

**SUBSCRIPTION AND PERPETUAL ACCESS LICENSE AGREEMENT
CONSORTIA**

COMMERCIAL TERMS

- 1 LICENSOR:** BLOOMSBURY PUBLISHING INC, 1385 BROADWAY, 5TH FLOOR, NEW YORK, NEW YORK 10018, USA.

- 2 LICENSEE:** Council of Prairie and Pacific University Libraries, Room 219 Koerner Library, University of British Columbia, 1958 Main Mall Vancouver, British Columbia V6T 1Z2

- 3 LICENSED WORK(S):** The Subscription Licensed Works and/or Perpetual Access Licensed Works set out in Schedule A (as the same may be amended from time to time in accordance with Clause 4.4 of this Agreement) and/or as set out in an invoice relating to this Agreement and/or otherwise agreed in writing (including by way of addenda signed by both parties to this Agreement).

- 4 SITE(S):** The geographical site(s) of the Participating Member Institutions listed in Schedule B.

- 5 CHARGES:** The price set out in the Licensor’s or the Subscription Agent’s invoices concerning (i) access to the Licensed Works and (ii) maintenance fees as set out in Annex 2, if relevant (“Maintenance Fees”).

- 6 LICENSEE CONTACT DETAILS:**

Name: Carol Stephenson
E-mail: carol@coppul.ca
Telephone: 519-501-5358

- 7 GOVERNING LAW:** EXCEPT TO THE EXTENT, IF ANY, THAT AGREEMENT TO THE FOLLOWING IS PROHIBITED BY THE LAWS OR REGULATIONS GOVERNING CONTRACTS WITH AN ENTITY SUCH AS THE LICENSEE OR A PARTICIPATING MEMBER INSTITUTION (INCLUDING BUT NOT LIMITED TO ANY LAW OR REGULATION GOVERNING CONTRACTS WITH PUBLIC LIBRARIES OR STATE OR LOCAL GOVERNMENT-SUPPORTED EDUCATIONAL INSTITUTIONS):
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, including the applicable provincial laws regarding Freedom of Information and Protection of Privacy, and the parties irrevocably agree that any dispute arising out of or in connection with this Agreement will be subject to and within the jurisdiction of the courts of British Columbia and Canada

- 8 Agreement Management:** Licensee will submit orders only for Participating Member Institutions that agree to abide by the terms of this Agreement. Participating Member Institutions will not each separately execute agreements with the Licensor. Licensee will communicate the Agreement to Participating Member Institutions. A breach of this Agreement by one Participating Member Institution shall not affect the rights and responsibilities of other Participating Member Institutions

THE LICENSOR AND LICENSEE EACH ACCEPT AND AGREE TO THE TERMS OF THIS AGREEMENT.

[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

[REDACTED]
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TERMS AND CONDITIONS

1 COMMENCEMENT AND DEFINITIONS

1.1 This Agreement shall be deemed to commence on the earliest of

1.1.1 the earliest Subscription Start Date for Subscription Licensed Works; and

1.1.2 the earliest Perpetual Access Start Date for Perpetual Access Licensed Works;

and shall apply to all orders for Licensed Works placed by the Licensee on behalf of Participating Member Institution(s) which are accepted by the Licensor on or after such date. This Agreement shall continue thereafter, subject to earlier termination in accordance with its terms.

1.2 Regardless of when this Agreement commences or terminates, the Participating Member Institution(s) and Authorized Users may not use a Licensed Work outside of the Licensed Work Term for that Licensed Work unless expressly permitted to do so by the Licensor. Any such permitted use shall be subject to the terms of the Legal Notice(s) for the relevant Licensed Work(s).

1.3 Any order placed by the Licensee on behalf of Participating Member Institution(s) for access to the Licensed Works will constitute an offer by the Licensee on behalf of Participating Member Institution(s) to subscribe to or purchase the Licensed Works referred to therein subject to the terms of this Agreement. The Licensee is responsible for ensuring that the terms of its order are complete and accurate.

1.4 An order made pursuant to this Agreement shall only be deemed to be accepted when the Licensor issues a written acceptance of the order.

1.5 In this Agreement, the words or phrases defined on the front page shall have the meanings set out there and the following expressions shall have the following meanings:

“Authorized User” shall mean an individual affiliated with a Participating Member Institution and who is authorised by the Participating Member Institution to access the Participating Member Institution’s information services available through the Participating Member Institution’s Secure Network and who is:

- if the Participating Member Institution is an academic or educational institution: affiliated with the Licensee as a current student, faculty member, employee or contractor; whether full- or part-time, permanent, temporary, contract or visiting appointments, retired faculty with Emeritus or equivalent status, and researchers associated with Member Institution regardless of the physical location of such persons

“Charges”

- if the Participating Member Institution is a public library, a patron or member of staff physically present on the Licensee’s premises;

shall mean the annual price provided by the Licensor to be paid by the Licensee on behalf of Participating Member Institution;

“Commercial Use”	shall mean use for the purposes of direct or indirect monetary reward (whether by or for the Licensee, Participating Member Institution, an Authorized User, or any other person or entity) by means of sale, resale, loan, transfer, hire, or other form of exploitation of the Licensed Works;
“Concurrency Restriction”	shall mean, for each Licensed Work, respectively, the maximum number of permitted concurrent Authorized Users for that Licensed Work, if applicable, as specified in Schedule A and/or in the relevant invoice and/or as otherwise agreed in writing;
“Content-Specific License Terms”	shall mean, in relation to an article, chapter or any other portion of any Licensed Work, the specific license terms under which that material is published (for example, but not limited to, a Creative Commons license), as may be specified on the website of the Licensed Work;
“Educational Use”	shall mean the non-Commercial Use for the purposes of research, teaching and private study;
“Fee”	shall mean the annual price provided by LICENSEE to each Participating Member Institution;
“Initial Year”	shall mean, for each Subscription Licensed Work, respectively, the 12 month period, which commences on that Licensed Work’s Subscription Start Date;
“Institution”	shall mean Members and Other Libraries that are formal members of LICENSEE or otherwise formal members of Licensee’s partner consortia,
“Legal Notice”	shall mean, for each Licensed Work, the legal notice and/or terms of use of that Licensed Work as specified on the website for the Licensed Work in a document linked from the footer or header of the homepage;
“Licensed Work Term”	shall have the meaning ascribed to it in Clause 2.1;
“Licensor Trademarks”	shall mean the designations BLOOMSBURY, BLOOMSBURY PUBLISHING, FAIRCHILD BOOKS AND STUDIO;
“Material”	shall mean any ebook, abstract, article, index, advertising, metadata or other material or content (including for the avoidance of doubt, any audiovisual content) contained in the Licensed Works and accessed online;
“Participating Member Institution”	shall mean Institutions accessing the Licensed Works by agreement to the terms and conditions of this Agreement, and by agreement to pay LICENSEE the Fees associated with access;

"Password(s)"	shall mean any password(s) given to the Participating Member Institution by the Licensor or created by the Participating Member Institution to access the Licensed Work(s) and any other passwords required by Authorized Users to access the Secure Network;
"Perpetual Access Licensed Work"	shall mean a Licensed Work which is purchased on a perpetual access basis, as indicated in Schedule A and/or in an invoice relating to this Agreement and/or as otherwise agreed in writing;
"Perpetual Access Start Date"	shall mean, for each Licensed Work which is a Perpetual Access Licensed Work, the date on which perpetual access starts for that Licensed Work (as may be specified in Schedule A and/or in the relevant invoice and/or as otherwise agreed in writing);
"Pre-Publication Titles"	shall mean any Licensed Works which have not yet been published as at the date on which the Licensee's order therefor is received by the Licensor;
"Secure Network"	shall mean a network (whether a stand-alone network or a virtual network within the Internet, accessible offsite) which is only accessible to Authorized Users. A cache server or any server or network which can be accessed by unauthorized users is not a Secure Network;
"Server"	shall mean either the Licensor's server or a third party server designated by the Licensor on which the Licensed Works are mounted and through which the Licensee and its Authorized Users may gain access to the Licensed Works by means of the World Wide Web.
"Subscription End Date"	shall mean, for each Subscription Licensed Work, respectively, the date on which the subscription ends for that Licensed Work (as may be specified in Schedule A and/or in the relevant invoice and/or as otherwise agreed in writing) or any subsequent date agreed in writing by the parties under the renewal process in this Agreement;
"Subscription Period"	shall mean, for each Subscription Licensed Work, respectively, a period commencing on the Subscription Start Date for that Licensed Work and expiring on the Subscription End Date for that Licensed Work and subject to renewal for successive periods in accordance with this Agreement;
"Subscription Licensed Work"	shall mean a Licensed Work which is purchased on a subscription basis, as specified in Schedule A and/or in an invoice relating to this Agreement and/or as otherwise agreed in writing;
"Subscription Start Date"	shall mean, for each Subscription Licensed Work, respectively, the date on which the subscription starts for that Licensed Work (as may be specified in Schedule A and/or in the relevant invoice and/or as otherwise agreed in writing);

- “Text And Data Mining” shall mean, in relation to any Licensed Work(s) or any portion thereof, performing a computational analysis of anything recorded in that (those) Licensed Work(s) or portion;
- “Updates” shall mean, in relation to a Perpetual Access Licensed Work, updates or supplements to that Licensed Work published by the Licensor after the Version Licensed;
- “Usage Rights” shall mean, for each Licensed Work, respectively, the permitted use of that Licensed Work, as described in Clause 2 of this Agreement and in the Legal Notice for that Licensed Work.
- “Version Licensed” shall mean, in respect of a Perpetual Access Licensed Work which consists of an online collection of titles and/or images and/or audiovisual material (or any combination of the aforementioned), the version of that Licensed Work specified as the “Version Licensed” in Schedule A or otherwise agreed in writing by the Licensor.

2 GRANT OF LICENSE, USAGE RIGHTS AND LIMITATIONS ON USE

- 2.1 In this Agreement, “Licensed Work Term” shall mean:
- 2.1.1 for each Subscription Licensed Work, the Subscription Period for that Licensed Work; and
- 2.1.2 for each Perpetual Access Licensed Work, a perpetual term from the Perpetual Access Start Date for that Licensed Work.
- 2.2 For each Licensed Work, respectively, Licensor grants the Licensee the non-exclusive and non-transferable right for the Licensed Work Term and subject to any Concurrency Restriction(s) (noted in Schedule A) and the terms of the Legal Notice for that Licensed Work (including any Usage Rights specified in the Legal Notice) to allow Authorized Users at the Participating Member Institutions access to its Licensed Material for personal, scholarly, educational, research or internal business use. Notwithstanding any other provisions of this Agreement, nothing shall in any way restrict or limit the ability of the Participating Member Institutions, Authorized Users or Walk-in Users to engage in or conduct any activity that is otherwise permitted under Canadian copyright laws, including without limitation pursuant to any Fair Dealing
- 2.2.1 access the Server by means of a Secure Network in order to search the Licensed Work and to view, retrieve, and display portions thereof;
- 2.2.2 save and print out single copies of portions of the Licensed Work (save, for the avoidance of doubt, where specific Material is made available by the Licensor by means of streaming only);
- 2.2.3 if the Licensee is an academic institution, incorporate links and incorporate a reasonable amount of parts of the Licensed Work in electronic course packs and course management systems for use in connection with courses offered by the Licensee for academic credit provided that no person other than an Authorized User may use such links;
- 2.2.4 transmit links to the Licensed Work to other Authorized Users.
- 2.2.5 transmit reasonable portions of the content to third party colleagues for personal, scholarly, education, scientific, or professional use, but in no case for re-sale.

2.2.6 display, download or print the Licensed Materials for the purpose of internal marketing or testing or for training Authorized Users

2.2.7 alter or modify the Licensed Materials as necessary to provide an equivalent level of service to Authorized Users with appropriately documented print or other disabilities.

2.3 For the avoidance of doubt the Licensee and Authorized Users may not, except as allowed in 2.2:

2.3.1 remove, obscure or alter Licensor's copyright notices, source acknowledgements, or other means of identification or disclaimers as they appear in the Licensed Works or reproduce any images from the Licensed Works without the accompanying copyright notices or credits as provided in the Licensed Works;

2.3.2 systematically make multiple printed or electronic copies of portions of the Licensed Works for any purpose except as permitted by law or as authorized by Licensor;

2.3.3 display or distribute any part of the Licensed Works on any electronic network, including without limitation, the Internet and the World Wide Web, other than the Secure Network;

2.3.4 permit anyone other than Authorized Users to access or use the Licensed Works except as outlined in section 2.2.5;

2.3.5 use all or any part of the Licensed Works for any Commercial Use or for any use other than Educational Use;

2.3.6 alter, adapt or modify the Licensed Works, except to the extent necessary to make it perceptible on a computer screen, or as otherwise permitted by this Agreement. For the avoidance of doubt, no alteration of the words in any Licensed Work, or their order, is permitted;

2.3.7 carry out any Text And Data Mining without the Licensor's prior consent in writing; or

2.3.8 perform automated searches or scripts on the Licensor's platform which are likely to burden the Licensor's servers.

The provisions of this clause 2.3 shall survive termination of this Agreement for any reason.

2.4 If the Licensor, Licensee or Participating Member Institution breaches the terms of the license, the other party will give them 60 days to mend and cure the breach. If the breach is not cured, the non-breaching party may terminate the contract and provide a pro-rated discount if the breaching party is the Participating Member Institution.

If an Authorized User commits a breach, the Participating Member Institution will cooperate with the Licensor to investigate and make reasonable efforts to remedy and prevent recurrence. Licensor may terminate Participating Member Institution's access after 60 days after first providing notice. If the breach has potential to cause serious material harm, the vendor may temporarily suspend all Participating Member Institution(s) access and provide immediate

notice of the block and the details. Such suspensions will be of the shortest duration possible sufficient to terminate and block the alleged unauthorized activity.

- 2.5 Where the Participating Member Institution is an academic library, or library which is part of a non-commercial organisation, then notwithstanding any restriction in Clause 2.3, the Licensor hereby grants the Participating Member Institution the non-exclusive right during the Licensed Work Term for each Licensed Work, respectively, to supply Interlibrary Loan requests either by post, fax, secure transmission or appropriate electronic means, for the purposes of research or private study, a single copy of an electronic original of an individual document being part of the Licensed Materials to a non-commercial library in accordance with the Canadian Copyright law and laws of fair dealing (whereby the electronic file is deleted after printing), for the purposes supplying an Authorized User of the recipient library with a single copy of an electronic original of an individual document from a Licensed Work for the purpose of research or private study and not for Commercial Use. The Licensor may request reports in respect of the Participating Member Institution's use of the Licensed Works in such inter-library loans, provided the confidentiality of user data shall be maintained.

If the Participating Member Institution is located in the United States of America, the Participating Member Institution agrees to fulfill such requests in compliance with Section 108 of the United States Copyright Law (17 USC §108, "Limitations on exclusive rights: reproduction by libraries and archives") and with guidelines developed by the National Commission on New Technological Uses of Copyrighted Works (CONTU Guidelines) from time to time, the text of which is available as part of the US Copyright Office Circular 21.

- 2.6 In the case of any conflict or ambiguity between:
- 2.6.1 the Usage Rights specified in this Clause 2 and the Usage Rights specified in the Legal Notice for any Licensed Work, this Clause 2 shall take precedence in respect of that Licensed Work;
- 2.6.2 the Usage Rights and the Content-Specific License Terms for any portion of any Licensed Work, the Content-Specific License Terms shall take precedence in relation to that portion of the Licensed Work.

3 RESPONSIBILITIES OF THE PARTICIPATING MEMBER INSTITUTION

- 3.1 The Participating Member Institution will provide the Licensor on request with all identifying information, including IP address ranges, relating to the Participating Member Institution and its Authorized Users necessary to enable the Licensor to set up and activate the Participating Member Institution's access to the Licensed Works. If required by the Licensor, the Participating Member Institution shall enter such information into an online registration system indicated by the Licensor. The Participating Member Institution will notify the Licensor or amend such information (where originally entered by the Participating Member Institution) promptly following any additions, deletions or other alterations to the information supplied.
- 3.2 The Participating Member Institution will obtain at its cost all telecommunications and other equipment and software (including an Internet browser and portable document file reader) together with all relevant software licenses necessary to access the Licensed Works online via the Participating Member Institution's Secure Network.
- 3.3 The Participating Member Institution shall:
- 3.3.1 be responsible for the confidentiality and use of the Password(s);

- 3.3.2 use reasonable efforts to:
 - 3.3.2.1. ensure its Authorized Users' compliance with the terms of this Agreement;
 - 3.3.2.2. ensure that only Authorized Users are permitted access to the Licensed Works by means of the Participating Member Institution 's Secure Network;
 - 3.3.2.3. restrict and control unauthorized access to the Licensed Works and to any Participating Member Institution user names, passwords or other access control mechanisms provided by the Licensor;
- 3.3.3 ensure that all Authorized Users are made aware that the Licensed Works are protected by copyright and the Authorized Users' use of the Licensed Works is subject to the restrictions and obligations contained in this Agreement.
- 3.4 The Participating Member Institution will notify Licensor immediately if it becomes aware of any of the following: (a) any loss or theft of the Password(s); (b) any unauthorized use of any of the Password(s) or other access control mechanisms; or (c) any breach by an Authorized User of the terms of this Agreement.
- 3.5 The Participating Member Institution shall notify Licensor promptly (i) of the facts and circumstances surrounding any unauthorized access, possession, or use of the Licensed Works, or Licensor intellectual property, or any portion thereof; and (ii) on becoming aware of any claim by any third party that the Licensed Works infringe an intellectual property or proprietary right of any third party.
- 3.6 The Licensee acknowledges that the obligations in this Clause 3 are primarily directed at ensuring the security of the Licensed Works and that the Licensor is reliant on the Participating Member Institution fulfilling these obligations to ensure that security. Accordingly, upon the Licensor's request, the Participating Member Institution shall terminate access to the Licensed Works of any Authorized User whose actions or omissions constitute a breach of the terms of this Agreement (or would constitute such a breach if they were a party to it) and, further, upon any breach of this Clause 3 by the Licensee or Participating Member Institution, the Licensor reserves the right to terminate or suspend the Participating Member Institution's access to the Licensed Works, in addition to any other available remedies.

4 RESPONSIBILITIES OF LICENSOR

- 4.1 Licensor shall set up and activate the Licensee's online access to the Licensed Works following receipt of the information to be supplied by the Participating Member Institution under Clause 3.1.
- 4.2 The Licensor shall use all reasonable efforts:
 - 4.2.1 to make the Licensed Works available by means of the World Wide Web to the Participating Member Institution throughout the Licensed Work Term for each Licensed Work, respectively;
 - 4.2.2 to ensure that the Server has sufficient capacity and rate of connectivity to provide the Participating Member Institution with a quality of service consistent with current standards in the World Wide Web on-line information provision industry; and
 - 4.2.3 to restore access to the Licensed Works as soon as possible in the event of an interruption or suspension of the service.

- 4.3 The Licensor agrees to make available to the Participating Member Institution statistics regarding the Participating Member Institution's usage of the Licensed Works by Authorized Users available for download, in compliance with the Codes of Practice for Project COUNTER.
- 4.4 The Licensor reserves the right to withdraw from the Licensed Works any content that it no longer retains the right to provide or that it determines may be unlawful, defamatory, obscene, harmful, false, infringing or otherwise objectionable.
- 4.5 The Licensor reserves the right to suspend access to the Licensed Works in the event of any unauthorized use of the Licensed Works, in addition to any other available remedies.
- 4.6 Throughout the Licensed Work Term for each Licensed Work, Licensor shall itself provide, or arrange for the provision by a third party, of customer support services to the Licensee.

5 PAYMENTS BY THE LICENSEE

- 5.1 In consideration of the rights granted by Licensor under this Agreement, the Licensee shall pay the Charges due to Licensor for each Licensed Work within 45 days of receipt of an appropriate invoice.
- 5.2 The Charges and (for Subscription Licensed Works) any renewal fees are exclusive of sales tax, value added tax or any equivalent tax (if applicable). Notwithstanding any other provision of this Agreement, Licensor shall not be obliged to grant access to a Licensed Work, or continue to grant such access to the Licensee until the Charges or renewal fees for that period have been received by the Licensor.
- 5.3 The Charges and (for Subscription Licensed Works) any renewal fees may be higher than the Charges or renewal fees for the previous 12 month period and may take into account, without limitation, changes to the Participating Member Institutions, changes to the Licensed Works and the potential number of Authorized Users.

6 ADDITIONAL TERMS

- 6.1 The terms in Annexes 1 and 2 shall only apply in the following circumstances:
 - 6.1.1 For each Subscription Licensed Work, the terms in Annex 1 shall apply in relation to that Licensed Work.
 - 6.1.2 For each Perpetual Access Licensed Work, the terms in Annex 2 shall apply in relation to that Licensed Work.

7 ACKNOWLEDGMENT AND PROTECTION OF INTELLECTUAL PROPERTY RIGHTS

- 7.1 The Licensee and Participating Member Institution acknowledges that all copyrights, patent rights, Licensor Trademarks, services marks, database rights, trade secrets and other intellectual property rights relating to the Licensed Works (collectively the "Licensor Intellectual Property"), are owned or controlled by Licensor and that this Agreement does not convey to the Licensee or Participating Member Institution any right, title, or interest therein except for the right to use the Licensed Works in accordance with the terms and conditions of this Agreement.
- 7.2 The Licensee and Participating Member Institution acknowledges that neither it nor any Authorized User may create any derivative work based on the Licensed Works except with the prior written permission of the Licensor.

8 REPRESENTATIONS AND WARRANTIES

- 8.1 LICENSOR REPRESENTS AND WARRANTS THAT IT HAS THE POWER TO ENTER INTO THIS AGREEMENT AND TO GRANT THE RIGHTS CONFERRED HEREIN TO THE LICENSEE AND PARTICIPATING MEMBER INSTITUTION AND THAT THE LICENSED WORKS DO NOT VIOLATE OR INFRINGE UPON ANY PATENT, COPYRIGHT, TRADEMARK, TRADE SECRET OR OTHER PROPRIETARY RIGHT OR CONTRACT RIGHT OF ANY THIRD PARTY.
- 8.2 LICENSOR PROVIDES THE LICENSED WORKS ON AN "AS IS" BASIS. SAVE AS PROVIDED ABOVE AND TO THE EXTENT PERMITTED BY LAW, LICENSOR GIVES NO WARRANTY, EXPRESS OR IMPLIED, AND MAKES NO REPRESENTATION THAT (I) THE LICENSED WORKS WILL BE OF SATISFACTORY QUALITY, SUITABLE FOR ANY PARTICULAR PURPOSE OR FOR ANY PARTICULAR USE UNDER SPECIFIED CONDITIONS, NOTWITHSTANDING THAT SUCH PURPOSE, USE, OR CONDITIONS MAY BE KNOWN TO LICENSOR; OR (II) THAT THE LICENSED WORKS WILL OPERATE ERROR FREE OR WITHOUT INTERRUPTION OR THAT ANY ERRORS WILL BE CORRECTED; OR (III) THAT THE MATERIAL PUBLISHED IN THE LICENSED WORKS IS EITHER COMPLETE OR ACCURATE.
- 8.3 IN NO CIRCUMSTANCES WILL LICENSOR BE LIABLE TO THE LICENSEE, PARTICIPATING MEMBER INSTITUTION OR ANY THIRD PARTY FOR ANY LOSS RESULTING FROM A CAUSE OVER WHICH LICENSOR DOES NOT HAVE DIRECT CONTROL, INCLUDING BUT NOT LIMITED TO FAILURE OF ELECTRONIC OR MECHANICAL EQUIPMENT OR COMMUNICATION LINES, TELEPHONE OR OTHER INTERCONNECT PROBLEMS, UNAUTHORIZED ACCESS, THEFT, OR OPERATOR ERRORS.
- 8.4 IN NO CIRCUMSTANCES WILL LICENSOR BE LIABLE TO THE LICENSEE, PARTICIPATING MEMBER INSTITUTION OR ANY THIRD PARTY FOR ANY CONSEQUENTIAL, INCIDENTAL, SPECIAL, PUNITIVE OR INDIRECT DAMAGES OR LOSS OF PROFITS INCLUDING, WITHOUT LIMITATION, DAMAGES FOR LOSS OF DATA OR CORRUPTION OF DATA, LOSS OF PROGRAMS, LOSSES ARISING FROM INACCURACIES IN, OR CORRUPTION CAUSED BY, THE LICENSED WORKS, LOSS OF BUSINESS OR GOODWILL, OR OTHER DAMAGES OR LOSSES OF ANY NATURE ARISING OUT OF THE USE OF, OR INABILITY TO USE THE LICENSED WORKS.
- 8.5 THE LICENSEE AND PARTICIPATING MEMBER INSTITUTION AGREE THAT THE ENTIRE LIABILITY OF LICENSOR TO THE LICENSEE OR AUTHORIZED USERS ARISING OUT OF ANY KIND OF LEGAL CLAIM (WHETHER IN CONTRACT, TORT, BY STATUTE OR OTHERWISE) IN ANY WAY CONNECTED WITH THE USE OR INABILITY TO USE THE LICENSED WORKS SHALL BE THE REFUND OF ANY SUMS ACTUALLY RECEIVED BY THE LICENSOR UNDER THIS AGREEMENT FOR THE AFFECTED LICENSED WORKS DURING THE TWELVE MONTH PERIOD IN WHICH THE CLAIM ARISES.
- 8.6 THE LICENSEE AND PARTICIPATING MEMBER INSTITUTION WARRANTS THAT IT HAS IN PLACE APPROPRIATE POLICIES AND DISCIPLINARY PROCEDURES REGARDING THE MISUSE OF ONLINE TOOLS SUCH AS THE LICENSED WORK(S).
- 8.7 THE SIGNATORY FOR LICENSEE OF THIS AGREEMENT REPRESENTS AND WARRANTS TO LICENSOR THAT S/HE HAS THE POWER AND AUTHORITY TO EXECUTE THIS AGREEMENT ON BEHALF OF THE LICENSEE, WHICH LICENSEE AND PARTICIPATING MEMBER INSTITUTION AGREES TO BE BOUND BY ALL TERMS CONTAINED HEREIN.

9 TERMINATION

- 9.1 The Licensee may terminate this Agreement at any time for convenience provided that, in such case, no refund of any Charges shall be due.
- 9.2 Either party may terminate this Agreement forthwith by serving written notice on the other in the event that the other party commits a material breach of this Agreement and in the case of a breach capable of remedy fails to remedy the same within 60 days of a request to do so. Without limitation, a breach by the Participating Member Institution of the provisions of Clauses 2.3, 3.1, 3.3, 3.4 and 5.1 above would constitute a material breach of this Agreement. The rights in this Clause are in addition to any rights and remedies that may be available in law or equity. The Licensee shall not be entitled to a refund of any Charges paid in the event of termination of this Agreement by the Licensor under this Clause.
- 9.3 In addition to the rights in Clause 9.2, the Licensor reserves the right to suspend access, as outlined in Sections 2.4 and 3.6, to any or all Licensed Works or any portion thereof in the event that the Licensee or Participating Member Institution commits a material breach of this Agreement, in addition to any other available remedies.

10 GENERAL

- 10.1 This Agreement is personal to the Licensee and the rights granted under it do not extend to its subsidiary or parent organisations, nor may such rights be assigned or sublicensed without the prior written consent of the Licensor. The Licensor may assign any or all of its rights and obligations under this Agreement to an affiliate, a successor to its business or a transferee of Licensor's right to publish and distribute any Licensed Work(s) (in part or in whole) and the Licensee undertakes to execute at Licensor's cost any documents or instruments as may be required to effect the Licensor's rights under this Clause.. The rights and obligations of this Agreement will bind and benefit any successors and permitted assigns of the parties. Any attempted assignment in violation of this Clause will be null and void and of no force or effect.
- 10.2 Except where expressly stated otherwise, all notices required to be given under this Agreement shall be given in writing in English and left at or sent by first class registered or recorded delivery to the appropriate address shown at the head of this Agreement, or such other address as the party concerned shall from time to time designate by notice pursuant to this Clause. Such notices shall be deemed to be delivered (i) when left at the addressee's address; or (ii) if posted 10 (ten) days after posting. All notices to Licensor shall be marked for the attention of the Group Legal Director. All notices to the Licensee shall be marked for the attention of the contact named in the cover page of this Agreement.
- 10.3 This Agreement constitutes the entire agreement of the parties about its subject matter, supersedes all prior communications, understandings and agreements (whether written or oral) relating to its subject matter.
- 10.4 Intentionally omitted
- 10.5 Subject to the requirements of any laws local to the parties, this Agreement may be executed in any number of counterparts, each of which when executed and delivered shall constitute a duplicate original, but all the counterparts shall together constitute the one agreement. The parties agree to be bound by photocopy, scanned, facsimile, electronic or other copies, which shall have the same effect for all purposes as an ink-signed original.
- 10.6 This Agreement may be amended:

10.6.1 by the Licensor, in its sole discretion, provided that the Licensor will use reasonable endeavours such that the Licensee will have thirty (30) days' prior written notice of any such proposed amendment and the Licensee will have the option to terminate this Agreement by delivery to the Licensor of a written notice of the Licensee's election to terminate this Agreement received by the Licensor within sixty (60) days of receipt of such notice; or

10.6.2 by agreement in writing executed by both parties.

- 10.7 Neither the Licensee nor the Licensor shall be responsible to the other for any failure to perform any obligation under this Agreement due to Acts of God, war, riot, embargoes, acts of civil or military authorities, fire, flood, typhoon, wind storm, snow storm, blizzard, hurricane, or other cause that is outside the control of the party and could not be avoided by the exercise of due care. Notwithstanding the occurrence of any of the events set forth in this Clause, the parties shall at all times use reasonable efforts to perform all obligations under this Agreement in a timely manner, taking account of the existing circumstances.
- 10.8 No provision in this Agreement is intended to be enforceable by any third party.
- 10.9 The rights of the parties arising under this Agreement shall not be waived except in writing. Any waiver of any of a party's rights under this Agreement or of any breach of this Agreement by the other party shall not be construed as a waiver of any other rights or of any other further breach.
- 10.10 Headings used in this Agreement are for convenience only and are deemed not to be part of the Agreement.

ANNEX 1 – ADDITIONAL TERMS FOR SUBSCRIPTION LICENSED WORKS

1. Except where expressly stated otherwise, the terms in this Annex shall only apply in relation to Subscription Licensed Works, if any, purchased under this Agreement.
2. Except where expressly agreed otherwise in writing, following the expiry of the Subscription Period the Participating Member Institution shall not be entitled to continuing access to the Subscription Licensed Work or any portion thereof.
3. For each Subscription Licensed Work, no later than 30 days before the end of the Subscription Period for that Licensed Work, the Licensor will notify the Licensee of the renewal fees for the following 12 month period (or such other period as may be agreed by the parties) and shall invoice the Licensee for this amount. Upon payment of such renewal fees, the Subscription Period for that Licensed Work shall be extended by that further period. Payment for that period shall be due to the Licensor within 30 days from the date of the invoice.

ANNEX 2 – ADDITIONAL TERMS FOR PERPETUAL ACCESS LICENSED WORKS

1. Except where expressly stated otherwise, the terms in this Annex shall only apply in relation to Perpetual Access Licensed Works, if any, purchased under this Agreement.
2. For the avoidance of doubt, in the case of Perpetual Access Licensed Works, the Charges do not include perpetual access to any Updates. Should any Updates be published, they may be purchased by the Licensee on behalf of Participating Member Institution(s), subject to a separate agreement at the relevant time and payment of an additional charge. Any Updates so purchased shall become part of the Licensed Works and subject to the terms of this Agreement.
3. Where the Licensor notifies the Licensee that a Perpetual Access Licensed Work is subject to a Maintenance Fee, the Licensee must pay an annual Maintenance Fee, as follows:
 - a. The Licensor shall calculate the Maintenance Fees payable for such Licensed Works on the basis of a rolling twelve (12) month period or such other period as may be specified by the Licensor.
 - b. No later than sixty (60) days before the end of any current period, the Licensor may send the Licensee an invoice for the Maintenance Fee for a further twelve (12) month period or such other period as may be specified by the Licensor. These Maintenance Fees may be higher than the Maintenance Fees for the then current period. The Participating Member Institution's ongoing access to the Licensed Works is conditional upon all Maintenance Fees having been paid in respect of those Licensed Works.

4. RIGHT OF CANCELLATION: PRE-PUBLICATION TITLES

- a. If the Licensor accepts an order for Perpetual Access Licensed Works which includes any Pre-Publication Titles, the Licensor reserves the right, at any time prior to activating the Participating Member Institution's access to such Pre-Publication Titles, to amend or cancel such order (as may be appropriate) to remove any one or more such Pre-Publication Titles from the order and the scope of this Agreement. For the avoidance of doubt, any such amendment or cancellation under this Clause will not extend to or otherwise affect any Licensed Works in respect of which access has already been activated.
- b. If the Licensor amends or cancels an order in accordance with Clause 4(a) of this Annex, its sole liability to the Licensee shall be limited to the repayment by the Licensor of any and all sums received by the Licensor under this Agreement in respect of the Pre-Publication Titles affected by such amendment or cancellation.

SCHEDULE A

LICENSED WORKS

LIST OF AVAILABLE LICENSED WORKS (pending Participating Member Institution order via Licensee)

Berg Fashion Library

Fashion Photography Archive

Drama Online

- Core Collection
- Nick Hern Books Modern Plays
- Playwrights Canada Press
- Aurora Metro Books
- Critical Studies & Performance Practice
- LA Theatre Works
- Shakespeare's Globe on Screen (2008-2015)
- Shakespeare's Globe on Screen 2 (2016-2018)
- Stage on Screen
- Shakespeare in the Present (Patsy Rodenberg Acting Masterclass)
- Maxine Peake as Hamlet
- BBC Drama Films & Documentaries
- The Hollow Crown series 1 & 2
- The RSC Live Collection
- Shakespeare's Heroes and Villains: Steven Berkoff

Bloomsbury Collections

Churchill Archive

Arcadian Library Online

- History of Science and Medicine Collection
- Europe and the Ottoman World: Diplomacy and International Relations

Bloomsbury Food Library (notwithstanding content restrictions below [1])

Bloomsbury Design Library (notwithstanding content restrictions below [2])

Bloomsbury Encyclopedia of Philosophers (notwithstanding content restrictions below [3])

Bloomsbury Popular Music

Bloomsbury Cultural History

Bloomsbury Architecture Library (notwithstanding content restrictions below [4])

Bloomsbury Education and Childhood Studies

Screen Studies

Bloomsbury Fashion Business Cases

Bloomsbury Applied Visual Arts

International Arbitration

UK Tax Online

Whitaker's Almanack

Annual Updates to any of the above

Content Restrictions:

1. Description/ Name of Licensed Work: **Bloomsbury Food Library** as at the date of signature

Notwithstanding anything to the contrary, perpetual access is not available for the following content contained inside Bloomsbury Food Library:

- The Cambridge World History of Food, and
- National Archives Images,

with access to this content to be provided to the Licensee for as long as the Licensor retains the rights to such content.

2. Description/ Name of Licensed Work: **Bloomsbury Design Library** as at the date of signature

Notwithstanding anything to the contrary, perpetual access is not available for the following content contained inside Bloomsbury Design Library:

- National Archives images,
- Alamy images,
- Museum of Art and Design (Partner),
- Design Museum Denmark Exhibitions,
- Philadelphia Museum of Art images, and
- Museum of Craft and Design, San Francisco exhibitions,

with access to this content to be provided to the Licensee for as long as the Licensor retains the rights to such content.

3. Description/ Name of Licensed Work: **Bloomsbury Encyclopedia of Philosophers** as at the date of signature

Notwithstanding anything to the contrary, perpetual access is not available for the following content contained inside Bloomsbury Encyclopedia of Philosophers:

- Images: ERG60G, HM2BBG, FFAKKE, AA57AM, J3T189, FF8R2X, D89PT7, E5W2PD, and
- Special Getty Image <80088798>,

with access to this content to be provided to the Licensee for as long as the Licensor retains the rights to such content.

4. Description/ Name of Licensed Work: **Bloomsbury Architecture Library** as at the date of signature

Notwithstanding anything to the contrary, perpetual access is not available for the following content contained inside Bloomsbury Architecture Library:

- National Archives Images

with access to this content to be provided to the Licensee for as long as the Licensor retains the rights to such content.

SCHEDULE B

PARTICIPATING MEMBER INSTITUTIONS

List of Participating Member Institutions and addresses:

Member IPs: <https://coppul.ca/organizations/ip>

Member Institution Details: <https://coppul.ca/organizations>

University of Saskatchewan Bloomsbury Architecture Library Subscription Jan 2019-