

Software Application Hosting Agreement

This Agreement (the "Agreement") for Archivemata and AtoM (the "Software") hosting service (the "Service") is entered into between Artefactual Systems Inc. ("Artefactual") located in New Westminster, British Columbia, Canada and the Council of Prairie and Pacific University Libraries (the "Customer") on behalf of the participating institutions ("Institutions") identified on the invoice (the "Invoice") prepared for the Customer.

This Agreement establishes the terms and conditions pursuant to which the Customer wishes to obtain Service and Artefactual wishes to provide Service. Artefactual agrees to provide Service to the Customer and the Customer agrees to pay Artefactual for Service subject to the following terms and conditions:

1. Term, Renewal and Termination:

- a) The effective date of this Agreement shall be May 1, 2017.
- b) This Agreement shall be for an initial term of 12 months.
- c) No later than thirty (30) days prior to termination of Service, the Customer may request a copy of all Customer data (the "Customer Data") that is stored as part of Service, in a format that can be directly uploaded into any instance of the Software of the same version as that used to provide the Service. Artefactual shall make the Customer Data available for download by Customer and will notify the Customer of the availability of the Customer Data via email within ten (10) days of termination of Service. Artefactual will make the Customer Data available for download for thirty (30) days after notifying the Customer of the availability of the Customer Data, after which the Customer Data shall be deleted by Artefactual. In the event that the Customer does not request a copy of the Customer Data before termination of Service, or payment of the service charge is not made, any Customer Data may be deleted by Artefactual upon termination.
- d) In the event of early termination by the Customer, the Customer agrees to pay Artefactual for any months remaining in the term.
- e) Artefactual may terminate the term of this Agreement at any time and for any or no reason upon the provision of one hundred and eighty (180) days written notice to the Customer, in which case Artefactual shall provide the Customer with a pro rata refund of the applicable Fees for the remainder of the months in the then-current term of the Agreement. In the case of termination under this Condition, any Customer data will be made available to the Customer as per the terms of *Condition 1(d)*.
- f) Artefactual reserves the right to amend this Agreement from time to time in its sole discretion by informing the Customer via the Customer's email address of record and any such amendment may include material changes in Artefactual's services to the Customer. Unless otherwise noted in an amendment, amendments shall automatically be deemed to take effect on the first day of the calendar month that occurs at least thirty (30) days after the date that Artefactual first posted the amendment. In the event that the Customer objects to any such amendment, the Customer may terminate this Agreement by providing Artefactual with written notice thereof no later than the date that the amendment takes effect, in which case

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Artefactual shall provide the Customer with a pro rata refund of the applicable Fees for the remainder of the months in the then-current term of the Agreement.

- g) Because the Customer will be acting on behalf of participating institutions, terms and conditions outlined in Conditions 1 (c) to (f) also apply to cancellation of the Service on behalf of one or more individual institutions. The termination of participation by any Institution will not constitute a default or a termination of participation of any other Institutions under the Hosting Agreement and shall not be grounds for any increase in fees payable by other Institutions.
- h) Institutions wishing to participate in the Service may enter into an agreement with the Customer to do so at any time. In this case, Artefactual will invoice the Customer for the remainder of the time left in the then-current 12-month period and will provide a portion of the annual number of hosting support tickets (see sec. 7) based on the amount invoiced.
- i) Institutions wishing to increase their levels of service as defined in **Appendix A** may do so at any time. In this case, Artefactual will invoice the Customer for the increased level of service for the remainder of the time left in the then-current 12-month period and will increase the number of hosting support tickets (see sec. 7) based on the amount invoiced.
- j) This Agreement shall be automatically renewed for 12 months, unless terminated by the Customer by giving thirty (30) days written notice to Artefactual prior to expiration of the initial term or any successive term.

2. Fees and Payments

- a) Fees for the Service term and any associated services shall be invoiced in advance and shall be payable on receipt or in accordance with any payment terms that are included on the Invoice.

3. Services Provided:

- a) Artefactual shall host copies of the Software which is freely and publicly available to Artefactual, the Customer and any other party as per the terms of the free and open-source license under which it is released.
- b) Artefactual shall provide participating institutions with application level access to the Software via Internet Uniform Resource Locator (URLs) together with a User IDs and passwords. No direct access to server hardware, operating system, database management system or other system resources shall be provided.
- c) Artefactual shall store all data created and managed by the Software, including files, text and parameters; data shall be backed-up on a separate storage system nightly.
- d) Artefactual may apply patches to improve the security and performance of the Software used by the Service as deemed necessary by Artefactual. Artefactual shall update the Software used by the Service within ninety (90) days of a new Software version release. This agreement does not include additional customization or development of new Software features, but Artefactual may choose to provide these additional services under the terms of a separate support services agreement.

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- e) Artefactual will provide technical support services to participating institutions as defined in **Section 6** and in accordance with the service levels specified in **Appendix A**.
- f) Artefactual will provide hosting support tickets as defined in **Section 7** and in accordance with the service levels specified in **Appendix A**.

4. Customer Responsibilities:

- a) The Customer agrees that the use of Service and Software is at its sole risk and Artefactual is not responsible for any alleged or actual damages caused by or attributed to the use of the Service and Software.
- b) The Customer represents and warrants to Artefactual that it:
 - i. is engaged in a lawful business enterprise;
 - ii. can form legally binding contracts and is authorized to enter into this Agreement; and
 - iii. is in compliance with all applicable laws appropriate to its location of business and nature of work.
- c) The Customer acknowledges that use of Service is subject to all applicable local, provincial, national and international laws and regulations and the Customer agrees not to violate such laws and regulations.

5. Artefactual Responsibilities:

- a) Artefactual shall use reasonable efforts to protect User IDs and passwords.
- b) Artefactual represents and warrants to the Customer that it:
 - i. is engaged in a lawful business enterprise;
 - ii. can form legally binding contracts and is authorized to enter into this Agreement; and
 - iii. is in compliance with all applicable laws appropriate to its location of business and nature of work.

6. Technical support level definitions

Artefactual will provide technical support services to participating institutions using the following technical support level definitions:

- a) **Severity 1:** Produces a high priority situation in which those components of the Software that are available to the general public via the Service are inoperable or fail catastrophically.
 - i. **RESPONSE:** The participating institution shall notify Artefactual via email (support@artefactual.com) or phone (1-604-527-2056) of the Severity 1 problem.
 - ii. Artefactual will provide a response by a qualified member of its personnel to begin to diagnose and to correct a Severity 1 problem as soon as reasonably possible during regular business hours - 09:00 to 17:00 Pacific Time (UTC-8 standard time; UTC-7 daylight savings time), Monday to Friday and excluding statutory Canadian holidays.
 - iii. Artefactual will respond via email to designated representatives of the participating institution within one (1) hour if the issue is reported during regular business hours (see

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- above), or the next business day if reported outside business hours, to provide a status update on the resolution process.
- iv. Artefactual will exercise best efforts to resolve Severity 1 problems as soon as possible.
 - v. The resolution to the Severity 1 problem will be delivered as a resumption of the Service.
 - vi. Artefactual will email designated representatives of the participating institution to notify them when the Service is operational again and to identify any related Severity 2 or Severity 3 issues that were part of the original problem or which were introduced as a workaround or emergency fix to remedy the Severity 1 issue.
 - vii. Artefactual may, if required, revert to a previous backup of the participating institution's data to resolve a Severity 1 issue that results from incorrect or corrupt data. In no case shall Artefactual be held responsible for data loss that may occur when reverting to a previous data backup when it is necessary to resolve a Severity 1 issue.
- b) **Severity 2:** Produces a high priority situation in which the performance (throughput or response) of the Software degrades substantially under reasonable loads, such that there is a severe impact on use; the Software is usable, but materially incomplete; one or more functions or commands is inoperable; or the use is otherwise significantly impacted.
- i. **RESPONSE:** The participating institution shall notify Artefactual via email (support@artefactual.com) of the Severity 2 problem.
 - ii. Artefactual will provide a response by a qualified member of its personnel to begin to diagnose and to correct a Severity 2 problem as soon as reasonably possible during regular business hours - 09:00 to 17:00 Pacific Time (UTC-8 standard time; UTC-7 daylight savings time), Monday to Friday and excluding statutory Canadian holidays.
 - iii. Artefactual will respond via email to designated representatives of the participating institution within four (4) hours if the issue is reported during regular business hours (see above), or the next business day if reported outside business hours, to provide a status update on the status of the resolution process.
 - iv. Artefactual will exercise best efforts to resolve Severity 2 problems within five (5) business days.
 - v. The resolution to the Severity 2 problem will be delivered to the participating institution as a workaround, or as a software code patch to the Software, or as a configuration change to the web server hosting the Software.
 - vi. Artefactual will notify the designated representatives of the participating institution when work to rectify the Severity 2 issue has been completed, and to detail any Severity 3 issues that were part of the original problem or which were introduced as a workaround or emergency fix to remedy the Severity 2 issue.
- c) **Severity 3:** Produces an inconvenient situation in which the covered Software is usable, but does not provide a function in the most convenient or expeditious manner, and the user suffers little or no significant impact.
- i. **RESPONSE:** Artefactual will exercise best efforts to resolve Severity 3 problems in the next public release of the Software.

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- ii. Artefactual may, at its discretion, apply a software patch to the Software to resolve a Severity 3 issues prior to the next public software release.
- iii. A hosting support ticket as defined in **Section 7** may be used by the participating institution to request a fix for a Severity 3 issue before the next software release.

7. Hosting support tickets

- a) Participating institutions are entitled to hosting support tickets in accordance with the service levels specified in **Appendix A**, which may be redeemed by the institution to request technical support services from Artefactual Systems that fall outside the basic services guaranteed under this Agreement.
- b) A hosting support ticket may be redeemed by the institution at any time during the Agreement term for:
 - i. resolution of a Severity 3 issue before the next public release of the Software,
 - ii. import of a dataset that is too large to be imported via the web interface of the Software,
 - iii. direct changes to data in the Software database (e.g. to correct data that was incompletely or incorrectly imported),
 - iv. any other technical support services outside of the basic services guaranteed under this Agreement, at Artefactual's discretion
- c) A request to redeem a hosting support ticket for technical support services must be made by the participating institution to Artefactual, in written form, and must clearly describe the desired outcome of the requested services.
- d) Artefactual will evaluate the estimated work required to deliver the requested services, and may accept or refuse the request based a number of criteria, including, but not limited to, the effort required to fulfil the request, the effect of any changes to the functionality, maintainability and performance of the Software or Service, and the relevance and potential benefits to other users of the Software.
- e) In general Artefactual Systems will consider one hosting support ticket to entitle the participating institution to up to four (4) hours of technical services by a qualified member of its personnel; however Artefactual reserves the right to refuse any hosting support ticket request if Artefactual determines the requested fix has the potential to adversely affect the security, performance, maintainability or functionality of the Software or Service.
- f) In the case that a hosting support ticket request is refused by Artefactual, the ticket shall be considered unused and may be redeemed by the participating institution at any later date within the Agreement term, for any other support request as per the conditions and terms specified in this section.
- g) Hosting support tickets have no cash value and may not be transferred, exchanged or sold.
- h) Hosting support tickets are only valid for the duration of this Agreement. If at any time this Agreement is cancelled, then any unused hosting support tickets are considered null and void and may not be redeemed. If this Agreement is renewed at the end of the current term, then any unused hosting support tickets will be considered null and void, and the participating institution shall be issued a number of hosting support tickets equal to the

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amount granted in the initial agreement. Unused hosting support tickets may not be carried over or accumulated when renewing the Agreement.

8. Disclaimer of Warranties

Except as otherwise expressly provided in this agreement, Artefactual disclaims any and all promises, representations and warranties, express or implied, with respect to the Service, Software and corrections provided hereunder, including promises, representations and warranties as to condition, the existence of any latent or patent defects, merchantability or fitness for any particular purpose, non-infringement, or any implied warranty of information content, system integration or system performance.

9. No Liability for Consequential Damage

Without limiting the generality of the foregoing disclaimer, Artefactual does not warrant that the Service will be error free. It is expressly agreed that in no event shall Artefactual be liable for any damages whatsoever (including, without limitation, damages for lost profits, loss of data, business interruption, or other consequential, exemplary, special or indirect losses) arising from the Customer's use, or inability to use, the Service, regardless of whether Artefactual has been advised of the possibility of such damages, Artefactual's entire liability under this agreement shall be limited to the amount actually paid by the Customer for the Service that gave rise to the claim within the calendar year during which the claim arose.

10. Legal Relationship

The parties enter this Agreement as, and shall remain, independent contractors with respect to one another. Nothing in this Agreement is designed to create, nor shall create between them, a partnership, joint venture, agency, or employment relationship.

11. Notices

Unless otherwise agreed to by the parties, any notice required or permitted to be given or delivered under this Agreement shall be delivered and addressed to Artefactual or the Customer at the address indicated for each party on this Agreement or the Invoice. Notice shall be deemed to have been received by any party, and shall be effective on the day given, if personally delivered or if sent by confirmed facsimile or electronic mail transmission, receipt verified, to a facsimile number or electronic mail address provided by the receiving party to the sending party for the purpose of receiving such notices; Artefactual or the Customer may change its address for notice purposes upon issuance of notice thereof in accordance with this Section.

12. Force Majeure

Neither party will be liable to the other by reason of any failure in performance of this Agreement if the failure arises out of the unavailability of communications facilities or energy sources, acts of God, acts of the other party, acts of governmental authority, fires, strikes, delays in transportation, riots, terrorism, war, or any causes beyond the reasonable control of that party. If a Force Majeure event

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occurs, Artefactual will have up to five (5) business days to determine if and when the Service will resume.

13. Interpretation

The headings used in this Agreement are for convenience only and are not intended to be used as an aid to interpretation. If any part of this Agreement is held to be illegal or unenforceable, the validity or enforceability of the remainder of this Agreement shall not be affected and such provision shall be deemed modified to the minimum extent necessary to make such provision consistent with applicable law and, in its modified form, such provision shall then be enforceable and enforced.

14. Governing Law

This Agreement shall be governed by and construed in accordance with the laws of the province of British Columbia and the laws of Canada applicable therein.

15. Mediation

If the parties disagree over an interpretation of this Agreement or whether a party or the Customer is in breach of any part of this Agreement, the parties shall in good faith enter into negotiations to resolve the disagreement and discuss the feasibility of resolving the disagreement by mediation or other means short of litigation. The parties shall cooperate in good faith in pursuing mediation or such other means.

16. Entire Agreement; Waiver

This Agreement incorporates by reference the Invoice. This Agreement and the Invoice collectively contain the entire understanding of the parties with respect to the subject matter hereof, and supersedes and merges all prior proposals, understandings and all other agreements, oral and written, between the parties relating to the subject matter of this Agreement, including (without limitation) any pre-existing agreement.

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APPENDIX A: SERVICE LEVEL STRUCTURE AND PRICING

STANDARD SUBSCRIPTIONS - ANNUAL COSTS

Participating institutions will select from one of the following service levels. Archivemata and AtoM instances will be non-customized publicly released versions of the software only.

Bronze level (\$5,500):

- Archivemata for digital preservation
- 2 CPUs, 16 GB RAM
- 400 GB disk space for processing and storage
- Unlimited severity 1 and severity 2 technical support tickets
- 3 hosting support tickets
- 1.5 hours of online end-user Archivemata training
- Up to 5 hours of end-user training via phone, email or other means

Silver level (\$7,500):

- Archivemata for digital preservation
- 4 CPUs, 32 GB RAM,
- 1 TB disk space for processing and storage
- 6 hosting support tickets
- 1 hour of online end-user Archivemata training
- Up to 5 hours of end-user training via phone, email or other means

Gold level (\$12,500):

- Archivemata for digital preservation + AtoM for online public access to preserved content
- 8 CPUs, 48 GB RAM
- 2 TB disk space for processing and storage
- 6 hosting support tickets
- 1.5 hours of online end-user Archivemata training
- 1.5 hours of online end-user AtoM training
- Up to 8 hours of training via phone, email or other means

ADDITIONAL SERVICES - ANNUAL COSTS

Archivemata instances will be non-customized publicly released versions of the software only.

Pipelnes+ (\$6,500) (Available to Silver and Gold level Institutions only)

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- 1 Additional Archivemata processing pipeline
- 8 CPUs, 48 GB RAM
- 1 TB additional disk space for processing and storage
- 3 additional hosting support tickets

Dspace+ (\$4,000 first year; \$2,000 subsequent years)

- Installation, configuration and maintenance of DSpace ingest automation tools for one Archivemata processing pipeline, designed to automate ingest from local DSpace repositories into Archivemata.

SERVICE LEVEL PRICING TABLE

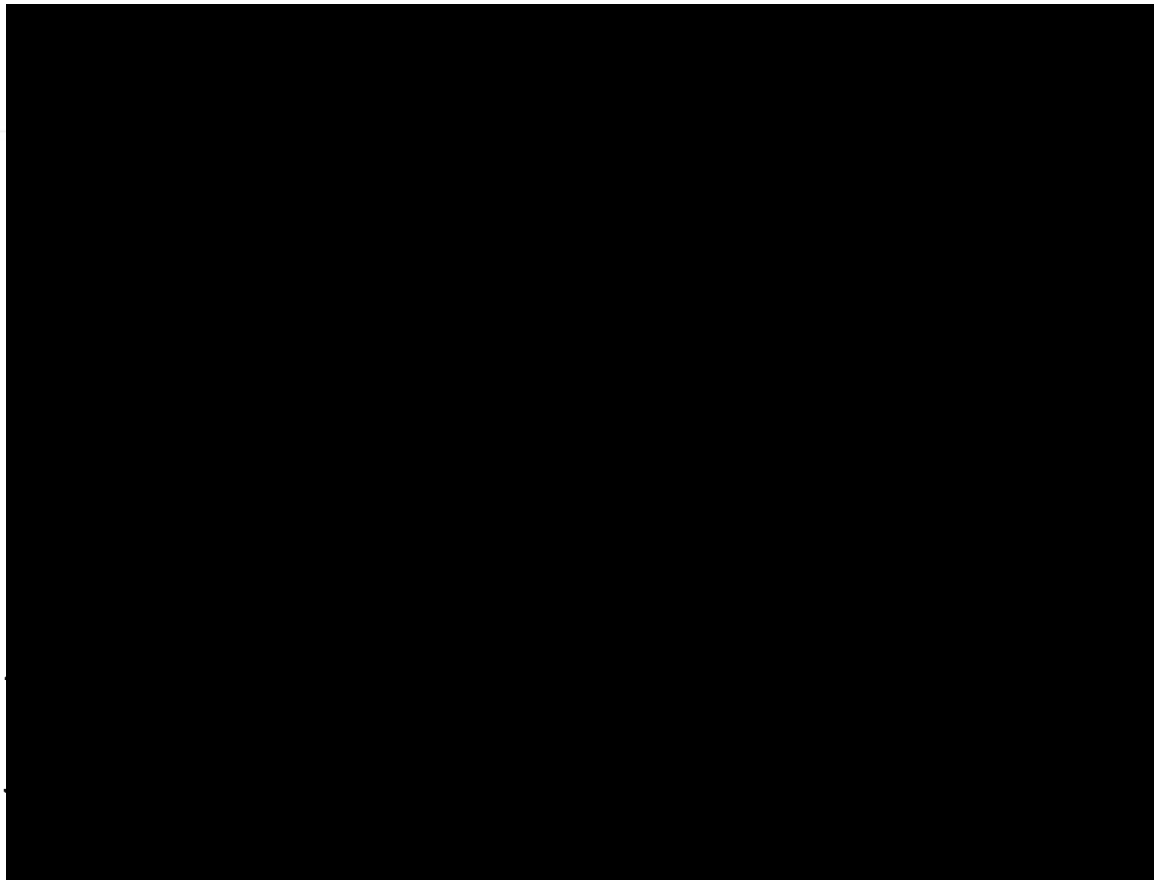
Service Level	Annual fee to client	Amount to Artefactual	Amount to Educloud
Bronze	\$5,500	\$4,500	\$1,000
Silver	\$7,500	\$5,500	\$2,000
Gold	\$12,500	\$9,000	\$3,500
Pipelines+	\$6,500	\$5,500	\$1,000
Dspace+	\$4,000 / \$2,000*	\$4,000 / \$2,000*	n/a

*\$4,000 in year one; \$2,000 per year for subsequent years

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AGREEMENT ACCEPTANCE

ARTEFACTUAL SYSTEMS INC.



Title of Authorized Representative

EXECUTIVE DIRECTOR

Date

26 May 2017