



CONTENT LICENSING AGREEMENT – BOOKS COLLECTION

Part 1 – License Terms

GENERAL	
Effective Date	December 17, 2020
Licensee	Name: Council of Prairie and Pacific University Libraries (COPPUL) Address: High Density Library, 150 B - 11711 85th Street NW Calgary, AB T3R 1J3 Telephone: (519) 501-5358 Email: carol@coppul.ca
Licensee's Designated Business Contact	Name: Carol Stephenson Address: High Density Library, 150 B - 11711 85th Street NW Calgary, AB T3R 1J3 Telephone: (519) 501-5358 Email: carol@coppul.ca
AIPP Sales Support Manager	Name: Arlene Gonzalez Address: 1305 Walt Whitman Road, Suite 300 Melville, NY 11747-4300 Telephone: (516) 576-2413 Email: agonzalez@aip.org
Licensed Content	AIP Books: A collection of forty (40) book titles, as such titles are published from time to time, selected and published by AIPP on a schedule solely of its choosing and expected by December 31, 2021, and containing material related to the mission of AIPP. AIPP and Licensee acknowledge that the titles will be published at AIPP's discretion and all titles may not be available at the Effective Date AAPT Book Archive (34 Digitized Books)
Fees	Due Date as specified on AIP Publishing's invoice. University of Alberta \$4,500 University of Saskatchewan \$4,500 University of Calgary \$6,668 Total Fee: \$15,668
Additional Terms	Members Participating in the Agreement: University of Alberta, University of Saskatchewan & University of Calgary Additional Participating Institutions may be added by mutual consent and will subsequently be listed in Appendix A



Part 2 – Standard Terms & Conditions

This Content Licensing Agreement (“Agreement”), consisting of Part 1 – License Terms and Part 2 – Standard Terms and Conditions, and any appendices attached, is effective on the Effective Date, by and between Council of Prairie and Pacific University Libraries (COPPUL) with offices at High Density Library, 150 B - 11711 85th Street NW Calgary, AB T3R 1J3 (“Licensee”), acting on behalf of Members participating in the agreement (“Members”), identified in Part 1, and AIP Publishing LLC (“AIPP”), with offices at 1305 Walt Whitman Road, Suite 300, Melville, NY 11747-4300.

WHEREAS, AIPP has the right to grant Licensee access to the Licensed Content, which is delivered via a technology platform (e.g., Scitation), or other means of delivery that AIPP deems appropriate (“Platform”);

WHEREAS, Licensee wishes to provide Members’ Authorized Users access to the Licensed Content using the Platform by paying the Fees;

WHEREAS, Licensee warrants that it is authorized to act on behalf of its Members with regard to this Agreement and stipulates that all terms and conditions of this Agreement are accepted by the individual Members, who acknowledge that they are individually responsible for enforcing the terms and conditions set forth herein. Rights and responsibilities referenced in this Agreement in regard to “Licensee” shall apply to all the Members covered under this Agreement

NOW THEREFORE, in consideration of the foregoing premises and the mutual covenants contained herein, and other valuable consideration received, the parties agree as follows:

1. LICENSED RIGHTS

a. **License.** AIPP provides a non-exclusive, non-transferable, perpetual license to Licensee’s Authorized Users, subject to the terms, conditions and restrictions set forth in this Agreement, to access, search, view, download, print and save the Licensed Content via the Platform, solely for the purposes of private study, research, education, distance learning, teaching, and administrative use associated with the normal practices and activities of Licensee. Such use shall be in accordance with the provisions of this Agreement, which provisions shall survive any termination of this Agreement.

b. **Authorized Users.** Authorized users are defined as and limited to current full-time, part-time, temporary, contract, or visiting faculty members, staff, employees, students, subcontractors, as applicable (collectively, “Authorized Users”), and walk-in users accessing Licensed Content via computers while on Licensee’s premises (“Walk-in Users”). All Authorized Users who have been issued an institutional username and password may also access the Licensed Content remotely, using devices that are located off the premises of Licensee. Licensee must require the Authorized Users to use a username and password to login before accessing the Platform using computers located off the premises of Licensee. For the sake of clarity, no Walk-in Users are permitted to access the Platform remotely. For the avoidance of doubt, walk-in use is intended for individual users, not as a substitution for a license by another institution.

c. **Compliance.** Licensee will use commercially reasonable efforts to cooperate with AIPP to remedy any Authorized User’s failure to comply with the terms of this Agreement.



d. Credentials. When the relationship between an Authorized User and the Licensee terminates, Licensee shall take reasonable steps to prevent the previously Authorized User from accessing the Platform, by promptly disabling the previously Authorized User's access to the Licensed Content except from areas where the Licensed Content is accessible to the public.

2. FAIR USE & RIGHTS OF LIBRARIES

a. Fair Use and Rights of Libraries and Authorized Users. Authorized Users are entitled to use the Licensed Content in a manner that comports with §107 and §108 of the U.S. Copyright Act, or other similar applicable laws outside the U.S., provided that the Authorized Users provide proper attribution to the copyright owners and AIPP.

b. Interlibrary Loan. Licensee may use the Licensed Content to fulfill a reasonable number of requests from other libraries for specific material for interlibrary loans ("ILL"). The Licensed Content for ILL may be transmitted by mail, fax or secure, prevailing technology, provided that Licensee will not require the receiving library to pay a fee, and to the best of Licensee's knowledge, the loaned material is for the purposes of research or private study, and not for commercial use. The borrowing and lending libraries will comply with applicable legal guidelines and applicable copyright laws in connection with ILL.

c. Course Packs / Electronic Reserve / Virtual Learning. Material from the Licensed Content may be included in anthologies ("Course Packs") in print or digital form for distribution to Authorized Users for their use in connection with classroom instruction, and/or in virtual and managed environments (including but not limited to virtual learning environments, managed learning environments, virtual research environments and library environments or in reserves (print or digital) set up by libraries for access by Authorized Users in connection with specific courses offered by the Licensee. Copies of items in digital form which are included in online Course Packs or reserves will be deleted by the Licensee when the course is no longer offered. Course Packs in non-electronic non-print perceptible form, such as audio or Braille, may also be offered to Authorized Users.

d. Accessible Formats. Licensed Content can be altered or modified as necessary to provide an equivalent level of service to Authorized Users with appropriately documented print or other disabilities. In cases where the Member determines that the Licensed Materials are not already provided in Accessible Format, the Member will request permission from AIP to adapt or modify the format to make the Licensed Materials perceivable and usable with assistive devices by persons with visual, perceptual, physical, or other print disabilities.



3. RESTRICTIONS.

a. Intellectual Property. Licensee shall not, and shall not cause, assist or encourage any Authorized Users or third parties to: (i) infringe any intellectual property or other right of any party (including AIPP), or violate any applicable laws, rules or regulations, including, without limitation, redistribute, repurpose, resell, alter, recompile, share access with users not authorized by Licensee, republish or post in any media, print or electronic form, such as on the Internet or using peer-to-peer or similar file sharing for anyone to access, the Licensed Content (or any search results thereof), in whole or in part, or otherwise commercialize the Licensed Content; or (ii) alter, obscure or remove the copyright notices or the watermark in the Licensed Content, any article, or other material.

b. Operation of the Platform. Without AIPP's authorization, Licensee shall not, and shall not cause, assist or encourage any Authorized Users or third parties to: (i) disrupt or interfere with the security or use of the Platform, including, without limitation, through the use of viruses, cancel bots, Trojan horses, harmful code, flood pings, denial of service attacks, packet or IP spoofing, or similar methods or technology; (ii) misrepresent Licensee's affiliation with a person or entity, or submit false or misleading information to AIPP, including, without limitation, IP addresses that do not belong to the Licensee; (iii) collect, manually or through an automatic process, information about users or their usage without their express consent.

c. Systematic Download; Text and Data Mining. Without AIPP's authorization, Licensee shall not, and shall not cause, assist or encourage any Authorized Users or third parties to: (i) systematically or programmatically download, whether manually or by using programs such as robots or searchbots, spiders, crawlers or other automated downloading programs, algorithms or devices, to continuously or automatically search, scrape, extract, deep link or index all or a substantial portion of the Licensed Content, such as an entire issue of or article from a journal; (ii) download the Licensed Content in aggregate for central storage or later retrieval; or (iii) conduct text and data mining.

d. Violations. Licensee shall notify AIPP of any copyright infringement, or unauthorized use of the Licensed Content of which Licensee becomes aware. To the extent AIPP determines that any copyright infringement or violation of this Agreement has occurred (including a violation by an Authorized User), Licensee shall cooperate with AIPP in investigating any unauthorized uses and in taking reasonable steps to prevent a reoccurrence, such as suspending or terminating an actual or suspected unauthorized user's access to the Platform or Licensed Content upon AIPP's reasonable request. If AIPP reasonably suspects or determines that an Authorized User has violated the terms of this Agreement or any other agreement that he or she individually entered into to access the Platform, or that Licensee is otherwise allowing the Platform to be misused, AIPP may, without notice, suspend such user's account or Licensee's access to the Platform.



4. AIPP OBLIGATIONS

a. Availability. AIPP shall use commercially reasonable efforts to provide continuous access to the Licensed Content via the Platform, except for periodic downtime for maintenance, and interruption of access to the Platform due to factors outside of AIPP's control.

b. Usage Statistics. AIPP usage statistics (e.g. COUNTER stats) are available via SCITATION.

c. Accessibility. AIPP's Accessibility statement is available at <https://publishing.aip.org/resources/researchers/policies-and-ethics/accessibility/>. AIPP's Accessibility documents (e.g. Voluntary Product Accessibility Template, or "VPAT") are available at <http://www.scitation.org/pb-assets/VPAT/ScitationVPAT.docx>, which AIPP may revise either at any time without notice. Licensee is responsible for reviewing all posted information.

d. Backup. In the unlikely event that AIPP is unable to provide electronic access to one or more of the titles that comprise the Licensed Content for an extended period of time, AIPP will cooperate with a third party vendor that has archived the Licensed Content to ensure that Licensee will be able to access the Licensed Content continuously, per the terms of this Agreement.

e. MARC Records. AIPP will provide MARC records at no additional cost to the Licensee

5. CONFIDENTIALITY

a. Definition. Either party may be exposed to certain non-public or proprietary information of the other party concerning its business, or information that due to its nature, the receiving party knows or should know is confidential, or that, if released to unauthorized persons, could be detrimental to the business interests of the disclosing party, including, without limitation, the terms of this Agreement or the Licensee's literature search results ("Confidential Information").

b. Obligations. Each party shall use its best endeavors to safeguard confidential information of the other party. For the purpose of this Agreement, confidential information means information concerning the IP addresses or special terms, agreed to by the parties but does not apply to the mere acknowledgement of this Agreement. For the avoidance of doubt, license terms and conditions of use, content licensed by each Members, and payment terms are not considered to be confidential information for the purposes of this Agreement. Confidential information may be disclosed to Licensee's Sites, subscription agents and any other natural or legal person who is involved in the implementation of this Agreement but may not be shared outside the intended parties. Any information which at the commencement of this Agreement is or becomes available to the public and information required to be disclosed by law or by regulations of any governmental authority shall not be deemed confidential information for the purposes of this clause.



6. FEES AND PAYMENT

a. Fees. Licensee shall pay all Fees pursuant to Part 1 – License Terms of this Agreement. Licensee’s consent is required for purchase of additional content, and any other fees as set forth in this Agreement. The Fees may be increased by AIPP upon notice, and Licensee’s consent, if a print version, a new publication, and/or an additional Member is added. Additional book collections may be added to, or removed from, the Licensed Content by purchase order, and any change in Fees resulting from a change to the Licensed Content will be reflected in the purchase order, which shall be subject to these Standard Terms and Conditions. If Licensed Content is withdrawn or full collection not published and if the withdrawn or not-published Licensed Content represents more than ten per cent (10%) of the 40-book collection then AIPP shall make a pro rata refund of part of the License Fee to Licensee.

b. Taxes. Licensee must pay any applicable taxes arising out of the access to the Licensed Content, and/or the products and services as set forth in the appendices to Part 1, Terms.

7. TERMINATION FOR NONPAYMENT AND CHANGES TO CONTENT

a. Termination for Failure to Pay. If Licensee fails to pay the fees pursuant to Section 6, AIPP may suspend or terminate Licensee’s access to any and all of the Licensed Content, and/or any other products or services or terminate this Agreement. If Licensee wishes to be reinstated after AIPP suspends access to the Licensed Content for failure to pay, Licensee must first pay for the outstanding Fees.

b. Changes to Licensed Content. AIPP may change the selection of the Licensed Content from time to time, with notice to Licensee. The Fees may be adjusted pursuant to the mutual consent of the parties, subject to the Licensee’s right to access any Licensed Content, as outlined in Section 6.

8. REPRESENTATIONS AND DISCLAIMERS; LIMITATION OF LIABILITY

a. Warranty and Disclaimers. AIPP represents and warrants that it is authorized to grant Licensee and its Authorized Users the rights granted herein. Except as set forth in the preceding sentence, the Platform and the Licensed Content are provided on an “as-is” and “as-available” basis. AIPP makes no warranty or representation of any kind with respect to the Licensed Content or the Platform, express or implied, including its quality, originality, availability, accessibility, accuracy, performance, non-infringement, merchantability or fitness for a particular purpose, or that access to the Platform and the Licensed Content will achieve a particular result, or such access will be uninterrupted or error-free.

b. Limitation of Liability. Neither party shall be liable for exemplary, special, indirect, incidental, consequential or other similar types of damages, arising out of, relating to or connected with this Agreement, even if a party is advised or aware of the possibility of such damages. In no event shall the total aggregate liability of either party for any claims, losses or damages arising out of, relating to or connected with this Agreement exceed the amount paid or payable by the Licensee for the annual term during which the claim arose, whether in contract, tort or otherwise. The foregoing limitations do not apply to any breach of Sections 3, 5 and 6.



9. GOVERNING LAW AND ARBITRATION

- a. Choice of law. Intentionally removed by mutual consent of both parties.
- b. U.S. Licensee. Intentionally removed by mutual consent of both parties.
- c. International Licensee. Intentionally removed by mutual consent of both parties.

10. GENERAL

a. Integration. This Agreement (consisting of the License Terms, Standard Terms and Conditions, and the attached appendices, if any) contains the entire understanding of the parties regarding the subject matter of this Agreement, and supersedes all prior and contemporaneous agreements and understandings between the parties regarding its subject matter. The Licensed Content and Fees associated therewith may be specified in a purchase order, but nothing else in a purchase order can supersede any term in the Standard Terms and Conditions without a written amendment.

b. Waiver and Modification. Unless noted otherwise in the License Terms, AIPP may amend each term of these Standard Terms and Conditions Agreement in writing, and the amendments shall be deemed accepted if Licensee does not object to the amendment within thirty (30) days of receipt of the amendment. Amendments to any term of these Standard Terms and Conditions by Licensee may only be made in a writing signed by both parties. A waiver of a breach shall not constitute a waiver of any other breach. The failure of either party at any time to enforce any provisions of this Agreement or to exercise any right or remedy shall not be construed to be a waiver of such provisions or of such rights or remedy or the right of that party thereafter to enforce each and every provision, right or remedy.

c. Force Majeure. Neither party will be responsible for any failure to perform its obligations under this Agreement due to causes beyond its reasonable control, including, but not limited to, acts of God, war, fire, floods, acts of civil or military authorities, strikes, work stoppages, civil unrest, power outages or disruption of transport or shipping, or riot.

d. Notices. All notices, reports and statements to be given shall be given or made: (a) by hand delivery, first class, Registered or Certified mail, return receipt requested, FedEx, UPS or any overnight delivery service providing notice of receipt, with a copy by email; or (b) by email itself. Notices to the parties shall be sent to the physical or email addresses set forth in the License Terms, unless notification of a change is given in writing. The date of receipt evidenced by the tracking information or email confirmations shall be deemed the date of receipt.

e. Severability. The parties agree that if any part, term, or provision of this Agreement shall be found illegal or in conflict with any valid controlling law, the validity of the remaining provisions of this Agreement shall not be affected thereby.



f. Assignment. The Licensee shall not assign or transfer its rights under this Agreement without the prior written consent of AIPP. AIPP may require the payment of additional Fees if any assignment or transfer of rights by Licensee results in additional authorized locations requiring access to the Licensed Content. AIPP may assign this Agreement upon notice in the event of any merger, reverse merger, sale, acquisition, public offering or private placement resulting in a change of ownership or control of AIPP. This Agreement shall be binding upon and inure to the benefit of the parties hereto, their successors and permitted assigns.

g. No Third Party Beneficiary. The parties do not intend, and the Agreement shall not be deemed, to create any third party beneficiary rights for any person, including, without limitation, the Authorized Users, member societies of the American Institute of Physics (“Member Societies”), and publishing partners of AIPP (“Publishing Partners”), which authorized AIPP to grant Licensee access to the Licensed Content. Licensee shall not bring any claim relating to this Agreement against the Member Societies or Publishing Partners, nor shall Licensee cause, assist or cooperate with any Authorized Users in bringing a lawsuit against Member Societies or Publishing Partners.

h. Counterparts. This Agreement may be executed in counterparts, both of which taken together will constitute one and the same document. Electronic, facsimile or .pdf file signatures will have the same effect as originals.

i. Order of Precedence. To the extent Licensee provides any purchase order, procurement form, or rider that contains terms that conflict or are inconsistent with the terms in this Agreement, the terms in this Agreement shall govern and be given precedence. Any language in any purchase order, procurement form, rider, or any other writing that purports to change the terms of this Section 10(i) without specifically referencing this section of this Agreement is inoperative.

j. Survival. Sections 2, 3, 5, 6, 8, 9, and 10 and any other provisions that are intended to survive, shall survive the expiration or termination of this Agreement.



The parties have executed this Agreement (consisting of Part 1- License Terms and Part 2 – Standard Terms and Conditions) as of the Effective Date.

AIP PUBLISHING LLC

COPPUL

By:

By:

Name: Kevin Steiner

Name:

Title: Head of Global Sales and Advertising

Title:

Date:

Date:



APPENDIX A
Participating Institutions and/or Authorized Locations

Licensee: Council of Prairie and Pacific University Libraries (COPPUL)

Authorized Location(s):

Account# 1079207
University of Alberta Libraries
5-25 Cameron Library
Edmonton, AB T6G 2J8
Canada

University of Alberta Libraries AIP Publishing Books Fee: \$4,500

Account# 1181870
University of Saskatchewan
Room 630, Murray Building
3 Campus Drive
Saskatoon, SK S7N 5A4
Canada

University of Saskatchewan AIP Publishing Books Fee: \$4,500

Account# 1170044
University of Calgary
2500 University Drive NW
Calgary, AB T2N 1N4
Canada

University of Calgary AIP Publishing Books Fee: \$4,500
University of Calgary APPT Book Archive Fee: \$2,168