WestVault Deposit Agreement

This Agreement (the "Agreement") for WestVault (the "Service") is entered into between between the Council of Prairie and Pacific University Libraries ("COPPUL") and _____ (the "Depositor"). COPPUL and Depositor sometimes are referred to hereinafter each as a "Party" and collectively as the "Parties."

The Service is provided by COPPUL to Depositors through agreements with Hosting Partners. Hosting Partners provide support for the Service by hosting a copy of LOCKSS ("the Software") and storing all data created and managed by the Software. Copies of agreements between Hosting Partners and COPPUL are available to Depositors upon request.

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

1. Term, renewal, and termination
   a) The Effective Date of this Agreement shall be XXX (the "Effective Date").
   b) This Agreement shall be for an initial term ending April 30th, 2021.
   c) No later than thirty (30) days prior to termination of Service, the Depositor may request a copy of all Depositor data (the "Depositor Data") that is stored as part of Service. COPPUL shall make the Depositor Data available for download by the Depositor and will notify the Depositor of the availability of the Depositor Data via email within ten (10) days of termination of Service. COPPUL will make the Depositor Data available for download for thirty (30) days after notifying the Depositor of the availability of the Depositor Data, after which the Depositor Data shall be deleted by COPPUL. In the event that the Depositor does not request a copy of the Depositor Data before termination of Service, or payment of the service charge is not made, any Depositor Data may be deleted by COPPUL upon termination.
   d) COPPUL reserves the right to amend this Agreement from time to time in its sole discretion by informing the Depositor via the Depositor's email address of record. Unless otherwise noted in an amendment, amendments shall automatically be deemed to take effect on the first day of the calendar month that occurs at least thirty (30) days after the date that COPPUL first posted the amendment. In the event that the Depositor objects to any such amendment, the Depositor may terminate this Agreement by providing COPPUL with written notice thereof no later than the date that the amendment takes effect, in which case COPPUL shall provide the Depositor with a pro rata refund of the applicable Fees for the remainder of the months in the then-current term of the Agreement.
   e) Either Party may terminate the term of this Agreement at any time and for any or no reason upon the provision of one hundred and eighty (180) days written notice to the other Party, in which case COPPUL shall provide the Depositor with a pro rata refund of

the applicable Fees for the remainder of the months in the then-current term of the Agreement.

 f) This Agreement shall be automatically renewed for 12 months, unless terminated by the Depositor by giving thirty (30) days written notice to COPPUL prior to expiration of the initial term or any successive term.

2. Fees and payments

Fees for the Service term and any associated services shall be invoiced in advance and shall be payable on receipt or in accordance with any payment terms that are included on the Invoice. Pricing for the Service is outlined in Appendix B.

3. Services provided

 a) COPPUL will establish user accounts on appropriate systems, provide appropriate software and/or web interfaces to deposit and withdraw content ("Content") , and enable administration by Depositor

 b) COPPUL will provide technical support to Depositors.

 c) COPPUL will provide training to Depositors.

 d) COPPUL will provide best practice guidelines for Content submission.

4. Depositor responsibilities

 a) The Depositor shall be a member of good standing of COPPUL or a participant through the letter of understanding between COPPUL and BCELN.

 b) The Depositor shall deposit Content.
  i) Content will be submitted as a .zip, .tar.gz, or .7z file; and
  ii) Individual files will not exceed 2 (2) gigabytes (GB);

 c) Depositor represents and warrants that:
  i) The Depositor has the rights to, or has obtained permission from appropriate rights holders to, deposit Content in the Service;
  ii) the Content does not violate applicable law, infringe or misappropriate the rights of any third party or otherwise violate a material term of the Agreement;
  iii) the Content does not contain any virus or other computer software routine intended to disable, damage, erase, disrupt or impair the Service;
  iv) the Content does not contain any high risk data or information protected by applicable privacy laws or regulations unless such Content has been encrypted by the Depositor prior to deposit (and the encryption keys related to this Content are not stored in the Service), and that any required permissions have been received;
  v) depositing the Content with the Service does not constitute a breach of any other agreement, publishing or otherwise, including any confidentiality or security provisions of the Depositor.

 d) The Depositor is responsible for backing up critical data. File systems and archival storage systems are very reliable; however, data can be lost or damaged due to media failures, hardware failures and human error. COPPUL recommends the Depositor maintain two copies of critical data: one at the Depositor's site and one in the Service.

e) The Depositor represents and warrants to COPPUL that it:
   i) is engaged in a lawful business enterprise;
   ii) can form legally binding contracts and is authorized to enter into this Agreement; and
   iii) is in compliance with all applicable laws appropriate to its location of business and nature of work.
f) The Depositor acknowledges that the operation of the Service is subject to all applicable local, provincial, national and international laws and regulations and the Depositor agrees not to violate such laws and regulations.

5. COPPUL responsibilities
a) COPPUL is not responsible for any alleged or actual damages caused by or attributed to the use of the Service and Software by Depositors.
b) COPPUL will provide a formal succession plan to Depositors to ensure that Content is protected if the Service is terminated for any or no reason.
c) COPPUL represents and warrants to the Depositor that it:
   i) is engaged in a lawful business enterprise;
   ii) can form legally binding contracts and is authorized to enter into this Agreement; and
   iii) is in compliance with all applicable laws appropriate to its location of business and nature of work.

6. Content
a) COPPUL does not make any claim to the ownership, copyright, or other intellectual property associated with Content ingested into the Service by Depositors.
b) Hosting Partners may delete Content during the Term of this Agreement only under the following circumstances:
   i) COPPUL provides written notice to delete the Content as a result of the Depositor terminating its participation in the Service as outlined in the Agreement;
   ii) the Content violates a law, the Agreement, or any agreement in relation to the Service between COPPUL and Hosting Partners;
   iii) a Hosting Partner is compelled to do so by a court order;
   iv) a Hosting Partner makes a reasonable determination that hosting the Content may result in fines, penalties, or damages;
   v) the Content is replaced with an uncorrupted copy of the Content from another Hosting Partner due to corruption, errors, or data loss;
   vi) the Content is replaced with an uncorrupted copy of the Content during data migration due to storage upgrades; or
   vii) the Content is harming a Hosting Partner's networks, operations, or hardware.
c) COPPUL will not be held responsible for errors or problems with Content before it resides with the Service.

7. Disclaimer of warranties and indemnity

Except as otherwise expressly provided in this agreement, the Depositor disclaims any and all promises, representations and warranties, express or implied, with respect to the Service, Software, Content, and corrections provided hereunder, including promises, representations and warranties as to condition, the existence of any latent or patent defects, merchantability or fitness for any particular purpose, non-infringement, or any implied warranty of information content, system integration or system performance. Depositor agrees to indemnify COPPUL and any Hosting Partner from any third party damages, losses or claims, including legal fees, that COPPUL or the Hosting Partners may incur due to the actions or omissions of the Depositor relating to this Agreement.

8. No liability for consequential damage
Without limiting the generality of the foregoing disclaimer, COPPUL does not warrant that the Service will be error free. It is expressly agreed that in no event shall COPPUL or Hosting Partners be liable for any damages whatsoever (including, without limitation, damages for lost profits, loss of data, business interruption, or other consequential, exemplary, special or indirect losses) arising from Depositor use, or inability to use, the Service, regardless of whether the Depositor has been advised of the possibility of such damages.

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

10. Notices
Unless otherwise agreed to by the Parties, any notice required or permitted to be given or delivered under this Agreement shall be delivered and addressed to the Depositor or COPPUL at the address indicated for each party on this Agreement. Notice shall be deemed to have been received by any Party, and shall be effective on the day given, if personally delivered or if sent by email, receipt verified, to an email address provided by the receiving party to the sending party for the purpose of receiving such notices; the Depositor or COPPUL may change its address for notice purposes upon issuance of notice thereof in accordance with this section.

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

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

consistent with applicable law and, in its modified form, such provision shall then be enforceable and enforced.

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

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

15. Entire Agreement; waiver
This Agreement contains the entire understanding of the parties with respect to the subject matter hereof, and supersedes and merges all prior proposals, understandings and all other agreements, oral and written, between the parties relating to the subject matter of this Agreement, including (without limitation) any pre-existing agreement.

Annual costs

The following costs includes the hosting of five (5) independently-administered copies of all Content at Hosting Partner locations across Western Canada (University of British Columbia, University of Alberta, University of Saskatchewan, University of Regina, and University of Manitoba).

Level (indicate your preference level by checking the appropriate box below)	**Storage allocation**	**Annual fee**
☐ Level 1	100 gigabytes (GB)	$200
☐ Level 2	500 GB	$1000
☐ Level 3	1 terabyte (TB)	$2000

Additional storage can be purchased at any time in either 500 GB or 1 TB increments for current pricing, or in smaller increments at current pricing as agreed to by COPPUL and the Depositor. The cost of additional storage increases will be prorated to the month wherein the increase was requested. COPPUL will work with Hosting Partners to provision necessary storage allocations in a timely manner.

If the Depositor's storage exceeds purchased storage allocations, the Depositor must obtain sufficient additional storage allocations at current pricing.

Agreement Acceptance

DEPOSITOR

_____
Signature of Authorized Representative

_____
Name of Authorized Representative

_____
Title of Authorized Representative

_____
Date

COPPUL

_____
Signature of Authorized Representative

_____
Name of Authorized Representative

_____
Title of Authorized Representative

_____
Date