

## STANDARD LICENSE AGREEMENT

*EBSCO INFORMATION SERVICES*

AND

THE NATIONAL LIBRARY OF TECHNOLOGY

This License Agreement ("**Agreement**") is made between EBSCO Information Services, s.r.o., Klimentska 1746/52, 110 00 Praha 1 - Nové Město, ID number 49621823 ("**Licensor**")

and

The National Library of Technology, a State Contribution Organization set up by the Ministry of Education, Youth and Sports, with its principal offices at Technická 6, 160 80 Praha 6 - Dejvice, ID No.: 61387142 ("**Licensee**")

(Licensor and Licensee together as the "**Parties**", and separately each as a "**Party**"),

The Licensee acts as a central purchasing body within the meaning of Act No. 134/2016 Coll., on Public Procurement, as amended, for concluding license agreements on behalf of Participating Institutions as listed in Appendix B ("**Participating Institutions**") as part of the project CzechELib. In the event the Licensee is listed in Appendix B, all and any provisions related to Participating Institutions shall be without any limitation applicable also to the Licensee.

The Licensee shall be entitled to grant the necessary authorization or sublicense to Participating Institutions.

In consideration of the mutual promises contained herein and other good and valuable considerations, the receipt and sufficiency of which is hereby acknowledged, the Parties agree as follows:



## 1. Subject of the Agreement, Content of Licensed Materials; Grant of License

- 1.1 **Subject of the Agreement.** The subject of this Agreement is to define the conditions of cooperation and the rights and duties of the Parties while providing the Licensed Materials to the Licensee as defined in this Agreement.
- 1.2 **Licensed Materials.** The materials that are the subject of this Agreement are set forth in Appendix A ("**Licensed Materials**").
- 1.3 **Grant of License.** The Licensor hereby grants to the Licensee a non-exclusive, non-transferable (except the following sublicenses or other corresponding authorization), system-wide perpetual right (regardless whether in form of a license or a sublicense) to use the Licensed Materials pursuant to this Agreement, limited to the territory of the Czech Republic. The Licensee is entitled to grant the sublicenses or any other corresponding authorization to the Participating Institutions in order to provide the Licensed Materials to the Authorized Users (as defined in Section 4.1 of the Agreement) of the Participating Institutions in accordance with the terms of this Agreement.
- 1.4 **Ownership of Intellectual Property.** Nothing in this Agreement shall be construed, interpreted or understood as transfer of ownership of any copyright, trademarks, service marks or any other intellectual property from the Licensor or its suppliers to the Licensee or the Authorized Users.

## 2. Delivery & Access

- 2.1 The Licensor will provide the Licensed Materials to the Licensee and to the Participating Institutions in the following manner:

**Network Access.** The Licensed Materials will be stored at one or more of the Licensor's locations in digital form accessible by telecommunication links between such locations and authorized locations of the Licensee and the Participating Institutions.

## 3. Fees

- 3.1 **Fees and Payment.** The Licensee shall pay the Licensor a fee for the license concerning the Licensed Materials pursuant to the terms set forth in Appendix A based on an invoice issued by the Licensor ("**Fee**"). All Fees are due and payable by the Licensee by 15 May of the respective calendar year, unless otherwise stipulated in Appendix A.
- 3.2 **Incomplete Payment.** The Licensee may cover the invoice partially if a Participating Institution did not provide its financial contribution in time. In the event of such incomplete payment, the Licensee will notify the Licensor in writing of the intended



difference no less than ten (10) days prior to the due date. The Licensor may suspend the IP addresses of such Participating Institution until the Fee is completely paid. In such case the Licensee is not in delay with the payment.

- 3.3 **Change of number of Participating Institutions listed in Appendix B.** In case any Participating Institution shall lose its status as a Participating Institution or in case any new scientific (or similar) institution shall reveal its intent to become a Participating Institution, the Licensor shall enter into negotiations with the Licensee to amend this Agreement and to correspondingly renegotiate the Fee.

## 4. Authorized Use of Licensed Materials

### 4.1 **Authorized Users.** "Authorized Users" are:

- (a) **Persons affiliated with the Participating Institutions.** Full and part-time employees (including faculty, staff, and independent contractors) of the Participating Institutions and students of the Participating Institutions, and registered users, regardless of the physical location of such persons. For authorized sites of the Participating Institutions, see Appendix B. Should the Licensee be listed in the Appendix B as the Participating Institution, all provisions concerning the Participating Institution and the Authorized Users shall apply also with respect to the Licensee.
- (b) **Walk-ins.** Persons not affiliated with the Participating Institutions who are physically present at the Participating Institutions' site(s) ("**Walk-ins**").

### 4.2 **Access by and Authentication of Authorized Users.** Authorized Users of the Participating Institutions shall be granted access to the Licensed Materials pursuant to the following:

- (a) **IP Addresses.** Authorized Users shall be identified and authenticated by the use of Internet Protocol ("IP") addresses provided by the Licensee to the Licensor. The use of proxy servers by the Licensee or the Participating Institutions is authorized as long as any proxy server IP addresses provided limit remote or off-campus access to the Authorized Users. Authorized IP Addresses are listed in Appendix C. An updated list will be sent to the Licensor on an annual or as-needed basis without the need to amend this Agreement. Alternatively, if the Licensor is utilizing its own and/or third-party system for IP range change notification (such as e.g. IP Registry), then an updated list may be sent via such system instead. The Licensor will cooperate with the Participating Institutions in the implementation of new authentication protocols and procedures (such as Shibboleth) as they are developed during the term of this Agreement. Both the Licensee and the Licensor will provide cooperation to coordinate or facilitate this process but they will not be liable for correct implementation of such authentication protocols and procedures (which remain the full responsibility of the Licensor and the respective Participating Institution).

- (b) Licensor-Administered Authentication. Where the Licensor provides alternative methods of access and authentication beyond the Licensee-administered methods described herein, e.g. by allowing users to establish a personal login from an on-campus IP address (thereby enabling access via username and password when logging in to a website of the Licensor) or device authentication, which affiliates the device or application by use of a token, cookie, or vendor-managed proxy prefix, neither the Licensee nor any Participating Institution will be responsible or liable for claims of breach or validity of such use. Neither the Licensee nor any of the Participating Institutions shall be responsible or liable for the processing of personally identifiable information (personal data) by the Licensor in this matter as this remains their full liability.
- (c) Personally Identifiable Information (Personal Data) of Authorized Users. Both the Licensee and the Licensor together and individually acknowledge and agree that the Licensee neither transfers nor provides any personally identifiable information (personal data) of the Authorized Users to the Licensor. Access to the Licensed Materials is primarily granted via IP Addresses pursuant to Section 4.2(a) of the Agreement which prevent any identification of the Authorized User. In case of the Licensor-Administered Authentication pursuant to Section 4.2(b) of the Agreement, the Licensor is required to ensure lawful processing of any personally identifiable information (personal data). This does not preclude the Licensee to hand over the contact details of the Participating Institutions' contact persons or other personal data where the Licensee has a valid legal basis therefor.

4.3 Authorized Uses. The Participating Institutions and the Authorized Users may make all use of the Licensed Materials as is consistent with the applicable law and with this Agreement, including but not limited to the following licensing conditions ("**Authorized Uses**"). In addition, the Licensed Materials may be used for purposes of research, education or other non-commercial use as particularly follows:

- (a) Display. The Participating Institutions and the Authorized Users shall have the right to electronically display the Licensed Materials.
- (b) Digital Copy. The Participating Institutions and Authorized Users may download and digitally copy a reasonable portion of the Licensed Materials.
- (c) Print Copy. The Participating Institutions and the Authorized Users may print a reasonable portion of the Licensed Materials.
- (d) Recover Copying Costs. The Participating Institutions may impose a reasonable fee on the Authorized Users to cover costs of copying or printing portions of the Licensed Materials by or for the Authorized Users.
- (e) Caching. The Participating Institutions and the Authorized Users are authorized in the course of an automatic process of an internet browser or any other software to make temporary local digital copies of the Licensed Materials in



order to ensure proper operation and use of such internet browser or for proper functioning of such software. For the avoidance of doubt, the cached copy is not a derivative work.

- (f) Classroom Use. The Participating Institutions and the Authorized Users may distribute single copies of individual articles or items of the Licensed Materials in print or electronic form to the Authorized Users. For the avoidance of doubt, classroom handouts shall include the distribution of a copy for teaching purposes to all individual Authorized Users in a class at Authorized Sites (Appendix B).
- (g) Collections of Information. The Participating Institutions and the Authorized Users shall be permitted to extract or use information contained in the Licensed Materials for educational, scientific, or research purposes, including extraction and manipulation of information for the purpose of illustration, explanation, example, comment, criticism, teaching, research, or analysis.
- (h) Course Reserves (Print and Electronic). The Participating Institutions and the Authorized Users may use a reasonable portion of the Licensed Materials in connection with specific courses of instruction offered by the Participating Institutions.
- (i) Electronic Links. The Participating Institutions and the Authorized Users may provide hyperlinks from the Participating Institutions' and the Authorized Users' web page(s) or website(s) to individual units of content within the Licensed Materials.
- (j) Scholarly Sharing. On an ad hoc basis, the Authorized Users may transmit to a third party, in hard copy or electronically, minimal, insubstantial amounts or a portion of the Licensed Materials for personal use or scholarly, educational, or scientific research or professional use in the nature of collaboration, comment, or scholarly exchange of ideas but in no case for resale or commercial purposes or in a manner that would substitute for direct access to the Licensed Materials via services offered by the Licensor.
- (k) Text and Data Mining. With the Licensor's written consent, where the Licensor is able to give such consent then such consent not to be unreasonably withheld, the Authorized Users may use the Licensed Materials to perform and engage in text and/or data mining activities for academic research, scholarship, and other educational purposes. The scope of these text and/or data mining activities shall be authorized at the Licensor's discretion and documented in writing.
- (l) Interlibrary Loan. Using electronic, paper, or intermediated means, the Participating Institutions may at their discretion fulfill occasional requests from other institutions, a practice commonly called Interlibrary Loan ("ILL"). The Licensor agrees that the electronic form of the Licensed Materials may be used as a source for the ILL whereby articles and/or chapters can be printed and these print copies can be delivered via postal mail, fax, or fax-based service to fulfill ILL requests from an academic, research or other non-commercial library.



Requests received from for-profit companies will not be honored. An ILL through secure electronic transmission, as demonstrated by the ARIEL, is permitted. Files transmitted in this manner must carry copyright notices and comply with the applicable law.

(m) **Bibliographic Citations.** The Participating Institutions and the Authorized Users may use, with appropriate credit given, figures, tables, and brief excerpts from the Licensed Materials in the Participating Institutions' and the Authorized Users' own scientific, scholarly, and educational works. For the avoidance of doubt, the Participating Institutions and the Authorized Users may use citation and abstract information in faculty profiling systems, in lists of publications on faculty and institutional web pages, and to create bibliographies, and store a single copy of an individual document being part of the Licensed Materials, including within secure personal bibliographic reference/citation management systems.

4.4 **No Diminution of Rights.** The Licensee, the Participating Institutions and the Authorized Users agree to abide by applicable copyright law as well as any contractual restrictions, copyright restrictions, or other restrictions provided by publishers and specified in the Licensed Materials. Notwithstanding the foregoing, nothing in this Agreement shall be interpreted to diminish the rights and privileges of the Licensed Materials, including exceptions or limitations to the exclusive rights of copyright owners such as materials in the public domain or issued under open or Creative Commons licenses.

#### 4.5 **Scope of Authorized Use and Access to Licensed Materials.**

(a) **Unlimited Access.** Subject to the terms of this Agreement, the Participating Institutions and the Authorized Users shall have unlimited and simultaneous user access to the Licensed Materials.

### 5. Specific Restrictions on Use of Licensed Materials

5.1 **Unauthorized Use.** The Participating Institutions or the Authorized Users shall not knowingly permit anyone other than the Authorized Users to access the Licensed Materials.

5.2 **Modification of Licensed Materials.** The Participating Institutions or the Authorized Users shall not modify or manipulate the Licensed Materials without the prior written permission of the Licensor.

5.3 **Removal of Copyright Notice.** The Participating Institutions or the Authorized Users shall not remove, obscure or modify any copyright or other notices included in the Licensed Materials.

5.4 **Commercial Purposes.** The Participating Institutions or the Authorized Users may not use the Licensed Materials for commercial purposes, including but not limited to

the sale of the Licensed Materials, fee-for-service use of the Licensed Materials; nor may the Licensee and the Participating Institutions impose special charges on the Authorized Users for use of the Licensed Materials beyond reasonable printing or administrative costs. For the avoidance of doubt, research conducted by the Participating Institutions and Authorized Users that is supported by a commercial entity shall not be considered use for commercial purposes.

## 6. Mutual Performance Obligations

- 6.1 **Notification and Cure of Unauthorized Use.** In the event the Licensee and/or any of the Participating Institutions becomes aware of an unauthorized use of the Licensed Materials and cannot promptly remedy it, the Licensee or the Participating Institution shall without undue delay notify the Licensor. In the event the Licensor becomes aware of unauthorized use of the Licensed Materials, the Licensor shall without undue delay notify the Licensee and the respective Participating Institution in writing.
- 6.2 In the case of unauthorized use which is causing serious and immediate material harm to the Licensor, the Licensor may temporarily suspend such offending individual Authorized User's access to the Licensed Materials (e.g. by blocking an individual user's IP address), provided that the Licensor immediately notifies the Licensee and the respective Participating Institution of any such suspension, including the reason for the suspension and any supporting details. Such temporary suspensions will be only of the shortest possible duration and the maximally limited extent necessary to terminate the unauthorized use and prevent its resumption. In the event that such suspension lasts longer than the shortest period necessary to prevent such unauthorized use, the Licensor is obliged to reimburse the Licensee the respective pro rata part of the Fee (calculated with respect to the actual number of excessively suspended Authorized Users) for the period of duration of such excessive suspension. Any excessive suspension of access to the Licensed Materials can serve as a Licensee's reason for termination of this Agreement pursuant to Section 11 of this Agreement.

## 7. Licensor Performance Obligations

- 7.1 The Licensor will use reasonable efforts to ensure that its performance will meet or exceed industry standards and practices. Additionally, the Licensor agrees to the following performance standards set out in this Section 7.
- 7.2 **Availability of Licensed Materials.** Upon the Effective Date (as specified in Section 9.1 of this Agreement), the Licensor will make the Licensed Materials available to the Participating Institutions and the Authorized Users.

Should the Effective Date of this Agreement occur after 1 January 2022, the Licensor will make, or has already made, the Licensed Materials available to the Licensee, the Participating Institutions and Authorized Users in the full scope of the license



stipulated herein already as of 1 January 2022 due to the necessity of access to the Licensed Material as of 1 January 2022, to the Participating Institutions and Authorized Users in the full scope of the authorization stipulated herein including all and any possible rights and authorizations pursuant to this Agreement. Performance of the Licensor's obligation to ensure that the Licensed Materials become available before the Agreement takes effect shall be considered entirely as a performance according to and in compliance with this Agreement.

- 7.3 **Discovery of Licensed Materials.** The Licensor will, where it is permitted to do so and, subject to any restrictions placed by publishers, make reasonable efforts to make the Licensed Materials available through the Licensee's and/or the Participating Institutions' user interface and search systems for discovering and displaying content from local, database and web-based sources ("**Discovery Service System**") for indexing and discovery purposes.
- 7.4 **Persistent Linking.** The Licensor will make reasonable efforts to comply with the most current version of the OpenURL standard (ANSI/NISA Z39.88 or any that replaces it during the term of this Agreement) and will provide a mechanism for persistent links to content.
- 7.5 **Online Terms and Conditions.** In the event that the Licensor requires the Authorized Users to agree to additional terms relating to the use of the Licensed Materials (commonly referred to as "**click-through**" or "**clickwrap**" licenses), or otherwise attempts to impose terms on the Authorized Users through online terms and conditions invoked by the mere use or viewing of the Licensed Materials, such additional terms shall only apply to the Authorized Users who agreed to the respective additional terms. Such additional terms shall not materially differ from the provisions of this Agreement. In the event of any conflict between the additional terms and this Agreement, the terms of this Agreement shall prevail. The Licensor alone shall be liable and responsible for any personal data processing that occurs with respect to these additional online terms and conditions as the Licensor itself determines the scope and purpose of such personal data processing. For the avoidance of doubt, the Authorized Users are not a party to this Agreement.
- 7.6 **Documentation.** The Licensor will provide complete and up-to-date help and operational documentation to the Licensee, the Participating Institutions and the Authorized Users in an electronic format. Such documentation may be provided by means of the Licensor's online system and/or system for administrators.
- 7.7 **Support.** The Licensor will provide activation and installation support, including assisting the Licensee, Participating Institutions and Authorized Users with the implementation of any Licensor software. The Licensor will offer reasonable levels of continuing support to assist the Licensee, Participating Institutions and Authorized Users in the use of the Licensed Materials. The Licensor will make its personnel available by email [REDACTED] and/or [REDACTED] during cross section of the Licensor's and the Licensee's and/or the Participating Institutions' regular business hours, Monday through Friday, for feedback, problem-solving, or general questions, and they will respond in a timely manner. If there is a change in



a contact for support, the Licensor is obliged to notify the Licensee and the Participating Institutions of such change. The change is effective by the delivery of the notice to the Licensee and the Participating Institutions.

- 7.8 **Training.** The Licensor will, upon agreement and in a reasonable quantity, provide to the Licensee, the Participating Institutions and Authorized Users appropriate on-site or online training regarding the use of the Licensed Materials and any Licensor software. The Licensor will also provide additional training to the Licensee and the Participating Institutions staff if made necessary by any updates or modifications to the Licensed Materials or any of the Licensor's software.
- 7.9 **Updates.** The Licensor will provide regular system and project updates to the Licensee and the Participating Institutions as they become available. No additional fee shall be charged for updates.
- 7.10 **Quality of Service.** The Licensor shall use reasonable efforts to ensure that the Licensor's server or servers have sufficient capacity and rate of connectivity to provide the Licensee, Participating Institutions and their Authorized Users with all the services pursuant to this Agreement at a level exceeding or at least comparable to current standards in the online information provision industry in the Licensee's and the Participating Institutions' locale. The Licensor shall use reasonable efforts to provide continuous service seven (7) days a week with an average of 98% up-time per month. The 2% down-time can include periodic unavailability due to server maintenance; software installation or testing; loading or making available additional Licensed Materials as they become available; and unavailability because of service or equipment failure outside the control of the Licensor (including problems with public or private telecommunication services, or Internet nodes or facilities). The Licensor may schedule brief unavailability periods, but will do so only where (a) it has given at least forty-eight (48) hours' prior notice to the Licensee, and (b) in a way and at times that minimize inconvenience to the Licensee, the Participating Institutions and its Authorized Users, regardless of when notice has been given.
- 7.11 **Problems with Licensed Materials.** If the Licensed Materials fail to operate, display, load, or render in conformance with the terms of this Agreement, the Licensee or the Participating Institution shall immediately notify the Licensor in writing, and the Licensor shall promptly use best efforts to restore access to the Licensed Materials as soon as possible. In the event that the non-conformity materially affects the Participating Institutions' or the Authorized Users' use of the Licensed Materials, and the Licensor fails to remedy the non-conformity within five (5) business days, the Licensor shall reimburse the Licensee for such problems in an amount that is proportional to the Fee.
- 7.12 **Notification of Modifications of Licensed Materials.** From time to time, the Licensor may add, change, or modify portions of the Licensed Materials, or migrate the Licensed Materials to other formats. When such changes, modifications, or migrations occur in larger quantities, the Licensor shall give notice of any such changes to Licensee as soon as is practicable. If any of the changes, modifications, or migrations renders the Licensed Materials substantially less useful to the

Participating Institutions or their Authorized Users, the Licensee may seek to terminate this Agreement for breach pursuant to Section 11.

- 7.13 **Withdrawal of Licensed Materials.** The Licensor reserves the right to withdraw from the Licensed Materials 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 Licensor shall give notice of the withdrawal to the Licensee and the Participating Institutions as soon as is practicable.
- 7.14 If any such withdrawal takes place in the Licensed Materials, the Licensor will use reasonable efforts in order to substitute the withdrawn content with another of equivalent value in order to keep the usefulness of the Licensed Material on at least the same level for the Licensees.
- 7.15 **Itemized Holdings/Title List.** Prior to the beginning of every calendar year, the Licensor will provide the Licensee with the current itemized holdings report that will specify the titles included in the Licensed Materials for the next Subscription Period (as specified in Section 9.3 of the Agreement). The Licensor will use reasonable efforts to update itemized holdings reports once per year and will provide this information to the Discovery Service System in a timely manner and to the Licensee on request. If the Licensed Materials include content covered by the NISO Knowledge Bases And Related Tools (KBART) Recommended Practice,<sup>1</sup> the Licensor will provide itemized holdings lists for the Licensed Materials in a KBART-compliant format, including a column/field for dates (YYYY-MM) of additions.
- 7.16 **Usage Statistics.** The Licensor will provide access to both composite system-wide use data and itemized data for the Licensee, the Participating Institutions, individual campuses and labs, on a monthly basis. The statistics shall meet or exceed the most recent project Counting Online Usage of NeTworked Electronic Resources ("COUNTER") Code of Practice Release,<sup>2</sup> including but not limited to its provisions on customer confidentiality. When a release of a new COUNTER Code of Practice is issued, the Licensor shall comply with the implementation time frame specified by COUNTER to provide usage statistics in the new standard format. It is more than desirable that the Standardized Usage Statistics Harvesting Initiative (SUSHI) Protocol<sup>3</sup> is available for the Licensee to harvest the statistics.
- 7.17 The Licensor shall not provide the Licensee's usage statistics in any form to any third party without the Licensee's prior written consent, unless the third party owns rights in the Licensed Materials; in such case the Licensor shall ensure that the usage statistics will not be provided to any other third party. The Licensor shall not provide usage statistics of any Participating Institution in any form to any third party (with

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<sup>1</sup> <http://www.niso.org/workrooms/kbart>

<sup>2</sup> [http://www.projectcounter.org/code\\_practice.html](http://www.projectcounter.org/code_practice.html)

<sup>3</sup> <http://www.niso.org/workrooms/sushi/>

the exception of the Licensee) without the Participating Institution's prior written consent, unless the third party owns rights in the Licensed Materials. In all cases, the disclosure of such data shall fully protect the anonymity of individual users and the confidentiality of their searches, and will comply with all applicable privacy legislation. The Licensor shall not disclose or sell to any third party usage data or information about the Licensee, any Participating Institution or the Authorized Users without the Licensee's and/or Participating Institution's prior written consent or unless specifically required by law.

- 7.18 **Confidentiality of Personally Identifiable Information (Personal Data).** The Licensor agrees that no personally identifiable information (personal data), including but not limited to log-ins recorded in system logs, IP addresses of patrons accessing the system, saved searches, any identification data, usernames and passwords, will be shared with third parties, except in cases required or allowed by the applicable law (including the engagement of subprocessors in accordance with the applicable legislation), particularly by the Data Protection Law (as specified in Section 16.1 of the Agreement). If the Licensor is compelled by law or court order to disclose personally identifiable information (personal data) of the Authorized Users or patterns of use, the Licensor shall provide the Licensee with adequate prior written notice as soon as is practicable, so that the Licensee, the Participating Institution or the Authorized Users may seek protective orders or other remedies. The Licensor will notify the Licensee and Authorized Users as soon as is practicable if the Licensor's systems are breached and the confidentiality of personally identifiable information (personal data) is compromised.
- 7.19 **Notice of the Use of Digital Rights Management Technology.** In the event that the Licensor utilizes or implements any type of digital rights management ("DRM") technology to control the access to or usage of the Licensed Materials, the Licensor will provide the Licensee with a description of the technical specifications of the DRM and how it impacts access to or usage of the Licensed Materials. In no event may such DRM technology be used in a way that would limit the usage rights of the Participating Institution or any Authorized User as specified in this Agreement or under applicable law. If the use of DRM renders the Licensed Materials substantially less useful to the Participating Institutions or their Authorized Users, the Licensee may seek to terminate this Agreement for breach pursuant to Section 11 of the Agreement.
- 7.20 **Use of Digital Watermarking Technology.** In the event that the Licensor utilizes any type of watermarking technology for any element of the Licensed Materials, the watermarks may not reduce the readability of the content or degrade image quality. Such watermarks shall not contain user-related information, including but not limited to an account number, IP address, and usernames. If digital watermarking technology is implemented, the Licensor will notify the Licensee at least thirty (30) days in advance of such implementation, and provide the technical specifications for the watermarking technology used. If the use of the watermarking technology renders the Licensed Materials substantially less useful to the Licensee, the Participating Institutions or their Authorized Users, the Licensee may seek to terminate this Agreement for breach pursuant to Section 11 of the Agreement.

- 7.21 **Interoperability with Prevailing Web Browsers.** The Licensor will use reasonable efforts to ensure that the Licensed Materials are accessible and interoperable with prevailing web browsers and internet access tools, including, at a minimum, the most recent two major versions (current version and one version prior) and all the associated releases for those versions.
- 7.22 **Branding.** If commercially possible, the Licensor will allow the Licensee and the Participating Institutions to brand the Licensor's platform with the name of the Licensee and/or the Participating Institutions Sites at the Licensee's or the Participating Institution's own discretion.
- 7.23 **MARC Records.** When applicable to the Licensed Materials, at the Licensee's request, the Licensor shall provide full OCLC-quality batched sets of MARC records incorporating Licensee specifications at no additional cost by the date of the execution of this Agreement. Updates to existing records and new title records, matching the schedule of release and delivery of new publications, will be provided on a mutually agreed-upon schedule and in a format that renders them useful to the Licensee and/or the Participating Institutions. Such records may be provided by means of the Licensor's online service.

## 8. Licensee Performance Obligations

- 8.1 **License Terms Notification.** The Licensee shall ensure that the Participating Institutions will use reasonable efforts to provide the Authorized Users with appropriate notice of the terms and conditions under which access to the Licensed Materials is granted under this Agreement.
- 8.2 **Protection from Unauthorized Use.** The Licensee shall ensure that the Participating Institutions will use reasonable efforts to restrict access to the Licensed Materials to the Authorized Users in the case of their unauthorized use of the Licensed Materials.
- 8.3 **Maintaining Confidentiality of Access Passwords.** Where access to the Licensed Materials is to be controlled by the use of passwords, the Licensee shall ensure that the Participating Institutions will use reasonable efforts to inform the Authorized Users that they should not divulge their numbers and passwords to any third party. The Licensee shall ensure that the Participating Institutions will also use reasonable efforts to maintain the confidentiality of any institutional passwords provided by the Licensor.
- 8.4 The Licensee shall use all reasonable efforts to ensure that the Participating Institutions will comply with the terms of this Agreement and will use the Licensed Materials in accordance with the license terms set out in this Agreement and will observe proper fulfilment of requirements set out in this Agreement. The Licensee shall use all reasonable efforts to ensure that the Participating Institutions will



ensure that the Authorized Users only use the Licensed Materials in accordance with the license terms set out in this Agreement.

## 9. Term

- 9.1 This Agreement shall become valid on the date of its execution by both of the Parties. This Agreement shall take effect on the date of its publication in the Czech Register of Contracts ("**Effective Date**").
- 9.2 This Agreement shall be in effect from the Effective Date through the expiration date as set out in Appendix A unless terminated earlier in accordance with Section 11 of the Agreement.
- 9.3 By a Subscription Period shall be for the purpose of this Agreement understood a calendar year (1 January - 31 December), unless specified differently in Appendix A.

## 10. Renewal

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## 11. Early Termination

- 11.1 **Termination for a Material Breach.** Each Party shall notify the breaching Party of a material breach of this Agreement in writing with a detailed description of the breach. The breaching Party shall have thirty (30) days from the receipt of such notice to use all reasonable means to cure this alleged material breach and to notify the non-breaching Party in writing that a cure has been effected. If the material breach is not cured within the thirty (30)-day period, the non-breaching Party shall have the right to terminate the Agreement, entirely or partially with respect to a certain Participating Institutions if the material breach arose only due to this particular Participating Institution with a written notice. Termination of this Agreement is effective immediately by the date of delivery of such a notice. The obligation of the Parties to also remedy any other breach shall not be affected by this provision.
- 11.2 **Termination of Access.** Upon termination of this Agreement, the Licensor may terminate access to the Licensed Materials by the Licensee, the Participating Institutions and the Authorized Users (in case of a partial termination of this Agreement only with respect to the particular Participating Institution and their Authorized Users), subject to Section 12 of the Agreement. In addition, authorized copies of the Licensed Materials made by the Authorized Users may be retained for educational purposes and used subject to the terms of this Agreement even after the termination of this Agreement.



11.3 **Refunds.** In the event of early termination pursuant to this Agreement, except for termination for a material breach by the Licensee pursuant to Section 11.1 of this Agreement, the Licensee shall be entitled to a refund of any Fee or pro-rata portion thereof paid by the Licensee for any remaining period of this Agreement calculated from the date of termination.

## 12. Perpetual Rights

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## 13. Warranties

13.1 The Licensor represents and warrants that it has all necessary legal and equitable rights, permissions, and clearances to license the Licensed Materials to the Licensee that could further authorize the Participating Institutions and their Authorized Users to use the Licensed Materials for the purposes and terms set out in this Agreement, and that the use of the Licensed Materials in accordance with the terms of this Agreement shall not infringe the copyright or other rights of any third party.

13.2 **Accessibility Requirements.** The Licensor represents and warrants that the Licensed Materials comply with the Licensor's country of origin laws and regulations, and conform to the international accessibility requirements of Web Accessibility Initiative, Web Content Accessibility Guidelines (WCAG) 2.0 at level AA<sup>4</sup>. The Licensor shall also promptly respond to and resolve any complaint regarding accessibility of the Licensed Materials.

## 14. Limitations on Warranties

14.1 Notwithstanding anything else in this Agreement, neither Party shall be liable for any indirect, special, incidental, punitive or consequential damages, including but not limited to loss of data, business interruption, or loss of profits, that arises from the use of the Licensed Materials, or the incompetence of the Authorized Users to properly use the Licensed Materials.

14.2 The Licensor makes no representation or warranty, and expressly disclaims any liability with respect to the content of any of the Licensed Materials, including but not limited to errors or omissions contained therein, libel, infringement of rights of publicity, privacy, trademark rights, moral rights, or the disclosure of confidential information.

14.3 Except for the express warranties stated elsewhere in this Agreement, the Licensor disclaims any and all other warranties, conditions, or representations (express, implied, oral or written), relating to the Licensed Materials or any part thereof,

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<sup>4</sup> <http://www.w3.org/WAI/guid-tech.html>

including, without limitation, any and all implied warranties of quality, performance, merchantability, or fitness for a particular purpose.

## 15. Indemnities

15.1 The Licensor shall indemnify and hold harmless the Licensee, the Participating Institutions and Authorized Users from and against any and all liabilities, losses, claims, damages, awards, penalties, or injuries incurred, including reasonable attorney's fees, that arise from actual or alleged infringement of any third-party intellectual property rights regarding the use of the Licensed Materials by the Licensee or any Participating Institution or any Authorized User. NO LIMITATION OF LIABILITY SET FORTH ELSEWHERE IN THIS AGREEMENT IS APPLICABLE TO THIS INDEMNIFICATION. This Section shall survive the termination of this Agreement.

## 16. Data Protection

16.1 For the purpose of this Agreement, **Data Protection Law** shall mean the General Data Protection Regulation (EU) 2016/679 (the "Regulation") and the European Privacy and Electronic Communications Directive (Directive 2002/58/EC), as amended or replaced from time to time, and the terms "personal data", "processing", "processor", "controller", "personal data breach", "data subject" and "supervisory authority" shall all have the meanings ascribed to them under the applicable Data Protection Law.

16.2 Without any prejudice to Section 4.2(c) of the Agreement, if any personal data is processed under this Agreement by either Party, the Parties agree that each Party shall act as a data controller for the purposes of Data Protection Law, unless such arrangement would be contrary to the Data Protection Law. Each Party shall (i) only process personal data in compliance with, and shall not cause itself or the other Party to be in breach of Data Protection Law and (ii) act reasonably in providing such information and assistance as the other Party may reasonably request to enable it to comply with its obligations under Data Protection Law.

16.3 Each Party will notify the other Party without undue delay if it becomes aware of a personal data breach relating to the processing of personal data in connection with this Agreement and shall act reasonably in co-operating with the other Party in respect of any communications or notifications to be issued to any data subjects and/or supervisory authorities in respect of the personal data breach.

16.4 If either Party receives any communication from any supervisory authority relating to the processing or personal data in connection with this Agreement, it shall (i) provide the other Party with reasonable details of such communication, and (ii) act reasonably in co-operating with the other Party in respect of any response to the same.

## 17. Assignment and Transfer

17.1 Neither Party may assign, transfer or novate, directly or indirectly, any or all of its rights or obligations under this Agreement without the prior written consent of the other Party, except as otherwise stipulated herein. Neither Party may unreasonably withhold or delay such written consent.

## 18. Governing Law

18.1 This Agreement and all matters arising from or in connection hereto shall be interpreted and construed according to, and governed by, the laws of the Czech Republic, in particular by Act No. 89/2012 Coll., the Civil Code, as amended.

## 19. Dispute Resolution & Venue

19.1 In the event of any dispute or controversy arising out of or relating to this Agreement, the Parties agree to exercise good faith to resolve the dispute amicably and as soon as possible. In the event that the Parties fail to settle the dispute amicably within thirty (30) days, they shall submit the dispute to informal mediation, as further described below in this paragraph. The Parties shall continue to perform their respective obligations under this Agreement which are not subject to or affected by the dispute. The Party invoking mediation shall inform the other Party with a written notice of its decision to seek informal mediation, and the notice must include a description of the subject to the dispute and a proposed resolution thereof. Designated representatives of both Parties shall attempt to resolve the dispute within five (5) working days starting from the day after the delivery of such notice to the other Party. If the designated representatives cannot resolve the dispute, the Parties shall meet at a mutually agreed location and discuss the dispute and their respective proposals for resolution while being represented by their responsible executives, who shall act in good faith to resolve the dispute.

19.2 If the dispute is not resolved within thirty (30) days of the meeting among the Parties' executives, either Party may pursue legal action in court. The exclusive jurisdiction and venue for any and all actions arising out of or brought under the Agreement is in a state court of competent jurisdiction, situated in Prague, Czech Republic. During such court action, the Parties shall continue to perform their respective obligations under this Agreement which are not subject to or affected by the dispute.

## 20. Force Majeure

20.1 Neither Party shall be liable for any damage or have the right to terminate this Agreement for any delay or default in performing its duties hereunder if such delay or default is caused by conditions beyond its control including but not limited to acts of God, government restrictions (including the denial or cancellation of any export



or other necessary license), wars, acts of terrorism, insurrections, labor strikes or other work stoppages, and/or any other cause beyond the reasonable control of the Party whose performance is affected. Upon the occurrence of such event of force majeure, the Party affected shall promptly notify the other Party in writing setting forth the details of the occurrence of the force majeure event, its expected duration and how that Party's performance may be affected. The affected Party shall resume the performance of its duties as soon as practicable after the force majeure event ceases.

## 21. Entire Agreement

21.1 This Agreement constitutes the entire agreement of the Parties and supersedes any and all prior communications, understandings, and agreements relating to the subject matter hereof, whether oral or written. For the avoidance of doubt, additional terms and conditions as defined in Section 7.5 of the Agreement shall not modify the terms of this Agreement.

## 22. Amendment

22.1 No modification or claimed waiver of any provision of this Agreement shall be valid except by written amendment signed by authorized representatives of the Parties.

## 23. Severability

23.1 If any provision or provisions of this Agreement shall be held to be invalid, illegal, unenforceable or in conflict with the law, the validity, legality, and enforceability of the remaining provisions shall not in any way be affected or impaired thereby. The Parties shall replace the invalid, illegal or unenforceable provision with a new provision to achieve the same or, if not possible, the closest possible effect to that of the original invalid, illegal or unenforceable provision and this Agreement as a whole.

## 24. Waiver of Contractual Right

24.1 Waiver of any right, power or remedy herein shall not be deemed a waiver of any other right, power or remedy herein, nor shall waiver of any right, power or remedy regarding a breach of this Agreement be construed as a continuing waiver of any right, power or remedy regarding other breaches of the same or other provisions of this Agreement.



## 25. Notices

25.1 All notifications, invitations, information, legal acts and other communications ("**Notices**") made in the matters of and under this Agreement must be made in writing, the written form being retained if Notices are delivered by e-mail.


25.2 Notices regarding the damages, penalties, debts, contacts and this Agreement as such (for example, the notification about breach or termination) must be delivered in person, by registered post or courier service. Notices delivered personally or by courier service shall be deemed received at the time of receipt or refusal of their receipt. Notices served by registered mail will be presumed delivered on the third (3rd) business day following their proven posting if the delivery address is in the Czech Republic, and on the fifteenth (15<sup>th</sup>) day if the delivery address is outside the Czech Republic.

25.3 Either Party may from time to time change its delivery address by written Notice to the other Party. Such change is effective from the delivery of such Notice.

25.4 If to the Licensor:

- Licensor: EBSCO Information Services s.r.o.
- Address of Licensor: Klimentská 1746/52  
110 00 Praha 1 - Nové Město  
Czech Republic
- E-mail: 

25.5 If to the Licensee:

- Licensing contact: Head of Licensing Unit
- Address of Licensee: CzechELib  
National Library of Technology  
Technická 6, 160 80 Praha 6 - Dejvice  
Czech Republic
- E-mail: 

## 26. Audit Rights

26.1 The Licensor acknowledges that the Licensee can be audited by a respective authority and that the conditions regulating the financing of the Licensee may require that the Licensee ensure the necessary cooperation of the Licensor in order to conduct a proper audit of the Licensee. For this purpose, the Licensor is obliged to provide all the necessary cooperation, information, declaration and documents concerning the Licensee to any auditing/controlling body authorized to carry out an audit of the Licensee in compliance with the rules and regulations of the Czech Republic and mandatory rules of the European Union regarding financial control, especially regarding the grants. The Licensor shall also cooperate with persons authorized to execute the audit of the Licensee by such auditing bodies. The Licensor



shall not be entitled to any remuneration, compensation or any other benefit for providing cooperation as described above. This cooperation can include, but shall not be limited to:

- (a) providing confirmation when the Licensed Materials became accessible as stipulated;
- (b) providing information regarding the fulfillment of the payment terms stipulated in this Agreement or information with respect to a potential outstanding Fee due by the Licensee;
- (c) providing information whether the public procurement procedure occurred as recorded in the protocol drawn up by the Licensee;
- (d) providing cooperation for the purposes of a potential crime investigation.

26.2 Failure of the Licensor to provide cooperation as described in Section 26.1 of the Agreement causing that an effective audit could not be realized shall be deemed a serious breach of this Agreement, and the Licensee may seek to terminate this Agreement for breach pursuant to Section 11 of the Agreement. The Licensor is obliged to fully compensate any damage that should arise as a result of failure to perform the duty to cooperate described in Section 26.1 of the Agreement. Duties described in Section 26 of the Agreement shall survive the termination of this Agreement.

## 27. Execution

27.1 The Agreement itself shall be signed by the authorized signatory of the Licensor and the Licensee.

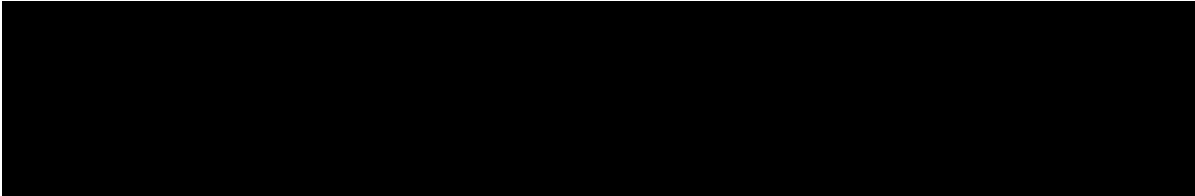
27.2 This Agreement is drawn up in three counterparts in the English language, each of which has the power of an original. The Licensor shall receive one (1) counterpart and the Licensee shall receive two (2) counterparts.

27.3 The Parties agree that electronically signed versions of this originally executed Agreement are acceptable in lieu of printed signed copies and are to be given full force and effect under the law and each Party declares that the electronic execution is valid and effective in the jurisdiction the Party executes the Agreement.



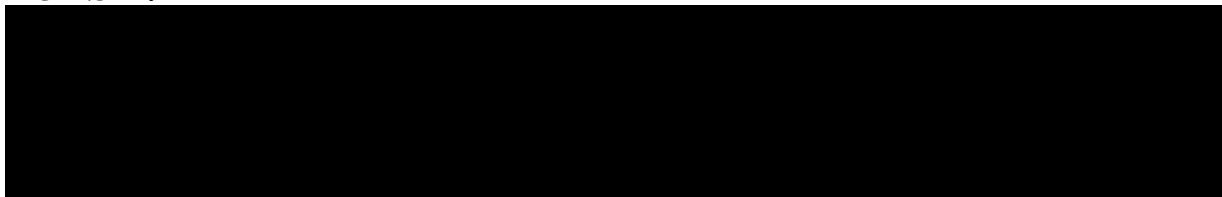
IN WITNESS WHEREOF, the Parties have executed this Agreement by their respective, duly authorized representatives.

**LICENSOR:**



Managing Director  
EBSCO Information Services s.r.o.  
Klimentská 1746/52  
110 00 Praha 1, Czech Republic  
E-mail: cbruce@ebSCO.com

**LICENSEE:**



Ing. Martin Svoboda  
Director of National Library of Technology  
Technická 6  
160 80 Praha 6 - Dejvice  
Czech Republic



## Appendix A: Business Terms

### Licensed Materials:

- Name: **Nursing Reference Center Plus**
- Number of titles, if applicable: not applicable
- Dates covered, if applicable: not applicable
- Description: An evidence-based information resource, that allows nurses to quickly find the right answers to their clinical questions and to provide the best care possible. Nursing Reference Center Plus is committed to educating nurses about evidence-based medicine and nursing best practices. As a part of that effort, Nursing Reference Center Plus focuses on ensuring that staff nurses, nurse educators, recent nursing graduates, and nursing students have quick and easy access to the most current information needed to provide the best care possible to their patients. It encourages nursing students to access the original research and provides options for patient care while preserving and supporting the essential learning opportunities that educators want to provide.

**Agreement Term:** Effective Date - 31 December 2022

**Access Conditions:** Unlimited simultaneous user system-wide perpetual access

**Authentication:** IP authentication (See Appendix C for IP addresses)

### Fees and Negotiated Discounts:

- Total Fee 2022: **15.905,00 USD**
- Ongoing Fees, e.g. access fee, if any; indicate any waived fees: no fees
- One-time Fees; indicated any waived fees: no fees

### Payment Terms:

1. The Fee shall be paid to the Licensor's bank account no.: [REDACTED] ny change of the bank account shall be notified to the Licensee without undue delay. The notice shall be signed by the authorized representative and will become effective upon its delivery to the Licensee.
2. The Fee for the Licensed Materials shall be paid annually for each commenced calendar year of the duration of this Agreement in the amount set forth therein. The Parties expressly state that the Fee for the year 2022 shall be paid in the whole amount, regardless of the beginning of the Agreements' effectiveness.
3. All the prices (Fee) under this Agreement are set forth as final, unchangeable and the maximum allowable and cover and include all activities relating to the performance under the Agreement. The Licensor may not charge any additional costs or expenses to the Licensee.
4. The Fee for each commenced calendar year of the duration of the Agreement shall be paid in two (2) partial payments within one invoice issued at the earliest at the beginning of the calendar year to which the fees relate with the following maturity:



- Max 50% on 15 March of the given year for which the Licensed Materials are paid (maturity of the first partial payment);
  - Max 50% on 15 May of the given year for which the Licensed Materials are paid (maturity of the second partial payment);
  - The above-mentioned maturities are applicable only if the invoice (all the invoices) is delivered to the Licensee no later than fifteen (15) days before the stated maturity of the first part payment, i.e. by the end of February of the given year;
  - If the invoice is delivered later, at the latest within fifteen (15) days prior to the due date of the second part payment, i.e. in the term beginning from 1 March to 30 April of the given year, the due date of the first part payment shall be within fifteen (15) days from the date of the provable invoice delivery. The maturity of the second part payment remains unaffected;
  - If the invoice is delivered later, the due date of both part payments shall be within fifteen (15) days of the provable invoice delivery date.
5. The invoice shall be issued in the currency specified in this Agreement. In the event that there are multiple currencies specified in this Agreement for each Licensed Material, the Licensor shall issue at least the number of invoices corresponding to the number of currencies.
  6. Invoice - the tax document shall contain all the requisites of a tax document. The invoice shall contain all the requisites set forth by the applicable legislation, especially Act No. 235/2004 Coll., VAT Act, as amended (“VAT Act”). The invoice shall be delivered to the Licensee either originally or electronically to the e-mail address [REDACTED]. The invoice shall include a summary of all the Licensed Materials pursuant to this Agreement. The Licensor shall bear any and all costs connected with a change of the exchange rate, including but not limited to any costs which might arise due the invoice containing incorrect or incomplete information.
  7. In the event the invoice is issued by an EU-based Licensor or its EU-based subsidiary, the invoice shall also contain information that the reverse charge rules are maintained and followed. This duty does not apply to the Licensors based outside the EU.
  8. If the invoice does not contain the requisites set forth in this Agreement or by the applicable legislation or these are incorrect or incomplete, the Licensee is entitled to return such invoice to the Licensor for completion/correction. In such case, the term of payment shall be interrupted and the new term of payment shall run from the provable corrected invoice delivery date to the Licensee and pursuant to the rules set forth above. The procedure under the previous sentence may also be repeated. The Licensor shall correct the invoice in each case within 15 days as of written notification by the Licensee on incorrect or incomplete invoice. Denial of monetary performance and the related return of an invoice in accordance with this paragraph do not constitute a default in the payment by the Licensee.
  9. Fulfillment of any financial duty associated with performance under this Agreement shall be understood as the moment of debiting the full amount from the bank account of the Party.
  10. The Licensor is not entitled to require any advance payments under this Agreement.
  11. Each Party shall bear its own costs in connection with this Agreement. The bank fees for the bank transfer are shared between the Parties.



The provisions of section 12. - 14. of Payment Terms apply to Licensor based in the Czech Republic.

12. The Licensor declares that it is a VAT payer and that is not an unreliable VAT payer within the meaning of the Section 106a of the VAT Act. In the event that the tax administrator starts a procedure that the Licensor is an unreliable VAT payer, the Licensor undertakes to notify such fact to the Licensee in writing without undue delay.
13. The Licensor further declares that it fulfills all the conditions set forth in the Section 109 of the VAT Act, i.e. that it has not breached any obligation under the VAT Act which could lead to the liability of the Licensee for the unpaid tax under the Section 109 of the VAT Act. The Licensor undertakes that if there is a threat or even a breach of any Licensor's obligation that could lead to the liability of the Licensor for an unpaid tax, it shall notify such fact in writing to the Licensee without undue delay.
14. Any payments made under this Agreement in favor of the Licensor shall be made to the Licensor's bank accounts, which is registered with the tax authority within the meaning of the Section 109 of the VAT Act, which the Licensor confirms. In the event that the Licensor becomes an unreliable VAT payer under the preceding paragraphs or there is a threat that the Licensor will become an unreliable VAT payer under the preceding paragraphs, or the Licensor's account shall not be registered with the tax administrator, or in the event that the Licensee is aware of the facts decisive for the legal liability of the Licensee for the payment of VAT within the meaning of Section 109 of the VAT Act, the Licensor expressly agrees that the VAT from the Fee under this Agreement shall be paid directly to the tax administrator's account in accordance with the applicable legislation.

The Licensor takes on the risk of a change in circumstances under Section 1765 (1) of Act No. 89/2012 Coll., the Civil Code, as amended.

**Add-on Products and Negotiated Discounts:** Not relevant for this product

**Deeply Discounted Print (DDP) Titles:** Print subscriptions shall be optionally available to Participating Institutions at the following rates:

- Subscribed Titles:
- Unsubscribed Titles:

**APC Discounts:** Licensee's and Participating Institution's authors shall be eligible for the following discounts on open access Article Processing Charges ("**APC**") during the term of the Agreement:

- **Eligibility:** APC discounts shall be available in cases where a Licensee's and Participating Institution's author is the lead or corresponding author.
- **Process:**
- **Discounts:**
- **Reporting:** Licensor will report both OA authorship data, APC payments and discounts annually to Licensee.

## Appendix B: Participating Institutions and Fees

Information concerning the fees of the individual Participating Institutions contained in this Appendix B is considered business secret pursuant to the provisions of Section 504 of Act No. 89/2012 Coll., the Civil Code, as amended, and are not to be disclosed in the Register of Contracts in accordance with the provisions of Section 3, Paragraph 1 and Paragraph 2 letter b) of Act No. 340/2015 Coll.

The Parties acknowledge that the Licensee is obliged by law to subsequently disclose in the Register of Contracts the individual agreements on provision of access to the Licensed Materials concluded between the Licensee and each Participating Institution.

### PARTICIPATING INSTITUTIONS

<i>Institution - English name</i>	<i>Institution - Czech name</i>	<i>Price</i>
Charles University (2nd Medical Faculty ONLY)	Univerzita Karlova (jen ZLF UK)	
Masaryk University	Masarykova univerzita	
Tomas Bata University in Zlín	Univerzita Tomáše Bati ve Zlíně	
	<b>TOTAL:</b>	<b>15.905,00 USD</b>





- Appendix C: IP Addresses of Participating Institutions

<i>Institution - English name</i>	<i>Institution - Czech name</i>	<i>IP ranges</i>
Charles University (2nd Medical Faculty ONLY)	Univerzita Karlova (jen 2LF UK)	195.113.40.0-195.113.43.255
Masaryk University	Masarykova univerzita	147.251.0.0-147.251.49.35 147.251.49.37-147.251.255.255
Tomas Bata University in Zlín	Univerzita Tomáše Bati ve Zlíně	195.178.88.0-195.178.95.255 195.113.96.0-195.113.99.255



- Appendix D: Title List

Not applicable

