University of Toronto Press
Site Licence Agreement

THIS Site Licence Agreement (hereafter "LICENCE") IS AGREED the ___ day of ______, in the year _____.

BETWEEN
University of Toronto Press (hereafter the "Licensor") (5201 Dufferin Street, North York, ON M3H 5T8), as owner and publisher of ____________________________ (hereafter the "Licensed Materials")

and

________________________________________________________ (hereafter the "Licensee").

WHEREAS the Licensee desires to enable the Licensee to use the Licensed Materials and the Licensor desires to grant to the Licensee the licence to use the Licensed Materials, as defined in Schedule 1, subject to the terms and conditions of this Licence.

IT IS AGREED AS FOLLOWS:

1. DEFINITIONS
In this Licence, the following terms shall have the following meanings:

1.1. Authorized Users
Full- and part-time students, faculty, and employees (including permanent, temporary, contract, or visiting appointments) and researchers associated with the Licensee, regardless of the physical location of such persons. Walk-in Users shall be deemed to be Authorized Users under the terms and conditions of this Licence.

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Use of the Licensed Materials for the purposes of monetary reward (by Authorized Users) by means of sale, resale, loan, transfer, hire, or other form of commerce. For the avoidance of doubt, the following uses shall not be deemed to constitute Commercial Use: recovery of direct costs by the Licensee from Authorized Users of the Licensed Materials in the course of research funded by a commercial organization; recovery of copying costs as outlined in Section 3.5.

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A collection or compilation of materials (e.g., book chapters or journal articles) assembled by staff of the Licensee for use by students in a class for the purposes of instruction.

1.4. Data or Text Mining
A machine process by which information may be derived by identifying patterns and trends within natural language through text categorization, statistical pattern recognition, concept or sentiment extraction, and the association of natural language with indexing terms.

1.5. Electronic Learning Environments
A software system designed to support teaching and learning in an educational setting, including by not limited to, virtual research environments, library environments, and courseware technologies generally hosted on a Secure Network.
1.6. **Electronic Reserves**

Electronic copies of materials (e.g., journal articles) made and stored on the Secure Network by the Licensee for use by students who are Authorized Users in connection with specific courses of instruction offered by the Licensee to its students.

1.7. **Purchase Fee**

The payment set out in Schedule 1 for perpetual access to and maintenance of the Licensed Materials.

1.8. **Secure Network**

A network which is accessible only to Authorised Users by secure authentication.

1.9. **Server**

The server, either the Licensor’s server or a third-party server designated by the Licensor, on which the Licensed Materials are mounted and may be accessed.

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2.1. **General**

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4.1. Unauthorized Use

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   b) supply or distribution of single or multiple copies in any form to anyone other than an Authorized User;
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5.3. Commercial Purposes

Licensee may not use the Licensed Materials for any Commercial Use other than those allowed in Section 1.2.

6. MUTUAL RESPONSIBILITIES

6.1. Confidentiality of User Data

Licensor and Licensee agree to maintain the confidentiality of any data relating to the usage of the Licensed Materials by Licensee and its Authorized Users.
7. LICENSOR RESPONSIBILITIES

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Licensee shall use reasonable efforts to protect the Licensed Materials from any use that is not permitted under this Licence. Licensee shall use reasonable efforts to comply with the terms and conditions of this Licence by Authorized Users, and upon becoming aware of any unauthorized use or other breach, shall inform the Licensor in a timely manner and take reasonable and appropriate steps to ensure that such activity ceases and to prevent any future recurrence; Licensee agrees to take immediate action to suspend access to the Licensed Materials by any unauthorized user. Both parties agree to cooperate in good faith and to provide sufficient exchange of information to prevent any further unauthorized use.

9. REPRESENTATION, WARRANTIES, AND INDEMNIFICATION

Subject to the Limitations set forth elsewhere in this Licence:

9.1. Limitations on Warranties
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, arising out of the use of or the inability to use the Licensed Materials.

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

Each party shall indemnify and hold the other harmless for any losses, claims, damages, awards, penalties, or injuries incurred by any third party, including reasonable attorney's fees, which arise from any alleged breach of such indemnifying party's representations and warranties made under this Licence, provided that the indemnifying party is promptly notified of any such claims. The indemnifying party shall have the sole right to defend such claims at its own expense. The other party shall provide, at the indemnifying party's expense, such assistance in investigating and defending such claims as the indemnifying party may reasonably request.

9.3. Term of Indemnity

This indemnity shall survive the termination of this Licence for any reason. This indemnity shall not apply to any specific Licensed Materials if the Licensee has amended the Licensed Materials in any way not permitted by this Licence. The maximum liability of Licensor under this Licence, if any, for damages incurred by Licensee or any Authorized User whether based in contract or tort, the total cost of the licensed product for the Licensee, for the life of the agreement, is as listed in Schedule 1. NO LIMITATION OF LIABILITY SET FORTH ELSEWHERE IN THIS LICENCE IS APPLICABLE TO THIS INDEMNIFICATION.

10. GENERAL

10.1. Entire Licence

This Licence constitutes the entire agreement of the parties and supersedes all prior communications, understandings, and agreements relating to the subject matter hereof, whether oral or written.

10.2. Amendment

No modification or claimed waiver of any provision of this Licence shall be valid except by written amendment signed by authorized representatives of Licensor and Licensee.

10.3. Assignment and Transfer

Licensee may assign this Licence without the prior written consent of Licensor. Licensor may assign this Licence without the prior written consent of Licensee. The rights and obligations of this Licence shall bind and benefit any successors or assigns of the parties.

10.4. Notices

Any notices to be served on either of the parties by the other shall be sent by prepaid recorded delivery or registered post to the address of the addressee as set out in this Licence or to such other address as notified by either party to the other as its address for service of notices. All such notices shall be deemed to have been received within 14 days of posting.

10.5. Force Majeure

Neither party shall be liable in damages or have the right to terminate this Licence for any delay or default in performing 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 licence), wars, terrorism, insurrections, strikes or other work stoppages, and/or any other cause beyond the reasonable control of the party whose performance is affected.
10.6. **Severability**

The invalidity or unenforceability of any provision of this Licence shall not affect the continuation or enforceability of the remainder of this Licence.

10.7. **Waiver of Contractual Right**

Either party’s waiver or failure to require performance by the other, of any provision of this Licence will not affect its full right to require such performance at any subsequent time, or be taken or held to be a waiver of the provision itself.

10.8. **Governing Law**

This Licence shall be governed by and construed in accordance with the laws of the Province of Ontario, and the parties irrevocably agree that any dispute arising out of or in connection with this Licence will be subject to and within the jurisdiction of the laws of Ontario and Canada applicable therein. Both parties agree that any action or proceeding relating to this Licence will be brought to a court of competent jurisdiction in the Province of Ontario, Canada.

10.9. **Dispute Resolution**

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

11. **TERM AND TERMINATION**

11.1. **Suspension of Access**

The Licensor reserves the right to temporarily suspend the Licensee’s access to the Licensed Materials for substantial infringement of the rights holder’s intellectual property rights in the Licensed Materials or for a breach of the terms of this Licence that threatens either the performance or the security of the Server. Immediately after suspending such access the Licensor shall issue a notice of the breach to the Licensee. The Licensor shall forthwith restore access to the Licensee upon receipt of notice that such activity has ceased and that the Licensee has made reasonable efforts to protect against recurrence of such activity.

11.2. **Breach of Licence**

Under ordinary circumstances, should a breach of this Agreement by the Licensee or an Authorized User come to the attention of the Licensor, the Licensor will inform the Licensee and provide a reasonable amount of time (ordinarily 30 days) for investigation and, if necessary, correction of the breach. But the Licensor shall have the right immediately to suspend this Licence Agreement, without need for provision of proof, if it determines that the Licensee has committed a serious and material breach of the Agreement or one that is likely to continue. If it is feasible to cut off the access of a single offending user, rather than the entire institution, that will be done.

If the Licensor is in breach of this Agreement, the Licensee will inform Licensor in writing and allow 30 days to mend the breach. If the breach is not cured, the Licensee may terminate the Agreement upon written notice and receive a pro-rated refund.

**AS WITNESSED** by the signatures of the parties on the day and year noted below.

**FOR THE LICENSOR**

Anne Marie Corrigan  
Vice President, Journals  
5201 Dufferin Street  
North York, ON M3H 5T8  
Telephone: 416-667-7838
FOR THE LICENSEE

Date:

Signature:
12. **Schedule 1**

**Materials:**

**Subscription Period:**

**Access Type:**

**Subscription Cost:**

Taxes are extra.

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