



30445 Northwestern Hwy. Suite 300, Farmington Hills, MI 48334 mangolanguages.com
Toll Free: 877-Mango-11 Business Phone: 248-254-7450 Fax: 248-254-7424

Mango Languages Sole Source Letter

11/2/10

To Whom It May Concern,

Per your recent request regarding the Mango Languages online language learning system, please consider this verification that Mango Languages is the sole developer and provider of this languages learning system.

If you have any questions or concerns please contact me at your earliest convenience.

Regards,

Ryan Soble

Sales Representative

248.419.0671 ext.810

11-10-10 copy received



Renewal Form

We are happy that your patrons and staff have enjoyed the Mango Languages subscription.

Please fill in the information below and fax to **248-254-7421** or scan and email to **ryan.soble@mangolanguage.com**. No cover letter is needed. Thank you.

Library: Fort Bend County Libraries

Name: Kenny Chao

Address:

Rate: \$24,990

Date of service: 2/1/11-1/31/12

Print name: Robert Hebert, County Judge

Signature:

A handwritten signature in black ink, appearing to read "Robert Hebert", written over a horizontal line.

Date: November 9, 2010

Please send payment to our new address:

Mango Languages

**30445 Northwestern Highway, Suite 300
Farmington Hills, MI 48334**

Mango Sales Representative: Ryan Soble 248. 419. 0671 ext 810

*Previous approved terms and conditions from 2009 are still in effect for the 2010-2011 subscription.



Mango Languages Renewal Form

Wow! A year has gone by fast and we are happy your patrons and staff have enjoyed the Mango Languages subscription.

Please fill in the information below and fax to 248-254-7421. No Cover Letter is needed. Thank you!

Library: Fort Bend County Public Libraries

Contact: Myra Ponville

Title: Librarian 3

Address: 1001 Golfview Drive, Richmond, TX 77696

Renewal rate: \$24,990

Renewal date: 1/31/2010- 1/31/2011

Signature:

A handwritten signature in black ink, appearing to read "Myra A. Ponville", written over a horizontal line.

Print name: Myra A. Ponville

Mango Sales Representative: Ryan Soble

*Previous approved Terms and Conditions from 2008 are still in effect for the 2009-2010 subscription.

TERMS & CONDITIONS

22865 Heslip Dr. • Novi, MI 48375 • Phone: 248.596.0052 • Fax: 248.946.4566

Mango Languages Terms of Sale

These Terms of Sale (the "Agreement") is between ____ Fort Bend County Libraries, Texas, ____ ("LibraryCounty") and Creative Empire, LLC. d/b/a Mango Languages ("Mango"), a Michigan Limited Liability Company.

1. **PRODUCTS AND TERM.** Mango shall provide Library County certain products ("Products") under the terms of this Agreement. The Products provided under this Agreement are identified in the Attached Exhibit A. This Agreement shall be effective as of ____Jan 1____, 2009 and shall remain in full force and effect to and including ____Jan 31, 2010. and automatically renew itself from year to year thereafter unless, either party shall serve written notice on the other of its desire to terminate, modify or amend this Agreement within thirty (30) day prior to expiration. Ninety (90) days prior to expiration of this Agreement, Mango shall provide the LibraryCounty notice of expiration of the Agreement. County must agree in writing to any renewal of this Agreement.

2. **PAYMENT.** Payment for the Products shall be made within 90 days of LibraryCounty's receipt or initial use of the Products. Such payment shall be made by cash, checks, wire transfers, all major credit cards and PayPal. If a credit card company, or PayPal account, is being used for a transaction, Mango may obtain a pre-approval from the credit card company or from PayPal (as the case may be) for an amount up to the amount of the order. Billing to the credit card or to the PayPal account occurs at the time of purchase or shortly thereafter. Mango shall not charge any sales tax for any and all products sold by Mango to the LibraryCounty.

3. **REFUND POLICY.** All Sales are final subject to Mango's Refund Policy the terms of which are contained at <http://www.mangolanguages.com/policy/refunds>.

4. **LIMITATION OF LIABILITY.** TO THE FULLEST EXTENT PERMISSIBLE UNDER APPLICABLE LAW, THE PRODUCTS AND SERVICES PURCHASED FROM MANGO ARE PROVIDED "AS IS," AND THE LIBRARYCOUNTY'S USE IS AT ITS OWN RISK. MANGO DOES NOT MAKE, AND HEREBY DISCLAIMS, ANY AND ALL OTHER EXPRESS, IMPLIED OR STATUTORY WARRANTIES, INCLUDING IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, NON-INFRINGEMENT OF THIRD PARTY RIGHTS, AND ANY WARRANTIES ARISING FROM A COURSE OF DEALING, USAGE, OR TRADE PRACTICE. To the maximum extent permitted by applicable law, neither Mango nor its licensors or distributors shall be liable to the LibraryCounty for any lost profits, cost of substitute goods or services, or any form of indirect, special, incidental, consequential or punitive damages from any cause of action arising with respect to the products or services that you purchase from Mango, whether arising in tort (including negligence), contract, strict liability or otherwise, whether or not such party has been advised of the possibility of such damage. In no event shall Mango's aggregate liability under this Agreement exceed the amount actually paid by you for the applicable products.

5. In the event of a conflict between any term of this Agreement and the terms of an Invoice, the terms of this Agreement shall prevail. This Agreement shall supplement the Mango Languages Terms and Conditions contained at <http://www.mangolanguages.com/policy/terms> which are incorporated herein by reference. Any software included in any Invoice is licensed not sold, and is provided subject to the terms of the Mango Software License Agreement which are incorporated herein by reference.

6. **WEB-SITE/SOFTWARE ACCESS.** To the extent that any Products are accessed through Mango's web-site or software programs, Mango hereby grants the LibraryCounty's Authorized Users a limited license to access and make use of such Products. "Authorized Users" means users who are registered borrowers of the LibraryCounty, those that are walk-ins, and those who are remote users accessing the service through the libraryCounty's web site. LibraryCounty will make reasonable efforts to protect Mango's proprietary information (including but not limited to Mango's Intellectual Property) and will notify Mango promptly if it discovers there is unauthorized use of Mango's Products and will cooperate with Mango to mediate the situation.

7. **WEB-SITE LICENSE AND CONDITIONS.** As a condition of the web-site licensed granted in paragraph 6, above, such license, LibraryCounty agrees:

- a. not to download or modify any part of the Website, except with the express and prior written consent of Mango;
- b. not to download or copy any account information for the benefit of another merchant;
- c. not to resell or make any commercial use of this Website or its contents;

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- d. not to reproduce, duplicate, copy, sell, resell or otherwise exploit the Website for any commercial purpose without express written consent of Mango;
- e. not to make any derivative use of this Website or its contents;
- f. not to frame or utilize framing techniques to enclose any trademark, logo, or other proprietary information (including images, text, page layout, or form) of Mango without express written consent from Mango;
- g. not to use any meta tags or any other "hidden text" utilizing the Mango name or trademarks without the express written consent of Mango;
- h. While Mango attempts to insure that its Website is normally available 24 hours a day, Mango shall not be liable if for any reason its Website is unavailable at any time or for any period; provided however, that Mango shall use best efforts to provide adequate capacity and bandwidth to support the LibraryCounty's needs and provide service on a twenty four hour basis except for routine maintenance (for which the LibraryCounty is pre-notified). In the event that Mango fails to provide such service for five days within a thirty day period, Mango shall provide a pro rata refund for the thirty day period in question.
- i. Access to Mango's Website may be suspended temporarily and without notice in the case of system failure, maintenance or repair or for reasons beyond Mango's control.
- j. Any rights not expressly granted in these terms are reserved.

8. **PRIVACY POLICY.** This Agreement shall be subject to Mango's Privacy Policy, set forth at <http://www.mangolanguages.com/privacypolicy/terms>, the terms of which are incorporated herein by reference, subject to the provisions of the Texas Public Information Act.

9. **INDEMNIFICATION** [mir1]. Mango and the Library agrees to indemnify, defend and hold County one another, and all of County's their respective directors, officers, employees, attorneys and agents harmless from and against any loss, claim, judgment, liability, damage, action or cause of action (including reasonable attorneys' fees and court costs) arising out of or in connection with (a) a third party claim that the LibraryCounty's possession and/or use of the Products infringe or misappropriate the patent, copyright, trademark or other intellectual property rights of a third party, or (b) the negligence or willful misconduct of either Mango or the LibraryCounty or their respective officers employees and/or agents.

10. **SUPPORT.** Mango shall support the LibraryCounty by responding to emails and phone calls from the LibraryCounty. Mango shall make reasonable efforts to respond to all customer support issues as quickly as possible, but is under no specific time obligation to fulfill any customer support requests. Mango shall be under no obligation to provide any customer support services to any Authorized Users (as that term is defined in paragraph 6. above) of the LibraryCounty. In the event that any of the LibraryCounty's Unauthorized Users contact Mango directly with any support questions, Mango shall direct such inquiries to the LibraryCounty and its personnel.

11. **NOTICES.** Mango may from time to time include notices or other similar communications/displays in Products sold to the LibraryCounty. Such notices shall be limited only to information about Mango Languages and their products. An example of a notice may include but is not limited to scheduled maintenance times.

12. **UPDATES.** Mango shall from time to time, update its online software and language lesson content. The LibraryCounty shall only receive updates to the Mango Languages LibraryCounty Edition and any changes or enhancements to Mango's "consumer edition" and/or other editions will not necessarily be made to the LibraryCounty Edition.

13. **ACCESS.** Mango intends to provide Authorized Users unlimited access to the Mango LibraryCounty edition. In the event that the LibraryCounty's Authorized Users exceed what Mango deems reasonable usage during the term of the agreement, Mango shall assume that either the number of cardholders in the LibraryCounty was grossly underestimated or there is piracy of Mango's service from outside sources. Under such circumstances Mango reserves the right to restrict or limit access to Mango's web-site. In the event of such circumstances, Mango shall make every effort to provide notice to and cooperate with LibraryCounty prior to Mango's restriction or limitation of access to its Web-site and Products.

14. **INTELLECTUAL PROPERTY.** All materials on the Mango Web Site or Products, including without limitation, text, images, logo, software, Audio Content and video clips, databases, e-mails, and posted comments and reviews (collectively, the "Content") are owned or controlled by Mango and/or its licensors, who retain all right, title, and interest in and to the Content. The Web Site and Content are protected by the copyright and trademark laws of the United States and other countries, international conventions, and other applicable laws. LibraryCounty shall use all "reasonable" efforts to ensure that all Authorized Users are appropriately notified of the importance of respecting Mango's intellectual property rights. Mango agrees that it shall not use the LibraryCounty's name or the name of any of its constituent parts or branches or use the LibraryCounty's marks or logos for any promotional purpose without prior written approval.

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15. **APPLICABLE LAW, DISPUTE RESOLUTION.** This Agreement and terms and conditions of any Invoice shall be construed and interpreted under and all respective rights and duties of the parties shall be governed by, the laws of the State of Illinois, excluding conflicts of law provisions. The parties agree to submit to the personal jurisdiction of the United States District Court for the Southern District of Texas for all claims and actions arising under this Agreement unless federal subject matter jurisdiction is lacking, in which case the parties agree to submit to the personal jurisdiction of the state courts of the State of Michigan.

16. **CONFIDENTIAL INFORMATION.** Each party shall hold the Confidential Information of the other in confidence and protect the same with at least the same degree of care, but no less than reasonable care, with which it protects its own most sensitive confidential information. Each party shall use the Confidential Information of the other solely in connection with the exercise of its rights and the performance of its obligations under this Agreement, and shall restrict disclosure of and access to the Confidential Information of the other to such party's personnel that require access to such Confidential Information in connection with this Agreement or Invoice. Each party shall require its personnel to comply with the obligations of confidentiality set forth herein and shall be liable for any failure by its Personnel to so comply, subject to the provisions of the Texas Public Information Act.

17. **TERMINATION.** LibraryCounty may terminate an Invoice within in whole or part within thirty (30) days of receipt renewal of the Invoice. Notice shall be sent to Mango in writing. Upon such termination, the LibraryCounty shall receive a pro-rata refund. Unless otherwise instructed by the LibraryCounty, Mango shall cease access to the Products immediately on receipt of notice. For delivery, or performance that has been performed by Mango in accordance with an Invoice, prior to the effective termination date, the LibraryCounty shall pay Mango the Invoice price for Products delivered, or applicable services performed to date, and certified by Mango. In addition to any other rights of the parties set forth herein, Mango may cancel or terminate LibraryCounty's access to Mango's Web Site. Mango also reserves the right to restrict, suspend or terminate your access to the Web Site in whole or in part, without notice, with respect to any breach or threatened breach of any portion of these Terms of Service. If Mango terminates this Agreement based on a breach of any portion of this Agreement, Mango reserves the right to refuse to provide use and/or access to any Audio Content to LibraryCounty in the future.

18. **FORCE MAJEURE.** Neither party shall be in default if failure to perform any obligation under this Agreement is caused solely by supervening conditions beyond a party's control, including acts of nature, God, civil commotion, terrorism, strikes, power outages, internet connectivity outages, labor disputes, and government demands or requirements. The party anticipating or claiming a force majeure occurrence shall notify the other party, in writing as soon as possible, detailing the occurrence and providing a recovery and time table plan.

19. **GENERAL.** This Agreement constitutes the entire agreement between Mango and the LibraryCounty with respect to the subject matter hereof and supersedes all prior agreements with respect to the same. Failure by Mango to enforce any provision of this Agreement shall not be construed as a waiver of any provision or right. In the event that any portion of this Agreement is held unenforceable, the unenforceable portion shall be construed in accordance with applicable law as nearly as possible to reflect the original intentions of the parties, and the remainder of the provisions shall remain in full force and effect. The parties represent and warrant to the other that they each have the right and power to enter into and fully perform its obligations under this Agreement or Invoice and has obtained all necessary licenses, permissions, consents to fulfill their respective obligations.

Signature below indicates acceptance of these terms:

LibraryCounty: Fort Bend County Libraries
Myra Ponville
1001 Golfview Dr.
Richmond, TX

Amount: \$23,800

Purchasing Rep: Gilbert Jalomo

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Title: Purchasing Agent

Date: 12/5/08

Signature: 

Exhibit A - Language Products Available

The LibraryCounty Edition of the following courses will be made available to LibraryCounty:

Spanish, French, German, Greek, Russian, Italian, Portuguese,
Japanese, Chinese, ESL Spanish, ESL Portuguese,
ESL Polish + new languages coming out in '09

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Cheryl Krejci - Re: Manual IT Review - Library - Mango Language

From: Charles Cook
To: Krejci, Cheryl
Date: 12/8/2008 9:11 AM
Subject: Re: Manual IT Review - Library - Mango Language

Please consider this email as my approval.
Charles

>>> Cheryl Krejci 12/05/2008 16:36 >>>

Please review the attached. (i almost sent to vendor already) The agreement has been approved by the County Attorney's office.

Cheryl Krejci, Senior Buyer
Fort Bend County Purchasing Dept.
281-341-3759 (office)
281-341-8642 (fax)