

CONSORTIUM MEMBER AGREEMENT TEXAS TEXT EXCHANGE

This is an Agreement entered into on _____ between _____ ("the consortium member"), and Texas A&M University on behalf of Adaptive Technology Services ("ATS").

BACKGROUND

The Texas Text Exchange ("TTE") Consortium is an association of institutions for the purpose of sharing access to an online database of digital text information. All Consortium members must be non-profit, educational or government institutions entering this Agreement for the express purpose of providing alternate format texts for persons with disabilities as covered under § 121 of the U.S. Copyright Act and applicable regulations.

The purpose of the information contained in the TTE database is to accommodate students with disabilities.

The purpose of the Consortium is to provide specialized services related to training, education or adaptive reading or information access needs by blind persons or other persons with disabilities.

ATS is a service office within the Department of Disability Services at Texas A&M University. The primary purpose of ATS is to provide specialized technology and accessibility accommodations to students with disabilities who require alternative formats of their class materials. ATS is located on the College Station campus of Texas A&M University.

The term of this Agreement is one (1) calendar year from _____.

DEFINITIONS

1. Specialized formats means Braille, audio, or digital text which is exclusively for use by blind or other persons with disabilities.
2. Authorized entity means a nonprofit organization or a governmental agency that has a primary mission to provide specialized services relating to training, education, or adaptive reading or information access needs of blind or other persons with disabilities.
3. Blind or other persons with disabilities means individuals who are eligible or who may qualify in accordance with the Act entitled "An Act to provide books for the adult blind", 2 USC §135a, approved March 3, 1931 to receive books and other publications produced in specialized formats. The following people are eligible for such services as defined by the Library of Congress:
 - a) Blind person whose visual acuity, as determined by competent authority, is 20/200 or less in the better eye with correcting glasses, or whose widest diameter of visual field subtends an angular distance no greater than 20 degrees.
 - b) Persons whose visual disability, with correction and regardless of optical measurement, is certified by competent authority as preventing the reading of standard printed material.
 - c) Persons certified by competent authority as unable to read or unable to use standard printed material as a result of physical limitations.
 - d) Persons certified by competent authority as having a reading disability resulting from organic dysfunction and of sufficient severity to prevent their reading printed material in a normal manner.
4. Electronic text ("e-text") means a computer readable electronic file that duplicates a physical text such as a textbook. There are many types of e-text formats including but not limited to ASCII, RTF, HTML, SGML, and PDF.
5. Disability service provider ("DSP") means the primary staff member that is responsible for the qualification and provision of disability related services to students with disabilities at the consortium member's institution.
6. Competent Authority means a certifying individual with proper credentials to diagnose the disability in question as defined in 37 CFR §701.

TERMS OF THE AGREEMENT

1. *Adaptive Technology Services' Obligation*
 - A. ATS shall provide
 1. Web site for e-text distribution
 2. Consortium member training
 - ATS shall offer training sessions for consortium members that address the accessibility of the TTE, general procedures for creating e-texts and accommodating students with disabilities.
 3. Consortium member support
 - ATS shall provide consortium member support on the use of the TTE as questions arise.
 4. e-text acquisition
 - ATS creates e-texts upon request only for students enrolled at Texas A&M University - College Station. ATS will not take scanning requests from consortium members.
 - ATS (as a consortium member) shall make available its current e-text holdings to other consortium members through the TTE library.
 - All donated e-texts shall be available to all consortium members.
 5. Access management
 - ATS shall provide each consortium member a username and password. These security elements shall only be given to the DSP at the consortium member institution.

6. Documentation of procedures and protocols to consortium members
 - ATS shall provide procedures and protocols to each consortium member for proper use of the TTE.
 - ATS may revise these procedures regularly. Changes shall be disseminated to consortium members during regional information seminars in addition to being made available online via the TTE server, or via the TTE list server.
 - ATS may provide suggested additional procedures and protocols to each consortium member that may be used by the consortium member at its discretion.

- If any Consortium Member is unwilling to comply with any procedures and protocols, notice must be given to ATS, and the agreement may be terminated.

2. Consortium Member's Obligation

- A. The consortium member shall
 1. Establish Student requirements
 - The consortium member shall verify that students using texts from the TTE qualify as having a disability that is covered by 2 U.S.C. § 135a. Students' disabilities shall be verified by competent authority as defined in 37 CFR § 701.
 - **The consortium member shall require each student to own a physical copy of the textbook they are requesting in alternative format.**
 - The consortium member shall verify that all students using e-texts from the TTE are currently registered at their institution at the time of the student's request for alternative formats.
 2. Have a written Student Agreement that outlines the student's responsibilities. This Student Agreement shall be signed and kept on file at the consortium member's institution before distributing TTE e-texts to the student.
 - The Student Agreement must include a statement that the student will not copy or reproduce any of the specialized format texts, nor allow anyone else to do so.
 - The Student Agreement must include a statement that the specialized format texts are only for the student's own use.
 - ATS may provide sample Agreements
 3. Certify that these alternative format texts are provided at no charge (other than indirectly through standard academic service fees).
 4. Follow procedures and protocols outlined by TTE. These protocols and procedures shall be published on the TTE website and optionally distributed via e-mail to consortium members.
 5. Agree to keep their username and password secret. The username and password are distributed only to the DSP at the consortium member institution. It is the responsibility of the DSP to distribute the e-text files to the students.
 6. Assume responsibility for monitoring student access to and use of e-texts.
- B. The consortium members are encouraged but not required to contribute e-texts.
 - Consortium members are encouraged to upload e-texts that they have created for their students.
 - E-texts shall be created in the specialized formats that will be outlined in the procedures and protocols provided by the TTE.
 - Every work, which is reproduced in an e-text format, must include a notice that further reproduction without permission of the copyright holder is prohibited unless the reproduction is in a specialized format. The notice must identify the copyright owner and the date of the original publication.
- C. The consortium member is encouraged to seek legal counsel from their institutional General Counsel on the Texas Text Exchange and all applicable laws before entering this agreement due to the new area of law we are using.

BREACH AND DAMAGES

In the event of a material breach of this Agreement, nothing herein is a limitation on any remedies available to the injured party under applicable law.

MERGER

This Agreement signed by both parties constitutes a final written expression of all the terms of this Agreement and is a complete and exclusive statement of those terms.

SEVERABILITY

If any portion of this Agreement is found to be invalid, illegal, or unenforceable, the Agreement will be treated as if that portion had not been written. The rest of the Agreement will remain in effect.

MODIFICATION

Any modification or change of this Agreement must be made in writing and signed by both parties.

ASSIGNMENT

Neither party shall assign any right or interest in this Agreement without written permission of the other party.

DELEGATION

Neither party shall delegate any duty owed in this Agreement without the written permission of the other party.

WAIVER

Waiver by one party of a breach by the other party of any provision of this Agreement is not a waiver of future compliance with the provision, and the provision remains in full force and effect.

FORCE MAJEURE

Neither party shall be held responsible if the fulfillment of any term or provision of the Agreement is delayed or prevented by declarations of war or natural disasters.

CHOICE OF LAW

This Agreement is governed by the laws of the State of Texas.

<p>Member Institution Name</p> <p>_____</p>

<p>Disability Service Provider Information</p> <p>Signature: _____</p> <p>Printed Name: _____</p> <p>Date: _____</p> <p>Title: _____</p> <p>Address: _____</p> <p>City: _____</p> <p>State: _____ Zip: _____</p> <p>Email Address: _____</p> <p>Business Phone: _____</p>

<p>Authorized signer for member institution</p> <p>Signature: _____</p> <p>Printed Name: _____</p> <p>Title: _____</p> <p>Date: _____</p>

TEXAS A&M UNIVERSITY

 Adaptive Technology Services, Disability Services
 Texas A&M University
 By:

 Division of Student Affairs
 Texas A&M University
 By:

<p><i>For administrative use only</i></p> <p>Date Received _____</p> <p>Accepted <input type="checkbox"/> Rejected <input type="checkbox"/></p> <p>Notes:</p>
