library system,
3. Approve a contract with Theodora Toy as the Project Director for the shared automated system.

All documents have been approved as to form by the County Counsel's office.

Thank you for your attention in this matter.

Sincerely,



Anne M. Appel  
County Librarian

AA:jpm

cc: Richard Arrow, Auditor/Controller  
Jeff Johnson, Principle Administrative Analyst  
Jack Govi, Deputy County Counsel  
Randall Rattaro, Purchasing Agent



**JOINT EXERCISE OF POWERS AGREEMENT  
FOR OWNERSHIP, OPERATION, GOVERNANCE OF AN  
INTEGRATED ON-LINE LIBRARY SYSTEM**

This agreement, made and entered into this, 7th day of December, 1993 by and between the Cities of San Rafael, Mill Valley, Sausalito, and the County of Marin.

**WITNESSETH**

WHEREAS, the Cities of San Rafael, Mill Valley, Sausalito, and the County of Marin possess the common powers to provide library services; and

WHEREAS, the parties are authorized to contract with each other for the joint exercise of any common power pursuant to California Government Code Sections 6500-6514; and

WHEREAS, the Cities of San Rafael, Mill Valley, Sausalito, and the County of Marin desire to improve library services to the public through the implementation of a shared integrated online library system; and

WHEREAS, an integrated online library system shared by the public libraries in Marin County will make a greater range of books, information, and other materials available to library users throughout Marin County; and

WHEREAS, the Cities of San Rafael, Mill Valley, Sausalito, and the County of Marin believe that the greatest possible benefit from the use of public funds may be realized through the shared ownership and operation of an integrated online library system.

NOW, THEREFORE, in consideration of the mutual promises and agreements hereinafter stated and the performance thereof, the parties hereto do agree as follows:

**I. PURPOSE**

This agreement is for the purpose of providing for the procurement, ownership, operation, maintenance, and governance of an integrated on-line library system (hereinafter referred to as SYSTEM) to be jointly owned and operated by the Cities of San Rafael, Mill Valley, Sausalito, and the County of Marin.

The parties shall have equal access to the full range of services available from the system and shall jointly make decisions regarding the implementation and management of the system in accordance with the terms of this agreement.

**II. NAME**

The system shall be known by the acronym **MARINet**.  
Marin Automated Resources and Information Network

~~ORIGINAL~~

### III. DEFINITIONS

Unless the context otherwise requires, the words and terms defined herein shall, for the purpose of this agreement, have the meaning specified below.

***Aggregate Circulation*** means the combined "Total Circulation" of the four participating jurisdictions.

***Aggregate Population*** means the combined "Total Population" of the four participating jurisdictions.

***Base level system*** means the fundamental components, described in Section VII., necessary to perform circulation, database management, public access catalog, acquisitions and serials control functions.

***Capital Replacement Fund*** means a reserve established to replace central site equipment when needed. Parties to this agreement will contribute to the fund based on the cost sharing formula.

***Central site*** means the centralized physical location of equipment, software, supplies, and personnel necessary for operation of the system.

***Central site CPU*** means any computer or device required for daily operation or backup. This shall include processors, controllers, disk drives required for online operation or backup, tape drives required to load data or provide backup, printers used at the central site, and system operator consoles or terminals.

***Cost sharing formula*** means the distribution of costs as defined in "Appendix A."

***Database*** means the machine readable files of bibliographic, item, patron and transaction records created and stored by the system.

***Fiscal year*** means the period from July 1 through June 30 of the following year.

***Governing Board*** means the governing body of the system and shall include the library director or designated alternate of each jurisdiction which is party to this agreement.

***Item*** means the barcode assigned to a library material.

***Library Director*** means the head librarian who is officially charged by a legal governing entity such as a county board of supervisors, a city council or other governing body to oversee and direct library service for that entity's library or library jurisdiction. In Mill Valley and Sausalito that person is City Librarian. In San Rafael that person is Library Director. In Marin County that person is County Librarian.

***Machine-readable*** means information in a form that can be directly assimilated by computer input equipment.

**Majority vote** means Marin County Free Library and one of the other three parties to this Agreement, or 71% of the total votes.

**Modules** means the subsystems within the system software that allow the library to perform automated tasks.

**Online databases** means the machine readable files of information whether locally produced or licensed from a commercial vendor that are loaded onto the system or accessed by a terminal on the system that can be searched by a user of the online public access catalog.

**Online public access catalog** means the software module designed to be used by the public and staff of the library to search the database of bibliographic and item records and online databases.

**Operations Group** means a group of staff members from each participating jurisdiction utilizing the services of MARINet for library automation. The group shall be responsible for advising the Governing Board on decisions regarding operations and implementation of the various system modules.

**Participating user** means those libraries that contract directly or indirectly with MARINet for library automation services.

**Peripheral equipment** means the ports, terminals, printers, and barcode readers connected to the system, other than those at the central site. Dial-in access ports are considered central site equipment.

**Record** means all the machine readable information kept about one title, item, or patron that is arranged and stored in files on the system.

**Software** means the machine readable programs, routines, codes and other information provided by the vendor for use with the central CPU or other types of hardware.

**Supplies** means the paper, ribbons, notice stock, envelopes, forms, barcode labels, or other consumable items used in conjunction with operating or accessing the system.

**System** means the central site CPU, all telecommunications equipment, the license to use the software and machine readable files created as a result of the use of the software and peripheral equipment.

**Telecommunications equipment** means the equipment needed to transmit and receive data over a distance from the central site CPU to any remote site. Equipment may be for digital or analog communication and may include, but is not limited to modems and multiplexors.

**Total Circulation** (a component of the cost sharing formula) means annual circulation of library materials to registered borrowers of each of the four participating library jurisdictions at all libraries operated by the four participating jurisdictions. Initially "Total Circulation" will be derived from *California State Library Report* figures. When the SYSTEM is fully operational "Total Circulation" will be generated by the SYSTEM.

**Total Holdings** (a component of the cost sharing formula) means the total number of items held in each of the collections of the four participating library jurisdictions. Initially "Total Holdings" will derive from the figures reported by each participating jurisdiction in the *California State Library Report*. When the SYSTEM is fully operational this figure will be generated by the SYSTEM.

**Total Population** (a component of the cost sharing formula) means the number of residents within each of the participating jurisdictions. This figure will derive from the population of each participating jurisdiction as certified by the State of California Department of Finance

**Unanimous vote** means complete agreement of all four members of the Governing Board.

**User input** means the method by which the Governing Board solicits input from participating users of the system when determining the rules under which the system shall be operated, the services that shall be provided and the way the libraries shall cooperate and share the system.

**Vendor** means the provider of the automation system including system hardware, system maintenance, and the license to use the system software.

#### IV. TERM OF AGREEMENT

The initial term of this Agreement is five years from the effective date of this Agreement and may not be terminated except under the provision of Section XIX: Withdrawals. This agreement shall continue from year to year after the initial term expires. The Governing Board has the responsibility of reviewing this Agreement every five (5) years, except as specified in Section V: c of this Agreement.

#### V. COST SHARING FORMULA

- a. The cost sharing formula (See Appendix A), developed by the library directors of the parties to this Agreement, reflects the extent to which each jurisdiction will impact the resources and capacity of the system. Each jurisdiction's share is defined as the percentage of the cost which is equivalent to the average of the following three figures taken from the 1991 California State Library Report:
  1. its percentage of the aggregate circulation of the four jurisdictions.
  2. its percentage of the aggregate holdings of the four jurisdictions.
  3. its percentage of the aggregate population of the four jurisdictions.
- b. The cost sharing formula shall be applied to all acquisitions and operating costs for the SYSTEM as defined in Sections VI and VII, unless otherwise specified elsewhere in this agreement.
- c. This cost sharing formula shall be subject to annual review by the Governing Board and adjustments made to reflect current data . Data for circulation and holdings will be generated by the online system; population as certified by the State of California Department of Finance.



- d. Modifications to the elements of the cost sharing formula shall require unanimous vote of Governing Board and become part of this Agreement. (See Section XVI of this Agreement)

## **VI. ACQUISITION AND OWNERSHIP**

- a. The total purchase price of the system is \$902,937.13 (see Appendix C)
- b. A grant from the Marin Community Foundation to the parties of this Agreement in the amount of \$333,880 will fund the acquisition of the online public access catalog capability of the system.
- c. The remainder of the shared acquisition cost for the systems shall be allocated as follows:
- |                            |        |              |
|----------------------------|--------|--------------|
| Marin County Free Library  | 67.80% | \$385,820.73 |
| San Rafael Public Library  | 18.98% | \$108,007.04 |
| Mill Valley Public Library | 8.79%  | \$ 50,020.12 |
| Sausalito Public Library   | 4.43%  | \$ 25,209.23 |
- d. This allocation is derived from the cost sharing formula described in Section V.
- e. The following items shall be included in the acquisition costs:
1. central site CPU and software costs
  2. data migration costs
  3. central site preparation (wiring, etc.)
  4. central site supplies
  5. central installation
  6. central site electric and telecommunications equipment
- f. Ownership of the system shall be shared by the four parties named in this Agreement in shares proportionate to their share of the cost of acquiring the system as described in Section VI, part c.

## **VII. BASE LEVEL SYSTEM AND SERVICES**

The Base Level System and Services shall consist of the following capital purchases as specified in the vendor contract (See Appendix C), as well as the following on-going operating costs:

- a. Capital Purchases
1. Central site CPU/software configuration
  2. Peripheral equipment located at site(s) of each jurisdiction to be determined by said jurisdiction based on its own need. Cost of peripheral equipment shall be borne by the individual jurisdiction and shall not be subject to the cost sharing formula described in sections V and VI.
  3. Information Access databases
  4. Dial-in access ports to accommodate use of MARINet by residents of Marin County.
- b. Operating Costs
1. Central site staffing.

2. Central site space, utilities, janitorial, security, etc.
3. Central site miscellaneous equipment, supplies, telecommunications equipment.
4. Central site equipment replacement fund.
5. Delivery among the four jurisdictions shall be shared equally and reviewed after the first year of operation for equity.

## **VIII. GOVERNANCE**

- a. The system shall be governed by a governing body hereafter referred to as the Governing Board. The Governing Board shall include the library director or designated alternate of each party to this agreement.
- b. A quorum shall be constituted by three of the four voting members of the Governing Board, one of which shall be Marin County Free Library. A quorum shall be necessary for the transaction of any business.
- c. A majority vote shall be required for all decisions regarding the implementation and management of the system except those stipulated in this agreement as requiring a unanimous vote.
- d. Voting rights shall be proportionate to each jurisdiction's share of the ownership of the system as defined in Section VI. A majority vote shall consist of the Marin County Free Library and one of the other three parties to this Agreement, or 71% of the total votes:

	<u>Voting Share</u>
Marin County Free Library	67.80%
San Rafael Public Library	18.98%
Mill Valley Public Library	8.79%
Sausalito Public Library	4.43%

- e. Any decisions, and/or policies which require monetary outlay from any party to this Agreement greater than is necessary to fund the "Base Level System" (See Section VII) shall require a unanimous vote of the Governing Board, and action by each jurisdiction's City Council or Board of Supervisors appropriating the funds to implement said decision and/or policy.
- f. The Governing Board shall annually elect a Chairperson and Secretary to serve the Governing Board.

## **IX. POWERS OF THE GOVERNING BOARD**

The powers of the Governing Board shall include the following:

- a. Procure, install, manage the system, pursuant to the terms and conditions of this Agreement and all agreements concerning system operation.
- b. Approve an annual budget.
- c. Direct the administration of this Agreement.
- d. Formulate policy, goals and standards for use of the system.

- e. Evaluate system performance and develop plans for modifications, upgrades and new services, including the addition of online databases.
- f. Establish guidelines for admittance of new system users.
- g. Establish an appropriate committee structure, called the Operations Group that will advise the Governing Board and Project Manager on all matters pertaining to the daily operation of the system, including policies and procedures.
- h. Determine what system records are to be maintained, procedure for their maintenance, and policies on confidentiality and for disclosure of the records.
- i. Allocate ports beyond the base level system, which shall be determined by unanimous vote of the Governing Board. The Governing Board shall formulate policies and procedures for the addition of ports above the base level system in a manner that ensures fairness of treatment to all four jurisdictions. Distribution of ports to other than the four jurisdictions will be determined by a cost formula to be unanimously agreed upon by the four jurisdictions.
- j. Allocate system space, i.e., how existing space will be utilized.

#### **X. DUTIES AND RESPONSIBILITIES OF THE PROJECT MANAGER**

A Project Manager shall be selected by the Governing Board for the installation and implementation phase of the project estimated to last two years. The Project Manager will be located at the central site and shall be accountable to the Governing Board. MARINet shall be responsible for the entire amount of compensation to the Project Manager as determined by the Governing Board and apportioned according to the cost sharing formula.

Marin County Free Library shall be the contracting agent for the Project Manager whose scope of work shall include :

- a. Report directly to the Governing Board.
- b. Exercise fairness of treatment to all members of this Agreement in overseeing the daily operations of the system and in all matters pertaining to the system.
- c. Coordinate the activities of central site staff subject to approval of the Governing Board.
- d. Coordinate and oversee migration and installation of the system.
- e. Act as prime contact and liaison between MARINet and the system vendor.
- f. Regularly review the operations of the system, evaluate system performance, develop plans and make recommendations to the Governing Board for any modifications, upgrades and new services.
- g. Coordinate training to participating libraries. Such training shall include, but not be limited to, training for a designated staff trainer in each participating library for the modules of circulation, online public access catalog, database management, and acquisitions. Training shall also be provided for designated staff trainers for new modules and releases.
- h. Develop, produce and maintain user manuals for each site.

- i. Enforce rules and regulations necessary to coordinate orderly use of the system by participating users.
- j. Develop, prepare and monitor MARINet's annual budget.
- k. Keep accounting of MARINet expenditures by jurisdiction.
- l. Purchase supplies, utilities, forms, reserve notices, paper, backup tapes and postage which may be required to operate the central site equipment.
- m. Maintain in good operating condition all central site equipment, including communications equipment, and peripheral equipment purchased from, and under maintenance contract with, the vendor.
- n. Maintain inventory of central site and peripheral equipment.
- o. Provide reports to the Governing Board on the status and performance of the system.

## **XI. CENTRAL SITE OPERATIONS**

MARINet shall adopt its budget according to the schedule set by the governing body of the fiscal agent. Each participating jurisdiction shall annually appropriate its share of the MARINet budget. On September 1st of each year, each participating jurisdiction shall transfer to the MARINet budget unit established by the fiscal agent an amount equal to 100% of its share of the annual MARINet operating budget.

Central site equipment shall be located at the Marin County Free Library at the County of Marin Civic Center. Marin County Free Library will provide central site staff for operation of the system as specified in the annual budget adopted by the Governing Board. Marin County Free Library shall be reimbursed by MARINet for staff assigned to central site operations at the current negotiated rate under current collective bargaining agreements for said staff. Said staff shall be subject to relevant labor agreements in force at the County of Marin.

## **XII. FISCAL AGENT**

- a. Marin County shall be the fiscal agent under the terms of this agreement.
- b. The fiscal agent shall provide quarterly financial reports detailing all budgetary expenditures, allocations, and related cost accounting information.
- c. The Governing Board shall designate its fiscal year to coincide with that of the fiscal agent, and shall be responsible for maintenance of a current inventory of the property owned by MARINet, that shall become a part of the appendices of this document. The accounts and records of MARINet shall be subject to examination under the audit process provided by the fiscal agent whereby County funds are audited annually by an independent certified public accountant. Cost associated with such examination shall be borne by members of this Agreement according to distribution percentages assigned by the cost allocation formula.
- d. The fiscal agent shall establish an interest bearing trust account to accumulate annual contributions for system upgrade/replacement.

- e. The fiscal agent shall be compensated for services rendered at the County's current indirect cost rate. Compensation shall be distributed among participating jurisdictions based on the cost sharing formula.
- f. Contract for the services of a system Project Manager pursuant to the direction of the Governing Board.

### **XIII. RIGHTS OF PARTICIPATING JURISDICTIONS**

- a. Each jurisdiction's collection database, borrower, circulation, and acquisition records shall be considered the property of that jurisdiction.
- b. It is the intent of all parties that each participating jurisdiction will have equitable access to the agreed upon range of system services as defined in Section VII.
- c. It is the intent of all parties that each participating jurisdiction will be accorded equitable treatment in daily operation and management of the system, in the initial installation of the system, in future planning for the system, and in all decisions of the Governing Body.
- d. Nothing in this Agreement shall be construed as restricting the right of a member jurisdiction to independently make local decisions and set local policies about the administration, management, implementation and control of its own library, library service, and library resources, and to operate according to the policies and rules established by its own jurisdiction's governing body.
- e. Nothing in this Agreement shall be construed as prohibiting one or more of the parties to this Agreement from purchasing additional software modules at its own expense provided said purchase does not result in a degradation of system performance.

### **XIV. RESPONSIBILITIES OF PARTICIPATING JURISDICTIONS**

Participating jurisdictions shall:

- a. Participate in the use and operations of the system under the terms and conditions of this Agreement and the rules and regulations adopted by the Governing Board.
- b. Be liable for local costs, including acquisition of peripheral and telecommunications equipment, structural modifications, and local conversion expense.
- c. Regularly participate in meetings and deliberations of the Governing Board.
- d. Keep those records and statistics which may be required by the Governing Board to document performance, maintenance and cost of the system.
- e. Commit staff to participate in the Operations Group to provide user input and make recommendations to the Governing Board.
- f. Input and delete all data into the system, and maintain system databases and patron records according to the rules and regulations established, upon the advice of the Operations Group, by the Governing Board.
- g. Designate a staff member whom the Project Manager may contact concerning installation, conversion and training matters.

- h. Receive training from the Project Manager for a designated staff trainer in each participating jurisdiction for all initial system modules and for all new modules and releases. Responsibility for subsequent training of staff belongs to participating users.
- i. Take reasonable measures necessary for protecting telecommunications and peripheral equipment in participating user's library from abuse, theft or misuse.
- j. Make every effort to work with participating jurisdictions to preserve system integrity for the good of all participating jurisdictions and system users.

## **XV. ADMISSION OF NEW ENTITIES**

- a. Any jurisdiction which has the authority to provide library services may join MARINet upon the application of its governing body and upon unanimous consent of the Governing Board, provided that such agency has agreed to abide by all the terms of this Joint Powers Agreement. The Governing Board shall prescribe the amount of money that shall be paid by the new agency as a prerequisite to its becoming a participant.
- b. Any jurisdiction agreeing to participate in the system shall pay the full cost for any modifications to the central system which may be required as a direct result of this new participation. The Governing Board shall determine that the system modifications which may be required will not result in a significant degradation of system performance.
- c. Any jurisdiction agreeing to participate in the system shall pay its portion of ongoing costs in such system and in its share of the capital replacement fund.
- d. A jurisdiction may participate in the system by contracting for services. Participation to be determined by vote of the Governing Board. Cost of participation and terms of the contract shall be determined by the Governing Board.

## **XVI. MODIFICATION OF THIS AGREEMENT**

This Agreement may be modified or amended by unanimous vote of the Governing Board and requires a written instrument signed by the parties hereto. The Cost Sharing Formula may be adjusted if it is materially affected by such modification or amendment, or by the admission of new entities.

## **XVII. CORRECTIVE AND REMEDIAL MEASURES**

Whenever any party believes that another party has committed a remediable breach of any material obligation set forth in this Agreement, it may give written notice of the alleged breach to the other party, with copies to other participating members, setting forth with reasonable specificity the nature of the alleged breach. The party receiving such notice shall use its best efforts to promptly remedy the breach and 1) shall inform the party giving written notice of the nature of the remedial actions planned and taken, or 2) shall respond to any such notice, with an explanation that sets forth reasonable cause of the breach. When a breach does exist that will not be remedied

within thirty (30) days after the party received written notice of it, the parties agree to enter into non-binding mediation under the auspices of the American Arbitration Association prior to the initiation of any lawsuit or other litigation unless the parties mutually agree otherwise. If mediation does not resolve this dispute, the party giving the notice shall be entitled to seek appropriate relief under this Agreement or otherwise under the law.

#### **XVIII. APPLICABLE LAW**

This Agreement shall be governed by, subject to, and construed according to the laws of the State of California, with venue to lie in the County of Marin, California.

#### **XIX. WITHDRAWALS**

During the term of this Agreement (five years from the effective date of the agreement), withdrawal from this Agreement shall be accomplished only as a result of non-appropriation of funds by the governing body of the participating jurisdiction. Withdrawal from this Agreement shall be subject to the following conditions:

- a. Any party wishing to withdraw from this Agreement must do so effective on July 1, of any succeeding year and must provide at least six (6) months written notice to the Governing Board. Notice shall be in the form of a resolution adopted by the governing body of the party wishing to withdraw. The signatories to this Agreement recognize that a substantial capital investment is required by each to implement and operate the system and that withdrawal from this Agreement will cause substantial hardship for all remaining parties.
- b. If a party withdraws from the Agreement according to the terms and conditions set forth herein, said party shall receive a machine readable copy of its bibliographic file, patron file, item file, and transaction file if such information has been converted and filed in the system, contingent on the system's capability. Removal from the system of all machine readable files of the withdrawing party shall be at the expense of said party.
- c. If a party withdraws from the system prior to five years from the effective date of this Agreement, the withdrawing party shall reimburse MARINet in shares proportionate to each jurisdiction's ownership of the system per section VI of this Agreement an amount equal to any unpaid balance of that party's share of capital costs and its share of central site operating costs, and, for all expenditures made in accordance with the terms of this Agreement that are unpaid at the time of withdrawal.
- d. If withdrawal from this Agreement results in a unanimous decision by the remaining parties that the system be terminated, it shall be the responsibility of MARINet to dispose of all equipment and reimburse the remaining parties from the proceeds of disposal in accordance with the cost sharing formula.
- e. Upon withdrawal of a party from the system, the cost sharing formula shall be adjusted proportionately among the remaining parties to this Agreement.

Ownership of the system will then be adjusted in accordance with the cost sharing formula among the remaining parties named in this Agreement

- f. This section shall not be used to withdraw from this Agreement in order to acquire similar equipment or software from a third party.

## **XX. DISSOLUTION OF MARINet**

MARINet may be dissolved by unanimous approval of the parties to this agreement. Disposition of assets or debts of MARINet as determined by the Governing Board shall be made in such a manner that each party shall share in the proceeds or expenses consistent with the cost sharing formula.

## **XXI. CONFIDENTIALITY OF DATA**

Except as otherwise provided by law, the circulation records and patron files of all parties are considered CONFIDENTIAL regardless of the source of inquiry. Employees of each party shall have access to such records to provide for the orderly operation of each library; however, such records shall not be made available to anyone else except pursuant to such process, order, or subpoena as may be authorized by law. Any problems or conditions relating to the privacy of circulation and patron records shall be referred to the library director of the applicable library for resolution.

## **XXII. LIABILITY**

Each jurisdiction shall be responsible for a pro-rata share of losses or damages as a result of the operation of the system. No additional policy shall be required. The cities that are party to this agreement are self-insured. The County of Marin is self-insured. Liability shall be limited according to the cost sharing formula (See Section V. Cost Sharing Formula)

## **XXIII. NON-DISCRIMINATION**

Each Party shall not discriminate against any employee or applicant for employment because of race, religion, sex, disability or national origin. Each Party shall take affirmative action to assure that applicants are employed, and that employees are treated during the employment without regard to their race, color, religion, sex, disability or national origin. Such action shall include, but not be limited to the following: employment, upgrading, demotion or transfer, recruitment advertising; layoff or termination; rates of pay or forms of compensation, and selection for training, including apprenticeship. Each Party shall not, in connection with the employment, advancement or discharge of employees, discriminate against persons because of their age except upon the basis of a bonafide occupational requirement, retirement plan or statutory regulation. Each Party shall not employ discriminatory practices against any person in the performance of any services hereunder on the basis of race, color, sex, sexual orientation, religion, national origin, ancestry, age, or disability, except as required by law.



#### **XXIV. NOTICE**

Any notices provided for herein are necessary to the performance of this Agreement and shall be given in writing by personal delivery or by prepaid first-class mail addressed as follows:

##### **Marin County Free Library**

County Librarian  
Marin County Free Library  
Civic Center, Administration Building  
San Rafael, CA 94903

##### **Mill Valley Public Library**

City Librarian  
Mill Valley Public Library  
375 Throckmorton Ave.  
Mill Valley, CA 94941

##### **San Rafael Public Library**

Library Director  
San Rafael Public Library  
1100 E Street  
San Rafael, CA 94901

##### **Sausalito Public Library**

City Librarian  
Sausalito Public Library  
420 Litho Street  
Sausalito, CA 94965

#### **XXV. ENTIRE AGREEMENT**

This Agreement including any exhibits referenced herein embodies the entire agreement between the parties hereto, and there are not inducements, promises, terms, conditions, or obligations made or entered into by the four named jurisdictions other than those contained herein.

#### **APPENDICES**

Appendix A : Detail of cost allocation formula

Appendix B : MARINet budget 12/15/93-6/30/94

Appendix C : Contract between MARINet and Innovative Interfaces, Inc.

IN WITNESS WHEREOF, the parties hereto have caused their duly authorized representatives to execute this agreement the day and year first above written.

**COUNTY OF MARIN**

Bob Conquistador  
CHAIR, BOARD OF SUPERVISORS

ATTEST:

[Signature]  
CLERK OF THE BOARD

**CITY OF SAN RAFAEL**

[Signature]  
MAYOR

ATTEST:

Jeane H. Leoncini  
CITY CLERK

**CITY OF MILLVALLEY**

Catharine S. Barnes  
MAYOR

ATTEST:

Mary H. Hill  
CITY CLERK

**CITY OF SAUSALITO**

Amy Belser  
MAYOR

ATTEST:

Loret F. Tracy  
CITY CLERK

# APPENDIX A

## COST SHARING FORMULA

The Cost Sharing Formula aims to distribute costs of the on-line system in the most equitable way possible among the four participating jurisdictions. The MARINet Governing Board, adapting models used by other library consortiums, determined the most equitable distribution of costs is based on the use of the system, therefore, the Cost Sharing Formula is designed to measure the load each participating jurisdiction places on the system. The three components that collectively measure system load are: **circulation** (transaction load), **holdings** (storage space load), **population** (storage space load).

Average of Three Components	
<i>Jurisdiction</i>	<i>Percent</i>
Marin County	67.80%
Mill Valley	8.79%
San Rafael	18.98%
Sausalito	4.43%

# APPENDIX A-----PAGE 2

## COST SHARING FORMULA COMPONENTS

Circulation to Residents of		
<i>Jurisdiction</i>	<i>Circulation</i>	<i>Percent</i>
Marin County	1,077,735	64.88%
Mill Valley	165,344	9.95%
San Rafael	336,989	20.29%
Sausalito	81,083	4.88%

Holdings of Each Library		
<i>Jurisdiction</i>	<i>Holdings</i>	<i>Percent</i>
Marin County	773,066	71.82%
Mill Valley	109,596	10.18%
San Rafael	140,000	13.01%
Sausalito	53,729	4.99%

Service Area Population		
<i>Jurisdiction</i>	<i>Population</i>	<i>Percent</i>
Marin County	140,455	66.70%
Mill Valley	13,150	6.24%
San Rafael	49,750	23.63%
Sausalito	7,225	3.43%

APPENDIX B : MARINet OPERATING BUDGET 12/15/93 - 6/30/94

	TOTAL 100%	Marin Co. 67.80%	San Rafael 18.98%	Mill Valley 8.79%	Sausalito 4.43%
Personnel (incl. benefits)	6,973	4,728	1,323	613	309
Insurance (liability est.)	4,063	2,755	772	357	180
Supplies	2,355	1,597	447	207	104
Postage *	0	0	0	0	0
Hardware & software maintenance **	0	0	0	0	0
Communications	14,615	9,909	2,774	1,285	647
Professional services	29,102	19,731	5,524	2,558	1,289
Rent (full service)	6,814	4,620	1,293	599	302
Conference, training, travel	1,248	846	237	110	55
County overhead @8%	5,702	3,866	1,082	501	253
Replacement Fund ***	0	0	0	0	0
Capital outlay	6,100	4,136	1,158	536	270
<b>TOTAL for Budget Unit #</b>	<b>76,972</b>	<b>52,187</b>	<b>14,609</b>	<b>6,766</b>	<b>3,410</b>
3 Month Cash Flow Advance	42,509	28,821	8,068	3,737	1,883
<b>TOTAL</b>	<b>119,481</b>	<b>81,008</b>	<b>22,678</b>	<b>10,502</b>	<b>5,293</b>

\* Not needed until 7/94 when circulation module begins operation

\*\* Maintenance covered through 4/95 of contract

\*\*\* Funding to begin in 1995/96





**INNOVATIVE  
INTERFACES  
INC.** 2344 Sixth Street  
Berkeley, California 94710  
(510) 644-3600

December 1, 1993

Anne Appel  
Marin County Library  
Civic Center  
Administration Building  
San Rafael, CA 94903

Dear Ms. Appel:

We are very pleased to deliver to you the enclosed signed contracts. However, we would like to take this opportunity to clarify several points that we agreed to during our negotiations, but which are not clear in the Agreement. If you have questions regarding any of the following, please let us know.

First, during the load and overlaying/de-duping of the CLSI and then Auto-Graphics records, matching of duplicate records will take place based on either the ISBN or the LCCN fields, with a confirmation of a match based on checking the first four letters of the first title field in each record. This confirmation is referred to as a "title check" in section 18 of the Agreement.

Also in section 18, we want to clarify that data can be output in the same format it has been input. More precisely, CLSI records that are input into the system as brief MARC records, will be output in the same brief format.

Furthermore, since our negotiations the Hewlett-Packard Thinkjet printers listed in Rider B2 have become unavailable. We will work with MARINet to locate and price suitable alternatives. Maintenance, installation, and responsibility for these printers remains with MARINet.

Again, we are very pleased that you have made this choice and are confident that INNOPAC will meet and exceed your automation requirements. We look forward to building a strong partnership with MARINet.

Sincerely,

Gerald M. Kline  
President

enc.





**AGREEMENT BETWEEN MARINet AND  
INNOVATIVE INTERFACES, INC. FOR AN INTEGRATED LIBRARY SYSTEM**

This Agreement (herein "Agreement") is made as of 7th of December at San Rafael, California by and between MARINet, a California joint powers entity (herein "MARINet"), having its administrative offices at the Marin County Free Library, 3501 Civic Center Drive, San Rafael, California 94903, and Innovative Interfaces, Inc. (herein "Innovative Interfaces"), a California corporation having its offices at 2344 Sixth Street, Berkeley, CA 94710. The term "Innovative Interfaces" shall refer to the company, its agents, and its sub-contractors. The term "MARINet" shall refer to the joint powers entity and its members. MARINet and Innovative Interfaces may be referred to individually as a "Party" or collectively as "Parties".

RECITALS

- A. On June 15, 1993, Innovative Interfaces responded to a Request for Proposals for an Automated Integrated Library System for The Public Libraries of Marin ("the RFP"), proposing to provide certain equipment, software, and services to MARINet. Said Request for Proposals and Innovative Interfaces' responses (hereinafter collectively referred to as the PROPOSAL) are on file in the office of MARINet.
- B. MARINet now desires to contract with Innovative Interfaces to obtain the EQUIPMENT and the services, and to obtain license for the SOFTWARE described in the PROPOSAL, and Innovative Interfaces desires to contract with MARINet to provide the EQUIPMENT and the services, and license the SOFTWARE described in the PROPOSAL.

AGREEMENT

In consideration of the mutual covenants, promises, and undertakings contained herein, the Parties agree as follows:

1. Furnishing of EQUIPMENT and SOFTWARE

Subject to the terms and conditions set forth herein, Innovative Interfaces shall furnish and install at a site(s) designated by MARINet and sell to MARINet the EQUIPMENT listed on Rider B (collectively the "EQUIPMENT") and the services listed on Rider D, and grant a license for use of the computer programs listed on Rider C, pursuant to the schedule of activities set forth on Rider A and in compliance with Innovative Interfaces' PROPOSAL dated June 15, 1993 and all of the contract documents.

The contract price does not include supplies such as paper, magnetic tape, printer ribbons, or forms. Supplies used by MARINet shall conform to Innovative Interfaces' specifications or equivalent as set forth in Innovative Interfaces' manual.

## 2. Purchase of EQUIPMENT and License of SOFTWARE

MARINet hereby agrees to purchase the EQUIPMENT at the price listed on Rider B. If Innovative Interfaces announces new products similar to those listed on Rider B before delivery of EQUIPMENT to MARINet, MARINet reserves the right to examine and acquire the new EQUIPMENT at a price no higher than that made available to other Innovative Interfaces purchasers. Innovative Interfaces will inform MARINet of any new product within ten (10) calendar days of such announcement and MARINet will have thirty (30) calendar days to inform Innovative Interfaces that it wishes to acquire the new product.

MARINet hereby agrees to purchase a license for the use of the computer programs and related documentation listed on Rider C hereto (collectively referred to herein as the "SOFTWARE"), at the price specified on Rider C. The EQUIPMENT and SOFTWARE are sometimes collectively referred to herein as the "SYSTEM".

MARINet hereby agrees to purchase the Innovative Interfaces services listed on Rider D at the prices specified in Rider D.

## 3. Contract Documents

The Contract Documents shall consist of:

- A. MARINet's Request for Proposals dated April 1993, (the "RFP")
- B. Innovative Interfaces' PROPOSAL dated June 15, 1993 consisting of the PROPOSAL and Supporting Documents (the "PROPOSAL");
- C. Innovative Interfaces Cost Quotation dated August 13, 1993 and Innovative Interfaces Telecommunications Configuration and Cost Quotation dated October 5, 1993 (the "CLARIFICATIONS");
- D. This Agreement, including the following Riders attached hereto:

- RIDER A: Estimated Schedule for Activities
- RIDER B: EQUIPMENT to be Purchased
- RIDER B2: Printer Peripherals
- RIDER C: SOFTWARE to be Licensed
- RIDER D: Innovative Interfaces Services to be Purchased
- RIDER E: Price Summary
- RIDER F: Performance Standards

RIDER G: Testing Procedures  
RIDER H: Software Escrow Agreement  
RIDER I: Maintenance Agreement  
RIDER J: Additional Functions to be Delivered

Each of these documents is incorporated herein by this reference as if set forth in full, and shall constitute a part of this Agreement. In the event of any conflict in the obligations pursuant to the above documents, control shall be determined in the following order:

1. This Agreement
2. The CLARIFICATIONS
3. Innovative Interfaces PROPOSAL
4. The RFP

The failure of this Agreement to include reference to any matter contained in any other Contract Document shall not be deemed to constitute a waiver of such matter.

#### 4. Site Preparation

MARINet shall modify the current site or sites for the installation of the EQUIPMENT at its premises, according to the specifications furnished by Innovative Interfaces. Innovative Interfaces shall provide to MARINet a set of site requirements specific to the configuration described in Rider B within the time outlined in Rider A. In the event subsequent alterations or modifications are necessary which are attributable to incomplete or erroneous specifications provided by Innovative Interfaces, Innovative Interfaces shall be liable to MARINet for any cost incurred by MARINet in making such alteration or modification.

MARINet shall advise Innovative Interfaces in writing when all required preparations are complete, and shall provide Innovative Interfaces with sufficient notice thereof to permit Innovative Interfaces to have a representative make an inspection of said installation location(s) prior to the scheduled date for the installation of the EQUIPMENT and to notify MARINet in writing of exceptions as to Innovative Interfaces' site specifications.

#### 5. Transportation and Installation of Equipment

##### A. Transportation

1. All shipping and insurance to and from the site are the responsibility of Innovative Interfaces.
2. Shipments to the installation site(s) shall be made by commercial carrier and/or vehicle properly constructed for shipment of

electronic and computer EQUIPMENT.

3. All central site EQUIPMENT shall be delivered inside the computer room at the Marin County Civic Center Library. All peripheral EQUIPMENT shall be shipped to the same location or to alternate locations as designated by a letter from MARINet at least forty-five (45) calendar days prior to the delivery dates in Rider A.
4. EQUIPMENT shall be preserved, packed, and marked in accordance with Innovative Interfaces' standard practice.
5. Innovative Interfaces shall bear the cost of transportation whenever the EQUIPMENT is shipped for warranty or performance replacement purposes, unless the replacement was due to the fault or negligence of MARINet.

#### B. Installation

1. Innovative Interfaces shall furnish all necessary labor, materials, and other services to accomplish installation at MARINet's locations. Innovative Interfaces shall be responsible for the installation of the EQUIPMENT and SOFTWARE and shall connect the EQUIPMENT to the power sources which are installed by MARINet pursuant to Section 4 above.

Installation shall be performed during normal business hours, and MARINet shall make all the necessary arrangements to allow Innovative Interfaces personnel sufficient work space and access to the installation location(s) during normal MARINet business hours or at such other times as may be mutually agreed upon. All debris generated in the performance of work during installation shall be removed by Innovative Interfaces at no additional cost to MARINet. Where applicable, Innovative Interfaces shall connect the appropriate EQUIPMENT to MARINet-supplied telephone lines.

2. When Innovative Interfaces determines that the SYSTEM is ready for use, that is, the EQUIPMENT and SOFTWARE have been installed at the site(s) specified by MARINet and the Hardware Functionality Test outlined in Rider G has been successfully completed, Innovative Interfaces shall certify in writing to MARINet that the SYSTEM is installed and ready for use.

#### C. Relocation

Following prior written notice by MARINet to Innovative Interfaces, MARINet may move or relocate all or any part of the EQUIPMENT from one location to another location.

Innovative Interfaces shall supervise the de-installation, packing, unpacking, relocation, and re-installation of any EQUIPMENT relocated hereunder. All EQUIPMENT so relocated shall be packed and transported in accordance with Innovative Interfaces's then-current standards therefor. Responsibilities of MARINet and Innovative Interfaces for relocation site preparation are those stated in Section 4 hereof.

Innovative Interfaces shall furnish all necessary labor, materials, and other services required to accomplish installation at the relocation site. All debris generated in the performance of work during installation shall be removed by Innovative Interfaces at no additional cost to MARINet. Installation shall be performed during normal business hours, and MARINet shall make all necessary arrangements to allow Innovative Interfaces personnel sufficient work space and access to the installation locations during normal business hours or at such other times as may be mutually agreed upon.

When Innovative Interfaces determines that the SYSTEM is ready for use, that is, the central site EQUIPMENT and SOFTWARE have been re-installed at site(s) specified by MARINet and the Hardware Functionality Test outlined in Rider G has been successfully completed, Innovative Interfaces shall certify in writing to MARINet that the SYSTEM is installed and ready for use.

MARINet shall pay for Innovative Interfaces' service in connection with relocation at Innovative Interfaces' then-published rates thereof.

Notwithstanding any of these provisions, MARINet may relocate any terminals, lightpens, terminal printers, terminal servers, or like peripherals to any location. MARINet shall notify Innovative Interfaces in writing no later than fifteen (15) calendar days before such a relocation.

#### 6. Delivery Schedule

The estimated delivery dates are set forth in Rider A hereto.

#### 7. Risk of Loss

Innovative Interfaces assumes responsibility for all risks of loss or damage to the EQUIPMENT furnished under this Agreement until the delivery of the EQUIPMENT inside the computer room at the Marin County Civic Center Library, after which MARINet will be responsible for risks of loss or damage, except for such periods as Innovative Interfaces is in the process of installing the SYSTEM.

8. Title

Title to the EQUIPMENT shall pass from Innovative Interfaces to MARINet upon delivery of the EQUIPMENT inside the computer room at the Marin County Civic Center Library.

Innovative Interfaces shall maintain a security interest in the EQUIPMENT which will be discharged when 100% of all payments against the EQUIPMENT are made.

The passing of title to the EQUIPMENT shall not affect Innovative Interfaces' other obligations hereunder.

9. SOFTWARE License

A. General

Subject to the terms and conditions herein set forth, Innovative Interfaces hereby grants to MARINet a non-transferable, non-exclusive and royalty-free license (the "LICENSE") for as long as MARINet owns and operates the SYSTEM to use the SOFTWARE, as well as any additions and/or supplements thereto, solely in the conduct of MARINet's business. The foregoing shall not be construed to preclude MARINet's accomplishing services for other libraries or groups of libraries. MARINet acknowledges that by virtue of this LICENSE, MARINet acquires only the right to use the original and permitted duplicate copies of the SOFTWARE, as well as any additions and/or supplements thereto, as described herein and does not acquire any rights of ownership in the SOFTWARE which rights shall remain exclusively with Innovative Interfaces. The term of the license shall commence upon delivery of the first module of SOFTWARE and shall remain in force as long as MARINet is substantially in compliance with all the provisions of this Agreement.

B. Protection of Proprietary SOFTWARE

MARINet agrees that the SOFTWARE, together with all materials and knowledge related thereto obtained by MARINet, shall be held in confidence and shall not at any time, either during the term of the LICENSE or thereafter, be made available in any form to any person or entity other than to employees of MARINet or consultants or contractors retained by or responsible to MARINet to the extent that such disclosure is reasonably necessary to MARINet's use of the SOFTWARE authorized hereunder, without the express written consent of Innovative Interfaces. MARINet agrees that in the event of its employing any consultants or contractors who would have access to the SOFTWARE, it will make all reasonable efforts to insure that such

consultants or contractors execute an agreement or agreements whereby they recognize, accept, and agree to observe the protection agreements afforded to Innovative Interfaces by this Section.

C. Right to Copy

MARINet agrees that it will not copy or in any way duplicate SOFTWARE or any materials related thereto, in whole or in part, except as expressly authorized to do so by this LICENSE or by written consent of Innovative Interfaces. Innovative Interfaces hereby expressly authorizes MARINet to copy SOFTWARE for its own use, solely for archive or emergency restart purposes or to replace worn copy.

D. Materials Developed by Innovative Interfaces or MARINet

MARINet agrees that all training and procedural materials developed by Innovative Interfaces in conjunction with the SOFTWARE shall be the property of Innovative Interfaces. MARINet further agrees that additions and supplements to the SOFTWARE which may be developed for MARINet through the reimbursed or unreimbursed efforts of Innovative Interfaces employees or agents, whether or not in conjunction with MARINet's employees or agents, shall be the exclusive property of Innovative Interfaces. All training and procedural materials developed by MARINet acting without Innovative Interfaces shall be the exclusive property of MARINet.

E. Proprietary Rights

Innovative Interfaces retains for itself, and MARINet acknowledges that Innovative Interfaces so retains, all proprietary rights in and to all designs, engineering details, and other data pertaining to the SYSTEM, and retains for itself the sole right to manufacture, lease, license, and sell any and all such systems. The SOFTWARE and the configuration of the EQUIPMENT shall be deemed to be trade secrets of Innovative Interfaces.

F. SOFTWARE Availability

Availability of the licensed software to MARINet shall be governed by the provisions of the the Software Escrow Agreement (Rider H).

G. Ownership of Data

All bibliographic, item, fine, borrower, and other records entered into the database of MARINet or supplied to Innovative Interfaces by MARINet are and shall remain the sole property of MARINet. Innovative Interfaces shall not, without MARINet's written consent,

copy or use such records, except to carry out contracted work under this Agreement; will not transfer such records to any other party not involved in the performance of this Agreement; and will return submitted records to MARINet upon completion of the work hereunder. MARINet shall have the right, without the consent of Innovative Interfaces, to extract as MARINet's property such data using standard Innovative Interfaces utilities including MARC output formats at no cost to MARINet. MARINet will extract all MARC bibliographic records added, modified, or deleted from a MARINet-specified date for submission to union catalog producers. Innovative Interfaces agrees to assist MARINet, if requested, in making such extracts at Innovative Interfaces' then-published rates.

#### 10. Patent and Copyright Protection

Innovative Interfaces shall pay all copyright, patent, or other royalties, if any, in respect of the use of the SYSTEM. Innovative Interfaces will defend, at its expense, any action brought against MARINet to the extent that the action is based on a claim that the manufacture, sale, operation or use of the EQUIPMENT or SOFTWARE (or any part thereof) infringes any third party's U.S. patent rights or breaches any third party's U.S. copyright or industrial property rights and Innovative Interfaces will pay any and all costs and damages payable by MARINet in respect of any such action.

If the EQUIPMENT or SOFTWARE (or any part thereof) becomes or in Innovative Interfaces' opinion is likely to become the subject of a claim based on an alleged infringement of breach as aforesaid, Innovative Interfaces may, at its expense and option, with prior written notice to MARINet, do one of the following:

- (a) modify the SYSTEM so that there is no longer any infringement or breach without adversely affecting the functional or performance capabilities of the SYSTEM;
- (b) procure for MARINet the right to continue to use the SYSTEM;
- (c) substitute for the relevant EQUIPMENT or SOFTWARE other equipment or software having a functional and performance capability equivalent to the replaced EQUIPMENT or SOFTWARE or which satisfies MARINet's need, whichever is less; or
- (d) with the consent of MARINet, take back such EQUIPMENT or SOFTWARE and refund any sums MARINet has paid Innovative Interfaces on account of the purchase price less a reasonable amount for use, damage, depreciation, and obsolescence.



Innovative Interfaces shall have no liability respecting any claim of infringement or breach as aforesaid based entirely upon the combination, operation, or use of the EQUIPMENT or SOFTWARE with equipment, software, apparatus, devices, or things not supplied by Innovative Interfaces or in a manner not substantially consistent with Innovative Interfaces specifications and instructions. This Section states the entire liability of Innovative Interfaces for any type of infringement or breach whatsoever of the industrial or intellectual property right of third parties resulting from or relating to the manufacture, sale, operation, or use of EQUIPMENT.

#### 11. Training

Innovative Interfaces shall provide without additional charge training sessions on the operations and use of the SYSTEM for MARINet's personnel as set forth in Rider D of this Agreement at times and locations to be agreed upon by Innovative Interfaces and MARINet. Any additional training required by MARINet shall be provided by Innovative Interfaces at Innovative Interfaces' prevailing rate for such services. Any additional training required as a result of EQUIPMENT and/or SOFTWARE upgrades to the SYSTEM purchased under this Agreement will be provided as determined by Innovative Interfaces and MARINet. Nothing in this Agreement shall be construed to obligate MARINet to purchase any additional training or periodic review sessions.

MARINet reserves the right to videotape Innovative Interfaces' training sessions for later re-use within MARINet.

#### 12. Documentation

Complete documentation as defined in this Section shall be delivered to MARINet within two (2) weeks of the signing of this Agreement.

All documentation shall be amended to indicate any changes in HARDWARE and SOFTWARE made after the SYSTEM is certified ready for use and all such documentation shall be delivered to MARINet in proper form prior to final payment.

Innovative Interfaces agrees to provide MARINet, without additional charge:

- A. Five (5) copies of an Innovative Interfaces Users Reference Manual which describes the system functions, including such topics as security, file descriptions, file maintenance, searching, cataloging features, circulation features, ordering/receiving features, periodicals checkin features, and reports.
- B. Three (3) copies of all updates to a Users Reference Manual due to fixes

and/or enhancements to the SOFTWARE licensed by MARINet which have been generally distributed by Innovative Interfaces.

- C. System manuals for all EQUIPMENT, including at least one (1) copy of each of the manuals for each type of EQUIPMENT but five (5) copies for each type of peripheral EQUIPMENT.
- D. One (1) set of manuals for the computer that describes such activities as system boots, file saves, tape loading, and proper handling of the HARDWARE.
- E. A Hardware Preinstallation Guide that provides information on physical preparations necessary for proper EQUIPMENT installation.
- F. A Software Preinstallation Guide that provides information on library-defined variables and parameters.

All revisions to documentation and manuals must be supplied by Innovative Interfaces at no additional cost, so long as a maintenance agreement is in effect between MARINet and Innovative Interfaces.

Innovative Interfaces grants to MARINet the right to copy or otherwise reproduce for training or other internal uses portions of Innovative Interfaces-produced documentation and manuals furnished pursuant to this provision at no additional charge provided that Innovative Interfaces' statement of copyright be included on each copy.

### 13. Maintenance Agreement

Innovative Interfaces and MARINet shall enter into an agreement for maintenance (Rider I) of the SYSTEM described herein, covering parts, labor and travel expenses for corrective and preventive maintenance. MARINet will contract for maintenance and Innovative Interfaces will be responsible for providing maintenance on the central site equipment for at least five (5) years from the execution of the Agreement.

Maintenance charges for the Innovative Interfaces SYSTEM will begin one (1) year after the date of initial installation of central site hardware, except for maintenance charges for telecommunications equipment which shall begin one (1) year after the installation of that telecommunications equipment.

After the first year, maintenance costs for years 2-5 may be negotiated between the Parties at a rate not-to-exceed five percent (5%) above the maintenance costs for the previous year.

MARINet has the right to contract directly for maintenance service of peripherals without affecting the performance warranties in Section 19.A

of this Agreement. In the event that MARINet contracts directly for maintenance service of peripherals, Innovative Interfaces will not be responsible for the System Reliability of the peripheral EQUIPMENT so maintained.

14. Software Functional Acceptance Test

- A. Functions in Catalog Database, Bibliofile Interface, Authority Control, Circulation and Circulation Backup shall be tested in accordance with Rider G within thirty (30) calendar days of completion of SYSTEM installation and training for the module.

Functions in Public Access Catalog shall be tested in accordance with Rider G within four (4) months of online use of Circulation.

Functions in Acquisitions, Electronic Ordering, and Serials Checkin/Claiming shall be tested in accordance with Rider G within thirty (30) calendar days of completion of training for the module.

Functions in Journal Citation, Gateway, Z39.50, and Community Resources shall be tested no later than January 1, 1995.

MARINet shall notify Innovative Interfaces in writing when the Acceptance Tests are completed, indicating those functions which have not performed correctly. Innovative Interfaces shall have thirty (30) calendar days from receipt of notice to make the necessary corrections. The test will be repeated within thirty (30) calendar days of receipt by MARINet of corrections from Innovative Interfaces.

- B. If MARINet fails to conduct the Software Functional Acceptance Test within the allotted time, provided that Innovative Interfaces has conducted the prerequisite training, or fails to notify Innovative Interfaces within fifteen (15) calendar days of a failed test, the test will be deemed to have been successfully completed and all associated payments will be due and payable to Innovative Interfaces. Payment made to Innovative Interfaces under these circumstances does not relieve Innovative Interfaces of the responsibility for meeting the functional requirements of the test.
- C. If successful completion of these Software Functional Acceptance Tests is not attained, MARINet or Innovative Interfaces shall have the right to terminate this Agreement or to continue the test. If, notwithstanding their respective rights under this subparagraph to terminate the Agreement, MARINet and Innovative Interfaces have permitted the test to be continued, such permission by MARINet and Innovative Interfaces shall not constitute an abrogation of their respective rights or a waiver of their respective rights to terminate the Agreement; and such rights shall remain in effect until such time as

either a successful completion of the test is accomplished, or MARINet or Innovative Interfaces formally terminates the Agreement by notice to the other Party. Upon such termination, Innovative Interfaces shall refund to MARINet all payments made to Innovative Interfaces under this Agreement and MARINet shall return all SOFTWARE and EQUIPMENT to Innovative Interfaces at Innovative Interfaces' expense. No remedy reserved by MARINet under this Agreement is intended to be exclusive of any other remedy now or hereafter existing in law or equity.

15. SYSTEM Reliability Performance Test

- A. Upon successful completion of the Software Functional Acceptance Test outlined in Rider G, the SYSTEM Reliability Performance Test as outlined in Rider G shall commence.

Innovative Interfaces must successfully complete the SYSTEM Reliability Performance Test within one hundred eighty (180) calendar days of commencement of testing. If the test fails within this period, MARINet will automatically re-start the test after the problem has been resolved.

- B. MARINet may, at its option, stop and resume the test, and such time during which the test was stopped at MARINet's option shall count neither as downtime nor as part of the successful sixty (60) day performance period nor as part of the one hundred eighty (180) day total test period. In no event shall such interruption(s) of the test extend beyond a total of five (5) calendar days per test. MARINet shall notify Innovative Interfaces in advance of stops and resumption of testing.
- C. MARINet shall notify Innovative Interfaces in writing when the SYSTEM Reliability Performance Test is completed.
- D. If MARINet fails to commence performance of the SYSTEM Reliability Performance Test within thirty (30) calendar days of completion of the Hardware Functionality Test, provided that Innovative Interfaces has conducted the prerequisite training and the database is ready to load, or fails to notify Innovative Interfaces within fifteen (15) calendar days of a failed test, the test will be deemed to have been successfully completed and all associated payments will be due and payable to Innovative Interfaces. Payment made to Innovative Interfaces under these circumstances does not relieve Innovative Interfaces of the responsibility for meeting the criteria of this test.
- E. If successful completion of the SYSTEM Reliability Performance Test is not attained within one hundred eighty (180) calendar days of the date of commencement of the test, excluding any time during which testing was stopped at MARINet's request, MARINet or Innovative Interfaces

shall have the right to terminate this Agreement or to continue the test. If, notwithstanding their respective rights under this subparagraph to terminate the Agreement, MARINet and Innovative Interfaces have permitted the test to be continued, such permission by MARINet and Innovative Interfaces shall not constitute an abrogation of their respective rights or a waiver of their respective rights to terminate the Agreement; and such rights shall remain in effect until such time as either a successful completion of the test is accomplished, or MARINet or Innovative Interfaces formally terminates the Agreement by notice to the other Party. Upon such termination, Innovative Interfaces shall refund to MARINet all payments made to Innovative Interfaces under this Agreement and MARINet shall return all SOFTWARE and EQUIPMENT to Innovative Interfaces at Innovative Interfaces' expense. No remedy reserved by MARINet under this Agreement is intended to be exclusive of any other remedy now or hereafter existing in law or equity.

16. Final Acceptance Test (Full-Load Test)

- A. No later than February 28, 1995 or sixty (60) calendar days after the commencement of Public Access Catalog use by the public, whichever comes later, the Final Acceptance Test outlined in Rider G shall be performed or waived by MARINet.
- B. MARINet will notify Innovative Interfaces in writing at least fourteen (14) calendar days prior to the performance of the Test and Innovative Interfaces shall have the option of attending the Test.
- C. MARINet will notify Innovative Interfaces in writing when the Final Acceptance Test is completed.
- D. MARINet may, at its sole option, waive the conduct of the Test.
- E. If MARINet fails to commence performance of the Final Acceptance Test by February 28, 1995 or sixty (60) calendar days after the commencement of Public Access Catalog use by the public, whichever comes later, or fails to notify Innovative Interfaces within fifteen (15) calendar days of a failed test, or waives the Test, the Test will be deemed to have been successfully completed and all associated payments will be due and payable to Innovative Interfaces. Payment made to Innovative Interfaces under these conditions does not relieve Innovative Interfaces of the responsibility for meeting the criteria of this test.
- F. If successful completion is not attained, MARINet or Innovative Interfaces shall have the right to terminate this Agreement or to continue the test. If, notwithstanding their respective rights under this subparagraph to terminate the Agreement, MARINet and Innovative Interfaces have permitted the test to be continued, such permission by

MARINet and Innovative Interfaces shall not constitute an abrogation of their respective rights or a waiver of their respective rights to terminate the Agreement; and such rights shall remain in effect until such time as either a successful completion of the test is accomplished, or MARINet or Innovative Interfaces formally terminates the Agreement by notice to the other Party. Upon such termination, Innovative Interfaces shall refund to MARINet all payments made to Innovative Interfaces under this Agreement and MARINet shall return all SOFTWARE and EQUIPMENT to Innovative Interfaces at Innovative Interfaces' expense. No remedy reserved by MARINet under this Agreement is intended to be exclusive of any other remedy now or hereafter existing in law or equity.

17. Schedule of Payments

Payment is due no later than thirty (30) calendar days after completion of the following milestones and submission of an invoice by Innovative Interfaces.

<u>COST</u>	<u>TAX</u>	<u>TOTAL</u>	<u>MILESTONE</u>
\$345,744.00	\$25,066.44	\$370,810.44	Delivery and successful completion of the Hardware Functionality Test outlined in Rider G
\$103,723.00	\$7,519.92	\$111,242.92	Load and testing of Bibliographic, Item, Borrower and Transaction Databases
\$34,574.00	\$2,506.62	\$37,080.62	Software Functional Acceptance Test for Catalog Database, Bibliofile Interface, Authority Control, Circulation, and Circulation Backup
\$34,574.00	\$2,506.61	\$37,080.61	SYSTEM Reliability Performance Test per Rider G
\$34,574.00	\$2,506.61	\$37,080.61	Software Functional Acceptance Test for Public Access Catalog

\$34,574.00	\$2,506.61	\$37,080.61	Software Functional Acceptance Test for Acquisitions, Electronic Ordering, and Serials Checkin/Claiming
\$34,575.00	\$2,506.69	\$37,081.69	Software Functional Acceptance Test for Journal Citation, Z39.50, Gateway, and Community Resources
\$21,369.00	\$1,549.25	\$22,918.25	Printer Peripherals
\$18,700.00	0.00	\$18,700.00	Installation Services
\$48,123.00	0.00	\$48,123.00	Extended Warranty
\$56,575.00	0.00	\$56,575.00	Database Extraction and Conversion Services
\$15,000.00	0.00	\$15,000.00	Library Technologies Inc. Authority Control Services
\$69,150.00	\$5,013.38	\$74,163.38	Final Acceptance Test per Rider G

Invoices shall be submitted in triplicate to Anne Appel, County Librarian, Marin County Free Library, 3501 Civic Center Drive, San Rafael, California 94903.

MARINet may withhold any payments due Innovative Interfaces which may be necessary due to:

- (1) Defective work not remedied.
- (2) Damage to MARINet.
- (3) Persistent failure to carry out the work in accordance with this Agreement.

Payments shall be made for amounts withheld only after the above grounds have been removed.

In the event MARINet withholds any payment for any of the above grounds, it must so notify Innovative Interfaces within ten (10) calendar days of receipt of the invoice.

## 18. Conversion of Data

Innovative Interfaces will migrate all bibliographic, item, patron, and checkout transaction data from the CLSI system to the Innovative Interfaces SYSTEM. The database extraction, processing, load, and conversion will include the following steps:

1. Load of CLSI bibliographic and item records on the Innovative Interfaces SYSTEM in MARC format, de-dupping on LCCN or ISBN plus a title check.
2. Overlay the CLSI bibliographic records with the MARC records from Auto-Graphics, matching on LCCN or ISBN plus a title check. Do not load those Auto-Graphics records which do not overlay CLSI records.
3. Extract and print all CLSI records which are not full MARC records for staff review and possible upgrade.
4. Load CLSI patron records
5. Load CLSI transaction records.
6. Write a tape of the full MARC bibliographic file, to be used for authority control processing.
7. Subcontract authority control processing from Library Technologies, Inc.
8. Load the bibliographic records changed by authority control processing.
9. Load the MARC authority records from Library Technologies, Inc. and create cross references.

All bibliographic data will be input in the MARC II Standard Communications Format and must be capable of being maintained and output in that format.

A Bibliofile interface will be provided by Innovative Interfaces for transfer of bibliographic and copy information into the Innovative Interfaces SYSTEM.

Innovative Interfaces will also load MARC-format authority control records from Library Technologies Inc. tapes and create cross-references.

Innovative Interfaces will convert any records output by the SYSTEM from cartridge tape to 9-track magnetic tape for \$150 per cartridge tape.

## 19. Warranty

This Agreement includes any warranty or representation made by Innovative Interfaces in the PROPOSAL as to EQUIPMENT or SOFTWARE performance, total SYSTEM performance, or any other physical, design, or functional characteristics of a machine, SOFTWARE, or a SYSTEM.



#### A. Performance Levels

Innovative Interfaces expressly warrants that the configuration provided pursuant to this Agreement will meet or exceed the performance standards specified in Rider G at the activity levels and data storage capacity described in Rider F, performing the functions outlined in Innovative Interfaces' PROPOSAL.

A Full-Load Acceptance Test may be conducted by MARINet any time within five (5) years after the completion of the SYSTEM Reliability Performance Test as a means of verifying performance standards. Testing under this paragraph will use the same standard test developed for the Final Acceptance Test outlined in Rider G, and conditions for successful completion of testing shall be no more stringent than for the Final Acceptance Test.

In the event that the SYSTEM fails to perform at these levels any time within five (5) years after the completion of the SYSTEM Reliability Performance Test, Innovative Interfaces will provide at no additional cost whatsoever to MARINet, additional HARDWARE and SOFTWARE necessary to bring the SYSTEM into compliance with these requirements within one hundred fifty (150) calendar days after written notification to Innovative Interfaces by MARINet of such failure.

MARINet will test each new Innovative Interfaces software release using the same standard test developed for the Final Acceptance Test outlined in Rider G. If the new software release meets the conditions of the test, MARINet will certify that release and that release will be the earliest release used by MARINet. If the new software release does not meet the conditions of the test, MARINet may, at its option, elect to freeze the release schedule at the latest certified release or to purchase additional hardware necessary to use the new release. If MARINet chooses to freeze the release schedule, Innovative Interfaces will maintain that release for two years or until November 1, 1998, whichever is earlier.

#### B. Other Warranties

Innovative Interfaces warrants that the SYSTEM shall be merchantable and fit for the purposes of library automation as described in Innovative Interfaces' PROPOSAL and Users Reference Manual.

Innovative Interfaces warrants that MARINet shall acquire good and clear title to the EQUIPMENT being purchased by MARINet hereunder, free and clear of all liens, encumbrances, and rights of third parties. All EQUIPMENT shall be new.

Innovative Interfaces further warrants that at the point and time of installation the EQUIPMENT shall be free from defects in design, workmanship, and materials under normal use and service and are fit and sufficient for their intended purpose. This warranty will continue for one (1) year after successful completion of the Hardware Functionality Test for the Innovative Interfaces SYSTEM except for telecommunications equipment which shall begin one (1) year after the installation of that telecommunications equipment. If, during such warranty period, MARINet provides written notice of the discovery of any defects in the EQUIPMENT, Innovative Interfaces will, at its option and expense, repair all defects or replace portions of the EQUIPMENT, where appropriate, provided Innovative Interfaces' inspection at the site of the EQUIPMENT demonstrates the existence of the defects asserted by MARINet. Portions of the EQUIPMENT which are of an expendable nature, both mechanical and electrical, including, but not limited to, ribbons, brushes, and paper, are excluded from the warranty provided in this Section .

The provisions of the warranty set forth in this Section shall extend only to MARINet as an original purchaser and in no event will extend beyond repair or replacement of the defective portions of the EQUIPMENT.

Innovative Interfaces hereby warrants to MARINet that the SYSTEM shall perform in accordance with the specifications set forth in the Contract Documents and that at the time of executing this Agreement Innovative Interfaces has the right to grant the SOFTWARE license referred to herein.

Innovative Interfaces specifically warrants that the existing Wyse 30 and Wyse 60 terminals when operating with VT-100 compatible terminal emulation can be used with the SYSTEM.

THE FOREGOING WARRANTIES ARE EXCLUSIVE AND ARE IN LIEU OF ALL OTHER WARRANTIES OF ANY TYPE WHETHER EXPRESS OR IMPLIED.

## 20. Foreign Component Interface

MARINet may, at its option, connect to the SYSTEM purchased under this Agreement any equipment manufactured or supplied by others including, but not limited to, peripheral equipment, other computers, communications equipment, terminal devices, and the like, provided there is a standard industry, established interface of RS232 available, or using an Ethernet TCP/IP network. Upon request Innovative Interfaces shall promptly disclose, subject to confidentiality, trade secret, or non-competition agreements, to MARINet the technical specifications for any given interface point on the SYSTEM. MARINet shall accurately and fully

advise Innovative Interfaces, in writing, at least thirty (30) calendar days before it intends to connect any other equipment to the SYSTEM, and Innovative Interfaces shall have the right to inspect at its own cost the specifications and installation of any such new equipment.

In the event that Innovative Interfaces is required to perform maintenance services on the SYSTEM because of damage to the SYSTEM resulting from the attachment of equipment not approved by Innovative Interfaces, such service shall be billed to MARINet at Innovative Interfaces' then-current standard hourly maintenance rates.

If requested by MARINet, Innovative Interfaces will consult with MARINet at Innovative Interfaces' then-published rates regarding the compatibility and installation of other proposed equipment with the SYSTEM.

21. Indemnity

Innovative Interfaces agrees to indemnify, hold harmless and defend the Library and its agents, officials and employees from any liability, claim or injury, related to or caused by fault or negligence of Innovative Interfaces' employees or subcontractors. However, Innovative Interfaces' obligation to defend shall not accrue until the Library tenders the defense to Innovative Interfaces. MARINet agrees that MARINet will provide Innovative Interfaces prompt written notice with regard to any claim alleged by MARINet or others to fall within the scope of this section,

22. Consequential Damages

NEITHER PARTY IS LIABLE FOR INCIDENTAL, INDIRECT OR CONSEQUENTIAL DAMAGES, HOWEVER CAUSED.

23. Insurance

Innovative Interfaces, at its own cost and expense, shall provide insurance coverage to be in full force and effect during the term of this contract in limits of not less than the following amounts:

\$1,000,000 combined single limit of personal injury and purveyors' liability.

\$1,000,000 combined single limit of premises liability.

\$50,000 property damage.

Upon the signing of this Agreement, a Certificate of Insurance will be provided to MARINet by Innovative Interfaces.

No such insurance shall be cancelled or modified without thirty (30) days prior written notice to MARINet.

24. Independent Contractor

Innovative Interfaces shall perform the services hereunder as an independent contractor and shall furnish such services in its own manner and method, and under no circumstances or conditions shall any agent, servant, or employee of Innovative Interfaces be considered as an employee of MARINet.

25. Equal Opportunity

Innovative Interfaces assures that it will comply with Title VII of the Civil Rights Act of 1964 and that no person shall be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination under this Agreement, on the grounds of race, creed, color, sex, sexual orientation, religion, political affiliation, national origin, disability, or Vietnam Veteran status.

26. Non-Assignability

No assignment of this Agreement or any right or interest therein by either Party shall be effective unless the other Party shall first give its written consent which consent may not be unreasonably withheld. In no case shall such consent relieve Innovative Interfaces from its obligation or change the terms of this Agreement. The performance of the Agreement by MARINet and Innovative Interfaces is of the essence of this Agreement.

27. Publicity

Each Party agrees to submit to the other all press releases, advertising, sales promotion, and other publicity matters relating to any product furnished by Innovative Interfaces to MARINet wherein the other Party's name is mentioned, excluding Innovative Interfaces customer lists and MARINet's newsletters, training materials, and notices to users of MARINet. Neither Party will publish or knowingly permit to be published any such material without the prior written consent of the other.

28. SYSTEM Modification

Innovative Interfaces may provide to MARINet from time to time modifications of the construction and/or the design of the EQUIPMENT and/or the SOFTWARE. MARINet agrees to install such SOFTWARE modifications within one hundred twenty (120) calendar days of their receipt from Innovative Interfaces, and to permit Innovative Interfaces to install such EQUIPMENT modifications. If necessary, MARINet shall allow Innovative Interfaces personnel access to the SYSTEM during

normal business hours, or at such other times as may be mutually agreed upon, for the purpose of installing such modifications. In the event that Innovative Interfaces provides such modifications to MARINet, Innovative Interfaces shall supply documentation and training which shall be sufficient for the use and operation of the SYSTEM by MARINet.

If the SOFTWARE modifications cannot be certified using the same standard test developed for the Final Acceptance Test outlined in Rider G, MARINet may, at its option, choose not to install the new release and freeze releases at the latest certified release. Innovative Interfaces agrees to maintain that release for two years or until November 1, 1998, whichever is earlier.

29. Purchase of Additional Equipment

MARINet shall have an option to purchase at an eighteen percent (18%) discount additional SOFTWARE and HARDWARE listed in Riders B and C and in Innovative Interfaces' PROPOSAL for a period of three (3) months from the date of execution of this Agreement. Any price reductions that occur before Innovative Interfaces orders EQUIPMENT and SOFTWARE will be made available to MARINet, which at its option may use this reduction in lieu of proposed prices.

30. MARINet's Responsibilities

- A. MARINet will provide adequate and timely support or information with regard to its administrative, operational, and management procedures, and any data necessary to effectively complete implementation or installation of the SYSTEM. Once the installation has been completed, MARINet will manage and operate the SYSTEM.
- B. MARINet agrees to provide Innovative Interfaces with certain data that will be incorporated into the building of various data files and which are essential to the implementation of the SYSTEM. Innovative Interfaces will provide MARINet with the necessary specifications for such data. Innovative Interfaces will not assume liability for incorrect SYSTEM performance resulting from failure of MARINet to submit appropriate data, or from the submission of erroneous data.
- C. MARINet agrees to appoint one person as the prime contact for MARINet with Innovative Interfaces.

31. No Waiver

No waiver of any breach of any term or condition of this Agreement shall be construed to waive any subsequent breach of the same or any other term or condition of this Agreement.

32. Force Majeure

The Parties will exercise every reasonable effort to meet their respective obligations hereunder, but shall not be liable for delays resulting from force majeure or other causes beyond their reasonable control, including, but not limited to, acts of God, acts or omissions of the other Party, Government acts or omissions, fires, strikes, national disasters, wars, riots, transportation problems and/or any other cause whatsoever beyond the reasonable control of the Parties. Any such cause will extend the performance of the delayed obligation to the extent of the delay so incurred.

33. Notices

All notices given hereunder will be sent certified mail, return receipt requested, addressed to the other Party at the following address or such other address as either Party may specify in writing.

MARINet: Anne Appel, County Librarian  
Marin County Free Library  
3501 Civic Center Drive  
San Rafael, California 94903

Innovative Interfaces: Gerald M. Kline, President  
Innovative Interfaces, Inc.  
2344 Sixth Street  
Berkeley, CA 94710

A notice shall be deemed given when placed in the U.S. Mail as specified above.

34. Non-Appropriation of Funds

This Agreement shall commence upon the day first provided herein and continue in full force and effect until termination in accordance with its provisions. All parties will recognize that the continuation of any contract after the close of any fiscal year of MARINet, which fiscal year ends on June 30 of each year, shall be subject to budget approval providing for or covering such contract item as an expenditure in said budget. MARINet does not represent that said budget item will be actually adopted, said determination being the determination of the MARINet Board at the time of the adoption of the budget herein. No penalty shall accrue to MARINet in the event this provision shall be exercised. Should termination be accomplished in accordance with this Section, MARINet shall be liable only for payments due through the date of termination, except that if more EQUIPMENT and SOFTWARE have been installed than have been paid for to date by MARINet, a mutually-agreeable determination of EQUIPMENT and SOFTWARE to be retained by MARINet will be negotiated. MARINet shall not terminate this Agreement in order to acquire similar

EQUIPMENT or SOFTWARE from a third party.

35. Governing Law

This Agreement shall be governed and construed in accordance with the statutes and laws of the State of California.

If a dispute arises concerning the operation, enforcement, and interpretation of the provisions of this Agreement, such dispute will be resolved by binding arbitration according to the Commercial Rules of the American Arbitration Association.

In such event, the prevailing party will be entitled to recover the cost of arbitration and a reasonable attorney's fee which may be set by the arbitrator. Such award may be confirmed by petition to an appropriate court of general jurisdiction in the State of California. And, in the event that confirmation by petition or collection activities are required due to a failure of a party to voluntarily comply with the terms of an arbitration award, the prevailing party shall be entitled to recover costs of such petition, cost of customary collection activities, and reasonable attorney's fees for representation in all post-arbitration proceedings including collection activities to be determined upon noticed motion.

36. Severability

If any provision of this Agreement shall be held to be invalid, illegal, or unenforceable, the validity, legality, and enforceability of the remaining provisions shall not in any way be affected or impaired.

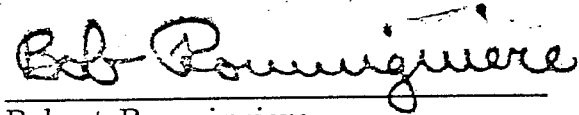
37. Entire Agreement

This Agreement and incorporated documents contain the entire understanding of the Parties hereto and neither it nor the rights and obligations hereunder may be changed, modified, or waived except by an instrument in writing signed by the Parties hereto.

The Parties hereby indicate their acknowledgement and acceptance of the terms and conditions stated in this Agreement as evidenced by the following signatures of their duly authorized representatives. It is the intent of the Parties that this Agreement shall be effective as of the day and year first indicated above.

MARINet

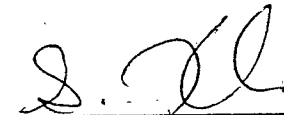
By:



Robert Roumiguere  
Chair, Marin County Board of Supervisors

INNOVATIVE INTERFACES, INC.

By:



GERALD M. KLINE  
President



## RIDER A

### SCHEDULE OF ACTIVITIES

<u>Date to Finish</u>	<u>Party Responsible</u>	<u>Tasks</u>
December 1, 1993	Joint	Finalize Agreement
December 1993	III	Send documentation to MARINet
January 1994	Joint	Discussions between Innovative Interfaces and MARINet project leaders to: a) define files and screen layout b) discuss selection of local parameters c) define how to access the database, access points, and which fields are indexed and combined d) decide which fields are to be authority files e) map bibliographic database f) discuss and prepare plans for patron records
March 1994	MARINet	Complete site preparations and notify Innovative Interfaces
April 1994	Joint	Start taking bibliographic, item, and patron records from CLSI system
April 1994	III	Delivery of central site equipment
April 1994	III	Install central site equipment and software, and Innovative Interfaces' software
April 1994	III	Conduct Hardware Functionality Test
April 1994	III	Train system operations staff
May 1994	MARINet	Start System Reliability Performance Test

May 1994	III	Load test CLSI bibliographic and item file
May 1994	MARINet	Deliver Auto-Graphics MARC tape to Innovative Interfaces
May/June 1994	III	Load master CLSI bibliographic and item file
June 1994	III	Install online bibliographic interface
June 1994	MARINet	Test online bibliographic interface
June 1994	III	Train technical services staff on database maintenance
June 1994	III	Install telecommunications equipment and peripherals
June 1994	MARINet	Start Software Functional Acceptance Test
June 1994	MARINet	Load patron file
June 1994	III	Load supplemental CLSI records
June 1994	III	Train for Circulation and Backup Circulation
June 1994	III	Load transaction records
June 30, 1994	MARINet	Begin online Circulation
July 1994	III	Load test MARC file
July 1994	MARINet	Approve test MARC file
July/August 1994	III	Load MARC bibliographic records, overlaying matching CLSI records
September 1994	Joint	Write tape for authority control vendor
October 1994	Joint	Load matching authority records and changed bibliographic records
October 1994	III	Load EBSCO serial records
October/November 1994	III	Load journal citation files

October/November 1994	MARINet	Begin online Public Access Catalog
November 1994	III	Train on Acquisitions
November 1994	MARINet	Begin online Acquisitions
December 1994	MARINet	Software Functional Test of Z39.50
December 1994	MARINet	Software Functional Test of Gateway module
December 1994	MARINet	Software Functional Test of Community Resources
January 1995	MARINet	Train on Serials Checkin/Claiming
January 1995	MARINet	Begin online Serials Checkin/Claiming
February 1995	MARINet	Start Final Acceptance Test for SYSTEM

## RIDER B

### EQUIPMENT LIST AND PRICES

<u>QTY</u>	<u>COMPONENT</u>	<u>UNIT COST</u>	<u>TOTAL PRICE</u>
<b>BASIC CENTRAL SITE HARDWARE:</b>			
	Central Processor		\$99,940.00
	DEC 3000 Model 500S Advantage Server [DEC Alpha]		
	Model PE511-E1 with:		
	64MB memory		
	Two SCSI-2 controllers		
	(1) RZ26 1.05GB disk drive		
	(1) RRD42 600MB CD ROM drive		
	(1) TLZ06 4 GB DAT tape		
	Includes software license:		
	DEC OSF/1 AXP Base License		
	DEC OSF/1 AXP Server License		
	NAS 300-AK OSF/1 Alpha AXP		
	Thickwire Ethernet		
	power cord, 120V		
	(3) Model M515-DA 64MB memory		
	(7) RZ26 1.05GB disk drive		
	(1) RZ58 1.35GB disk in a dual-drive SCSI expansion box		
	(1) QL-MT7AG-6A DEC/OSF/1 A UNLD IA DEC 3500S		
	Media and Documentation:		
	(1) Model QA-MT4AA-H8 DEC OSF/1 A BAS CD ROM		
	(1) Model QA-054AA-H8 SW LIB OSF/1 AXP LP's CD ROM		
	Tape Drive for backup (4 GB DAT)	Included	
	System Printer	1,450.00	
	192 Port Capacity	32,340.00	
	 Total Basic Central Site Hardware		 \$133,730.00

## **INNOVATIVE INTERFACES PERIPHERALS**

85	Terminals for OPAC (@ \$595)	\$50,575.00
35	Terminals for Circulation (@ \$595)	20,825.00
16	Terminals for staff (@ \$595)	9,520.00
6	Laser readers (@ \$2,150)	12,900.00
22	Barcode readers (@ \$785)	17,270.00
10	PCs (@ \$1,999)	19,990.00
12	Portable terminals (@ \$3,200)	38,400.00
1	UPS	3,750.00

Total Innovative Interfaces Peripherals	\$173,230.00
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## **TELECOMMUNICATIONS**

### **CENTRAL SITE:**

10	M9600 Modems (9600 baud) (@ \$750)	\$7,500.00
3	Marathon 10K Chassis (@\$3,500)	10,500.00
3	Featurepak Phase 2.5 (@\$2,000)	6,000.00
3	Remote Terminal Server Modules (@2,750)	8,250.00
3	Network Management Modules (@\$300)	900.00
13	UDS Rackmounted DSU/CSU (@\$595)	7,735.00
13	Crossover Cable, DB25 to DB25 (@\$55)	715.00
1	UDS Rack (holds 16 rackmount DSU/CSU)	1,045.00
3	Lantronix 16-port Terminal Servers (@\$2,695)	8,085.00

Subtotal, Central Site	\$50,730.00
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### **BRANCHES:**

7	Marathon 1K Chassis (@\$1,500)	\$10,500.00
13	Featurepak Phase 2.5 (@\$250)	3,250.00
12	12 channel Asynch Modules (@\$1,750)	21,000.00
7	Network Management Modules (@\$300)	2,100.00
13	Codex Multirate DSU/CSU (@\$750)	9,750.00
13	Crossover Cable DB-25 to DB-25 (@\$55)	715.00
6	Micom Box with 4 Asynch Channels (@\$1,540)	9,240.00

Subtotal, Branches	\$56,555.00
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Total Telecommunications	\$107,285.00
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SUBTOTAL RIDER B	\$414,245.00
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DISCOUNT	\$69,607.00
DISCOUNTED TOTAL	\$344,638.00
7.25% SALES TAX	\$24,986.25
TOTAL RIDER B	\$369,624.25

RIDER B2  
PRINTER PERIPHERALS

<u>QTY</u>	<u>COMPONENT</u>	<u>TOTAL PRICE</u>
51	HP Thinkjet Printers (@\$419)	\$21,369.00
	SUBTOTAL, RIDER B2	\$21,369.00
	7.25% SALES TAX	\$1,549.25
	TOTAL, RIDER B2	\$22,918.25

# RIDER C

## SOFTWARE LIST AND PRICES

<u>COMPONENT</u>	<u>TOTAL PRICE</u>
Cataloging/Database Maintenance	\$30,000.00
1 BiblioFile Interface	4,850.00
Report Writer	Included
Authority Control	\$15,000.00
MARC Record Export	Included
Online Public Access Catalog	20,000.00
Dial Access OPAC	Included
Circulation Control	28,500.00
10 copies PC Circ Backup Software (@\$650.00)	6,500.00
Acquisitions (50,000 order records)	43,500.00
BISAC Interface (Electronic ordering)	5,000.00
Serials Checkin/Claiming (3,000 subscriptions)	17,400.00
Electronic Mail	14,500.00
Journal Citation Software to support IAC's	9,500.00
General Periodicals Index - Public	
[Additional disk storage included w/CPU]	
Community Resources	9,500.00
CPU gateway (Assumes MARINet has access to Internet)	4,500.00
Z39.50 (client and server)	19,500.00
(Assumes MARINet has access to Internet)	
186 User licenses	215,600.00
Operating system	Included
B&T Link Ordering Interface	5,000.00
 SUBTOTAL RIDER C	 \$448,850.00
 DISCOUNT	 \$102,000.00
 DISCOUNTED TOTAL	 \$346,850.00
 7.25% SALES TAX	 \$25,146.63
 TOTAL RIDER C	 \$371,996.63



## RIDER D

### INNOVATIVE INTERFACES SERVICES AND PRICES

<u>SERVICES</u>	<u>TOTAL CHARGE</u>
System Installation	\$4,300.00
Telecommunications Hardware Installation	9,500.00
Shipping (and Insurance)	2,900.00
Training	Included
(Includes 12 days of onsite training)	
Installation	1 Day
INNOPAC Database	1 Day
System Maintenance	1 Day
Cataloging	2 Days
Circulation	2 Days
Acquisitions	3 Days
Serials	2 Days
Documentation	Included
(Includes 5 copies of the 4-volume INOPAC Users Manual, 1 copy of the <u>INNOPAC Getting Started Manual</u> )	
Migration from CLSI (bibliographic, item, patron, transaction Files)	17,450.00
Merge and De-dup Database (Overlay CLSI title records with Auto-Graphics MARC records, map item data from CLSI to INNOPAC format) (Assumes 350,000 CLSI expanded title records, 800,000 item records, 175,000 Auto-Graphics MARC records)	27,125.00
Authority Control for 300,000 bibliographic records (Machine processing only)*	15,000.00
Load Database and MARC Authority Records	9,500.00
Shipping and Installation for 10 PCs (@\$200)	2,000.00
Load EBSCO serials records	2,500.00
Extended warranty	48,123.00
TOTAL OF RIDER D	\$138,398.00

\* Innovative Interfaces will subcontract for these services based on the August 24, 1993 quotation from Library Technologies, Inc. MARINet will pay Innovative Interfaces the charges billed by Library Technologies, Inc.; these charges will be based on unit costs with the total dependent upon the exact number of records handled.

RIDER E  
PRICE SUMMARY

<u>RIDER</u>	<u>PRICE</u>
RIDER B	\$369,624.25
RIDER B2	\$22,918.25
RIDER C	\$371,996.63
RIDER D	\$138,398.00
TOTAL	\$902,937.13

## RIDER F

### PERFORMANCE STANDARDS

#### 1. TRANSACTION MIX TABLE - YEAR 1 (1993-94)

TRANSACTION TYPE	ANNUAL	PER HOUR (AVERAGE)	PER HOUR (PEAK)
Check-out	2,000,000	675	2,025
Check-in	2,250,000	750	1,125
Titles Added/Changed/Deleted	63,000	32	64
Items Added/Changed/Deleted	110,000	55	220
Borrowers Added or Changed	50,000	20	40
Titles Ordered	55,000	30	60
Reserves	70,000	25	75
Interlibrary Loans	15,000	5	15
Fine Processing	200,000	70	140
First Overdue Notices	100,000	(batch)	(batch)
Final Overdue Notices	35,000	(batch)	(batch)
Borrower Record Queries	150,000	50	100
Serials Issues Checked In	35,000	12	36
Catalog Searches by Borrowers and Staff	7,200,000	2,400	3,600

#### 2. TRANSACTION MIX TABLE - YEAR 5 (1998-99)

TRANSACTION TYPE	ANNUAL	PER HOUR (AVERAGE)	PER HOUR (PEAK)
Check-out	3,000,000	1,000	3,000
Check-in	3,400,000	1,150	1,725
Titles Added/Changed/Deleted	80,000	40	80
Items Added/Changed/Deleted	150,000	75	300
Borrowers Added or Changed	75,000	25	50
Titles Ordered	70,000	35	70
Reserves	200,000	70	210
Interlibrary Loans	30,000	10	30
Fine Processing	300,000	100	200
First Overdue Notices	150,000	(batch)	(batch)
Final Overdue Notices	50,000	(batch)	(batch)
Borrower Record Queries	200,000	70	140
Serials Issues Checked In	50,000	20	60

Catalog Searches by Borrowers and Staff	10,800,000	3,600	4,800
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### 3. FILE SIZES\*

<u>FILE</u>	<u>YEAR 1</u>	<u>YEAR 5</u>
Bibliographic Records	350,000	550,000
Item Records	800,000	1,200,000
Patron Records	150,000	200,000

\*These files can be contained in 3.45 GB of disk storage.

### 4. INDEXES

Author Phrase Index  
 Title Phrase Index  
 Subject Phrase Index  
 Keyword Index for Title, Corporate and Conference Author, Contents, Series and  
 either Subject Keyword or Subject Subdivision Phrase Index, at MARINet's  
 sole option  
 Call Number Index  
 Bibliographic Utility Number Index  
 ISBN/ISSN Index  
 Innovative Interfaces Record Number Index  
 LCCN Index  
 Music Publication Index  
 Barcode Index

### 5. RESPONSE TIME TABLES

#### RESPONSE TIME BY TYPE OF TRANSACTION

TRANSACTION	AVERAGE LOAD	PEAK LOAD
Check-out	less than 3.0 seconds	3.0 seconds
Check-In	less than 3.0 seconds	3.0 seconds
New Titles Added (Full Screen Transmission)	5.0 seconds	8.0 seconds
New Items Added	3.0 seconds	5.0 seconds
New Borrowers Added	3.0 seconds	5.0 seconds

Reserves Entered	less than 3.0 seconds	3.0 seconds
Fine Processing	3.0 seconds	5.0 seconds
Borrower Record Queries	3.0 seconds	5.0 seconds
Renewals	less than 3.0 seconds	3.0 seconds
Catalog Searches - Single Term	3.0 seconds	5.0 seconds
Catalog Searches - Boolean	5.0 seconds	8.0 seconds
Response Time between Types of Functions	3.0 seconds	3.0 seconds

## RIDER G

### TESTING PROCEDURES

#### A. HARDWARE FUNCTIONALITY TEST

The Hardware Functionality Test will be performed immediately after installation of the central site computer EQUIPMENT purchased from Innovative Interfaces. MARINet personnel or their designee may be present at the test. Upon completion of this test, Innovative Interfaces shall provide written notice that the test has been successfully completed.

This examination will include the following tests as a minimum:

- (a) Central processing unit(s) diagnostic test.
- (b) Memory unit(s) diagnostic test.
- (c) Disk storage/controller unit(s) diagnostic test. [Including the writing of a disk file, the reading of a disk file, and the erasure of a disk file.]
- (d) Terminal unit(s) diagnostic test.
- (e) Printer unit(s) diagnostic test.
- (f) Telecommunications unit(s) diagnostic test.
- (g) Power loss/failure test.

#### B. SOFTWARE FUNCTIONAL ACCEPTANCE TEST

All functions will be tested in accordance with Innovative Interfaces' PROPOSAL and the user documentation provided by Innovative Interfaces.

#### C. SYSTEM RELIABILITY PERFORMANCE TEST

The SYSTEM is to be run in a normal operating environment for a period of sixty (60) consecutive calendar days, with a performance reliability level of at least ninety-eight percent (98%). Reliability shall be determined by deducting downtime from the total number of hours MARINet operates the SYSTEM. Downtime is defined as that period of time when it is not possible to perform scheduled activities due to equipment or software malfunction, or the system being released to Innovative Interfaces for remedial maintenance. Downtime

shall be calculated to the nearest one-tenth hour and calculated as a percentage of MARINet's total computer operating hours.

The following table of coefficients shall be used to compute downtime. (In no case will the coefficient ever exceed 1.0 per hour):

Loss of critical hardware	1.0
- CPU	
- Disk drives	
- Central data communications unit	
- Disk controller	
- Operations console	
Loss of major hardware, if purchased from Innovative Interfaces	0.5
- Peripheral data communications (multiplexor, modem)	per device
- Tape drive	
- System printer	
Loss of other hardware, if purchased from Innovative Interfaces	.10
- Terminal	per device
- Optical scanning device	
- Terminal printer	
- Portable optical reader	
Loss of critical function	1.0
- Charge	
- Discharge	
- Renewal	
- Holds	
- Public access catalog inquiry	
- Borrower file inquiry	
- Item file inquiry	
- Fine payment	
- Cataloging data entry	
- Bibliofile interface	
- Acquisitions functions	
- Serials functions	
Loss of non-critical function	0.5
- File updates	per function
- Report generation	

During pilot operations, the response time in excess of stated maximums in Rider F shall have a coefficient of 1.00 to be added to downtime calculations.



#### D. FINAL ACCEPTANCE TEST

The Final Acceptance Test is run over several one hour periods, at some time when the libraries are closed and the operating environment can be controlled. During these hours, MARINet staff (using all currently installed terminals in all currently installed locations) will process sufficient transactions to meet or exceed the average transaction mix loads, and later the peak transaction mix loads contained in Rider F.

The transaction mix will be tested and the response time measured. The Full range of purchased functions listed in Innovative Interfaces' PROPOSAL will be tested including all types of transactions in the Year 5 Transaction Level Tables contained in Rider F.

MARINet shall provide terminal operators and people acting as data recorders. The operators shall perform the terminal functions and tally the number of transactions completed. The recorders will clock and record the response time for each transaction at elected terminals.

The number of terminals to be used for each transaction type will be agreed upon by Innovative Interfaces and MARINet at the time of the test.

Both Innovative Interfaces and MARINet may provide inspectors to verify the accuracy of the activities of the operators and the recorders.

Prior to the commencement of the test, Innovative Interfaces may assist MARINet personnel in such training as shall be necessary for the terminal operators and the recorders to perform the activities herein described.

The duration of each test shall be one hour long. All records and logs made during the test shall be available for inspection by representatives of Innovative Interfaces and MARINet during and after the test. At the end of the test, all records and logs are to be collected.

## RIDER H

### SOFTWARE ESCROW AGREEMENT

This Agreement is made this \_\_\_\_ day of \_\_\_\_\_, 19 \_\_\_\_, with reference to that certain license Agreement between INNOVATIVE INTERFACES, INC., (hereinafter referred to as "Licensor") and MARINet (hereinafter referred to as "Licensee") dated \_\_\_\_\_, 19\_\_:

#### I. ESTABLISHMENT OF ESCROW

So long as the above-described license is in full force and as an additional material consideration for the granting, acceptance and continued benefits obtained and derived from such license, Licensor and Licensee agree that a copy of all source code material necessary to maintain all software licensed thereunder shall be placed in escrow as follows:

- A. The escrow agent shall be Willdorf & Stevens, 25 Van Ness Ave., Suite 720, San Francisco, CA 94102. In the event that the above-named escrow agent fails or refuses to assume the responsibilities of escrow agent or ceases to act as escrow agent, the parties shall agree upon a new escrow agent and shall issue demands to Willdorf & Stevens to deliver the escrow material to such newly designated escrow agent.
- B. Source code material shall be released to the Licensee by the escrow agent upon the occurrence of the following event:
  - i. If any proceeding in receivership, liquidation or insolvency is commenced against Licensor and the same be not dismissed within thirty days, or
  - ii. If Licensor make any assignment for the benefit of its creditors, becomes insolvent, ceases to do business as a going concern, or seeks any arrangement of compromise with its creditors under any statute or otherwise.
- C. Verification of the occurrence of a condition precedent to the release of the escrowed materials shall be by a reasonable manner and means to the reasonable satisfaction of the escrow agent with written notice and opportunity to object given to Licensor. The escrow agent shall have five days to release the escrowed documents or to advise the Licensee in writing of the existence of a conflicting demand.

## II. VERIFICATION OF ESCROWED MATERIALS

Verification of escrowed materials shall be by certified letter from the escrow agent to the Licensee stating the identity of each document placed in escrow, the physical location of the escrow, and the date of establishment of the escrow.

## III. ENHANCEMENT AND MODIFICATION

In the event that the software supplied to Licensee pursuant to the above-described license is enhanced or modified, the Licensor agrees to deposit into escrow all documents and data reasonably necessary to support and maintain such enhancements and modifications pursuant to all of the terms and conditions of this escrow agreement.

## IV. CONFLICTING DEMANDS

In the event that the parties to this agreement, at any time, give the escrow agent conflicting demands, the escrow agent shall promptly attempt to resolve the conflict within ten days, the escrow agent shall interplead the escrowed materials into a court of competent jurisdiction. Each of the parties hereto agrees to indemnify and hold the escrow agent harmless from all costs and expenses, including reasonable attorney's fees, in the event that a conflict of demands requires interpleader.

## V. TERMS OF RELEASE OF ESCROWED MATERIAL

In the event that the material escrowed hereunder is released to Licensee, said materials shall nevertheless remain the property of the Licensor, its assigns, trustees, and/or successors in interest. The escrowed materials shall be subject to all of the terms and conditions of the underlying license granted to Licensee, including but not limited to, trade secrets and confidentially protection. Licensee agrees that the escrowed materials shall be used exclusively for the maintenance of the licensed software and for no other purposes. Licensee agrees to make all persons working with such licensed escrowed material aware of the terms and conditions of the license and their liability for unauthorized use of the licensed escrow material.

## VI. TIME

Time is the essence of this Agreement.

## RIDER I

### MAINTENANCE AND SUPPORT SERVICES

#### HARDWARE AND SOFTWARE SUPPORT SERVICES

Innovative Interfaces shall provide the Hardware and Software Support Services as specified herein. Such services shall be provided based on the following monthly costs; calculated as .75% per month of the discounted cost of all maintained items except for telecommunications equipment which is calculated at 1.5% per month of the discounted cost.

Central processor	\$823.00
6 laser readers	79.00
22 barcode readers	106.00
12 portable terminals	236.00
UPS	23.00
Software	2,760.00
Telecommunications	1,320.00

Total Monthly Maintenance      \$5,347.00

- (i) Innovative Interfaces will make available maintenance and support services Monday through Friday 8:00 a.m. to 5:00 p.m. Pacific Time except on the following holidays:

New Year's Day  
Presidents' Day  
Easter Sunday  
Memorial Day  
Independence Day  
Labor Day  
Thanksgiving Day  
Christmas Day  
Weekday adjacent to Christmas Day

Remote telephone diagnostic service shall be provided Monday through Friday 5:00 a.m. to 10:00 p.m. Pacific Time, Saturday 7:00 a.m. to 6:00 p.m. Pacific Time, and Sunday 9:00 a.m. to 10:00 p.m. Pacific Time. An answering service may be used providing calls are returned within one hour.

Innovative Interfaces will make its best efforts to complete repairs within forty-eight (48) hours of notice excluding weekends and holidays. Such maintenance service does not include repairs or replacement parts due to damage caused by fire, lightning, tornado, windstorm, hail, earthquake, explosion, smoke, aircraft, motor

vehicle, collapse of building, strike, riot, power failure or fluctuation, or other cause originating by reason of other than normal operation of the equipment, or MARINet's negligence or misuse of the equipment. MARINet agrees, as part of such maintenance service, to take reasonable care of the equipment and not permit persons other than authorized representatives of Innovative Interface, Inc. to effect adjustments or repairs to the equipment.

- (ii) On reasonable notice and at Innovative Interfaces' expense, Innovative Interfaces may require MARINet to permit Innovative Interfaces to correct Software bugs and carry out modifications to the SYSTEM for the purpose of maintaining the SYSTEM. Innovative Interfaces will be responsible for all corrections at Innovative Interfaces' expense.
- (iii) MARINet will be informed of the release of new modules for the SYSTEM which may be acquired by MARINet from Innovative Interfaces at the then-prevailing market price. Upgrades to the Software shall be installed at no cost to MARINet. For the purpose of this document, the term "upgrades" shall mean improvements in the Software which relate to operating performance but do not change the basic function of the Software or the file size.

#### ADDITIONAL EQUIPMENT

If MARINet adds any additional Innovative Interfaces equipment to the SYSTEM after the initial installation, the Maintenance Agreement shall be extended to cover the new equipment. The maintenance charges for such equipment shall be based upon Innovative Interfaces' then-current maintenance price list. The ninety (90) day warranty shall commence on the date of installation by MARINet of such additional equipment. The additional equipment shall be added to the Maintenance Agreement after such warranty shall expire.

#### CANCELLATION

MARINet may cancel maintenance for any component upon ninety (90) days written notice to Innovative Interfaces except for maintenance on the central site equipment which may not be cancelled for five (5) years.

MARINet

By: Bob Roumiguere  
Robert Roumiguere  
Chair, Marin County Board of Supervisors

INNOVATIVE INTERFACES, INC.

By: G. M. Kline  
GERALD M. KLINE  
President

RIDER J

ADDITIONAL FUNCTIONS TO BE DELIVERED

PIN numbers in patron record for security - Release 9.  
Ability to automatically cascade paged item to next location after 72 hours - by Release 10.  
Ability to print multiple items on one bill notice - by Release 10.  
Scoping in OPAC - Release 9. (First load no charge.)  
Quick item discard function - Release 9.





## AGREEMENT

THIS AGREEMENT, made and entered into this 7TH day of December, 1993, by and between the COUNTY OF MARIN, a political subdivision of the State of California and acting as the fiscal agent for MARINet, hereinafter referred to as "County", and Theodora Toy, hereinafter referred to as "Contractor",

### WITNESSETH:

In consideration of the mutual promises as hereinafter contained, the parties hereto agree as follows:

1. Contractor shall perform those services outlined, during the time specified, in Exhibit "A" attached hereto and by this reference incorporated herein.
2. Contractor shall perform the services as aforesaid, in a manner compatible with the standards of Contractor's profession.
3. The parties hereto agree that Contractor (including Contractor's agents and employees) is not an agent or employee of the County of Marin but an independent contractor solely for employment.
4. County agrees to pay Contractor a sum not to exceed fifty thousand dollars (\$50,000.) for the rendering of the aforesaid services. Payment of fees to perform the services described in the Section X of the MARINet Joint Powers Agreement (attached) will be billed in monthly invoices received in a timely fashion for the period December 1, 1993 to November 30, 1994. The County will make payments to the Contractor upon receipt of the invoices representing the actual cost to the date of the invoice.
5. If litigation or administrative hearings ensue which pertain to the subject matter of Contractor's services hereunder, Contractor, upon request agrees to testify therein at a reasonable and customary fee.
6. It is specifically understood and agreed that Contractor is an independent contractor and is not subject to the direction and control of County except as to final result. Contractor shall be solely liable and responsible to pay all required taxes and other obligations, including, but not limited to, withholding and Social Security. Contractor agrees to indemnify and hold the County harmless from any liability which it may incur to the Federal or State governments as a consequence of this contract.



## EXHIBIT A

*from the MARINet*  
**JOINT EXERCISE OF POWERS AGREEMENT  
FOR OWNERSHIP, OPERATION, GOVERNANCE OF AN  
INTEGRATED ON-LINE SYSTEM**

### **X. DUTIES AND RESPONSIBILITIES OF THE PROJECT MANAGER**

A Project Manager shall be selected by the Governing Board for the installation and implementation phase of the project estimated to last two years. The Project Manager will be located at the central site and shall be accountable to the Governing Board. MARINet shall be responsible for the entire amount of compensation to the Project Manager as determined by the Governing Board and apportioned according to the cost sharing formula.

Marin County Free Library shall be the contracting agent for the Project Manager whose scope of work shall include :

- a. Report directly to the Governing Board.
- b. Exercise fairness of treatment to all members of this Agreement in overseeing the daily operations of the system and in all matters pertaining to the system.
- c. Coordinate the activities of central site staff subject to approval of the Governing Board.
- d. Coordinate and oversee migration and installation of the system.
- e. Act as prime contact and liaison between MARINet and the system vendor.
- f. Regularly review the operations of the system, evaluate system performance, develop plans and make recommendations to the Governing Board for any modifications, upgrades and new services.
- g. Coordinate training to participating libraries. Such training shall include, but not be limited to, training for a designated staff trainer in each participating library for the modules of circulation, online public access catalog, database management, and acquisitions. Training shall also be provided for designated staff trainers for new modules and releases.
- h. Develop, produce and maintain user manuals for each site.
- i. Enforce rules and regulations necessary to coordinate orderly use of the system by participating users.
- j. Develop, prepare and monitor MARINet's annual budget.
- k. Keep accounting of MARINet expenditures by jurisdiction.
- l. Purchase supplies, utilities, forms, reserve notices, paper, backup tapes and postage which may be required to operate the central site equipment.
- m. Maintain in good operating condition all central site equipment, including communications equipment, and peripheral equipment purchased from, and under maintenance contract with, the vendor.
- n. Maintain inventory of central site and peripheral equipment.
- o. Provide reports to the Governing Board on the status and performance of the system.

