

Consortia Canada

License Agreement for Electronic Products

THIS AGREEMENT is made the 1st of January 2023

BETWEEN: Human Relations Areas Files, Inc. (HRAF) of [755 Prospect Ave, New Haven, CT 06511] (herein referred to as "the Licensor")

AND:

Bureau de coopération interuniversitaire (BCI) 500, rue Sherbrooke Ouest, bureau 200,
Montréal, Québec, H3A 3C6

Council of Atlantic Academic Libraries / Conseil des bibliothèques postsecondaires de
l'Atlantique
(CAAL-CBPA) of 120 Western Parkway, Suite 202, Bedford NS B4B OV2

Council of Prairie and Pacific University Libraries (COPPUL) of 301-3301 Douglas St.,
Victoria, BC, V8Z 3L2

The Albert Library (TAL) of #623, 7 Sir Winston Churchill Sq NW
Edmonton, AB T5J 2V5

Ontario Council of University Libraries (OCUL) of 130 St. George Street, Toronto, Ontario,
M5S 1A5

British Columbia Electronic Library Network (BC ELN) of W.A.C. Bennett Library, Room 7600 Simon
Fraser University 8888 University Drive Burnaby, BC V5A 1S6

(herein referred to as 'the Licensee').

Each "Licensee" is authorized to act for and sign this Agreement on behalf of its Member Institutions hereinafter known as the "Member Institutions." Rights and responsibilities referenced in this Agreement in regard to "Licensee" shall apply to all of the Member Institutions covered under this Agreement; however, each Licensee is responsible only for fulfillment of its individual responsibilities under this Agreement. No Licensee nor any other Member Institution shall be liable for any breach or default of another Licensee or Member Institution. Member Institutions are listed in Schedule 1.

Where applicable, additional Exhibits and Appendices may be attached to address more specific Terms and Conditions specific to certain formats such as e-books, or special purchase conditions such as Perpetual Access, in which case the attached Exhibits and Appendices form an integral part of this Agreement.

IT IS AGREED AS FOLLOWS

1. DEFINITIONS

In this License, the following terms shall have the following meanings:

Accessible Formats

Content in a format that is perceivable and operable by persons with visual, perceptual, physical, or other print disabilities, and is usable with assistive devices and software.

Authorized User

Academic Institutions

All full and part time students, faculty and employees (including permanent, temporary, contract, or visiting), and researchers associated with the Member Institutions, regardless of physical location of such persons; retired faculty and staff; alumni; all registered patrons of the Member Institution; and other persons affiliated with the Member Institution or otherwise permitted to use the facilities of the Member Institution and authorized to access the Licensed Materials.

Authorized Users also include individual members of the public (walk-in users) while they are physically on the premises of a Member Institution. For the avoidance of doubt, walk-in use is intended for individual users, not as a substitution for a License by another institution.

Public Libraries

Employees (whether on a permanent, temporary, contract, or visiting basis), students, teachers, registered patrons, or other persons affiliated with the consortium's Member Institutions, regardless of the physical location of such persons.

Authorized Users also include non-affiliated individuals (walk-in users) while they are physically on the premises of a Member Institution. For the avoidance of doubt, walk-in use is intended for individual users, not as a substitution for a License by another institution.

Special Libraries

Employees (whether on a permanent, temporary, contract, or visiting basis), researchers, registered patrons, or other persons affiliated with the consortium's Member Institutions.

Authorized Users also include non-affiliated individuals (walk-in users) while they are physically on the premises of a Member Institution. For the avoidance of doubt, walk-in use is intended for individual users, not as a substitution for a License by another institution.

Health Sector

Authorized Users are the full-time and part-time students, faculty, staff, and researchers associated with Member Institutions, regardless of physical location of such persons; and individuals who are independent contractors, or are employed by independent contractors, of a Member Institution, regardless of physical location of such persons; all registered patrons of the Member Institution; and other persons affiliated with the Member Institution or otherwise permitted to use the facilities or secure network of the Member Institution.

Authorized Users also include non-affiliated individuals (walk-in users) while they are physically on the premises of a Member Institution. For the avoidance of doubt, walk-in use is intended for individual users, not as a substitution for a License by another institution.

Pre-kindergarten to Grade 12 Schools

Employees (whether on a permanent, temporary, contract or visiting basis) and students associated with the Member Institutions, regardless of physical location.

Authorized Users also include non-affiliated individuals (walk-in users) while they are physically on the premises of a Member Institution. For the avoidance of doubt, walk-in use is intended for individual users, not as a substitution for a License by another institution.

Click-Through License	Terms and conditions relating to Licensed Materials that the Licensor requires Authorized Users to accept by clicking a button or hyperlink in order to gain access on the Platform.
Commercial Use	Use of the Licensed Materials for the purposes of monetary reward (whether by Member Institutions or Authorized Users) by means of sale, resale, loan, transfer, hire or other form of commerce. For the avoidance of doubt, neither recovery of direct costs by the Member Institution from Authorized Users, nor use of the Licensed Materials by the Member Institution or by an Authorized User in the course of research funded by a commercial organization, is deemed to be Commercial Use.
Confidential Information	Designates any information for which the access is restricted under any Canadian federal or provincial legislation.
Consortium	A group of organizations / institutions and their associated libraries that have authorized the Licensee to negotiate and execute this License Agreement on their behalf.

Course Packs	A collection or compilation of materials. For example, book chapters or journal articles assembled by staff of a Member Institution for use by students in a class for the purposes of instruction.
Digital Rights Management	Also referred to as “DRM”, access control technologies that are used by hardware manufacturers, licensors, copyright holders and individuals to limit the use of digital content and devices in on-line or off-line environments.
Digital Watermarking Technology	The process of embedding information into a digital document, which may be used to verify its authenticity or the identity of its owners.
Electronic Learning Environments	Use of parts of or linking to the Licensed Material in virtual and managed environments (including but not limited to virtual learning environments, managed learning environments, virtual research environments, library environments, and courseware technologies) hosted on a Secure Network.
Electronic Reserves	Electronic copies of Licensed Materials (e.g. book chapters, journal articles, abstracts) made and stored on the Secure Network pursuant to Section 3.8 by Member Institution for use by Authorized Users in connection with specific courses of instruction offered by Member Institutions to such Authorized Users.
License Fee	The applicable fee for a license to the Licensed Materials, whether a one-time fee or an annual or other subscription fee, as set out in Schedule 1, or in new Schedules to this Agreement which may be agreed to by the parties from time to time.
Member Institutions	Universities, educational institutions, research organizations, public libraries, or healthcare facilities that are in membership of the Consortium, or for whom the Consortium license resources, and are listed in Schedule 1, and which have agreed by virtue of their membership to be bound by the terms and conditions of this License as if they were a party to it jointly with the Consortium.
Open Access Repository Services	Open-access digital repository services such as those provided by the Author’s employing institution, an academic consortium, a discipline-based entity, or a governmental funding agency.
Perpetual Access	Provisions in this Agreement for continuation of access, archiving and use of Licensed Materials that shall survive any termination of the License Agreement and ensure continued access consistent with current recognized standards in the publishing industry.
Secure Network	A computer network that is only accessible to Authorized Users by Secure Authentication.

2. LICENSE GRANT

- 2.1 The Licensors hereby grants to the Licensee and Member Institutions, subject to and in accordance with the terms of this License, a non-exclusive and non-transferable right to permit Authorized Users to access and use the Licensed Materials at the sites of Member Institutions or remotely, through secure authentication.
- 2.2 In consideration for the Licensors' licensing of the Products and/or Services listed in the attached Schedule(s), the Licensee and Member Institutions agree to pay to the Licensors the Fee in accordance with the provisions of the attached Schedule(s).
- 2.3 The Licensors hereby grants to the Licensee and the Members a non-exclusive, royalty-free, perpetual license for Members and their Authorized Users to use, after the termination of this License Agreement, the Licensed Materials for which Perpetual Access rights are granted, as specified in Schedules 1 and 3. Such use shall be in accordance with the provisions of this License Agreement relating to the use of Licensed Materials, including restrictions on use and related liabilities, which provisions shall survive any termination of this License Agreement. The means by which the Members shall have access to such Licensed Materials shall be in a manner and form as specified in clause 8.3 [Termination].

3. PERMITTED USES

Member Institutions and Authorized Users may use the Licensed Materials as follows:

- 3.1 ACCESS and USE the Licensed Materials from the premises of the Member Institution, or remotely via Secure Network, in order to search, retrieve, download, display, print and view the Licensed Material.
- 3.2 CREATE PERSISTENT LINKS to individual articles for access by Authorized Users for Permitted Uses under this Agreement, from within a Secure Network environment.
- 3.3 INTERLIBRARY LOAN by paper or electronic means, a single copy of an individual document within the guidelines of traditional interlibrary loan practices and applicable copyright laws. The Licensed Material may be used as a source for interlibrary loan in accordance with Canadian and relevant international copyright laws and standard library interlibrary loan procedures.
- 3.4 SCHOLARLY SHARING. Authorized Users may transmit to a third-party colleague in hard copy or electronically, reasonable amounts of the Licensed Materials for personal use or scholarly, educational, or scientific research or professional use.
- 3.5 ACADEMIC RESEARCH AND TEACHING AND MEDICAL PRACTICE. Member Institutions and Authorized Users may (a.) incorporate parts of the Licensed Materials in printed or electronic form in assignments, portfolios, theses, dissertations, teaching, conference presentations, and lectures, with appropriate credit; (b.) make full use, with appropriate credit, of the Licensed Materials in research and publications for personal, scholarly, educational, or professional use; (c.) supply print or electronic copies of individual articles or parts of articles taken from the Licensed Materials to fulfill enquiries from third parties for medical information purposes and (d.) store a single copy of an individual document being part of the Licensed Materials, including within secure personal Bibliographic Reference Management Systems. For

the avoidance of doubt, reproductions of portions of the Licensed Material for library deposit, such as in institutional repositories, and other non-commercial uses, with appropriate credit, are permitted. Also for the avoidance of doubt, none of these activities may be undertaken for Commercial Use.

- 3.6 FAIR DEALING / CREATIVE COMMONS. Notwithstanding any other provisions of this Agreement, nothing shall in any way restrict or limit the ability of 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 exceptions, or as permitted under Creative Commons licensing.
- 3.7 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.
- 3.8 COURSE PACKS / ELECTRONIC RESERVES / VIRTUAL LEARNING. Member Institutions and Authorized Users may incorporate parts of the Licensed Material in course packs, study packs, resource lists and in any other material (including but not limited to multi-media works) to be used in the course of 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) hosted on a Secure Network (only accessible to Authorized Users by Secure Authentication). Each item shall carry appropriate acknowledgement of the source, listing the title and copyright owner. Course packs in non-electronic non-print perceptible form, such as Braille, may also be offered to Authorized Users. If the Licensor does not have the right to grant all rights under 3.8 for all Licensed Materials, these rights will apply exclusively to the content for which the Licensor does have such rights, as specified in the attached Schedule(s).
- 3.9 FEDERATED SEARCH. Member Institutions and Authorized Users may include the Licensed Material in federated or metasearch services.
- 3.10 DATA and TEXT MINING. Member Institutions and Authorized Users may conduct research employing data or text mining of the Licensed Materials and disseminate results publicly for non-commercial purposes.
- 3.11 TRAINING AND MARKETING MATERIALS. Member Institutions may display, download or print the Licensed Materials for the purpose of internal marketing or testing or for training Authorized Users or groups of Authorized Users.
- 3.12 PUBLIC PERFORMANCE RIGHTS. Subscription to Licensed Materials includes Public Performance Rights for private, educational and research purposes on the premise and indoors of the participating Member Institution.

4. PROHIBITED USES

- 4.1 **COMMERCIAL USE.** Use of the Licensed Materials for the purposes of monetary reward (whether by Member Institutions, Authorized Users or Walk-in Users) by means of sale, resale, loan, transfer, hire or other form of commerce. For the avoidance of doubt, recovery of direct costs incurred by the Member Institution in the course of providing access to Authorized Users or Walk-in Users (e.g. printing, photocopying, or administration fee) including interlibrary loan, is not deemed to be Commercial Use.
- 4.2 **SUBSTITUTION FOR LICENSE.** No provision of this Agreement is intended to provide such substantial use as to constitute a substitution for an institutional license by a third-party institution. For example, Walk-In User rights are designed for the provision of services to individuals, not blanket rights for all of the users of another institution or organization.

5. THE LICENSOR'S UNDERTAKINGS

The Licensor shall:

- 5.1 Warrant to the Licensee and the Member Institutions that the total downtime directly attributable to the Server supporting the Licensed Materials will amount to less than the equivalent of one full day in any given calendar month. In the event that the total downtime exceeds this amount, the Licensor will make appropriate restitution, such as providing a special discount equivalent to the amount of the excessive downtime to the product on the next renewal, extending the license term, or providing a refund.
- 5.2 Give prompt notice to the Licensee and the Member Institutions of any additions, modifications to, or deletions of the Licensed Material. Failure by the Licensor to provide such reasonable notice shall be grounds for immediate termination of the Agreement by the Licensee and the Member Institutions. If any modifications render the Licensed Materials less useful to the Member Institutions, the Licensee and the Member Institutions may treat such modifications as a material breach under sections 7.2 and 7.3 of this Agreement. Licensor agrees to provide Licensee and Member Institutions with information pertaining to any subsequent modifications to the Licensed Materials within a period of ten (10) working days.
- 5.3 **Notice of the Use of Digital Rights Management Technology.** In the event that Licensor utilizes any type of digital rights management technology to control the access to usage of Licensed Materials, Licensor agrees to notify Licensee and Member Institutions of the name, contact information and any technical specifications for the digital rights management technology utilized. In no event may such Digital Rights Management Technology be used in such a way as to limit the usage rights of a Licensee, Member Institutions or any Authorized User as specified in this Agreement or under applicable law. Any Digital Rights Management Technology shall be applied in compliance with this Agreement and applicable privacy and data protection laws.
- 5.4 **Notice of the Use of Digital Watermarking Technology.** If Licensor utilizes any type of digital watermarking technology for any element of the Licensed Materials, Licensor agrees that watermarks will not be visible to the human eye and will not degrade image quality. These watermarks shall not contain information pertaining to Member Institutions or Authorized Users such as account numbers or IP addresses. If digital watermarking technology is used, Licensor agrees to notify the Licensee, in advance, of the name, contact information, and any technical specifications for the technology used.

- 5.5 Usage Data. Licensor shall collect Usage Data according to the most recent release of the Project COUNTER Code of Practice. Such Usage Data shall be compiled in a manner consistent with applicable privacy and data protection laws and as may be agreed between the parties from time to time, and the anonymity of individual users and the confidentiality of their searches shall be fully protected. In the case that the Licensor assigns its rights to another party under clause 9.5 [Assignment], the Licensee may at its discretion require the assignee either to keep such usage information confidential or to destroy it.

Licensor shall disclose to the Licensee and each Member Institution such Usage Data relating to the Licensee or Member Institution as requested, provided that the disclosure of such data fully protects the anonymity of individual users and the confidentiality of their searches, and is not contrary to applicable privacy laws.

Licensee and Member Institutions are permitted to share Usage Data. The Licensor shall not disclose or sell to other parties Usage Data about the Licensee, Member Institutions, or Authorized Users without the Licensee's and the Member Institutions' permission.

- 5.6 Privacy. The Licensor agrees that no personally identifiable information, including but not limited to log-ins recorded in system logs, IP addresses of patrons accessing the system, saved searches, usernames and passwords, will be shared with third parties without the prior written consent of the Licensee and/or Member Sites and Authorized Users as appropriate, or as otherwise permitted by the applicable privacy legislation, such as the Freedom of Information and Protection of Privacy Act or Act respecting Access to documents held by public bodies and the Protection of personal information (RLRQ, Chapter A-2.1), or to perform services as required under the Agreement.

The Licensor shall take all necessary security measures to ensure that personal and confidential information is protected throughout all stages of this License.

If the Licensor is compelled by law or court order to disclose personally identifiable information of Authorized Users or patterns of use, the Licensor shall provide the Licensee and Member Institutions with adequate prior written notice as soon as is commercially reasonable, so that the Licensee may seek protective orders or other remedies on behalf of itself and/or the Participants and/or the Authorized Users. The Licensor will notify the Licensee and Member Institutions as soon as is reasonable if the Licensor's systems are breached and the confidentiality of personally identifiable information is compromised.

6. THE LICENSEE AND MEMBER INSTITUTIONS UNDERTAKINGS

- 6.1 The Licensee shall:

- 6.1.1. In consideration for the rights granted under this License, pay the Fee within [thirty (30)] days of receipt of invoice and, if applicable, within thirty (30) days of receipt of invoice relating to each subsequent Subscription Period. For the exclusion of doubt, the Fee shall be exclusive of any sales, use, value added, or similar taxes, and the Consortium shall be liable for any such taxes in addition to the Fee.
- 6.1.2. Notify Members of the usage terms of this License.
- 6.1.3. Provide the Licensor, within thirty (30) days of the start date of this License, as indicated in Appendix B, with information sufficient to enable the Licensor to provide access to the Licensed Materials in accordance with its obligation under section 2.1. Should the Licensee

make any significant change to such information, it will notify the Licensor not less than ten (10) days before the change takes effect.

6.1.4. Keep full and up-to-date records of all IP addresses and provide the Licensor with details of such additions, deletions, or other alterations to such records as are necessary to enable the Licensor to provide Authorized Users with access to the Licensed Materials as contemplated by this License.

6.2 Each Member Institution shall:

6.2.1. Use reasonable efforts to ensure that all Authorized Users are aware of the importance of respecting the intellectual property rights in the Licensed Materials and of the terms and conditions of this License, and use reasonable efforts to notify Authorized Users of the terms and conditions of this License and take steps to protect the Licensed Materials from unauthorized use or other breach of this License.

6.2.2. Use reasonable efforts to monitor compliance and immediately upon becoming aware of any unauthorized use or other breach, inform the Licensor and take all reasonable and appropriate steps, including disciplinary action, both to ensure that such activity ceases and to prevent any recurrence.

7. MUTUAL OBLIGATIONS

7.1 NOTICE OF UNAUTHORIZED USE. Upon becoming aware of any unauthorized use or other breach, the Licensor, Licensee, and Member Institution will inform the others and take reasonable and appropriate steps to both ensure that such activity ceases and to prevent any recurrence. The Licensor, Licensee, and Member Institution agree to cooperate in good faith and to provide sufficient exchange of information to prevent any further unauthorized use.

The Licensor reserves the right to temporarily suspend any Member Institution's access to Licensed Materials for infringement of the Licensor's intellectual property rights in the Licensed Materials or for a breach of the terms of this License Agreement that threatens either the performance or security of the Platform. Forthwith, after suspending such access the Licensor shall issue a notice to the Member Institution and the Licensee of the breach, specifying the activity of the Member Institution that caused the breach. The Licensor shall forthwith restore access to the Member Institution upon receipt of notice that such activity has ceased and that the Member Institution has made reasonable efforts to protect against recurrence of such activity

7.2 LOCAL LOADING AND LOCAL/ALTERNATE HOSTING. Licensor agrees to negotiate in good faith a separate agreement with a Member Institution or a duly authorized representative (e.g. a consortium acting on behalf of the Member Institution) at any point in the term of this License Agreement, for perpetual local loading and alternate hosting of the Licensed Materials on the Member Institution's server or a third-party server, as designated by the Member Institution.

8. TERM AND TERMINATION

8.1 Agreement Term. This Agreement shall commence on the date indicated on the first page of this Agreement, and shall apply to all Licensed Materials for the time period(s) as indicated on the attached Schedule(s). Subscriptions as indicated on the attached Schedule(s) will automatically terminate at the end of the subscription period unless all parties have previously agreed in writing including by email communication to renew the subscription.

8.2 Early Termination

- 8.2.1. Early Termination for Payment Default. The Licensor may terminate this Agreement by notice to the Licensee if the Licensee willfully defaults in making payment of the Fee as provided in this License Agreement and fails to remedy such default within sixty (60) days of notification in writing by the Licensor.
- 8.2.2. Early Termination for Breach. In the event that any party believes that the other materially has breached any obligations under this Agreement, such party shall notify the breaching party in writing, including by email communication. The breaching party shall have 30 days from the receipt of notice to cure the alleged breach and to notify the non-breaching party in writing, including by email communication, that cure has been effected. If the breach is not cured within the 30-day time period, the non-breaching party shall have the right to terminate the Agreement without further notice.
- 8.2.3. Early Termination for Licensor Insolvency. The Licensee may terminate this Agreement by notice to the Licensor if the Licensor becomes insolvent, admits insolvency or a general inability to pay its debts as they become due, has appointed a receiver or administrative receiver over it or over any part of its undertaking or assets, passes a resolution for winding up other than a bona fide plan of solvent amalgamation or reconstruction, files a petition for protection under any applicable bankruptcy code, or has filed against it or becomes subject to an insolvent petition in bankruptcy or an order to that effect.
- 8.2.4. Early Termination for Financial Exigency of Licensee. The Licensee may terminate this License Agreement if public funding of the Licensee or funding of the Licensee by its Member Institutions is materially reduced and the Licensee thereby becomes unable to pay future amounts payable pursuant to this License Agreement. The Licensee will give the Licensor notice of such termination and this License Agreement shall terminate effective sixty (60) days after the giving of such notice if the Licensee has failed to pay the Fee for the calendar year in which such notice was given, or if the Licensee has paid the Fee for the calendar year in which such notice was given, January 1 of the following year.
- 8.2.5. Early Termination by a Member Institution. The performance of a Member Institution of its obligations under the Agreement shall be subject to and contingent upon the availability of funds provided, allocated, or allotted in institutional budgets for the purpose of the Agreement for the current and future license term. Any Member Institution may, at its option, provide notice to the Licensor and Licensee, by December 31st of each applicable calendar year within the Agreement, of the non-availability of such funds and the intent to terminate their participation in the Agreement beginning on January 1st of the forthcoming year.
- If a Member executes this option in a single year or multi-year agreement, no refund of payments already received by Licensor will be owed to the Licensee or Member Institutions. The determination of whether funds are available shall be made in the sole discretion of the applicable Member Institution. The termination of participation by any Member Institution will not constitute a default or a termination of participation of any other Member Institution under the Agreement and shall not be grounds for any increase in fees payable by other Member Institutions. Upon termination, a Member Institution has the ability to exercise its rights under Section 8.3. of the Agreement.
- 8.2.6. Early Termination Refund. In the event of early termination permitted by this Agreement, the Member Institution shall be entitled to a refund of any fees or pro-rata portion thereof

paid by the Member Institution for any remaining period of the Agreement from the date of termination. This paragraph is invalid if the Member Institution commits a willful, material and consistent breach of the terms of this Agreement, and fails to remedy the breach within thirty (30) days of notification by the Licensors.

8.3 Termination

8.3.1. Notification of Termination. Upon termination of this License Agreement, the Licensee shall immediately notify all Member Institutions.

8.3.2. Termination Rights. The Licensors hereby grants to the Licensee, its Member Institutions, and Authorized Users a nonexclusive, royalty-free, perpetual license to use all material added to the Licensed Materials to which the Member Institutions subscribed during the term of this Agreement. Usage of materials acquired in this fashion shall be in accordance with the provisions of this Agreement, which provisions shall survive any termination of this Agreement.

8.3.2.1. Continued Access to Licensed Materials. Upon termination of this License Agreement, Licensors will provide continued access to the Licensed Materials for which Perpetual Access was granted in this License Agreement. The means by which Authorized Users shall have access to such Licensed Materials shall be in a manner and form substantially equivalent to the means by which access is provided during the term of this License Agreement, with provisions for ensuring forward compatibility with new technologies.

Licensors shall:

- a.) provide continuing online access to archival copies of the Licensed Materials on the Licensors' Platform without supplementary fees to the Licensee or Member Institutions;
- b.) provide to the Licensee, Member Institution, or third-party archiving service, upon request and within 90 days, one copy of the entire set of Licensed Materials and associated metadata to be maintained as an archival copy for the purpose of delivering continuing online access to Authorized Users.

The cost of electronic delivery of Licensed Materials and associated metadata to the Licensee or Member Institution or a third-party archiving service shall be borne by Licensors, unless otherwise agreed upon by the parties.

The archival copy from the Licensors shall be provided without Digital Rights Management Technology in a mutually agreeable medium suitable to the content, but may not contain all the links and other features and functionality associated with the Licensed Materials pursuant to this License Agreement.

9. GENERAL

9.1 Warranty and Indemnification. The Licensors warrants that it holds the rights granted under this Agreement, and indemnifies and holds the Licensee and its Member Institutions harmless from and against any loss, damage, costs, liability and expenses (including reasonable legal and

- professional fees) arising out of any legal action taken against the Licensee or any of its Member Institutions claiming actual or alleged infringement of such rights. This indemnity shall survive the termination of this license for any reason. NO LIMITATION OF LIABILITY SET FORTH ELSEWHERE IN THIS LICENSE IS APPLICABLE TO THIS INDEMNIFICATION.
- 9.2 This Agreement and attached Schedule(s) signed by Licensor and Licensee shall comprise the complete terms and conditions of use. If there is a "click-through" agreement for users, this Agreement shall override the "click-through" agreement.
- 9.3 Notice of terms of "click-through" license terms: in the event that Licensor uses a "click-through" license for end users, Licensor shall provide Licensee with notice of and an opportunity to comment on such terms prior to their implementation. In the event of any conflict between the 'click-through' terms and this Agreement, the terms of this License shall prevail.
- 9.4 Alterations to this Agreement and to the Schedules to this Agreement are only valid if they are recorded in writing and signed by all parties.
- 9.5 Assignment. This Agreement may not be assigned by either party to any other person or organization without the prior written consent of the other party, nor may either party subcontract any of its obligations, except as provided in this Agreement in respect of the management and operation of the Server and the Licensor's Representative, without the prior written consent of the other party, which consent shall not unreasonably be withheld.
- 9.6 Notice. Any notices to be served on any of the parties or on a Member Institution by any other shall be sent by registered mail, courier, or facsimile to the address of the other as its address for service of notices. Any such notice sent by registered mail shall be deemed to have been given 14 days after the date of posting the mail. Any such notice sent by courier or by facsimile shall be deemed to have been given on the date of receipt of the notice as delivered by the courier or facsimile.
- 9.7 Force Majeure. Neither party's nor a Member Institution's delay or failure to perform any provision of this Agreement, as a result of circumstances beyond its control (including, without limitation, war, strikes, floods, governmental restrictions, power, telecommunications or Internet failures, "denial of service" or similar attacks, or damage to or destruction of any network facilities) shall be deemed to be, or to give rise to, a breach of this Agreement.
- 9.8 Waiver. Failure to enforce any provision of this Agreement shall not be construed to be a waiver of such provision.
- 9.9 Severability. If any provision of this Agreement is found invalid or unenforceable pursuant to a decree or decision of competent jurisdiction, the remainder of this Agreement shall remain valid and enforceable according to its terms.
- 9.10 If the parties disagree over an interpretation of this Agreement or whether a party or a Member Institution is in breach of any part of this Agreement, the parties and any such Member Institution 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 other such means.

- 9.11 This Agreement shall be governed by and construed in accordance with the laws of the province of the participating consortium, and the laws of Canada applicable therein. All 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 the province of the participating consortium in Canada.

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

Accepted:

FOR THE LICENSOR: Human Relations Area Files

Name: _____

Position / Title: _____

Signature: _____

Date: _____

FOR THE LICENSEE AND ITS MEMBER INSTITUTIONS: BCI

Name: _____

Position / Title: _____

Signature: _____

Date: _____

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

Accepted:

FOR THE LICENSOR: Human Relations Area Files

Name: _____

Position / Title: _____

Signature: _____

Date: _____

FOR THE LICENSEE AND ITS MEMBER INSTITUTIONS: CAAL-CBPA

Name: _____

Position / Title: _____

Signature: _____

Date: _____

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

Accepted:

FOR THE LICENSOR: Human Relations Area Files

Name: _____

Position / Title: _____

Signature: _____

Date: _____

FOR THE LICENSEE AND ITS MEMBER INSTITUTIONS: COPPUL

Name: _____

Position / Title: _____

Signature: _____

Date: _____

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

Accepted:

FOR THE LICENSOR: Human Relations Area Files


Name: _____

Position / Title: _____

Signature: _____

Date: _____

FOR THE LICENSEE AND ITS MEMBER INSTITUTIONS: BC ELN

Name:  _____

Position / Title:  _____

Signature:  _____

Date:   _____

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

Accepted:

FOR THE LICENSOR: Human Relations Area Files

Name: _____

Position / Title: _____

Signature: _____

Date: _____

FOR THE LICENSEE AND ITS MEMBER INSTITUTIONS: TAL

Name: _____

Position / Title: _____

Signature: _____

Date: _____

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

Accepted:

FOR THE LICENSOR: Human Relations Area Files

Name: _____

Position / Title: _____

Signature: _____

Date: _____

FOR THE LICENSEE AND ITS MEMBER INSTITUTIONS: OCUL

Name: _____

Position / Title: _____

Signature: _____

Date: _____

SCHEDULE 1

Business Terms January to December 2023

This Schedule 1 is dated January 1, 2023 between HRAF and Licensee (Member Institutions of Consortia Canada), as listed below.

Bureau de coopération interuniversitaire (BCI) 500, rue Sherbrooke Ouest, bureau 200,
Montréal, Québec, H3A 3C6

Council of Atlantic Academic Libraries / Conseil des bibliothèques postsecondaires de
l'Atlantique
(CAAL-CBPA) of 120 Western Parkway, Suite 202, Bedford NS B4B OV2

Council of Prairie and Pacific University Libraries (COPPUL) of 301-3301 Douglas St.,
Victoria, BC, V8Z 3L2

The Albert Library (TAL) of #623, 7 Sir Winston Churchill Sq NW
Edmonton, AB T5J 2V5

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