



OFFICE OF THE PRESIDENT
California Digital Library

1111 Franklin Street
Oakland, California 94607

CDL Digital Special Collections Services Service Agreement

California Digital Library (CDL) is part of the University of California (UC), a public university governed by the Regents of the University of California. CDL exists to support the UC community's pursuit of scholarship and to extend UC's public service mission. It is subject to policies promulgated by the UC Office of the President as well as policies specific to CDL, including the CDL Privacy Policy. A list of relevant policies, which may be updated from time to time, can be found on the CDL website.¹

CDL provides services to users inside and outside the UC community in support of the research life cycle. One of these groups of services is **OAC/Calisphere**, which supports collaboration between libraries, archives, and museums throughout the State of California to provide access to a world class digital collection that serves an array of end users, and includes

- Online Archive of California repository and website
- Nuxeo shared Digital Asset Management System
- UC Libraries Digital Collections (UCLDC) harvest service
- UCLDC Solr index API
- Calisphere website
- Digital Public Library of America (DPLA) distribution service
- optional preservation in the Merritt repository for content in Nuxeo.

To learn more about how these services work, how they relate to each other, and which ones are available to organizations beyond UC, visit the CDL website.² By using services which together comprise OAC/Calisphere, you (**Organization**) hereby agree to the terms and conditions below.

1. CDL Services

1.1. Service availability and support. CDL will make reasonable efforts to provide continuous service. CDL tracks downtime and will report past downtime on the CDL website on an annual basis. Organization recognizes that CDL services may occasionally be suspended or interrupted due to the installation or testing of software, server maintenance, and downtime related to the failure of equipment or services outside the control of CDL. Scheduled downtime is performed at a time to minimize inconvenience to Organizations, and CDL will provide advance notice to Organizations of scheduled downtime. CDL provides Organizations with instructional materials and help-desk support for the use of OAC/Calisphere.

1.2. Preservation of Organization content. For those OAC/Calisphere services that accept deposited content, CDL aims to provide the highest level of preservation for Organization's content, as defined by commonly-accepted community standards and best practices, that is consistent with the form, structure, and packaging of the managed digital content, the degree to which that content is

¹ <https://cdlib.org/about/policies-and-guidelines/>

² <https://cdlib.org/services/pad/>

accompanied by authoritative and comprehensive metadata, the availability of appropriate tools, and organizational priorities. Note that this implies a continuum of preservation outcomes dependent on the nature of the content submitted by the Organization and the nature of the service, although at a minimum, CDL is committed to providing bit-level preservation of all content. CDL can provide consultation and guidance on ways to acquire or create digital content in a manner that is most amenable to the highest level of future preservation service.

1.3. Notification of fees. OAC/Calisphere does not currently charge fees, for any of its constituent services. If in the future CDL determines that fees will be required for any aspect of OAC/Calisphere, CDL will attempt to provide at least six months notice before fees are due for new content or a new OAC/Calisphere service. If an Organization wishes to stop using OAC/Calisphere because some component is changing from a free service to one that charges fees, the Organization can notify CDL and work with CDL for the return of deposited content as described in Sections 4.2 and 4.3.

2. Organization responsibilities

2.1. Maintenance of communication. Organization will respond to CDL e-mail and phone calls, and CDL will respond to Organization e-mail and phone calls, within a reasonable time. Organization will notify CDL promptly when there are changes to Organization's contact information, or to other information about Organization - including its structure, staffing, or technical infrastructure - that is necessary for CDL to continue providing OAC/Calisphere services to Organization and end users effectively.

2.2 Rights of third parties. Organization agrees that its use of CDL services will not violate any laws, or the rights of third parties. For example, the Organization will not use CDL services in a way that: breaches the terms of donor contracts, causes infringement of any copyrights or trademarks, violates any proprietary rights or libel laws, or violates anyone's federal, state, or other privacy rights.

2.3. Other responsibilities. In some limited circumstances, such as when required by third parties that CDL works with to provide OAC/Calisphere services, additional Organization responsibilities may apply. Currently this applies only to the DPLA distribution service. Should other third party relationships arise, Organization will be notified using Organization's contact information provided in accordance with section 2.1.

3. What CDL can do with Organization's content

3.1. Actions necessary for preservation. Organization gives CDL permission to undertake any copying or distribution of Organization content that is appropriate to enable CDL to undertake its obligation to preserve Organization content as described in Section 1.2 above, including but not limited to format migration.

3.2. No commercial use. CDL does not sell Organization content, sell access to Organization content, or otherwise use Organization content in profit-generating activity without express permission from Organization.

3.3. Public access. Some OAC/Calisphere services preserve Organization content in either a dark archive (accessible only to Organization and to others designated by Organization but not to the public), or a publicly accessible bright archive. In such services, CDL respects Organization's instructions regarding who may access Organization content in CDL services.

3.4. Use of metadata. CDL may make unlimited use of the descriptive information accompanying publicly available content that Organization provides to CDL, including finding aids, provided that CDL retains the part of the description indicating that Organization is the source or owner of the content. This includes making metadata and finding aids available under a Creative Commons Public Domain Dedication (CC0). CDL makes reasonable efforts to comply with the UC Libraries Metadata Sharing

Policy³ and the CDL Privacy Policy⁴ when sharing this information. Content that Organization has instructed CDL to treat as sensitive or private will not be shared outside CDL, but CDL may make factual information describing that content available to the extent that such information can be shared without disclosing information Organization has instructed CDL not to disclose.

3.5. Response to legal demands. CDL responds to properly vetted records requests as described in the CDL Privacy Policy,⁵ to takedown requests that comply with the Digital Millennium Copyright Act (DMCA) as described in CDL's DMCA information,⁶ and to other requests as required by state and federal law and UC policy. CDL will notify Organization if Organization content is affected by or is the subject of such a demand.

4. This agreement

4.1. Modification. CDL may modify these terms from time to time. CDL will notify Organization at least 60 days before any modifications become effective.

4.2. Term and termination. This agreement will remain effective until terminated by Organization or CDL. Either CDL or Organization may terminate Organization's use of OAC/Calisphere, and agreement to these terms, with 60 days notice. Organization content deposited in OAC/Calisphere is subject to CDL's responsibilities described in section 4.3. In all cases, CDL will accommodate Organization requests to return a copy of Organization content deposited in OAC/Calisphere to Organization within a reasonable time. An export fee may be charged for providing such copies to Organization, in order to cover CDL's reasonable costs in providing the export. CDL is not obligated to continue preserving Organization content once a copy has been returned to Organization as a result of the termination of this agreement.

4.3. Disposition of certain content in the event of termination. Some OAC/Calisphere services are designed to provide long term or permanent preservation of deposited content without recurring fees. If conditions arise in which CDL decides to discontinue these Services, or begins charging for them as described in Section 1.3 leading to a decision by Organization to stop using them, CDL will attempt to contact Organization to arrange the return of content Organization has deposited with the relevant Service(s), or the transfer of Organization content to a new service provider, within a reasonable time. If CDL is unable to contact Organization after 60 days or Organization does not wish to have the content transferred, CDL will consider Organization's content abandoned. CDL will follow available commonly-accepted community standards and best practices to determine whether and how to find an alternative service to support abandoned Organization content.

5. Miscellaneous

5.1. Warranty disclaimer. CDL makes no representations or warranties with respect to any of its services or products, and disclaims any liability arising out of Organization's use of CDL services.

5.2. Limitations of Liability. Neither party shall be liable for any indirect, special, incidental, punitive or consequential damages arising out of Organization's use of CDL services pursuant to this Agreement. Liability for direct damages is limited to the dollar amount of the fee paid for the service.

5.3. Indemnification. Organization shall indemnify, defend, and hold harmless CDL, its officers, employees, and agents from and against any liability and damages, including any reasonable attorney's

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https://libraries.universityofcalifornia.edu/groups/files/sag2/docs/Final_UC_Libraries_Metadata_Sharing_Policy_May8_2015.pdf

⁴ <https://cdlib.org/about/policies-and-guidelines/privacy-policy/>

⁵ <https://cdlib.org/about/policies-and-guidelines/privacy-policy/>

⁶ <https://cdlib.org/about/policies-and-guidelines/terms-conditions/>

fees, that arise from the exercise of this Agreement. No limitation of liability set forth elsewhere in this agreement applies to this indemnification; further, this indemnification shall survive the termination of this agreement.

5.4. Execution. The parties agree that scanned versions of this originally executed Agreement are acceptable in lieu of originally signed copies and are to be given full force and effect under law.

I have the authority to enter into this agreement on behalf of the unit or institution I represent, and I agree to these terms.

Agreed and Executed on Behalf of Organization:

Organization's Authorized Representative:

Name: _____

Title: _____

Signature: _____

Date: _____

Email: _____

Phone: _____

Organization Name: _____

Organization Address: _____

MARC Organization Code: _____