September 28, 1998

Ms. Dawn Botstwick, Librarian
Nassau County Libraries
25 N. Fourth Street
Fernandina Beach, FL 32034

Dear Ms. Botstwick:

Please find a fully executed license and maintenance contracts package enclosed for your files.

We have also enclosed a "Uniform Sales & Use Tax Certificate - Multijurisdiction" which should be completed and returned.

The Delivery Support Group will start to work on the configuration of your system and, if they have not already called you, will be contacting you soon regarding the software you have licensed.

Thank you for selecting SIRSI as your library automation vendor, we look forward to a long and successful relationship. Should you have any questions please contact the undersigned at (256) 704-7000.

Sincerely,

Stephen G. McCafferty
Contracts Manager

enclosures: as stated

cc: Barbara Duffey, Karen Albright & Vicki Johns (Cover Letter Only), file

INSTRUCTIONS REGARDING UNIFORM SALES & USE TAX CERTIFICATE

To Seller's Customers:

In order to comply with the majority of state and local sales tax law requirements, the seller must have in its files a properly executed exemption certificate from all of its customers who claim a sales tax exemption. If the seller does not have this certificate, it is obliged to collect the tax for the state in which the property is delivered.

If the buyer is entitled to sales tax exemption, the buyer should complete the certificate and send it to the seller at its earliest convenience. If the buyer purchases tax free for a reason for which this form does not provide, the buyer should send the seller its special certificate or statement.

Caution to Seller:

In order for the certificate to be accepted in good faith by the seller, seller must exercise care that the property being sold is of a type normally sold wholesale, resold, leased, rented or utilized as an ingredient or component part of a product manufactured by buyer in the usual course of its business. A seller failing to exercise due care could be held liable for the sales tax due in some states or cities. Misuse of this certificate by seller, lessor, buyer, lessee, or the representative thereof may be punishable by fine, imprisonment or loss of right to issue certificate in some states or cities.

Notes:

2.   Alabama and Oklahoma hold a seller liable for sales tax due on any sales with respect to which an exemption certificate is found to be invalid, for whatever reason.

3.   Illinois and Maine do not have an exemption on sales of property for subsequent lease or rental.

4.   New Mexico will accept, in lieu of a nontaxable transaction certificate and as evidence of the deductibility of a specific transaction, this certificate only when the following conditions exist:

   a)   Both the seller and purchaser are located outside New Mexico;

   b)   The seller maintains sufficient nexus within New Mexico to be subject to the New Mexico gross receipts tax on its transaction in or into New Mexico;

   c)   The purchaser's activity within or into New Mexico does not create nexus for liability under either the gross receipts tax or as an agent for the collection of compensating tax; and

   d)   The purchaser requests that the seller deliver or "drop-ship" the tangible personal property to the purchaser's customer in New Mexico.

5.   Rhode Island and Wisconsin allow this certificate to be used to claim a resale exemption only when the item will be resold in the same form. They do not permit this certificate to be used to claim any other type of exemption.

6.   Texas: Items purchased for resale must be for resale within the geographical limits of the United States, its territories and possessions.

7.   Washington: A.   Blanket resale certificates must be renewed at intervals not to exceed four years;

               B.   This certificate may be used to document exempt sales of "chemicals to be used in processing an article to be produced for sale."

               C.   Buyer acknowledges that the misuse of the resale privilege claimed on the certificate is subject to the legally prescribed penalty of fifty percent of the tax due, in addition to the tax, interest, and any other penalties imposed by law.

Automated Library License Agreement

THIS AGREEMENT is made by and between the Parties, Sirsi Corporation, an Alabama corporation having its principal offices at 689 Discovery Drive, Huntsville Alabama USA 35806, (hereinafter referred to as "SIRSI"), and Nassau County Libraries, with offices at 25 N. Fourth Street, Fernandina Beach, FL 32034, (hereinafter referred to as "LIBRARY" or "the LIBRARY"), to establish the terms and conditions for provision of an automated Library System and services.

1   Interpretation-Definitions

1.1   "Agreement", "this Agreement", "herein", "hereof", "hereunder", and similar expressions refer to this Agreement and the SCHEDULES attached hereto and referred to within.

"Acceptance" means the LIBRARY accepts the Licensed Software in accordance with Clause 11 "Acceptance Test".

"Associated Documentation" means all standard materials (including manuals, programming aids, software related training materials and other relevant materials and documentation) provided by SIRSI and available for the Licensed Software.

"Contract Documents" means the documents referred to in Clause 3.1.

"Data Conversion" means:
   a.   analyzing data and data structures provided in machine independent format, as described in the "Unicorn Record Formatting Guide", to determine how data can be transferred into the appropriate Unicorn data loading format;

   b.   writing, testing and running the conversion programs that will transform the machine independent data format into appropriate Unicorn Specified Data Format;

   c.   providing quality control services to the resulting data conversion to verify that data converted properly into Unicorn Specified Data Format; and

   d.   identifying errors that occurred and reporting results.

"Delivery" means the deposit by SIRSI or its shippers of the Licensed Software at the Site.

"Designated Equipment" means the computer, comprised of its central processing unit (CPU), and its major peripherals listed in SCHEDULE "C-Designated Equipment", but excluding networking equipment and communication lines and computer equipment at the other end of such lines; and the usual and necessary operating system software provided with the equipment by its manufacturer or purchased by the LIBRARY.

"Installation Date" means the date on which the Licensed Software for the initial Library System is installed on the Designated Equipment and the initial on-site training is complete.

"License" means the License set forth in Clause 8 "License", granted by SIRSI to the LIBRARY for the use of the Licensed Software.

"License Fee" means the fee payable by the LIBRARY to SIRSI as specified in SCHEDULE "D-Payment Schedule & Summary of Costs" for use of the Licensed Software.

"Licensed Software" or "Software" means any software, provided by SIRSI under the terms of this Agreement consisting of a set of instructions or statements in machine readable medium, including its software related training materials, Associated Documentation and any addition, supplement, enhancement, modification or new release.

"Nonconformities", and/or "Error" means any function that is performed incorrectly or inconsistently by the Licensed Software which is not performing in substantial accordance with the specifications in the Contract Documents and which results in incorrect data or failure of the System to provide the correct response.

"Professional Services" means the services as may be specified in SCHEDULE "B – Professional Services" and performed by SIRSI personnel to provide the LIBRARY with training and project management services during implementation.

"System" means the total complement of the server and client Licensed Software provided under the terms and conditions of this Agreement and the Designated Equipment which operates as an integrated group.

"Site" means the location designated in SCHEDULE "E – Installation Timetable, Site and Manner of Installation" for Delivery of the Licensed Software.

"Unicorn Specified Data Format" means machine-readable records in MARC, COSATI, or SIRSI defined ASCII format as defined in the

Unicorn Record Formatting Guide, which are to be supplied on 4mm or 8mm tape. If MARC records contain item holdings information, the input format for the holdings must conform to the SIRSI standard.

1.2   Words importing a gender include any other gender.

1.3   A reference to a SCHEDULE is a reference to a SCHEDULE in this Agreement. A reference to a Clause is a reference to a Clause in this Agreement.

1.4   Words importing the singular include the plural and vice-versa.

1.5   Headings and titles used in this Agreement are for reference purposes only.

2   Scope of Agreement

2.1   SIRSI agrees to supply and install the Licensed Software as specified in the Contract Documents and listed in SCHEDULES "A – Licensed Software (including Associated Documentation)", and to grant the LIBRARY a non-transferable, non-exclusive License, in accordance with the terms and conditions of Clause 8 "License", of this Agreement, to use the Software on the Designated Equipment.

3   Contract Documents

3.1   The Contract Documents are:

3.1.1   The requirement specifications set forth in the LIBRARY's Request for Proposal ("the RFP");

3.1.2   SIRSI's proposal in response to the RFP ("the Proposal"); and

3.1.3   This Agreement including the attached SCHEDULES.

Each of these documents is incorporated herein by reference and shall constitute a part of this Agreement. In the event of any conflict, in the specifications or obligations created by these documents, the governing precedence of understandings and modifications (i.e., exceptions, clarifications, additions or deletions) shall be determined in the following order of priority:

1. This Agreement
2. The Proposal
3. The RFP

There shall be no binding oral commitments.

4 Duration of Agreement

4.1   This Agreement commences on the date of execution by the Parties and will (with the exception of the date processing functions warranted under Clause 16.2 "Year 2000 Warranty") continue until expiration of the Software Warranty Period, and payment in full of all fees and charges unless, if appropriate, terminated earlier by either Party pursuant to Clause 17 "Termination for Cause" of this Agreement.

4.2   The following Clauses;

    1 "Interpretation-Definitions"
    6 "Documentation"
    8 "License",
    14 "Confidentiality",
    15 "Intellectual Property Rights",
    17 "Termination for Cause"
    18 "Exclusive Remedies and Limitations of Liability",
    19 "Ownership of Data,
    24 "Publicity", and
    26 "Governing Law"

shall survive expiration or termination of this Agreement and will remain in effect for so long as LIBRARY retains possession of the Software, its Associated Documentation and training materials, and/or either Party has confidential materials obtained from the other Party under this Agreement.

5 Designated Equipment

5.1   The LIBRARY may use the Software only on the Designated Equipment listed on SCHEDULE "C-Designated Equipment". SIRSI will provide compatible code that will compile and run on the Designated Equipment when configured to SIRSI's specifications.

5.2   SIRSI shall provide the LIBRARY a pre-installation guide, which contains cable specifications and environmental requirements for Designated Equipment and parameter options required for the Software.

6 Documentation

6.1 SIRSI, at no additional cost, will supply the LIBRARY one copy of the Associated Documentation for each System licensed by the LIBRARY.

6.2 The LIBRARY may photocopy or otherwise reproduce SIRSI developed Associated Documentation and training materials for the LIBRARY's internal uses only. The LIBRARY agrees that all included SIRSI markings and statements of confidentiality and copyright shall be included on each copy. The LIBRARY acknowledges and agrees that any third party documentation supplied by SIRSI, which is marked with such third parties confidential and/or copyrighted materials, shall not be copied or reproduced in any manner.

6.3 The LIBRARY agrees that all training and procedural materials provided by SIRSI in conjunction with the Software shall remain the property of SIRSI or their relevant third party provider.

7 License Fee, Taxes and Other Payments

7.1 SIRSI will submit invoices for Software and Professional Services and other services. The LIBRARY shall make payments in accordance with payments and corresponding milestones as detailed in SCHEDULE "D-Payment SCHEDULE & Summary of Costs". Payments shall be submitted to SIRSI within 30 days from receipt of an invoice.

7.2 The LIBRARY shall pay any and all State and Local taxes with respect to the acquisition of the Software or any part thereof, if such taxes are or become applicable, and agrees to indemnify SIRSI with respect to any liability or expense incurred by SIRSI with respect thereof. The LIBRARY will provide SIRSI a copy of the LIBRARY's tax exempt certificate, if applicable, upon execution of this Agreement.

8 License

8.1 The LIBRARY acknowledges and agrees that, subject to the terms and conditions of this Clause 8 "License", SIRSI hereby grants to the LIBRARY and, the LIBRARY hereby accepts a non-transferable, non-exclusive License ("License"), under trade secrets and applicable USA copyrights, to use SIRSI provided Software on the Designated Equipment. All Software will be provided by SIRSI to the LIBRARY in machine-

readable object code only. The LIBRARY acknowledges that by virtue of this License, the LIBRARY acquires only the right to use the original and permitted duplicate copies of the Software and does not acquire any rights of ownership in the Software and Associated Documentation. Ownership, title and all proprietary rights shall at all times remain with SIRSI or their relevant third party provider.

8.2 This License shall remain in force until the LIBRARY ceases use of the Software and returns to SIRSI or destroys all copies (including Associated Documentation) of Software or until the LIBRARY's rights are otherwise terminated for cause as provided in Clause 17 "Termination for Cause" of this Agreement.

8.3 The LIBRARY may use the Licensed Software and related materials only on the server for which a license has been purchased and only to process the LIBRARY's own work. The Licensed Software or related materials may not be used as a part of a commercial time-sharing or service bureau or in any other resale capacity. The LIBRARY may extend online inquiry access of the Licensed Software to users and other libraries and third party entities without restriction.

8.4 In no circumstance shall the LIBRARY make available simultaneously, more than one instance of the application server Software, or more than the licensed number of concurrent users of the client Software to its staff or to the public, for production use.

8.5 The LIBRARY shall not reverse assemble, reverse compile, or modify the Software.

8.6 The LIBRARY may make one copy of the Software for the System, for back-up and archival purposes only. All such copies are subject to these licensing terms. No other copies of all or any part of the Software may be made without SIRSI's prior written consent.

8.7 The Licensed Software may be used on equipment other than the Designated Equipment if the Designated Equipment is temporarily inoperable. The Licensed Software shall not be run on more than one hardware platform at a time.

8.8 The LIBRARY may use the Licensed Software on equipment which replaces or upgrades the Designated Equipment if the Software can be operated without modification.

8.9 The LIBRARY shall not transfer, sub-license or assign, in whole or in part, the Software or any rights therein granted under the terms of this License.

8.10 This Clause 8 "License" establishes the sole understandings between the Parties regarding the licensing of Software. In the event of any conflict between the terms and conditions of this Clause 8 "License", and any other part of this Agreement (including documents referenced in this Agreement), that may effect interpretation of the understandings expressed in this Clause, this Clause shall control as if it was the singular expression of licensed rights.

9 Delivery

9.1 SIRSI shall deliver the Licensed Software to the LIBRARY no later than the date agreed in SCHEDULE "E- Installation Timetable, Site and Manner of Installation", at the Site during the LIBRARY's normal business hours.

10 Installation

10.1 SIRSI shall install the Software as specified in SCHEDULE "B – Professional Services and Other Services", in accordance with the mutually agreed Installation Timetable and in the manner specified in SCHEDULE "E- Installation Timetable, Site and Manner of Installation". All shipping and insurance of the Software or any part thereof to the Site shall be the responsibility of SIRSI, F.O.B. destination.

10.2 The LIBRARY may, thirty or more days prior to the Installation Date, postpone the Installation Date of the Software by serving SIRSI written notice to such effect. In such event, a new date will be established by the mutual agreement of the Parties.

10.3 If the Installation Date is delayed at the LIBRARY's request, payment shall be due at the times originally agreed as if the delay had not occurred (i.e., 30 days after initial training was scheduled to occur).

10.4 It is agreed that SIRSI shall provide the following data loading Services in accordance with SCHEDULE "G-Data Load Services Detail":

10.4.1 analyzing data received in Unicorn Specified Data Format for specification compliance, identifying errors and reporting results for return to the data conversion provider for correction;

10.4.2 determining appropriate loading parameters based on information provided by the LIBRARY;

10.4.3 executing the SIRSI data loading programs to load the LIBRARY supplied data into the database and using the loading parameters to build browsing and keyword indexes; and

10.4.4 verifying and reporting the resulting data load.
The LIBRARY will provide machine-readable records in Unicorn Specified Data Format.

10.5 If the LIBRARY contracts with SIRSI to provide Data Conversion Services from another automation vendor format into Unicorn Specified Data Formats, the LIBRARY will provide sample data files and record layouts of all records to be migrated. The data from the LIBRARY's on-line system files should be extracted from the system databases in machine independent ASCII fixed length fields and placed into a corresponding sequential file of ASCII fixed length data records. A quotation based on SIRSI's standard rates will be provided to the LIBRARY after analysis of the data. The LIBRARY may contract with SIRSI to provide the Data Conversion Services or may utilize alternate sources at the LIBRARY's sole discretion.

10.6 SIRSI shall specify parameters and assist and work with the LIBRARY for database preparation and loading, and the choice of options for functions and capabilities of the Software and its applications and modules.

11 Acceptance Test

11.1 The LIBRARY shall have thirty (30) days from the Installation Date ("Test Period") to test the Software on the Designated Equipment to confirm the Software functions in substantial accordance with the specifications set forth in the Contract Documents. The LIBRARY shall either notify SIRSI in writing that acceptance ("Acceptance") has occurred, or, that the Software has not been accepted, detailing the particular functions that are not in conformance with the Contract Documents. Upon such notification of any Nonconformities SIRSI, within sixty (60) days, shall demonstrate that the Software does properly function or shall correct such Noncomformities at its own expense and notify the LIBRARY when such corrections are complete. Upon installation of such corrected Software, the terms of this Clause 11.1 shall govern the retest. If the LIBRARY fails to notify SIRSI of either Acceptance or of any Noncomformities with the specifications within the, initial or if appropriate the subsequent, thirty (30) day Test Period, the

Parties agree that Acceptance shall, for all purposes of this Agreement, be considered to have been successfully accomplished.

11.2 The LIBRARY may terminate this Agreement by serving SIRSI written notice to that effect, if after the initial and subsequent Acceptance tests as described in 11.1 above, SIRSI is not able to correct the Nonconformities. If such termination occurs, SIRSI, as its sole liability, shall refund payments received under this Agreement for the Software and Professional Services within thirty (30) days after the LIBRARY has relinquished the licensed rights granted in this Agreement by returning the Software and Associated Documentation.

12 Training

12.1 SIRSI will provide training for operation and use of the Software by the LIBRARY's personnel, as set out in SCHEDULE "F- Training", at the mutually agreed upon times for the cost specified in SCHEDULE "D-Payment Schedule & Summary of Costs". Each class may contain up to ten trainees. The LIBRARY may purchase additional training at SIRSI's standard rates, subject to mutual agreement as to scheduling.

13 Insurance

13.1 During such time as SIRSI has personnel or agents on the LIBRARY's physical premises SIRSI will maintain in full force and effect the following insurance coverage:

A. Worker's Compensation;
   Full Worker's Compensation in compliance with applicable state statutes,

B. General Liability Insurance;

   SIRSI shall provide a policy of no less than one million dollars Single Limit per occurrence to include;

   General Liability Insurance,

   Personal Injury Liability.

13.2 SIRSI will provide a certificate of insurance within thirty (30) days of receipt of a written request from the LIBRARY.

14   Confidentiality

14.1   Each Party shall treat as confidential, information which is identified as confidential or which under the circumstances surrounding disclosure should be considered confidential and which comes into its possession pursuant to or as a result of or in the performance of this Agreement. Such information may relate to the business, sales, marketing or technical operations of either Party or the clientele of either Party or otherwise. These confidentiality requirements shall not apply if: at the time of disclosure by the receiving party the information is then in the public domain; the information is known to the receiving Party prior to, or is developed independently from, obtaining the same from the disclosing party; or, the information is obtained by the receiving Party from a third party whom the receiving Party reasonably believes has no obligation of confidentiality with respect thereto.

14.2   Neither Party shall, without the written permission of the other, disclose such confidential information to a third party.

14.3   The LIBRARY recognizes and agrees that all Software and upgrades of Software and Associated Documentation which are provided to the LIBRARY:

14.3.1 are considered by SIRSI to be trade secrets;

14.3.2. are furnished by SIRSI to the LIBRARY in confidence; and

14.3.3. contain proprietary and confidential information.

The LIBRARY agrees to hold all such Software and upgrades, additions and enhancements to the Software and Associated Documentation in confidence, at least to the same extent that it protects its own similar confidential information and to take all reasonable precautions to safeguard the confidentiality of such information. No portion of any update or enhancement to the Software or Associated Documentation may be disclosed, furnished, transferred or otherwise made available by the LIBRARY to any person except to those of its employees or agents who need to use such information in accordance with this Agreement.

14.4   The Parties acknowledge that either Party's breach of this Clause 14 would cause the other Party irreparable injury for which it would not have an adequate remedy at law. In the event of a breach, the non-breaching

Party shall be entitled to injunctive relief in addition to other remedies it may have at law or in equity.

15 Intellectual Property Rights

15.1 SIRSI warrants that the Software does not infringe any USA patent, registered copyright or registered trademark, that it has the full right to deliver to the LIBRARY the Software and, that the LIBRARY shall (subject to Clause 8 "License") have License to use the Software free from any lien, claims, charges (other than those set forth in SCHEDULE "D-Payment Schedule & Summary of Costs") or encumbrances.

15.2 SIRSI shall pay all copyright, patent or other royalties, if any, in respect of use of any software forming part of the Software which is owned by a third party.

15.3 If the use of the Software provided by SIRSI is alleged to violate any patent, registered copyright, trade secret or registered trademark, SIRSI shall provide and control defense by counsel of it's own choice and the LIBRARY shall cooperate with said counsel. SIRSI shall at its own expense, indemnify and hold harmless the LIBRARY from and against any claim, loss, expense or judgement finally adjudicated to be owed by the LIBRARY provided the LIBRARY:

15.3.1 promptly gives SIRSI written notice of any claim known to the LIBRARY;

15.3.2 provides all reasonable assistance to defend against the claim;

15.3.3 has not breached any provision of this Agreement;

15.3.4 has not modified the Software.

15.4 SIRSI shall have no obligation to defend the LIBRARY or to pay costs, damages or attorney's fees for any claim based upon:

15.4.1 use of other than a current unaltered release of the Software if such an infringement would have been avoided by the use of a current unaltered release of the Software; or

15.4.2 the combination, operation or use of the Licensed Software with software or data not provided under this Agreement.

15.5 Without limiting the generality of Clauses 15.1 through 15.4, if it is determined by any independent tribunal or court of fact or law or if it is agreed between the Parties to the dispute that an infringement of the Software by itself and used in accordance with this Agreement, infringes any USA patent, registered copyright, trade secret or registered trademark, SIRSI shall at its own expense:

15.5.1 modify or replace the Software so that such infringement, is removed; or

15.5.2 procure for the LIBRARY the right to continue enjoying the benefit of this Agreement; or

15.5.3 if the solutions in this Clause 15.5.1 or 15.5.2 cannot be achieved or are not practical in the reasonable opinion of SIRSI, then SIRSI may discontinue and terminate the License upon written notice to the LIBRARY, and shall refund to the LIBRARY the unamortized portion of the License Fee, based upon five year straight-line depreciation, such depreciation to commence on the Acceptance of the Software.

16 Warranties

16.1 Software Performance Warranty

16.1.1 SIRSI warrants that the Software shall perform in accordance with the Contract Documents. SIRSI will provide to the LIBRARY any amendments or alterations to the Software that may be required to correct Errors present at the time of delivery of the Software and which significantly affect performance. This warranty is contingent upon the LIBRARY advising SIRSI of such Errors, in accordance with SIRSI'S prescribed reporting procedures.

16.1.2 This Warranty shall commence upon the Installation Date of the Software and shall continue for a period of twelve (12) months (the "Software Warranty Period").

16.2 Year 2000 Warranty

16.2.1 Without limiting its other warranties under this Agreement or otherwise, provided the operating system by the equipment manufacturer supports the Year 2000, SIRSI warrants that from installation of the Software until March 31, 2000 (the "Year 2000 Warranty Period") that:

16.2.1.1 the Software will provide full functionality and operate without adverse effect with respect to each of the following dates ("the Critical Dates"): 9 September 1999, 31 December 1999, 1 January 2000 and with respect to dates after 1 January 2000;

16.2.1.2 the Software has specifically been designed and programmed to ensure that the Software will provide full functionality and operate without adverse effect with respect to each of the Critical Dates;

16.2.1.3 the Software has been specifically and comprehensively tested to ensure it will provide full functionality and operate without adverse effect with respect to each of the Critical Dates;

16.2.1.4 SIRSI shall ensure that all modifications or additions to the Software it provides to the LIBRARY (including upgrades and new releases) comply with the warranties in Clauses 16.2.1.1 through 16.2.1.3.

16.2.2 The LIBRARY shall ensure that all modifications or additions to the operating system supplied by the equipment manufacturer (including upgrades and new releases) provide for support for the Year 2000. In addition, the LIBRARY shall ensure that all software (including operating system software) not provided by SIRSI which exchanges date data or information with the SIRSI provided Software will utilize date capturing, processing and transfer formats, protocols and methodologies compatible with SIRSI's.

16.3   SIRSI's provision of Warranty services described in this Clause 16 will be provided remotely, during SIRSI normal business hours of operation, for the duration of the Software Warranty Period. SIRSI may provide Software releases which contain corrections of the Errors discovered during the Warranty.

16.4   The above Software Performance Warranty and Year 2000 Warranty are contingent upon proper use of the Software and shall not apply if the LIBRARY:

16.4.1 modifies the Software, or

16.4.2 deviates from the Software operating procedures described in the Associated Documentation, or

16.4.3 violates any of the License or Confidentiality provisions hereunder, or

16.4.4 has connected equipment or is operating software, not furnished by SIRSI and, which adversely affects the performance of the Software, or

16.4.5 refuses or fails to install or load Software corrections or releases provided by SIRSI to correct an Error.

16.5 During the Software Warranty Period and the Year 2000 Warranty Period (for Year 2000 date processing Errors), the LIBRARY shall have the right, as its sole remedy, to return any of the Software modules for a refund of the License Fees paid for the defective software module if SIRSI is unable to correct any Errors which significantly affect performance.

16.6 The LIBRARY agrees to reimburse SIRSI on a time-and-material basis for any warranty claim(s) under this Clause 16 which, upon investigation, is determined not due to Nonconformities of the Software.

16.7 THIS CLAUSE 16 "WARRANTIES" REPRESENTS SIRSI'S ENTIRE OBLIGATION FOR WARRANTING THE SOFTWARE AND RELATED DELIVERABLES AND SIRSI DISCLAIMS, TO THE EXTENT PERMITTED BY LAW IN THE APPROPRIATE JURISDICTION, ALL OTHER WARRANTIES EXPRESS OR IMPLIED, INCLUDING BUT NOT LIMITED TO, ALL WARRANTIES OF MERCHANTABILITY AND FITNESS OF PURPOSE.

17   Termination for Cause

17.1. The LIBRARY may terminate this Agreement for cause if:

17.1.1 SIRSI fails to fulfill its obligations to deliver and install the Software, or

17.1.2 the Software, when installed, does not obtain Acceptance, as set forth in Clause 11 "Acceptance Test"; or

17.1.3 SIRSI is in material default of any covenant, representation, and/or warranty provided herein.

17.1.4 Upon the occurrence of any of the events of this Clause 17.1, the LIBRARY may upon 30 days notice to SIRSI specifying SIRSI's

default, terminate this Agreement, if SIRSI has not remedied such default within the said 30 day period.

17.2 SIRSI may terminate this Agreement for Cause upon serving notice if the LIBRARY:

17.2.1 fails to pay any sum payable to SIRSI by the due date specified in SCHEDULE "D – Payment Schedule & Summary of Costs" and fails to make the payment within 30 days of receiving written notice from SIRSI requiring the payment, or

17.2.2 violates any provision of the License as set forth in Clause 8 "License" herein or any provision of confidentiality as set forth in Clause 14 "Confidentiality" herein or is in material default of any other covenant representation and/or warranty provided herein.

17.3 The LIBRARY agrees that they will either, within five (5) business days of the termination of this Agreement (howsoever occasioned), discontinue the use of all Software and related materials, and return all copies to SIRSI, or if so requested by SIRSI, destroy, the original and all copies of the Software (including its Associated Documentation) and confirm such to SIRSI in writing within 30 calendar days.

17.4 Termination of this Agreement shall not relieve either Party of any payment or other obligations under this Agreement, including without limitation the Parties' respective obligations to protect Confidential Information and the LIBRARY's obligations under Clause 17.3 of this Agreement.

18 Exclusive Remedies and Limitations of Liability

18.1 The entire liability of SIRSI and its affiliates and subcontractors, (and the Directors, Officers, Employees, Agents, Representatives, Subcontractors and Suppliers of all of them) and the Libraries exclusive remedies for any product defect or failure, or arising from the performance or non performance of any work or service, regardless of the form or action, whether in contract, tort, including negligence, strict liability or otherwise, shall be:

18.1.1 for infringement, the remedies stated in Clause 15 "Intellectual Property Rights",

18.1.2 for damages to real or tangible personal property or bodily injury or death to any person for which SIRSI's sole negligence was the

proximate cause, the LIBRARY's sole remedy shall be the right to proven damages to property or person.

18.2 For claims other than set forth above, SIRSI's liability shall be limited to the amount paid to SIRSI.

18.3 No claim, regardless of form arising out of this Agreement may be brought by the LIBRARY more than the greater of two years or the minimum period allowed by law after the cause of action has occurred.

18.4 NEITHER SIRSI NOR THE LIBRARY IS LIABLE TO THE OTHER FOR INDIRECT, INCIDENTAL, CONSEQUENTIAL OR SPECIAL, LOSS OR DAMAGE, HOWEVER CAUSED, EVEN IF THEY HAD BEEN ADVISED, KNEW OR SHOULD HAVE KNOWN OF THE POSSIBILITY OF SUCH LOSS OR DAMAGE.

19 Ownership of Data

19.1 SIRSI disclaims ownership of all bibliographic, authority, item, fine, patron, and other data loaded to, created and/or entered into the database of the LIBRARY or supplied to SIRSI by the LIBRARY. SIRSI shall not without the LIBRARY's written consent, copy or use such records except to carry out the contracted work, will not transfer such records to any other Party not involved in the performance of this Agreement, and will return submitted records to the LIBRARY upon completion of the work hereunder.

20 Maintenance

20.1 LIBRARY may obtain upon request, continuing services for corrective maintenance of the Software, after expiration of the Software Warranty Period, by a separately executed, then current SIRSI maintenance agreement which can be provided upon request.

20.2 SIRSI will provide the LIBRARY with one copy of such additional Associated Documentation or revisions of existing Associated Documentation as are developed in relation to the Software while the LIBRARY has a software maintenance agreement in effect with SIRSI. Where such documentation is furnished without charge by SIRSI to other licensees under the same version SIRSI maintenance agreement as in place with the LIBRARY, it shall be furnished without charge to the LIBRARY.

Where it is not made available without charge to other licensees, SIRSI shall offer it to the LIBRARY at its then standard rates.

20.3 SIRSI will, upon request under a then current SIRSI software service agreement, provide the LIBRARY any and all new releases of the Software as such new releases become generally available to other SIRSI customers who are under such current software service agreement. When such release is requested:

    20.3.1 SIRSI will deliver and assist the LIBRARY in installing the new release at no additional charge to the LIBRARY;

    20.3.2 The new release shall be considered Software and governed by the License terms set forth in Clause 8 "License" of this Agreement.

21 No Waiver

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

22 Force Majeure

22.1 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. This includes, but is not limited to, compliance with any Government law or regulation, acts of God, fires, strikes, lockouts, national disasters, wars, riots, transportation problems, and/or 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.

23 Assignment

23.1 Neither Party may assign or otherwise transfer this Agreement (except as set forth in 23.2), by operation of law or otherwise, without the prior written consent of the other Party.

23.2 SIRSI may assign this Agreement and its rights and obligations hereunder, without the approval of the LIBRARY, to a successor by operation of law, or by reason of the sale or transfer of all or substantially all of its stock or assets to another entity .

24 Publicity

24.1 SIRSI agrees to submit to the LIBRARY all press release, advertising, sales promotion, and other publicity matters related to any product furnished by SIRSI to the LIBRARY wherein the LIBRARY's name is mentioned, excluding the SIRSI customer list and newsletter. SIRSI shall not publish nor knowingly permit to be published any such material without the prior written consent of the LIBRARY.

25 Severability

25.1 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.

26 Governing Law

26.1 The laws of the LIBRARY's State shall be used to interpret this Agreement. In case of a dispute, the Parties shall, where reasonably practicable, seek mutual agreement to submit to mediation.

27 Nondiscrimination

27.1 Neither SIRSI, nor any officer, agent, employee, or subcontractor of SIRSI shall discriminate in the treatment or employment of an individual or groups of individuals on the grounds of race, color, religion, national origin, age, sex or physical handicap, either directly, indirectly or through contractual or other arrangements

28   Agreement Extension and Modification Clause

28.1   This Agreement may be modified or extended in accordance with the following procedures. In the event that the Parties to this Agreement agree that such changes are of a minor and nonmaterial nature, such changes may be effected by a written statement which describes the situation and is signed by authorized representatives of both Parties. In the event that the changes are determined by either or both Parties to this Agreement to be of a major or complex nature, then the changes shall be by formal amendment of this Agreement signed by the Parties and made a permanent part of this Agreement.

29   Entirety of Agreement

29.1   Any additional or different terms which may be contained in any document furnished to SIRSI by the LIBRARY are hereby objected to and rejected, and SIRSI's entering into this Agreement with the LIBRARY shall not be considered an acceptance of any such additional or different terms. This Agreement, including it's referenced documents and SCHEDULES (A through H), is the complete expression of the Parties' agreement and supersedes all prior negotiations and agreements.

30   Notices

30.1   Notices under this Agreement may be delivered by hand, by mail or by facsimile to the addresses specified in SCHEDULE "H- Address for Notices".

30.2   Notice will be deemed given:

30.2.1 in the case of hand Delivery, upon written acknowledgement of receipt by an officer or other duly authorized employee, agent or representative of the receiving Party;

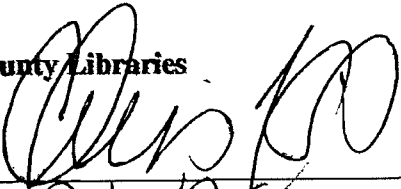30.2.2 in the case of posting, three days after dispatch;

30.2.3 in the case of facsimile, upon completion of transmission.

31   Non Collusion

    31.1   SIRSI warrants that any proposal submitted to the LIBRARY has not been directly or indirectly induced or solicited in conjunction with any other proposer to put in a sham proposal or in any other way whatsoever in any manner sought to secure by collusion an advantage over any other proposer or proposal.

In witness whereof the Parties have executed this Agreement on the date last written below.

Nassau County Libraries

By: _____

Date: _____

Name: ___Chris Kirkland___

          Chairman
Title: ___Board of County Commissioners___
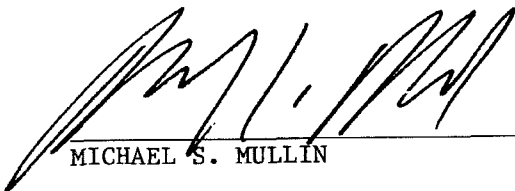
ATTEST:

_____
J. M. Oxley, Jr.
Ex-Officio Clerk

SIRSI Corporation

By: _____

Date: _September 28, 1998_

Name: _Stephen G. McCafferty_

Title: _Contracts Manager_

4/17/98 SW001A

Approved as to form by the
Nassau County Attorney:

_____
MICHAEL S. MULLIN

SCHEDULE A
Licensed Software (including Associated Documentation)

PART 1: Server Software

Bibliographic and Inventory Control	$ 15,750.00
Z39.50 Compliant Catalog	included
Authority Control	3,650.00
Acquisitions	7,525.00
Enhanced Public Access w/Information Desk, Reference Librarian & Dial-up	3,765.00
Request Module	included
Circulation Control	7,525.00
Information Gateway	3,765.00
Native Language Screen	included
MARC Bibliographic Import/Export Utility	included
MARC Authority Import Utility	included
ASCII Patron Records Loader	included
Report Writer/Generator	included
(01) Set CD-ROM User Documentation	included
UNICORNOASIS SERVER SOFTWARE	41,980.00

PART 2: Concurrent use Software

WebCat World Wide Web Access Catalog	15,000.00
WorkFlows w/ Z39.50 for Windows (10 @ $350)	3,500.00
SmartPORT Cataloging Client (1 @ $1,250)	1,250.00
UNICORNOASIS CLIENT SOFTWARE	19,750.00
TOTAL UNICORNOASIS SOFTWARE INVESTMENT	**$ 61,730.00**

SCHEDULE B - Professional Services and Other Services

Professional Services:

MARC Bibliographic Records Loading/Indexing (Note 1)	3,000.00
DRA Loading Services	3,375.00
MARC Authority Records Loading (Note 1)	3,000.00
Patron Records Loading*	600.00
Software Configuration and Project Management (Note 2)	5,000.00
On-site Education (including expenses) 1 Week (5 days) (Note 3)	6,125.00
System Administration Training, per person (4 days) (expenses not included)	900.00
TOTAL PROFESSIONAL SERVICES INVESTMENT	**$ 22,000.00**

Note 1: Assumes machine-readable records in MARC, COSATI, or SIRSI defined flat ASCII format. Records to be supplied to SIRSI on ¼" cartridge, 4mm tape, 8mm tape, or 1600/6250bpi 9-track tape. If MARC records contain item holdings information, the input format for the holdings must conform to the standard format for holdings entry provided by the source utility (e.g. OCLC, Bibliofile, etc.).

If the Library wishes SIRSI to migrate data from another automation vendor into SIRSI's data formats, SIRSI will require sample data files and record layouts of all records to be migrated. The data from the on-line library system files should be extracted from the on-line system databases into machine independent ASCII fixed length fields and placed into a corresponding sequential file of ASCII fixed length data records. Prices will be quoted after receipt and analysis of the data.

Note 2: Project Management Team includes Project Coordinator, Database Specialist, System Engineer, and Trainer. This team is responsible for all Unicorn software setup, configuration assistance, policy generation, and networking consultation.

Note 3: On-site services includes expenses.

SCHEDULE C - Designated Equipment

Intentionally left blank

SCHEDULE D - Payment Schedule & Summary of Costs

The Payment Schedule is as follows:

45% of total system price when Agreement is signed.

50% of total system price upon completion of installation and initial on-Site training

5% of total system price thirty days after completion of installation and initial on-Site training.

Summary of Costs

TOTAL UNICORNOASIS SOFTWARE	$ 61,730.00
TOTAL PROFESSIONAL SERVICES	$ 22,000.00
TOTAL LIBRARY SYSTEM INVESTMENT	**$ 83,730.00**

SCHEDULE E - Installation Timetable, Site and Manner of Installation

A mutually agreed detailed implementation schedule and Installation Date will be developed within ten days of all parties executing this Agreement. Such mutually agreed implementation schedule shall be referenced as Schedule E and become part of this Agreement.

SCHEDULE F - Training

Training/Education is provided in five day sessions.

All training is at the Library's Site, unless classes are provided at SIRSI's facilities as noted on Schedule B.

Charges noted in Schedule B, for on Site training includes travel and travel related expenses, unless otherwise noted on Schedule B.

Each on Site class provides hands on training for up to ten individuals.

SCHEDULE G - Data Load Services Detail

DESCRIPTION (Pricing on Schedule B,)

SIRSI will receive and process DRA MARC bibliographic records with holdings information attached for the initial system load.

SIRSI will receive and process authority records as part of the initial system load.

SCHEDULE H - Address for Notices

The Library:

> Nassau County Library
> 25 N. Fourth Street
> Fernandina Beach, FL 32304
> Attn: Dawn Botstwick
> Phone: (904) 277-7367
> FAX: (904) 277-7366

SIRSI:

> Sirsi Corporation
> 689 Discovery Drive
> Huntsville, Alabama 35806
> Attn: Contracts
> Phone: (205) 922-9820
> FAX: (205) 922-9818

Software Services Agreement

THIS AGREEMENT is made by and between the Parties, Sirsi Corporation, an Alabama corporation having its principal offices at 689 Discovery Drive, Huntsville Alabama USA 35806, (hereinafter referred to as "SIRSI"), and Nassau County Libraries, 25 n. Fourth Street, Fernandina Beach, FL 32034, (hereinafter referred to as "LIBRARY" or "the LIBRARY") to establish the terms and conditions for provision of software maintenance services for the SIRSI automated Library System.

Section 1. Definitions

"Down System Errors" means the Software is completely inoperable, is unable to correctly search the library catalog or, is unable to perform critical circulation functions such as: (i) charging or discharging materials; (ii) adding, editing, or clearing patron charges or fines; or, (iii) placing or assigning holds.

"Other Support Errors" means the Software is capable of productive operation but has intermittent critical function errors, errors which require human intervention to correct or is unable to perform non-critical functions.

"Software" means software provided by SIRSI which is listed in the attached Exhibit "A" and maintained under the terms and conditions of this Agreement. The Software is an integrated library system; therefore all modules licensed must be on the same revision level.

"Software Updates" or "Updates" means an on-line insertion by SIRSI of code or a software release, which contains, temporary or final modified code to correct errors, malfunctions or unstable functions in the Software and, which affect the Software's ability to perform in substantial accordance with its published specifications. Software Updates may contain minor functional enhancements.

"Software Upgrades" or "Upgrades" means a complete reissue of the Software which contains functional enhancements and may contain the final code modifications to correct errors, malfunctions or unstable functions in the Software and, which affect the Software's ability to perform in substantial accordance with its published specifications. Software Upgrades may occasionally require additional computer hardware to accommodate the enhanced capabilities.

Section 2. Term.

The term of this Agreement shall commence on __9/28__, 199_8_ shall continue for one year from such commencement date and shall be automatically renewed for successive one year periods unless notice of non-renewal is received, by either party from the other, not less than thirty (30) days prior to the end of the then current one year period.

Section 3. Service Fees.

The LIBRARY agrees to pay for the services hereunder at the rates on the attached Schedule "A" ("Service Fees").

Section 4. Taxes and Duties.

The LIBRARY agrees to pay any taxes arising out of this Agreement, with the exception of taxes based on SIRSI's net income.

Section 5. Coverage.

5.1   During the term of this Agreement and subject to the disclaimers set forth in Section 7. "Limitation of Liability", SIRSI will provide support by periodically supplying the LIBRARY with Software Update or Upgrade releases which contain corrections to Software nonconformities or errors. SIRSI will furnish such releases (including one copy of the related documentation when appropriate) for installation and loading by the LIBRARY. Upgrades must be installed separately and sequentially. Should the LIBRARY require assistance in installing or loading Updates or Upgrades, SIRSI personnel will be available during normal Service hours for consultation. If the LIBRARY identifies any errors, malfunctions or defects in the Software, SIRSI should be notified in accordance with SIRSI's reporting procedures, detailed in the Customer Service Handbook.

5.2   Although acceptance and installation is strongly advised, the LIBRARY at its option may accept or reject the installation and use of each Software Update or Upgrade. The LIBRARY shall be responsible for costs associated with the purchase, installation and maintenance of additional computer hardware necessary, if any, to accommodate an Upgrade when installed.

When the LIBRARY accepts a Software Update or Upgrade, SIRSI will provide the LIBRARY the necessary installation software to enable installation by the LIBRARY. SIRSI personnel will be available during normal Service Hours for consultation should the LIBRARY encounter difficulty during installation.

If the LIBRARY elects to not install or to delay installation of a Software Update or Upgrade, the LIBRARY acknowledges and agrees that:

5.2.1   Subsequent Software Upgrades cannot be installed until the bypassed Upgrade has been installed, and

5.2.2   SIRSI has no obligation to correct errors, malfunctions or defects in the Software for which corrections or remedies were included in

a Software Update or Upgrade which has been rejected or delayed by LIBRARY and

5.2.3 SIRSI has no obligation to continue services under this Agreement or renewal of this Agreement, when two (2) consecutive Software Upgrades have been bypassed.

5.3 SIRSI will provide DirectLINE remote diagnostics service via phone or fax or email and shall reasonably determine the priority level of an error. SIRSI shall use the following protocols:

5.3.1 Down System Errors: SIRSI shall acknowledge Down System calls within one (1) Service Hour from the time that the call was placed during Service Hours. In addition, SIRSI shall promptly initiate the following procedures:

5.3.1.1 assign SIRSI specialists to correct the error,

5.3.1.2 provide ongoing communication on the status of the corrections; and,

5.3.1.3 commence to develop a workaround or a fix and provide such workaround or fix as soon as it is available.

5.3.2 Other Support Calls Errors: SIRSI shall acknowledge other Support Calls within one (1) business day from the time the call was placed. SIRSI shall provide a fix or workaround as soon as practical, but not later than the next Software Upgrade.

5.3 The LIBRARY agrees to provide SIRSI with audit trails and other data, and with LIBRARY personnel in order to support and perform tests on the LIBRARY's computer system to duplicate the problem and to verify that the error has been fixed.

Section 6. Hours.

Service hours ("Service Hours") are Monday through Friday from 7:00 a.m. to 7:00 p.m., Central Time zone, excluding the following holidays recognized by SIRSI:

New Years Day
Memorial Day
Independence Day
Labor Day
Thanksgiving (2 days)
Christmas Eve
Christmas Day

Section 7. Limitation of Liability.

The LIBRARY's exclusive remedy for any defect in the Software, for which SIRSI is responsible, shall be to repair or replace the Software as described above. However, SIRSI cannot guarantee that all programming or database errors can be corrected.

Furthermore, SIRSI is not obligated to correct, cure or otherwise remedy any defect in the Software if the Software or a Software Update or Upgrade; has not been properly installed by the LIBRARY, is not operated and maintained under normal conditions by qualified personnel, is misused, is damaged, or is modified without SIRSI's consent, or if the LIBRARY has not notified SIRSI promptly upon discovery of a defect. SIRSI shall not in any event be liable for any loss of profits, incidental, special, exemplary or consequential damages to the LIBRARY, or claims or demands against the LIBRARY by any other party even if SIRSI has been advised of the possibility of such loss or damage.

EXCEPT AS EXPRESSLY SET FORTH IN THIS AGREEMENT, SIRSI DOES NOT MAKE ANY WARRANTY, EXPRESS OR IMPLIED, INCLUDING BUT NOT LIMITED TO WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE, WITH RESPECT TO THE SOFTWARE. SIRSI IS IN NO WAY RESPONSIBLE FOR AND MAKES NO WARRANTY, EXPRESS OR IMPLIED, WITH RESPECT TO THE OPERATING SYSTEM SOFTWARE FURNISHED IN CONNECTION WITH ANY HARDWARE ON WHICH THE SOFTWARE IS USED.

SIRSI is not responsible for delays or failure to perform resulting from acts or omissions beyond its control, failure of the LIBRARY to provide prompt and reasonable access to the equipment where the Software is resident, or from events, acts or omissions attributable to manufacturers of the media on which the Software is delivered to the LIBRARY.

Section 8. Travel Expenses.

SIRSI shall provide the support services herein via Tele-Maintenance DirectLINE or fax or Email. If the LIBRARY requests, and SIRSI agrees, that SIRSI provide services on-site under this Agreement, the LIBRARY will reimburse SIRSI for any travel or travel related expenses. (e.g., coach airfare to and from the LIBRARY's site, local transportation, lodging, and meals).

Section 9. Proprietary Rights.

Software Updates and Upgrades, software provided by SIRSI to enable installation of Updates or Upgrades, and any fixes and/or workarounds, which may be provided under this Agreement, shall remain the intellectual property of SIRSI. Any such programming and documentation provided under this Agreement shall be subject to the licensing terms, proprietary rights and restrictions contained in the agreement between SIRSI and the LIBRARY under which the LIBRARY's licensed rights for the Software were established.

Section 10. Termination.

In the event (i) of a breach by the LIBRARY of any of the LIBRARY's obligations hereunder; (ii) of a termination for any reason of the Automated Library License Agreement; or (iii) of any modification of the Software by or on behalf of the LIBRARY,
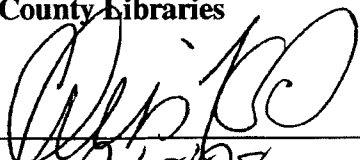
then, in addition to any other remedies available, SIRSI may, at its option, terminate this Agreement without any continuing obligation to LIBRARY.
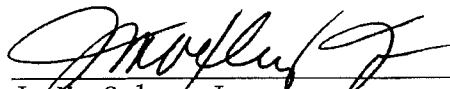

Section 11. General.

11.1 This Agreement shall be binding when accepted by both parties and will be governed by the laws of the LIBRARY's State.

11.2 No delay by SIRSI in exercising, or failure to exercise any right hereunder, and no partial exercise thereof shall be deemed to constitute a waiver of any rights granted hereunder or at law

11.3 The terms and conditions stated herein supersede all prior Agreements between parties relating to the subject matter of this Agreement. This Agreement may be changed or modified only in writing signed by SIRSI and LIBRARY.

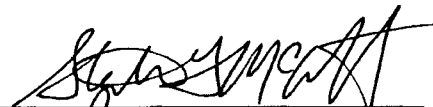In witness whereof the parties have executed this Agreement on the date last written below.

Nassau County Libraries

By: _____

Date: _____

Name: __Chris Kirkland__

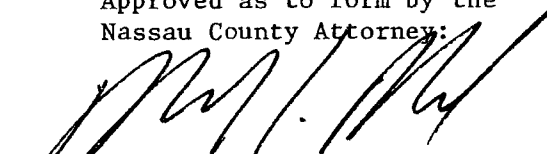Title: __Board of County Commissioners__
     Chairman

ATTEST:

J. M. Oxley, Jr.
Ex-Officio Clerk

SIRSI Corporation

By: _____

Date: September 28, 1998

Name: Stephen G. McCafferly

Title: Contracts Manager

Approved as to form by the
Nassau County Attorney:

Michael S. Mullin

SCHEDULE A
Software Maintenance Agreement

Bibliographic and Inventory Control

Z39.50 Compliant Catalog

Authority Control

Acquisitions

Enhanced Public Access w/Information Desk, Reference Librarian & Dial-up

Request Module

Circulation Control

Information Gateway

Native Language Screen

WebCat World Wide Web Access Catalog

WorkFlows w/ Z39.50 for Windows (10 @ $350)

SmartPORT Cataloging Client (1 @ $1,250)

included

First Year

Maintenance is

Included in

Purchase price

Second year Maintenance is approximately $9,973.00

SW.SCH001A