



**SUBSCRIPTION AND PERPETUAL ACCESS LICENSE AGREEMENT  
CONSORTIA**

**COMMERCIAL TERMS**

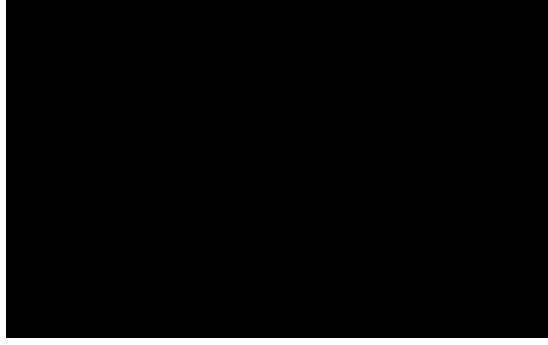
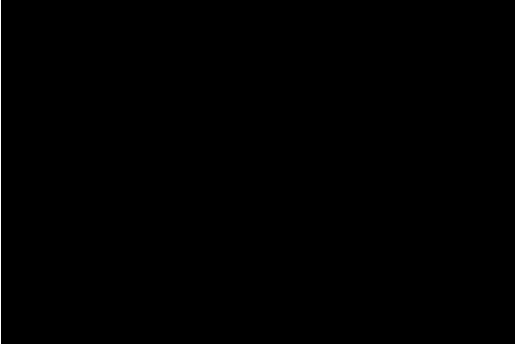
- 1 **LICENSOR:** BLOOMSBURY PUBLISHING PLC, 50 Bedford Square, London, WC1B 3DP, United Kingdom.
- 2 **LICENSEE:** The National Library of Technology, a State Contribution Organization set up by the Ministry of Education, Youth and Sports, with its principal offices at Technická 6, 160 80 Praha 6 – Dejvice, ID No.: 61387142
- 3 **LICENSED WORK(S):** The Subscription Licensed Works set out in Schedule A (as the same may be amended from time to time in accordance with Clause 4.4 of this Agreement) and/or as set out in an invoice relating to this Agreement and/or otherwise agreed in writing (including by way of addenda signed by both parties to this Agreement).
- 4 **SITE(S):** The geographical site(s) of the Participating Member Institutions listed in Schedule B.
- 5 **CHARGES:** The price set out in the Licensor’s or the Subscription Agent’s invoices concerning (i) access to the Licensed Works and (ii) maintenance fees as set out in Annex 2, if relevant (“Maintenance Fees”).
- 6 **LICENSEE CONTACT DETAILS:**  
  
Name: Head of Licensing Unit  
E-mail:   
Telephone: 
- 7 **GOVERNING LAW:** This Agreement shall be governed by and construed in accordance with the laws of England and Wales. The parties agree to submit to the non-exclusive jurisdiction of the English courts in connection with any disputes arising under or in connection with this Agreement.
- 8 **Agreement Management:** The Licensee acts as a central purchasing body within the meaning of Czech Act No. 134/2016 Coll., on Public Procurement, as amended, for concluding license agreements for the benefit of the Participating Member Institutions as listed in Schedule B as part of the project CzechELib<sup>1</sup> and as such, the Participating Member Institutions shall have the benefit of the licence granted to the Licensee under the terms of this Agreement. Participating Member Institutions will not each separately execute agreements with the Licensor. Licensee will communicate the Agreement to Participating Member Institutions. A breach of this Agreement by one Participating Member Institution shall not affect the rights and responsibilities of other Participating Member Institutions.

**THE LICENSOR AND LICENSEE EACH ACCEPT AND AGREE TO THE TERMS OF THIS**

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<sup>1</sup> Project CzechELib is a program cofounded by the Czech Ministry of Education and the EU with the aim to arrange an access to electronic public resources for educational and scientific resources. More information is available here: <https://www.czechelib.cz/en/56-about-czechelib> (05.12.2021).

**AGREEMENT.**



**Date:** .....

## TERMS AND CONDITIONS

### 1 COMMENCEMENT AND DEFINITIONS

- 1.1 This Agreement shall become valid on the date of its execution by both of the parties and shall take effect and be deemed to commence on either the date the Agreement is registered in the Register of Contracts in the Czech Republic or the Subscription Start Date for the Subscription Licensed Works if this Subscription Start Date occurs after the Agreement is registered in the Register of Contracts in the Czech Republic and shall terminate on 31 December 2022, subject to earlier termination in accordance with the terms of this Agreement.
- 1.2 Notwithstanding clause 1.1, should the Agreement be registered in the Register of Contracts in the Czech Republic after 1 January 2022, the Licensor will make the Licensed Works available to the Licensee, the Participating Member Institutions and Authorized Users in the full scope of the License stipulated herein already as of the Subscription Start Date.
- 1.3 Regardless of when this Agreement commences or terminates, the Participating Member Institution(s) and Authorized Users may not use a Licensed Work outside of the Licensed Work Term for that Licensed Work unless expressly permitted to do so by the Licensor. Any such permitted use shall be subject to the terms of the Legal Notice(s) for the relevant Licensed Work(s).
- 1.4 In this Agreement, the words or phrases defined on the front page shall have the meanings set out there and the following expressions shall have the following meanings:

“Authorized User” shall mean an individual affiliated with a Participating Member Institution and who is authorised by the Participating Member Institution to access the Participating Member Institution’s information services available through the Participating Member Institution’s Secure Network and who, being an academic or educational institution shall include individuals affiliated with the Licensee as a current student, faculty member, employee or contractor (regardless of the physical location of such persons) or walk-in user;

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

“Commercial Use” shall mean use for the purposes of direct or indirect monetary reward (whether by or for the Licensee, Participating Member Institution, an Authorized User, or any other person or entity) by means of sale, resale, loan, transfer, hire, or other form of exploitation of the Licensed Works;

“Concurrency Restriction”	shall mean, for each Licensed Work, respectively, the maximum number of permitted concurrent Authorized Users for that Licensed Work, if applicable, as specified in Schedule A and/or in the relevant invoice and/or as otherwise agreed in writing;
“Content-Specific License Terms”	shall mean, in relation to an article, chapter or any other portion of any Licensed Work, the specific license terms under which that material is published (for example, but not limited to, a Creative Commons license), as may be specified on the website of the Licensed Work;
“Educational Use”	shall mean the non-Commercial Use for the purposes of research, publishing for educational and research purposes including source citing, teaching and private study;
“Institution”	shall mean formal members of Licensee’s partner consortia;
“Legal Notice”	shall mean, for each Licensed Work, the legal notice and/or terms of use of that Licensed Work as specified on the website for the Licensed Work in a document linked from the footer or header of the homepage;
“Licensed Work Term”	shall have the meaning ascribed to it in Clause 2.1;
"Licensor Trademarks"	shall mean the designations BLOOMSBURY, BLOOMSBURY PUBLISHING, FAIRCHILD BOOKS AND STUDIO;
"Material"	shall mean any ebook, abstract, article, index, advertising, metadata or other material or content (including for the avoidance of doubt, any audiovisual content) contained in the Licensed Works and accessed online;
“Participating Member Institution”	shall mean Institutions accessing the Licensed Works by agreement to the terms and conditions of this Agreement, and by agreement to pay LICENSEE the Fees associated with access;
"Password(s)"	shall mean any password(s) given to the Participating Member Institution by the Licensor or created by the Participating Member Institution to access the Licensed Work(s) and any other passwords required by Authorized Users to access the Secure Network;
“Perpetual Access Licensed Work”	shall mean a Licensed Work which is purchased on a perpetual access basis, as indicated in Schedule A and/or in an invoice relating to this Agreement and/or as otherwise agreed in writing;
“Perpetual Access Start Date”	shall mean, for each Licensed Work which is a Perpetual Access Licensed Work, the date on which perpetual access starts for that Licensed Work (as may be specified in Schedule A and/or in the relevant invoice and/or as otherwise agreed in writing);

"Pre-Publication Titles"	shall mean any Licensed Works which have not yet been published as at the date on which the Licensee's order therefor is received by the Licensor;
"Secure Network"	shall mean a network (whether a stand-alone network or a virtual network within the Internet, accessible offsite) which is only accessible to Authorized Users. A cache server or any server or network which can be accessed by unauthorized users is not a Secure Network;
"Server"	shall mean either the Licensor's server or a third party server designated by the Licensor on which the Licensed Works are mounted and through which the Licensee and its Authorized Users may gain access to the Licensed Works by means of the World Wide Web.
"Subscription End Date"	shall mean, for each Subscription Licensed Work, respectively, the date on which the subscription ends for that Licensed Work (as may be specified in Schedule A and/or in the relevant invoice and/or as otherwise agreed in writing) or any subsequent date agreed in writing by the parties under the renewal process in this Agreement;
"Subscription Period"	shall mean, for each Subscription Licensed Work, respectively, a period commencing on the Subscription Start Date for that Licensed Work and expiring on the Subscription End Date for that Licensed Work and subject to renewal for successive periods in accordance with this Agreement;
"Subscription Licensed Work"	shall mean a Licensed Work which is purchased on a subscription basis, as specified in Schedule A and/or in an invoice relating to this Agreement and/or as otherwise agreed in writing;
"Subscription Start Date"	shall mean, for each Subscription Licensed Work, respectively, the date on which the subscription starts for that Licensed Work (as may be specified in Schedule A and/or in the relevant invoice and/or as otherwise agreed in writing);
"Text And Data Mining"	shall mean, in relation to any Licensed Work(s) or any portion thereof, performing a computational analysis of anything recorded in that (those) Licensed Work(s) or portion;
"Updates"	shall mean, in relation to a Perpetual Access Licensed Work, updates or supplements to that Licensed Work published by the Licensor after the Version Licensed;
"Usage Rights"	shall mean, for each Licensed Work, respectively, the permitted use of that Licensed Work, as described in Clause 2 of this Agreement and in the Legal Notice for that Licensed Work.

“Version Licensed” shall mean, in respect of a Perpetual Access Licensed Work which consists of an online collection of titles and/or images and/or audiovisual material (or any combination of the aforementioned), the version of that Licensed Work specified as the “Version Licensed” in Schedule A or otherwise agreed in writing by the Licensor.

## **2 GRANT OF LICENSE, USAGE RIGHTS AND LIMITATIONS ON USE**

2.1 In this Agreement, “Licensed Work Term” shall mean:

2.1.1 for each Subscription Licensed Work, the Subscription Period for that Licensed Work; and

2.1.2 for each Perpetual Access Licensed Work, a perpetual term from the Perpetual Access Start Date for that Licensed Work.

2.2 For each Licensed Work, respectively, Licensor grants the Licensee the non-exclusive and non-transferable right for the Licensed Work Term and subject to any Concurrency Restriction(s) and the terms of the Legal Notice for that Licensed Work (including any Usage Rights specified in the Legal Notice) to allow the Participating Member Institutions and their Authorized Users to access the Licensed Work for the purposes of research, teaching, and private study to:

2.2.1 access the Server by means of a Secure Network in order to search the Licensed Work and to view, retrieve, display and digitally copy portions thereof;

2.2.2 save and print out single copies of portions of the Licensed Work (save, for the avoidance of doubt, where specific Material is made available by the Licensor by means of streaming only);

2.2.3 if the Participating Member Institution is an academic institution, incorporate links to Licensed Work and insubstantial to the Licensed Work in electronic course packs and course management systems for use in connection with courses offered by the Participating Member Institution for academic credit provided that no person other than an Authorized User may use such links;

2.2.4 transmit links to the Licensed Work to other Authorized Users.

2.2.5 transmit reasonable portions of the content to third party colleagues for personal, scholarly, education, scientific, or professional use, but in no case for re-sale.

2.3 For the avoidance of doubt the Participating Member Institutions and Authorized Users may not:

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

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

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

- 2.3.4 permit anyone other than Authorized Users to access or use the Licensed Works except as outlined in section 2.2.5;
- 2.3.5 use all or any part of the Licensed Works for any Commercial Use or for any use other than Educational Use;
- 2.3.6 alter, adapt or modify the Licensed Works, except to the extent necessary to make it perceptible on a computer screen, or as otherwise permitted by this Agreement. For the avoidance of doubt, no alteration of the words in any Licensed Work, or their order, is permitted;
- 2.3.7 carry out any Text And Data Mining without the Licensor's prior consent in writing. The Licensor recognizes and acknowledges that a new Directive on Copyright in the Digital Single Market (the "Directive") has been adopted by the European Union which implements direct statutory authorizations of research organizations to open access and to employ data mining techniques to materials to which they have lawful access. The Directive provides that these rights may not be contractually excluded. The Member States of the European Union will implement this Directive into national legislation. The Licensor therefore agrees that upon the Directive coming into effect in the Czech Republic, to enter into discussions to renegotiate this Agreement (if deemed necessary) to ensure this Agreement is compliant with the Directive; or
- 2.3.8 perform automated searches or scripts on the Licensor's platform which are likely to burden the Licensor's servers.

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

- 2.4 The Licensor reserves the right to withdraw the Participating Member Institution's access to any or all Licensed Works which Licensor is hosting or any portion thereof in the event that it reasonably believes that one, some or all of any portion of the Licensed Works is being used otherwise than in accordance with this Agreement (e.g. without limitation, in breach of Clause 2.3.2). In such event, the Licensor will restore access only when the matter has been satisfactorily resolved.
- 2.5 If an Authorized User commits a breach, the Licensee shall endeavour that the Participating Member Institution cooperates with the Licensor to investigate and make reasonable efforts to remedy and prevent recurrence. Licensor may terminate Participating Member Institution's access after 30 days after first providing notice. If the breach has potential to cause serious material harm, the Licensor may temporarily suspend all Participating Member Institution(s) access and provide immediate notice of the block and the details. Such suspensions will be of the shortest duration possible sufficient to terminate and block the alleged unauthorized activity. In the event that such suspension lasts longer than one week from the date the suspension is initiated, the Licensor agrees that it will continue to update the Licensee on a weekly basis as to the reasons for continued suspension. If the Licensee, in their reasonable opinion, believes the suspension lasts longer than the shortest duration possible, the parties shall, in good faith, enter into discussions to determine whether a reduction in the Charges is appropriate and necessary, and, if deemed necessary, such reduction shall be proportionate to the time the suspension is deemed to have lasted longer than the shortest duration possible.
- 2.6 Where the Participating Member Institution is an academic library, or library which is part of a non-commercial organisation, then notwithstanding any restriction in Clause 2.3, the Licensor hereby grants the Participating Member Institution the non-exclusive right during the Licensed Work Term for each Licensed Work, respectively, to supply (whether by post, fax or secure electronic transmission, using Ariel or its equivalent, whereby the electronic file is deleted after printing) another academic library or library which is part of a non-commercial organisation, for

the purposes supplying an Authorized User of the recipient library with a single copy of an electronic original of an individual document from a Licensed Work for the purpose of research or private study and not for Commercial Use,. The Licensor may request reports in respect of the Participating Member Institution's use of the Licensed Works in such inter- library loans, provided the confidentiality of user data shall be maintained.

2.7 In the case of any conflict or ambiguity between:

2.7.1 the Usage Rights specified in this Clause 2 and the Usage Rights specified in the Legal Notice for any Licensed Work, this Clause 2 shall take precedence in respect of that Licensed Work;

2.7.2 the Usage Rights and the Content-Specific License Terms for any portion of any Licensed Work, the Content-Specific License Terms shall take precedence in relation to that portion of the Licensed Work.

### **3 RESPONSIBILITIES OF THE LICENSEE**

3.1 The Licensee and/or the Participating Member Institution, as appropriate, will provide the Licensor on request with all necessary information, including IP address ranges, relating to the Participating Member Institution and its Authorized Users necessary to enable the Licensor to set up and activate the Participating Member Institution 's access to the Licensed Works. If required by the Licensor, the Licensee or Participating Member Institution shall enter such information into an online registration system indicated by the Licensor. The Licensee or Participating Member Institution will notify the Licensor or amend such information (where originally entered by the Participating Member Institution) promptly following any additions, deletions or other alterations to the information supplied.

3.2 The parties agree and acknowledge that no personal data shall be transferred to either party for the purposes of the Participating Member Institutions and the Authorised Users accessing the Licensed Works and the access to the Licensed Works is primarily provided by means which prevent any identification of the Authorized User. Notwithstanding the foregoing, in the event a Participating Member Institutions request administrator access to the Licensed Work and/or an Authorised User creates a personal account to access the Licensed Work, then the Licensor can decide (making such determination in its sole discretion), acting as a data controller determining the scope, purpose and means of processing and without any involvement of the Licensee, to grant such administrator access and/or create a personal account and to process personal data of Authorised Users for this purpose. In processing such personal data, the Licensor shall at all times comply with the Data Protection Act 2018 and any other applicable legislation.

3.3 The Licensee shall endeavour that the Participating Member Institution will obtain at its cost all telecommunications and other equipment and software (including an Internet browser and portable document file reader) together with all relevant software licenses necessary to access the Licensed Works online via the Participating Member Institution 's Secure Network.

3.4 The Licensee shall endeavour that the Participating Member Institution shall:

3.4.1 be responsible for the confidentiality and use of the Password(s);

3.4.2 use reasonable efforts to:

3.4.2.1. ensure its Authorized Users' compliance with the terms of this Agreement;

3.4.2.2. ensure that only Authorized Users are permitted access to the Licensed Works by

means of the Participating Member Institution's Secure Network;

3.4.2.3. restrict and control unauthorized access to the Licensed Works and to any Participating Member Institution user names, passwords or other access control mechanisms provided by the Licensor;

3.4.3 ensure that all Authorized Users are made aware that the Licensed Works are protected by copyright and the Authorized Users' use of the Licensed Works is subject to the restrictions and obligations contained in this Agreement.

3.5 The Licensee shall endeavour that the Participating Member Institution will notify Licensor immediately if it becomes aware of any of the following: (a) any loss or theft of the Password(s); (b) any unauthorized use of any of the Password(s) or other access control mechanisms; or (c) any breach by an Authorized User of the terms of this Agreement.

3.6 The Licensee shall endeavour that the Participating Member Institution shall notify Licensor promptly (i) of the facts and circumstances surrounding any unauthorized access, possession, or use of the Licensed Works, or Licensor intellectual property, or any portion thereof; and (ii) on becoming aware of any claim by any third party that the Licensed Works infringe an intellectual property or proprietary right of any third party.

3.7 The Licensee acknowledges that the obligations in this Clause 3 are primarily directed at ensuring the security of the Licensed Works and that the Licensor is reliant on the Participating Member Institution fulfilling these obligations to ensure that security. Accordingly, upon the Licensor's request, the Licensee shall endeavour that the Participating Member Institution will terminate access to the Licensed Works of any Authorized User whose actions or omissions constitute a breach of the terms of this Agreement (or would constitute such a breach if they were a party to it) and, further, upon any breach of this Clause 3 by the Licensee or Participating Member Institution, the Licensor reserves the right to terminate or suspend the Participating Member Institution's access to the Licensed Works, in addition to any other available remedies.

#### **4 RESPONSIBILITIES OF LICENSOR**

4.1 Licensor shall set up and activate the Participating Member Institution's online access to the Licensed Works following receipt of the information to be supplied by the Licensee or Participating Member Institution under Clause 3.1.

4.2 The Licensor shall use all reasonable efforts:

4.2.1 to make the Licensed Works available by means of the World Wide Web with interoperability with the prevailing web browsers and web accessing tools to the Participating Member Institution throughout the Licensed Work Term for each Licensed Work, respectively;

4.2.2 to ensure that the Server has sufficient capacity and rate of connectivity to provide the Participating Member Institution with a quality of service consistent with current standards in the World Wide Web on-line information provision industry; and

4.2.3 to restore access to the Licensed Works as soon as possible in the event of an interruption or suspension of the service;

4.2.4 to provide continuous service 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 Works 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 (i) it has given at least 48 hours' prior notice to the Licensee, and (ii) in a way and at times that minimize inconvenience to the Licensee, the Participating Member Institutions and their Authorized Users, regardless of when notice has been given.

- 4.3 The Licensor agrees to make available to the Licensee and Participating Member Institution statistics regarding the Participating Member Institution's usage of the Licensed Works by Authorized Users available for download, in compliance with the Codes of Practice for Project COUNTER.
- 4.4 The Licensor reserves the right to withdraw from the Licensed Works any content that it no longer retains the right to provide or that it determines may be unlawful, defamatory, obscene, harmful, false, infringing or otherwise objectionable. If any such withdrawal renders the content of the Licensed Works substantially less useful than as contemplated by the terms of this Agreement, the Licensor shall reimburse the Licensee for the Charges in an amount proportional to the withdrawal of content from the Licensed Works. If in the reasonable opinion of the Participating Member Institution such withdrawal renders the content of Licensed Works so as to no longer be deemed adequate for their use, the Licensee may seek to terminate this Agreement by providing 30 days written notice to the Licensor.
- 4.5 The Licensor reserves the right to suspend access to the Licensed Works in the event of any unauthorized use of the Licensed Works, in addition to any other available remedies. In the event the Licensor becomes aware of unauthorized use of the Licensed Works, the Licensor shall without undue delay notify the Licensee and the respective Participating Member Institution in writing.
- 4.6 Throughout the Licensed Work Term for each Licensed Work, Licensor shall itself provide, or arrange for the provision by a third party, of customer support services to the Licensee, including but not limited to assisting the Licensee, Participating Member Institutions and Authorized Users with the implementation of any Licensor software, if applicable.
- 4.7 If any portion of the Licensed Works is transferred to or acquired from another party, the Licensor shall use reasonable endeavours to attempt that the Participating Member Institutions will not lose access to the Licensed Works or any rights under this Agreement as a result of the transfer or acquisition. If the Licensor is transferring any portion of the Licensed Works to another party, the Licensor will assign all rights and obligations under this Agreement to the assignee without the prior written consent of the Licensee.

## 5 PAYMENTS BY THE LICENSEE

- 5.1 The Licensee shall pay the Charges to the Licensor's bank account:

Account Name: [REDACTED]  
Account No: [REDACTED]  
Sort Code: [REDACTED] 2  
SWIFT/BIC No: [REDACTED]  
IBAN: [REDACTED]  
Bank Address: [REDACTED]  
[REDACTED]

Any 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.

- 5.2 All the Charges 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.
- 5.3 In consideration of the rights granted by Licensor under this Agreement, the Licensee shall pay the Charges due to Licensor for each Licensed Work within 30 days of receipt of an appropriate invoice. Such invoice to be submitted to the Licensee on or after 15 May 2022.
- 5.4 Without waiving or limiting the above-referenced rights and remedies, the Licensor reserves the right to charge interest at the rate of five percent (5%) above the prevailing base rate of the Licensor's bank per month on any Charges that are not paid by the Licensee within thirty (30) days of receiving the Licensor's invoice, provided such interest rate shall not start accruing until fifteen (15) days after the expiry of the thirty (30) day payment period.
- 5.5 The Charges are exclusive of sales tax, value added tax or any equivalent tax (if applicable).
- 5.6 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 Work, the Licensor shall issue at least the number of invoices corresponding to the number of currencies.
- 5.7 The invoice shall be delivered to the Licensee electronically to the e-mail address [REDACTED]. The invoice shall include a summary of all the Licensed Works 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.
- 5.8 If the invoice does not contain the necessary information as set forth in this Agreement or is 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 clause 5.3 above. 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.
- 5.9 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.
- 5.10 The Licensor is not entitled to require any advance payments under this Agreement.
- 5.11 Each Party shall bear its own costs in connection with this Agreement and its own bank transfer fees.

## **6 ADDITIONAL TERMS**

- 6.1 The terms in Annexes 1 and 2 shall only apply in the following circumstances:
- 6.1.1 For each Subscription Licensed Work, the terms in Annex 1 shall apply in relation to that Licensed Work.
- 6.1.2 For each Perpetual Access Licensed Work, the terms in Annex 2 shall apply in relation to that Licensed Work.
- 6.2 In the event that the Licensor requires the Authorized Users to agree to any such additional terms relating to the use of the Licensed Works, or otherwise imposes terms on the Authorized Users

through online terms and conditions invoked by the mere use or viewing of the Licensed Works, such additional terms shall only apply to the Authorized Users who agreed to the respective additional terms and Licensee is not liable for any breach of these additional terms. For the avoidance of doubt, the Authorized Users are not a party to this Agreement.

- 6.3 In the event the Legal Notice, the Content Specific Licence Terms or the Usage Rights, in the reasonable opinion of the Licensee, amount to a substantial reduction in access to the Licensed Works as contemplated by this Agreement, the parties shall in good faith, discuss such reduction and determine whether any amendments are necessary to the terms of this Agreement.

## **7 ACKNOWLEDGMENT AND PROTECTION OF INTELLECTUAL PROPERTY RIGHTS**

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

## **8 REPRESENTATIONS AND WARRANTIES**

- 8.1 LICENSOR REPRESENTS AND WARRANTS THAT IT HAS THE POWER TO ENTER INTO THIS AGREEMENT AND TO GRANT THE RIGHTS CONFERRED HEREIN TO THE LICENSEE AND PARTICIPATING MEMBER INSTITUTION AND THAT THE LICENSED WORKS DO NOT VIOLATE OR INFRINGE UPON ANY PATENT, COPYRIGHT, TRADEMARK, TRADE SECRET OR OTHER PROPRIETARY RIGHT OR CONTRACT RIGHT OF ANY THIRD PARTY. SUBJECT TO 8.4, THE LICENSOR SHALL INDEMNIFY AND HOLD HARMLESS THE LICENSEE THE PARTICIPATING MEMBER INSTITUTIONS AND AUTHORIZED USERS FROM AND AGAINST ANY AND ALL LIABILITIES, LOSSES, CLAIMS, DAMAGES, AWARDS, PENALITIES, OR INJURIES INCURRED, INCLUDING REASONABLE ATTORNEY'S FEES, THAT ARISE FROM ACTUAL INFRINGEMENT OF ANY THIRD-PARTY INTELLECTUAL PROPERTY RIGHTS REGARDING THE USE OF THE LICENSED WORKS BY THE LICENSEE OR ANY PARTICIPATING MEMBER INSTITUTION OR AUTHORIZED USER. NO LIMITATION OF LIABILITY SET FORTH ELSEWHERE IN THIS AGREEMENT IS APPLICABLE TO THIS INDEMNIFICATION.
- 8.2 LICENSOR PROVIDES THE LICENSED WORKS ON AN "AS IS" BASIS. SAVE AS PROVIDED ABOVE AND TO THE EXTENT PERMITTED BY LAW, LICENSOR GIVES NO WARRANTY, EXPRESS OR IMPLIED, AND MAKES NO REPRESENTATION THAT (I) THE LICENSED WORKS WILL BE OF SATISFACTORY QUALITY, SUITABLE FOR ANY PARTICULAR PURPOSE OR FOR ANY PARTICULAR USE UNDER SPECIFIED CONDITIONS, NOTWITHSTANDING THAT SUCH PURPOSE, USE, OR CONDITIONS MAY BE KNOWN TO LICENSOR; OR (II) THAT THE LICENSED WORKS WILL OPERATE ERROR FREE OR WITHOUT INTERRUPTION OR THAT ANY ERRORS WILL BE CORRECTED; OR (III) THAT THE MATERIAL PUBLISHED IN THE LICENSED WORKS IS EITHER COMPLETE OR ACCURATE.
- 8.3 IN NO CIRCUMSTANCES WILL LICENSOR BE LIABLE TO THE LICENSEE, PARTICIPATING MEMBER INSTITUTION OR ANY THIRD PARTY FOR ANY LOSS RESULTING FROM A CAUSE OVER WHICH LICENSOR DOES NOT HAVE DIRECT CONTROL, INCLUDING BUT NOT LIMITED TO FAILURE OF ELECTRONIC OR

MECHANICAL EQUIPMENT OR COMMUNICATION LINES, TELEPHONE OR OTHER INTERCONNECT PROBLEMS, UNAUTHORIZED ACCESS, THEFT, OR OPERATOR ERRORS.

- 8.4 IN NO CIRCUMSTANCES WILL LICENSOR BE LIABLE TO THE LICENSEE, PARTICIPATING MEMBER INSTITUTION OR ANY THIRD PARTY FOR ANY CONSEQUENTIAL, INCIDENTAL, SPECIAL, PUNITIVE OR INDIRECT DAMAGES OR LOSS OF PROFITS INCLUDING, WITHOUT LIMITATION, DAMAGES FOR LOSS OF DATA OR CORRUPTION OF DATA, LOSS OF PROGRAMS, LOSSES ARISING FROM INACCURACIES IN, OR CORRUPTION CAUSED BY, THE LICENSED WORKS, LOSS OF BUSINESS OR GOODWILL, OR OTHER DAMAGES OR LOSSES OF ANY NATURE ARISING OUT OF THE USE OF, OR INABILITY TO USE THE LICENSED WORKS.
- 8.5 THE LICENSEE AGREES THAT THE ENTIRE LIABILITY OF LICENSOR TO THE LICENSEE, THE PARTICIPATING MEMBER INSTITUTIONS OR AUTHORIZED USERS ARISING OUT OF ANY KIND OF LEGAL CLAIM (WHETHER IN CONTRACT, TORT, BY STATUTE OR OTHERWISE) IN ANY WAY CONNECTED WITH THE USE OR INABILITY TO USE THE LICENSED WORKS SHALL BE THE REFUND OF ANY SUMS ACTUALLY RECEIVED BY THE LICENSOR UNDER THIS AGREEMENT FOR THE AFFECTED LICENSED WORKS DURING THE TWELVE MONTH PERIOD IN WHICH THE CLAIM ARISES.
- 8.6 THE LICENSEE WARRANTS THAT IT AND, TO THE BEST OF ITS KNOWLEDGE, THE PARTICIPATING MEMBER INSTITUTION HAS IN PLACE APPROPRIATE POLICIES AND DISCIPLINARY PROCEDURES REGARDING THE MISUSE OF ONLINE TOOLS SUCH AS THE LICENSED WORK(S).
- 8.7 THE SIGNATORY FOR LICENSEE OF THIS AGREEMENT REPRESENTS AND WARRANTS TO LICENSOR THAT S/HE HAS THE POWER AND AUTHORITY TO EXECUTE THIS AGREEMENT ON BEHALF OF THE LICENSEE, WHICH LICENSEE AGREES TO BE BOUND BY ALL TERMS CONTAINED HEREIN.
- 8.8 THE LICENSEE SHALL REMAIN LIABLE FOR ANY ACTS OR OMISSIONS OF ANY AND ALL PARTICIPATING MEMBER INSTITUTIONS AND/OR THE AUTHORISED USERS AS IF THEY WERE A PARTY TO THIS AGREEMENT AND SHALL INDEMNIFY AND KEEP INDEMNIFIED THE LICENSOR FROM AND AGAINST ANY AND ALL LIABILITIES, LOSSES, CLAIMS, DAMAGES, AWARDS, PENALITIES, OR INJURIES INCURRED, INCLUDING REASONABLE ATTORNEY'S FEES, INCURRED BY THE LICENSOR THAT ARISE FROM ANY BREACH OR ALLEGED BREACH OF THIS AGREEMENT BY A PARTICIPATING MEMBER INSTITUTION AND/OR AUTHORISED USER. THE LICENSOR AGREES THAT THE ENTIRE LIABILITY OF LICENSEE TO THE LICENSOR ARISING OUT OF ANY KIND OF LEGAL CLAIM (WHETHER IN CONTRACT, TORT, BY STATUTE OR OTHERWISE) IN ANY WAY CONNECTED WITH THIS AGREEMENT SHALL BE LIMITED TO THE AMOUNT OF ALL CHARGES PAID BY THE LICENSEE UNDER THIS AGREEMENT.

## **9 TERMINATION**

- 9.1 The Licensee may terminate this Agreement at any time for convenience provided that, in such case, no refund of any Charges shall be due.
- 9.2 If the Licensor, breaches the terms of this Agreement, the Licensee will give the Licensor a remedy period 30 days from the date of being notified to mend and cure the breach. If the Licensor fails to remedy such breach the Licensee shall have the right to terminate this Agreement with immediate effect.
- 9.3 If the Licensee and/or Participating Member Institution breaches the terms of this Agreement, the

Licensor will give the Licensee and/or Participating Member Institution 30 days from the date of being notified to mend and cure the breach. If the breach is not cured, the Licensor shall have the right to terminate this Agreement with immediate effect with respect of the Licensee; and, if the breach is committed by a Participating Member Institution and it fails to remedy such breach in accordance with this clause 2.5, the Licensor shall have the right to terminate access to the Licensed Materials with immediate effect in respect of the breaching Participating Member Institution only. For the avoidance of doubt, in the event of such termination, the Agreement shall continue in effect for the Licensee and the remaining non-breaching Participating Member Institutions.

- 9.4 Without limitation, a breach by the Participating Member Institution of the provisions of Clauses 2.3, 3.1, 3.4, 3.5 and 5.4 above would constitute a material breach of this Agreement. The rights in this Clause are in addition to any rights and remedies that may be available in law or equity. The Licensee shall not be entitled to a refund of any Charges paid in the event of termination of this Agreement by the Licensor under this Clause.
- 9.3 In addition to the rights in Clause 9.2, the Licensor reserves the right to suspend access, as outlined in Sections 2.4 and 3.6, to any or all Licensed Works or any portion thereof in the event that the Licensee or Participating Member Institution commits a material breach of this Agreement, in addition to any other available remedies.

## **10 GENERAL**

- 10.1 This Agreement is entered into by the Licensee for the benefit of the Participating Member Institutions. The Licensee may not assign or sub-licence any rights granted under this Agreement without the prior written consent of the Licensor. The Licensor may assign any or all of its rights and obligations under this Agreement to an affiliate, a successor to its business or a transferee of Licensor's right to publish and distribute any Licensed Work(s) (in part or in whole) and the Licensee undertakes to execute at Licensor's cost any documents or instruments as may be required to effect the Licensor's rights under this Clause. The rights and obligations of this Agreement will bind and benefit any successors and permitted assigns of the parties. Any attempted assignment in violation of this Clause will be null and void and of no force or effect.
- 10.2 Except where expressly stated otherwise, all notices required to be given under this Agreement shall be given in writing in English and left at or sent by first class registered or recorded delivery to the appropriate address shown at the head of this Agreement, or such other address as the party concerned shall from time to time designate by notice pursuant to this Clause. Such notices shall be deemed to be delivered (i) when left at the addressee's address; or (ii) if posted 10 (ten) days after posting. All notices to Licensor shall be marked for the attention of the Group Legal Director. All notices to the Licensee shall be marked for the attention of the contact named in the cover page of this Agreement.
- 10.3 This Agreement constitutes the entire agreement of the parties about its subject matter, supersedes all prior communications, understandings and agreements (whether written or oral) relating to its subject matter.
- 10.4 The terms of this Agreement are confidential and the Licensee shall not disclose the same to any third party other than its professional advisors or as may be required by judicial or regulatory authority with competent jurisdiction over the Licensee. Notwithstanding the former, the parties acknowledge that the Licensee is obliged by law to disclose this Agreement in the Register of Contracts in the Czech Republic with, if so requested by the Licensor, the appropriate redactions as allowed by the applicable law and agreed between the Licensor and the Licensee. Such publication of the Agreement in the Registry of Contract shall not constitute

a breach of this clause 10.4

- 10.5 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 shall provide all the reasonably 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 reasonably cooperate with persons authorized to execute the audit of the Licensee by such auditing bodies. This cooperation can include, but shall not be limited to: (i) providing confirmation when the Licensed Works became accessible as stipulated; (ii) providing information regarding the fulfillment of the payment terms stipulated in this Agreement or information with respect to a potential outstanding Charges due by the Licensee; (iii) providing information whether the public procurement procedure occurred as recorded in the protocol drawn up by the Licensee; (iv) providing cooperation for the purposes of a potential crime investigation.
- 10.6 Subject to the requirements of any laws local to the parties, this Agreement may be executed in any number of counterparts, each of which when executed and delivered shall constitute a duplicate original, but all the counterparts shall together constitute the one agreement. The parties agree to be bound by photocopy, scanned, facsimile, electronic or other copies, which shall have the same effect for all purposes as an ink-signed original.
- 10.7 This Agreement may be amended:
- 10.6.1 by agreement in writing executed by both parties;
- and any such amendment shall become effective on the date of its publication in the Register of Contracts pursuant to Czech Act No. 340/2015 Coll., Register Contracts Act, as amended. Publication in the Register of Contracts shall be procured by the Licensee.
- 10.8 Neither the Licensee nor the Licensor shall be responsible to the other for any failure to perform any obligation under this Agreement due to Acts of God, war, riot, embargoes, acts of civil or military authorities, fire, flood, typhoon, wind storm, snow storm, blizzard, hurricane, or other cause that is outside the control of the party and could not be avoided by the exercise of due care. Notwithstanding the occurrence of any of the events set forth in this Clause, the parties shall at all times use reasonable efforts to perform all obligations under this Agreement in a timely manner, taking account of the existing circumstances.
- 10.9 No provision in this Agreement is intended to be enforceable by any third party.
- 10.10 The rights of the parties arising under this Agreement shall not be waived except in writing. Any waiver of any of a party's rights under this Agreement or of any breach of this Agreement by the other party shall not be construed as a waiver of any other rights or of any other further breach.
- 10.11 Headings used in this Agreement are for convenience only and are deemed not to be part of the Agreement.
- 10.12 Unless stated otherwise, this Agreement does not give rise to any rights to any third parties to enforce any term of this Agreement.

## **ANNEX 1 – ADDITIONAL TERMS FOR SUBSCRIPTION LICENSED WORKS**

1. Except where expressly stated otherwise, the terms in this Annex shall only apply in relation to Subscription Licensed Works, if any, purchased under this Agreement.
2. Except where expressly agreed otherwise in writing, following the expiry of the Subscription Period the Participating Member Institution shall not be entitled to continuing access to the Subscription Licensed Work or any portion thereof.
3. Licensee shall have the option to renew the Subscription Period for additional one-year terms. Such option is subject to the condition that Licensor receive written notification of Licensee's exercise of its option for each renewal term no later than 30 days prior to the end of the current year of the Subscription Period.

**ANNEX 2 – ADDITIONAL TERMS FOR PERPETUAL ACCESS LICENSED WORKS**

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## SCHEDULE A

### LICENSED WORKS: Human Kinetics Library

**Description:** .....

The Human Kinetics Library Core Collection combines Bloomsbury's digital excellence with Human Kinetics' market-leading sports and physical activity content, featuring an exclusive package of over 165 ebooks and 200 videos.

The collection contains over 165 market-leading ebooks from Human Kinetics, including textbooks, supplementary monographs and materials for practitioners.

Also included are over 200 videos from Human Kinetics, including demonstrations of exercise movements and explanations of key physical activity concepts.

Human Kinetics Library covers a range of subjects, with new content added annually:

- Active aging
- Anatomy and biomechanics
- Exercise and sport science
- Exercise prescription, instruction, and assessment
- Fitness and health
- History, sociology, and philosophy of sport
- Motor behavior
- Nutrition and healthy eating
- Physical activity and health
- Physiology of sport and exercise
- Psychology of sport and exercise
- Recreation and leisure
- Research methods, measurement, and evaluation
- Sport management and sport business
- Sport and activities

**Subscription Start Date: 01 January 2022**

**Perpetual Access Start Date: 01 January 2022**

### CHARGES:

Total for calendar year 2022: **£ 3,807** (plus VAT)

Charges per **Participating Member Institutions:**

#	Institution (Czech)	Institution (English)	Price 2022
1.	Univerzita Karlova	Charles University	
2.	Masarykova univerzita	Masaryk University	
3.	Ostravská univerzita	University of Ostrava	
	<b>Total without VAT</b>		<b>£ 3 807</b>

## SCHEDULE B

### PARTICIPATING MEMBER INSTITUTIONS

**List of Participating Member Institutions and addresses:**

#	Institution (Czech)	Institution (English)	IP ranges
1.	Univerzita Karlova	Charles University	78.128.160.0-78.128.209.127 78.128.214.66-78.128.214.67 193.84.55.0-193.84.63.255 195.113.0.0-195.113.63.97 195.113.63.99-195.113.66.255 195.113.89.0-195.113.93.255 195.113.114.0-195.113.117.255 195.113.130.0-195.113.131.255 195.113.149.132-195.113.149.135 195.113.149.176-195.113.149.183 195.113.187.248-195.113.187.251 195.113.189.0-195.113.189.255 195.113.223.0-195.113.223.255 195.113.229.0-195.113.229.255 195.113.236.0-195.113.236.255 195.113.245.0-195.113.245.255 195.113.187.252-195.113.187.253 195.113.242.224-195.113.242.231  IPv6 prefix 2001:718:4::/48 2001:718:1200:7::/64 2001:718:1201::/48 2001:718:1207::/48 2001:718:1e03::/48 2001:718:2401::/48
2.	Masarykova univerzita	Masaryk University	147.251.0.0-147.251.49.35 147.251.49.37-147.251.255.255
3.	Ostravská univerzita	University of Ostrava	195.113.102.0-195.113.112.127 78.128.128.0-78.128.146.255 195.113.209.36-195.113.209.39 195.113.209.56-195.113.209.63