

LICENCE AGREEMENT

BETWEEN

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Cambridge CB2 2RU in the United Kingdom ("the Publisher")

and

Community College Library Consortium ("the Licensee")

WHEREAS the Publisher holds the rights granted under this Licence;

AND WHEREAS the Licensee desires to enable its Authorised Users to use the rights and the Publisher desires to grant to the Licensee the licence to use the rights for the Fees, subject to the terms and conditions of this Licence.

IT IS AGREED AS FOLLOWS: -

1 KEY DEFINITIONS

1.1 In this Licence, the following terms shall have the following meanings: -

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2 AGREEMENT

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- 3.3 Nothing in this Licence shall in any way exclude, modify or affect any of the Licensee's statutory rights under national copyright law.

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provide the Licensee, as soon as possible and no later than thirty (30) days after the Effective Date, with information sufficient to enable the Licensee to access the Work;

use reasonable endeavours to ensure that the Server has adequate capacity and bandwidth to support the usage of the Licensee at a level commensurate with the standards of availability for information services of similar scope operating via the World Wide Web, as such standards evolve from time to time over the term of this Licence;

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- 6.3 The Publisher reserves the right at any time to withdraw from the Work any item or part of an item for which it no longer retains the right to publish, or which it has reasonable grounds to believe infringes copyright or is defamatory, obscene, unlawful or otherwise objectionable. The Publisher shall give written notice to the Licensee of such withdrawal. If the withdrawal results in the Work being no longer useful to the Licensee, the Licensee may within sixty (60) days of such notice treat such changes as a breach of this Licence under clause 9.1.
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7 LICENSEE'S UNDERTAKINGS

7.1 The Licensee shall:

use reasonable endeavours to ensure that all Authorised Users are appropriately notified of the importance of respecting the intellectual

property rights in the Work and of the sanctions which the Licensee imposes for failing to do so;

use reasonable endeavours to notify Authorised Users of the terms and conditions of this Licence and take steps to protect the Work from unauthorised use or other breach of this Licence;

use reasonable endeavours to monitor compliance and immediately upon becoming aware of any unauthorised use or other breach, inform the Publisher and take all reasonable and appropriate steps, including disciplinary action, both to ensure that such activity ceases and to prevent any recurrence;

provide the Publisher, as soon as possible and no later than thirty (30) days after the Effective Date, with information sufficient to enable the Publisher to provide access to the Work in accordance with its obligation under clause 6.2. Should the Licensee make any significant change to such information, it will notify the Publisher not less than ten (10) days before the change takes effect;

use best endeavours to ensure that only Authorised Users are permitted access to the Work.

- 7.2 The Licensee shall pay the Purchase Fee within thirty (30) days of the Effective Date. For the avoidance of doubt, the Purchase Fee shall be exclusive of any sales, use, value added or similar taxes and the Licensee shall be liable for any such taxes in addition to the Purchase Fee.
- 7.3 The Licensee shall pay each Annual Access Fee within thirty (30) days of the beginning of the calendar year (or, in the case of the initial payment, the pro-rated calendar year) to which that payment applies. For the avoidance of doubt, the Annual Access Fee shall be exclusive of any sales, use, value added or similar taxes and the Licensee shall be liable for any such taxes in addition to the Annual Access Fee.

8 UNDERTAKINGS BY BOTH PARTIES

- 8.1 Each party shall use its best endeavours to safeguard the intellectual property, confidential information and proprietary rights of the other party.

9 TERM AND TERMINATION

- 9.1 This Licence may be terminated:

if either party serves written notice to the other of its desire to terminate for any reason, no later than six (6) months before the end of a calendar year (termination then to occur at the end of that calendar year);

if the Licensee defaults in making payment of the Fees as provided in this Licence and fails to remedy such default within sixty (60) days of notification in writing by the Publisher;

if either party commits a material or persistent breach of any term of this Licence and fails to remedy the breach (if capable of remedy) within sixty (60) days of notification in writing by the other party;

if the Licensee commits a wilful material and persistent breach of the Publisher's copyright or other intellectual property rights or of the provisions of clause 3 in respect of usage rights or of clause 5 in respect of prohibited uses;

if either party becomes insolvent or becomes subject to receivership, liquidation or similar external administration;

if access, capacity, or technical services of the Publisher are incapable of providing reliable use of the Work or otherwise frustrate the intent of the Licensee in entering into this Licence and such technical issues cannot be resolved by the Publisher within sixty (60) days of notification in writing from the Licensee.

- 9.2 Except as otherwise provided herein, and subject to clause 2.3, on termination all rights and obligations of the parties automatically terminate except for the Licensee's obligations in respect of any contents of the Work provided to the Licensee under the provisions of clause 2.3.
- 9.3 On termination of this Licence for cause, as specified in clauses 9.1, the Licensee shall immediately cease to distribute or make available the Work to Authorised Users.
- 9.4 On termination of this Licence, no Fees or part thereof paid up to the date of termination shall be re-payable to the Licensee by the Publisher.

10 USE OF AN EXPERT TO RESOLVE DISPUTES

- 10.1 If any difference arises between the Publisher and the Licensee touching the meaning of this Licence and the rights and liabilities of the parties, the parties shall first use their best endeavours to resolve such difference between themselves, but in the absence of such resolution shall then refer the matter to an independent expert to be selected by mutual agreement of the parties. Each party shall provide the expert with such information as the expert may reasonably require for the purposes of determination. The costs of the expert shall be borne by the parties in such proportions as the expert may determine to be fair and reasonable. The decision of the expert shall be final and binding on the parties.

11 GENERAL

- 11.1 This Licence constitutes the entire agreement of the parties and supersedes all prior communications, understandings and agreements relating to the subject matter of this Licence, whether oral or written.
- 11.2 Alterations to this Licence and to the Schedules to this Licence are only valid if they are recorded in writing and signed by both parties.
- 11.3 This Licence may not be assigned by either party to any other person or organisation except as provided under clause 11.4 below, nor may either party

sub-contract any of its obligations, except as provided in this Licence in respect of the management and operation of the Server, without the prior written consent of the other party, which consent shall not unreasonably be withheld.

- 11.4 If rights in all or any part of the Work are assigned by the Publisher to another publisher, the Publisher shall use all reasonable endeavours to ensure that the terms and conditions of this Licence are maintained.
- 11.5 Any notices to be served on either of the parties by the other shall be sent by prepaid recorded delivery or registered post to the address of the addressee as set out in this Licence or to such other address as notified by either party to the other as its address for service of notices. All such notices shall be deemed to have been received within fourteen (14) days of posting.
- 11.6 Neither party's delay or failure to perform any provision of this Licence, as a result of circumstances beyond its control (including, without limitation, war, strikes, floods, governmental restrictions, power, telecommunications or Internet failures, or damage to or destruction of any network facilities) shall be deemed to be, or to give rise to, a breach of this Licence.
- 11.7 The invalidity or un-enforceability of any provision of this Licence shall not affect the continuation or enforceability of the remainder of this Licence.
- 11.8 Either party's waiver, or failure to require performance by the other, of any provision of this Licence will not affect its full right to require such performance at any subsequent time, or be taken or held to be a waiver of the provision itself.
- 11.9 This Licence shall be governed by and construed in accordance with California State law; subject to clause 10.1, the parties irrevocably agree that any dispute arising out of or in connection with this Licence will be subject to and within the jurisdiction of the courts of the State of California.

AS WITNESS the hands of the parties the day and year below first written

FOR CAMBRIDGE UNIVERSITY PRESS

Name (block capitals) _____

Signature _____

Position/Title _____

Date: _____

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